

The Causes and Consequences of the 1986 Immigration Reform and Control Act (IRCA)

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Summary

The United States often views itself as a nation of immigrants. Because of this, in part since the beginning of the twentieth century, it has only rarely adopted major changes in its immigration policy. Until the reforms of 1986, only the 1924 National Origins Quota Act and its modification in 1965 (through amendments to the 1952 McCarran Walter Act) involved substantial reform. This changed with the passage of the 1986 Immigration Reform and Control Act (IRCA) and its derivative sequel, the 1990 Immigration Act. And as of this writing in 2020, no other substantial pieces of immigration legislation have been passed by Congress. IRCA emerged from and followed in considerable measure the recommendations of the Select Commission on Immigration and Refugee Policy (1979-1981). That body sought to reconcile two competing political constituencies, one favoring greater immigration restriction and the other an expansion of family-based and work-related migration. The IRCA legislation contained something for each side: the passage of employer sanctions, or serious penalties on employers for hiring unauthorized workers, for the restriction side; and the provision of a legalization program, which outlined a pathway for certain unauthorized entrants to obtain green cards and eventually citizenship, for the reform side. The complete legislative package also included other provisions: including criteria for the admission of agricultural workers, a measure providing financial assistance to states for the costs they would incur from migrants legalizing, a requirement that states develop ways to verify that migrants were eligible for welfare benefits, and a provision providing substantial boosts in funding for border enforcement activities. In the years after the enactment of IRCA, research has revealed that the two major compromise provisions plus the agricultural provision have generated mixed results. Employer sanctions failed to curtail unauthorized migration much, in all likelihood because of minimal funding for enforcement, while legalization and the agricultural measure resulted in widespread enrollment, with almost all

of the unauthorized migrants who qualified for it coming forward to take advantage of the opportunity to become U.S. legalized permanent residents (LPRs). In general, however, IRCA can be interpreted in political historical terms as exemplifying contradictory parts. On the one hand, its somewhat expansionist and its legalization elements reflect the inclusive/pluralistic tendencies of much of 18th century immigration, but its employer sanction provisions contained the seeds for the subsequent development of restrictive/exclusive socio-political tendencies.

Keywords: immigration, IRCA, migration, unauthorized migrants, legalization, citizenship, agriculture, Border Patrol, employer sanctions.

Introduction

Immigration ranks among the most complex, controversial and vexing issues the United States has faced throughout its history. A central feature of the identity of many Americans has consisted of their defining themselves as a nation of immigrants.¹ Yet, at the same time, many have viewed immigrants as threats to their culture, their jobs, and occasionally even the country's national security.² Perhaps because of this ambivalence, the U.S. Congress during the 20th century seldom adopted major changes in its immigration laws. Although three important shifts occurred. Abandoning the generally open and inclusive policies of much of the 19th century, Congress passed restrictionist legislation in the form of national origin quotas for admissions in 1924. A return to more liberal, expansionist measures eliminating such quotas and setting forth family reunification criteria as the main bases for entry did not occur until 1965.³ This legislation effectively abolished ethnoracial criteria as grounds for admission, reflecting the era's domestic policy emphases on civil rights and Cold War foreign policy goals seeking to foster good relations with Asian countries that had recently achieved political independence.⁴ Some of the features of the 1965 action, however, led to unanticipated consequences for immigration patterns, which started to emerge during the 1970s.

One of the most visible consequences involved increasing numbers of new entrants. In the 1970s, 4.3 million immigrants arrived.⁵ By the end of the 1980s immigration had reached levels nearly as high as those in the early part of the twentieth century.⁶ Over 6.3 million

newcomers were granted legal permanent residence (LPR) status during the decade, including 66,000 unauthorized persons legalized in 1988 and 492,000 in 1989 under the provisions of the 1986 Immigration Reform and Control Act.⁷ According to estimates of the US Bureau of the Census, supplementing this number were 100,000 to 300,000 new unauthorized residents per year.⁸ It is worth noting that the so-called unauthorized, or undocumented, immigrants had not officially been designated as such (i.e., as “illegal aliens”) until the 1920s when the Border Patrol was established. This application served to begin a long process of criminalizing such migrants, the history of which had been superbly chronicled by Ngai.⁹ Demographically, their numbers began to increase in the 1970s. If one assumed that all of the unauthorized migrants who were residing in the country during the 1980s had legalized, as was very nearly the case,¹⁰ then total immigration during the decade would have ranged between 6.7 and 8.7 million persons, or a midpoint that would have exceeded the levels of all previous decades except the 1900s, when 8.3 million immigrants were admitted.¹¹

During the 1970s and 1980s, immigration also changed its composition substantially.¹² Newcomers were less frequently coming from Canada and European countries, instead more often originating in Asian and Spanish-speaking nations. In the 1960s, for example, only about one-half of immigrants came from Asian or Latin American countries, whereas in the 1980s over four-fifths did. Immigration from Mexico, which in the 1960s involved the largest flow from any one source country, climbed from about one in seven immigrants in that era to almost one in five during the 1980s. Conversely, entrants from Europe and Canada dropped from about one in two to one in seven.¹³

Most significantly, another important shift involved unauthorized migration beginning to increase. In 1964 the United States had terminated the Bracero Program, an agreement starting at the beginning of WWII that brought in temporary agricultural workers from Mexico. With the program termination and with reliance on this source of labor having become well institutionalized in the American Southwest by 1964, unauthorized migration, rather than subsiding, steadily climbed as population growth in Mexico generated surplus labor and as the demand for such workers continued to increase in the United States.¹⁴ High fertility levels

in Mexico also boosted legal permanent Mexican migration, although this impetus was deflected when U.S. immigration reform legislated a per country quota for the Western hemisphere. This, in the case of Mexico shifted what might have been legal to unauthorized migration. Visa-overstays, or those entering the country legally and then staying beyond the expiration dates of their visas, also rose.¹⁵ Because it is always difficult to find data to measure precisely the magnitude of stocks and flows of unauthorized migrants to the United States, exaggerations about the size and growth of the unauthorized population began to emerge and, because of imprecise measurement, were hard to refute. Even so, it was clear from even most cautious and careful assessments that the numbers of Mexicans coming and staying had increased appreciably during the 1970s. Not surprisingly, the 1978 Select Commission on Immigration and Refugee Policy concluded in its 1981 final report: ‘one issue has emerged as most pressing, that of undocumented/illegal immigration’.¹⁶

These trends contributed to the emergence of national debates in the 1970s and early 1980s about whether and how the country should revise its immigration policies. Doubts about the country’s ability to absorb substantial numbers of immigrants developed. Although the U.S. economy expanded appreciably during most of the 1970s and 1980s, real wages had begun to stagnate during the early 1970s.¹⁷ Some immigration researchers argued that the country’s policies were generating new arrivals too numerous and too poorly skilled to best serve U.S. needs at a time when increased global competitiveness was emerging.¹⁸ It was against this backdrop that Congress passed the Immigration Reform and Control Act (IRCA) in 1986 and the Immigration Act of 1990. These pieces of legislation arose appreciably from the same root causes and many of the provisions of the 1990 Act were designed to fill holes left by the 1986 legislation as well as to deal with some of IRCA’s already apparent limitations at the time. IRCA thus constituted the third piece of major immigration legislation passed during the 20th century.

Given that the country has adopted major immigration reforms only twice over the past 120 years, it is appropriate to ask whether these pieces of legislation represented major policy

changes, as some observers have argued,¹⁹ or rather collections of patchwork provisions born of political compromises that forestalled their chances of effectiveness? Did these laws prove to be major turns in US immigration policy that led to substantial changes in the kind and degree of immigration as had occurred after national origin quotas were adopted in 1924 and after family reunification criteria were passed in 1965? Did IRCA and the 1990 Act accomplish the main substantive purposes for which they were enacted? Or did the outcomes of the legislation generally just mostly reflect the political concerns that provided the impetus for changing national immigration policy at that time?

Examining the major provisions of these laws, together with the principal reasons for their passage and the extent to which they worked to achieve their objectives, provides help in answering these questions. In a broader vein, did these changes in US immigration policy mainly reflect the country entering a new era of restrictiveness or did they issue help to continue an expansionist orientation toward newcomers.²⁰ Because restrictionism versus expansionism often characterized the ideological poles of the debate over immigration policy during the 1980s,²¹ it is important to assess both pieces of legislation in terms of whether each has increased or decreased immigration to the country. While viewing these laws in terms of the extent to which these kinds of orientations were enforced by their passage inevitably oversimplifies a more complex reality, such an examination is useful because of the important role such orientations also have partially played in past US immigration policy.²² This approach, however, emphasizes that the quantity of immigration is most in need of entry policy regulation to the neglect of policy changes directed at modifying the kind of immigration. In actuality, both the quantity and kind of immigration matter.²³

The Immigration Reform and Control Act of 1986

IRCA, which was passed and signed into law by President Reagan in 1986, involved six sets of provisions, three major ones that encapsulated the crux of the legislation, and three others added to the bill to gain the support of certain hesitant legislators. The main ones were:

(1) employer sanctions (designed to remove the 'magnet' for unauthorized migration by making it illegal for employers to hire workers lacking appropriate documents); and (2) legalization (making it possible for illegal migrants who had been residing continuously in the country since January 1, 1982, to legalize their status); and (3) a special agricultural workers (SAWs) program (designed to allow agricultural employees in perishable crop work who had been employed for 90 days in the years immediately preceding IRCA's passage to apply for LPR status), as well as a worker replenishment program should labor shortages develop in agriculture. Three other sets of provisions include: 4) state legalization impact assistance grants (SLIAG) (which authorized one billion dollars per year for four years beginning in 1988 to reimburse state governments for the costs of public assistance, health and educational services for newly legalized migrants); (5) a systematic alien (sic) verification for entitlements (SAVE) program (requiring all states to verify that non-citizens were eligible for welfare benefits); and (6) increased enforcement (focusing mainly on increased border patrol, inspections, and other enforcement activities).

Although the legalization and SLIAG provisions were expansionist in nature and resulted in

3.1 million unauthorized migrants applying for legal status,²⁴ for many lawmakers IRCA's major purpose was to curtail unauthorized migration into the United States. The primary instrument set up to accomplish this was employer sanctions. Because of fears that employers complying with this provision might do so by engaging in hiring discrimination against foreign looking US minorities, the employer sanctions section of IRCA included anti-discrimination measures that extended the protections of US Civil Rights law to prohibit discrimination based on citizenship status. IRCA thus, in effect, enjoined employers to walk a tightrope between not hiring certain kinds of workers and not discriminating against others. Assessments of whether IRCA achieved its main purpose of curbing unauthorized migration can be seen by ascertaining whether the numbers of unauthorized migrants coming to and residing in the country were reduced subsequent to the enactment of the law and, if so, whether such reductions were

achieved without paying a price of increased discrimination on the part of employers against legal minorities. Different sources of information helped to shed light on the former question.²⁵ One especially relevant kind of evidence came from apprehension statistics, which entail periodic tallies of the number of times persons who are unauthorized try to enter the country and are apprehended by the US Border Patrol or by other Immigration and Naturalization Service (INS) enforcement personnel.

Evidence About Unauthorized Migration

Several studies in the years immediately after IRCA's passage used time series methods to analyze apprehensions statistics as an indicator of unauthorized migration into the United States across the southern border. One group of studies, conducted by researchers working at The Urban Institute,²⁶ modelled the number of successful border crossers as a function of the size of the Mexican population likely to migrate, the propensity of such persons to migrate, and the likelihood of their capture. The research assessed whether the propensity to migrate was affected by economic factors, seasonal factors, and factors related to IRCA. The likelihood of capture was indicated by the degree of INS effort as indicated by border patrol enforcement hours and border patrol resources (size of budget). Similar approaches were also used in other studies by other researchers.²⁷ Although analyses of apprehensions data involve certain difficulties, these did not appear to invalidate the studies.

Several consistent findings emerged from the research.²⁸ First and foremost, a clear reduction in the flow of unauthorized migrants across the US-Mexico border occurred in the post-IRCA period. Furthermore, this reduction took place even after removing the effects of increased INS effort, as indicated by measures of increased linewatch hours and the upgrading in equipment and technology, which would have been expected to increase apprehensions. The findings also suggested that a significant portion of the drop in apprehensions could be

attributed to the legalization of large numbers of Mexicans in the general legalization and SAW programs. Second, the studies broadly agreed that about one-third to one-half of the reduction could be attributed to IRCA. When researchers partitioned the decline into components due to the removal of the SAWs from the unauthorized labor migration stream or to other IRCA-induced effects, which would have also included any deterrent effects of employer sanctions, they found that about half of the decrease in apprehensions was attributable to SAW legalizations and about half to other IRCA effects. In other words, about one-fifth to one-fourth of the decline in apprehensions between late 1986 and 1989 owed to effects other than SAW legalizations.

Research also addressed the effect of IRCA on the magnitude of immigration across the US-Mexico border based on other kinds of evidence. One study reported the results of a data collection project that had been following the number and kind of unauthorized migrants crossing the border at one of its highest traffic points, namely at Canyon Zapata just outside Tijuana, Mexico, about 20 miles south of San Diego, California.²⁹ This study showed a clear decline in the post-IRCA period, with the numbers of crossers in late 1988 falling significantly below the corresponding figures for 1986. Other Mexican data drew upon 946 interviews conducted in 1988-89 in three traditionally sending communities in the Mexican states of Jalisco, Michoacan and Zacatecas. About 83 percent of the surveyed unauthorized migrants and other potential other migrants thought that IRCA had made getting a job in the United States harder.³⁰ Furthermore, about 83 percent of potential migrants (those who were thinking of going to the United States) gave IRCA-related reasons for not making the trip.

Other studies relevant to the question of whether IRCA exerted deterrent effects on flows were more ambiguous. Some found that IRCA might have lowered the probability of first-time unauthorized migration to the United States from communities in Mexico, but they also noted that other factors could explain this result as well.³¹ Others attempted to find evidence of a decline in the stock and flow of unauthorized workers resulting from employer sanctions by comparing the change over time in the wages of dishwashers and car washers in cities with significant unauthorized populations and those without, concluding that little evidence

emerged of any IRCA-related effects on the number or wages of unauthorized workers in these occupations.³²

Evidence About the Cumulative Size of the Unauthorized Population

Other studies generated findings that were more relevant to gauging the overall number rather than the flows of migrants.³³ Analysis of 1980 Census data and a series of CPS (Current Population Survey) data sources from the 1980s (including the June 1988 CPS) to see if the size of the unauthorized population was growing more slowly after the passage of IRCA. Results showed that the unauthorized population in the United States had shrunk in the post-IRCA period to the point where the total number in 1988 was smaller than the number in 1980, estimated to have been in the range of 2.5 to 3.5 million persons). Although research did not find evidence for a decrease in the net flow of unauthorized migrants, their results did suggest the possibility that the flow of unauthorized migrants from Mexico had declined (thus supporting the evidence reported above apprehensions data at the US-Mexico border). Yet another study developed estimates of visa overstays in the United States, based on information for two years before the passage of IRCA and two years after. This research constituted the first successful attempt to quantify the number of overstays, an important but largely unstudied component of unauthorized migrants in the United States at that point. When assessed in terms of the number of overstays per non-immigrant entry, the data showed a decline in the rate of overstays.³⁴

The research evidence thus was generally consistent with the idea that IRCA brought about a reduction in unauthorized migration to the United States during the two years after the legislation was passed. After that, the research suggested that unauthorized migration again began to rise. To what extent can the reduction that occurred be attributed explicitly to the deterrent effects of employer sanctions? Even though IRCA's legalization program alone accounted for a notable part of the reduction as a consequences of many unauthorized persons

being removed from the population, a substantial number remained, suggesting the possibility that sanctions also might explain some of the decline.³⁵ However, the fact that the implementation of sanctions occurred gradually over a three-year period (1988-1990), with the INS reaching its intended level of legislated enforcement only in 1990, the fourth year after the law was passed, suggests that sanctions may not have accounted for the decline. The greatest reductions took place in the first and second years of the legislation, not during the third and fourth years, when sanctions were most strongly enforced. Thus, the decreased flows may have owed less to the deterrent effects of sanctions than to generalized patterns of anxiety and rumor, especially within Mexico, about what the effects of the law might be for migrants. Once it was learned that the legislation was *not* going to lead to draconian outcomes (such as unauthorized migrants being thrown in jail), the process of unauthorized labor migration resumed as it had before.

Evidence About Discrimination

If employer sanctions seemed to have had little lasting effect on unauthorized migration, was it similarly the case that IRCA appeared to have generated little increase in discrimination? In response to fears that implementing employer sanctions might result in widespread discrimination, the legislation included provisions for expedited congressional review and possible repeal after three years if the General Accounting Office (GAO) found evidence of widespread discrimination in its third-year evaluation research.²⁹ This, in fact, was the conclusion the GAO reached when it issued its report. The evidence forming the basis for this conclusion that sanctions had increased discrimination in hiring against ethnic minorities derived primarily from the two studies conducted by the GAO, one in 1988 and one in 1989.³⁶ The studies relied on the self-reported retrospective answers of employers, a significant share of whom revealed that since 1986 they had introduced discriminatory practices on the basis of their understanding of the 1986 immigration law. Specifically, 5 percent of employers reported that, as a result of their interpretation of IRCA, they had begun a practice of

turning away applicants because of their foreign appearance or accent. Further, 8 percent reported that as a result of IRCA, they had applied the law's employment verification system only to people who looked or sounded foreign. Fourteen percent responded that they had begun a practice to (1) hire only persons born in the United States or (2) not hire persons with temporary work eligibility because of IRCA. These results were supported by an Urban Institute audit of employers, which revealed that Hispanic applicants were three times as likely to encounter unfavorable treatment when applying for jobs as otherwise similar Anglo applicants.³⁷

Unlike studies of sanctions' impact on annual migration flows, the basic findings of the GAO were severely criticized by some scholars and politicians, who claimed the results carried little weight because no pre-IRCA baseline of discriminatory behavior existed to which their findings could be compared. As a consequence, it was argued, it was impossible to obtain adequate evidence on which to base judgements that employer sanctions had caused additional discrimination.³⁸ While this argument entailed some merit, it approached the assessment of discrimination by *assuming* initially that unfair treatment was not occurring as a result of sanctions, and then it sought evidence to invalidate this assumption. Mexican-origin minorities, however, perceived the matter in altogether different terms. They placed the burden of proof on demonstrating that discrimination had *not changed*. This approach assumed initially that discrimination had increased as a result of IRCA and then sought evidence that it, in fact, had not. The merit in the minorities' initial assumption is suggested by the fact that the drafters of IRCA had written anti-discrimination measures into the law in the first place. In any case, for those taking this perspective, the findings of the GAO studies and the Urban Institute hiring audit that discrimination was taking place and might have increased as a result of IRCA provided scant reason to discard their initial assumption that discrimination had increased as a result of the legislation.

Overall, the results of the GAO studies conducted in 1988 and 1989 cross-validated one another. Together with the supporting evidence provided by The Urban Institute hiring

audit, along with numerous other studies of sanctions-related discrimination conducted by other public and private entities, these results suggested that additional new discrimination was occurring as a consequence of IRCA. The fact that the findings of these studies conducted by different institutions converged on the same conclusion lends confidence to the GAO survey results. Given the vital interests that were at stake – that is, the right to work and all that flows from it – such affirmative evidence indicating that sanctions did not generate increased discrimination would seem necessary for analysts to dismiss the results of the GAO and other studies.

Over the first few years of IRCA implementation, employer sanctions thus seemed not to have exerted much effect on curbing unauthorized immigration. However, they did seem to have led to some new discrimination against native minorities who struck employers as looking foreign. Several years after IRCA was passed, employer sanctions, which were the centerpiece of the legislation, appeared not to have been enforced much at all, or at most not very effectively.³⁹ Moreover, despite uneven levels of enforcement, worries about increased discrimination appeared to have been justified. Moreover, in the early 1990s, rumors emerged that the INS was planning to enforce employer sanctions more vigorously. But this possibility never materialized to any appreciable degree, as indicated by minimal budgetary increases for enforcement. In 1996, however, stricter penalties for unauthorized migration were adopted, making the lives of the unauthorized precarious through the threat of deportation and the imposition of criminal penalties for certain repeat offenses, reflecting a new political consensus that IRCA's major goal of curtailing unauthorized migration had failed.

The Immigration Act of 1990

The Immigration Act of 1990 passed at the close of the 101st Congress.⁴⁰ The most visible features of the legislation involving matters of immigrant admissions and exclusions included a cap on legal immigration, emphasis on skilled versus unskilled workers, the establishment of diversity visas, increased family-based immigration, and further measures

focused on unauthorized migration deemed relevant in the years immediately after IRCA. Overall, the thrust of the 1990 act emerged in the wake of IRCA in two ways. First, it was directed at reforming legal migration, whose neglect became clearer because of IRCA's devotion to unauthorized migration. Second, it was aimed at coping with certain unanticipated developments that IRCA's passage had spawned or revealed (e.g., most notably, the unauthorized family members of those legalizing under IRCA where allowed to legalize).

Provisions of the 1990 Act

Reflecting anxieties about continuing unauthorized migration, the 1990 bill placed a cap on overall immigration to the United States for the first time since the laws of 1921 and 1924. The cap was set at 700,000 for fiscal years 1992-94 and at 675,000 thereafter. However, the cap was pierce- able and could be exceeded as early as 1993. The pierceable cap reflected a political compromise between those interested in restricting immigration and those interested in protecting family reunification: the final version of the law allowed an unlimited number of visas for immediate relatives of US citizens (then set at 220,000 per year), while at the same time setting a floor of 226,000 visas for other family-based immigration. The overall cap would be exceeded if immediate family admissions were to rise significantly while other family-based admissions reached 226,000. This scenario could occur, for example, if many persons legalizing under IRCA decided to naturalize as soon as they were eligible and then brought in their parents and other immediate relatives. Finally, entrants admitted as refugees (approximately 131,000 for 1991) were not counted against the cap, nor were those legalizing under IRCA. A second major provision in the bill increased overall admissions. Immigrant admissions could increase from 492,000 per year, their level then, to 700,000 from fiscal years 1992 through 1994, and to 675,000 thereafter.

The number of visas reserved for workers under the new law increased significantly from 58,000 per year to 140,000. This number was somewhat misleading, however, because the 140,000 figure includes both workers and their families. In fact, the new law would increase the number of new workers by only about 34,000 per year. However, the legislation changed the skill mix of employment-based admissions significantly. The bill reflected a strong bias in favor of professionals and skilled workers as opposed to unskilled workers. Visas for the unskilled category were set at almost half their existing levels and were capped at 10,000 in the new law. The law also authorized 10,000 visas a year for investors who would employ 10 or more persons and invest more than \$1 million. Of these visas, 3,000 were set aside for investors in targeted areas with high unemployment; for those investors, the minimum outlay required was \$500,000. The Immigration Act of 1990 also established diversity visas to stimulate immigration from countries that had sent comparatively few immigrants to the United States in the 1970s and 1980s. In fiscal years 1992-94, at least 40 percent of the diversity visas were dedicated to Irish applicants, many of whom were expected to be unauthorized workers already in the United States. Eligibility for one of these “transitional” visas required only that the applicant have a firm job offer from a U.S. employer. Beginning in fiscal 1995, applicants for diversity visas were required to have a high school diploma or two years of training. Again, national origin was critical, as the 55,000 diversity visas were made available, using a complicated formula, to countries that had been sending comparatively few immigrants.

The family provisions of the act were driven by congressional interests in promoting the nuclear family, eventually diversifying the immigrant stream, and reducing the size of the nation’s unauthorized population. Significantly, the increase in the number of workers authorized by the bill was not designed to come at the expense of family-based admissions. Family-based admissions, themselves, were increased almost 20 percent for the first three years under the Immigration Act of 1990 and 10 percent thereafter. A new category of family admissions under the act was the provision of 55,000 visas per year for three years that were

to go to immediate family members taking advantage of IRCA's legalization programs.

Another major feature of the law concerned the unauthorized population. First, the bill barred deportation of, and granted work authorization to, all spouses and children of the 2.5 to 2.8 million persons who legalized under IRCA, if the spouses and children were in the United States before May 5, 1988. The numbers allowed for at the time were in the range of 350,000 to 500,000. Second, as noted above, the bill provided 55,000 visas per year for three years to immediate relatives of persons legalizing under IRCA. Many of these relatives lived in the United States, but some of them lived abroad.

The bill also offered the temporary protected status of "safe haven" for a minimum of 18 months for the roughly 350,000 to 500,000 Salvadorans in the United States. Most of these persons were not eligible for secondary IRCA legalization and remained unauthorized. Under the safe haven provision, Salvadorans who had been continuously present in the United States since September 19, 1990, had to register with the INS in the first half of 1991. Those deemed eligible then had to re-register every six months to remain authorized to work in the United States. Finally, the law legalized at least 16,000 Irish per year for three years under the transitional diversity program sketched above. Altogether, then, these programs had the effect of changing the legal status and work eligibility of more than 1 million persons. In sheer numbers, the legalization and safe haven provisions swamped the 34,000 new skilled workers to be admitted to the country annually under the bill.

The Overall Thrust of the 1990 Act

On balance, the Immigration Act of 1990 expanded immigration to the United States. Nevertheless, two of the bill's major features were born of ideas about limits and thus were consistent with restrictionist orientations. One was the cap on overall immigration. Even though the cap could be exceeded under certain circumstances, the greatest achievement of the

act for many observers was that a ceiling on immigration had been written into law. The second was the emphasis on skilled immigrants. This feature of the law had sprung from the idea that family reunification criteria had resulted in more immigrants with lesser skills, thus presumably making it harder to strengthen the country's economy in times of greater global competitiveness. Apart from the extent to which this might not be true, those who thought this was the case found it politically impossible at the time to reduce family reunification immigration. The fallback position was thus to push for increasing the proportion of newcomers explicitly based on higher skills. The result again was the simultaneous presence of, as well as tension between, both restrictionist and expansionist elements in immigration law.

The Nature of the Effectiveness of the 1986 and 1990 Laws

As years of experience with IRCA continued, evidence mounted that the legislation had failed to stop or even substantially reduce the flow of unauthorized migrants to the United States. The legalization programs, on the other hand, can without exaggeration be seen as very successful. The 1990 act's effects can be more easily discerned in the laws' provisions themselves than was the case with the 1986 law. Whereas IRCA relied upon indirect means to try to diminish clandestine flows, the 1990 act stipulated how many and what kinds of persons could legally obtain permanent residence visas. Thus, its consequences were written into law, and it was possible to discern its effects on future legal flows from the outset. Restrictionist tendencies were important in the development of both pieces of legislation, and in a certain sense, the impetus behind both reflected a growing concern in some quarters that national immigration policy in the 1980s was generating new arrivals too numerous and too poorly skilled to best serve the needs of the country. Although a number of factors drove the policy debates leading up to the legislative changes, the main one behind the policy shifts involved anxieties about the consequences of immigration for the country, including the usually unstated worry that increasing numbers of unauthorized and Third World immigrants might be difficult for the country to absorb.

Given such concerns, it is somewhat striking that the changes in immigration policy brought about by the legislation fostered immigration levels in the 1990s and 2000s that surpassed those of the 1980s. As noted above, the Immigration Act of 1990 left virtually intact the family-reunification provisions of previous law while providing for both increased immigration on the part of persons meeting certain skill criteria and the legalization of family members of those who had previously legalized under IRCA. Supplementing family reunification and skills-based entrants were flows of unauthorized migrants that until the 2000s were at least as high as those of the 1980s. The conclusion that has emerged about the laws is that the immigration reforms of 1986 and 1990 have been expansionist in their effects. What started out for some observers as a need to restrict U.S. unauthorized and legal immigration resulted in uneasy compromises between restrictionist and expansionist factions, or in some cases between restrictionists and civil libertarians, who were less worried about restricting immigration than about how restrictions would be implemented. The latter balked at such proposals as secure verification of employment. eligibility for civil libertarian reasons, even though such measures might have reduced some of the increased discrimination resulting from employer sanctions. But on the whole, the compromises appear to have handicapped the effectiveness of restrictionist measures more than expansionist ones, with the result that the overall thrust of the policy changes was somewhat expansionist in effect, if not intent.

Into the twenty-first century, pressures have periodically mounted to adopt new comprehensive immigration reforms. As a result, the balance of forces behind the political compromises reached in both IRCA and the 1990 Act may be again put to the test. Few U.S. residents believe in open borders, and public opinion polls have consistently revealed that popular opinion slightly favors increasing the number of legal immigrants admitted to the country,⁴¹ a vision roughly consistent with earlier U.S. immigration policies of “closing the back door while keeping the front door open.”⁴² Stated straightforwardly and somewhat narrowly, the two pieces of legislation individually and jointly led to increased immigration and thus were more expansionist than restrictionist in their effects. Interpreting the 1986 and

1990 Acts only in these terms, however, while helping to place the legislation in demographic and economic context, stops short of drawing conclusions about the broader sociocultural/historical and legalistic/political ramifications of the laws' provisions and consequences.

To understand the broader significance of the 1986 and 1990 Acts, it is useful to refer to three different sociocultural/historical immigration models that Fuchs and Martin have formulated about the country's initial immigration experiences.⁴³ One consisted of a labor-migration, economy-oriented emphasis exemplified by the priorities of Virginia plantation owners. A second was a selective-immigration, ethnoreligious- exclusivity model exemplified by the Puritans in Massachusetts. And the third embodied pro-immigration/socio-cultural diversity priorities as embraced by the Quakers in Pennsylvania. The Virginia model, with its plantation need for and reliance on slavery, gave overwhelming priority to migration that satisfied economic needs, a pattern forerunning the economy/labor-migration emphasis of some of today's immigration advocates seeking to allow both more lesser-skilled and higher-skilled migrant workers in one way or another. The Massachusetts model, with its ethnoreligious intolerance for all but strictly Protestant believers (preferably Puritans), foreshadowed today's pro-white immigration restrictionists. The Pennsylvania model, more so than the other two, provides example and inspiration to today's pro-immigration pluralists.

These archetypes provide a historical/sociocultural framework for interpreting the general nature of the three major U.S. legislative initiatives on immigration in the 20th century. The 1924 National Origins Act, with its establishment of immigration quotas in proportion to the numbers of migrants coming from countries previously sending immigrants, was substantially restriction-based and exclusionary in orientation. The 1965 Hart-Celler Act, through its amendments to the McCarran-Walters Act that dismantled the 1924 national origins quotas and its adoption of family reunification admission criteria, was strongly expansionist and inclusionary in thrust. The 1986 and the 1990 Acts embraced certain elements of each of its previous major 20th century predecessors. The legalization and agricultural worker aspects of

IRCA, with their emphases on providing multiple pathways to legal membership *and* ways to admit more lesser-skilled workers, were respectively inclusionary and expansionist in the manner of the Pennsylvania model. But employer sanctions, along also with temporary worker provisions, sought respectively to curtail unauthorized labor migration while also allowing temporary migrant entrants, resulting in both restrictionist and exclusionary tendencies. The 1986 and 1990 Acts thus depended on an uneasy compromise between different political factions seeking immigration reform, as well as an awkward combination of contradictory migration features.⁴⁴ Because the employer sanctions provisions were inadequately funded and formulated in terms that made it easy for workers to qualify as “legal” even when they were not, IRCA’s strong contradictory elements appeared to some observers to entail more “window dressing” than substantive features, while the temporary foreign worker provisions continued to provide entry for low-wage workers.

IRCA’s efforts to embrace both inclusionary expansion and exclusionary restriction elements set the stage for additional anxiety among some Americans, often members of the working class, about the volume of immigration and immigrants, sentiments that would fuel further restriction efforts during the 1990s about immigrants use of social services (the 1994 passage of proposition 187 in California and the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) are cases in point). The latter included provisions that exposed many legal and unauthorized immigrants to deportation for reasons (often quite small) that had not existed previously, contributing to the considerable precarity in the lives of both unauthorized and legal migrants.⁴⁵ Recent research has documented extensively the tangible difficulties for immigrant families and their children (even in instances where those children were U.S. born).⁴⁶ On balance then, the considerable and positive success of IRCA’s legalization programs (in their providing pathways to LPR status, citizenship and full membership in U.S. society, actions that have benefitted both the immigrants and the United States) stand compromised and tainted to a certain extent by IRCA’s having also contained elements helped pave the way for subsequent administrative and legislative initiatives leading

to harsher and more dangerous lives for many immigrant families.

Discussion of the Literature

Four main kinds of questions have been addressed about IRCA and U.S. immigration policy. The first concerns the factors and forces that produce legislation. In this regard, analysts have focused on three major thematic emphases, important aspects of which have been noted above for the 1996 IRCA and the 1990 Act. One concerns an emphasis on the political/legal factors that contributed to an impetus to reform U.S. immigration policy in the last quarter of the twentieth century. Major examples here include works by Roger Daniels, Peter Schuck, Daniel J. Tichenor, and Aristide R. Zolberg.⁴⁷ A second concerns social/cultural/historical factors that helped shape the conditions out of which the impetus for reforms developed as well as the nature of the reforms that were adopted. Substantial examples here include analyses by Lawrence H. Fuchs, John Higham, and Susan F. Martin.⁴⁸ A third emphasizes demographic/economic factors that both contributed to motivations and efforts to modify immigration policy and are affected by the policies adopted. Treatments here include those by Bean and Stevens, George Borjas, Timothy Hatton and Jeffrey Williamson, and Douglas S. Massey and colleagues.⁴⁹

A second kind of question involves simply asking what the legislation consisted of, and how well various aspects of the legislation's provisions were actually implemented, or put into practice. Comprehensive assessment of IRCA in these regards was undertaken by Immigration Policy Research Centers at the Urban Institute and the RAND Corporation starting in 1988, with funding from the Ford Foundation, in the years after the legislation was passed. The results and conclusions in many of the publications resulting from this assessment have been discussed above. A third and closely related question concerns the short-term effects of the legislation, examined especially from the perspective of whether the provisions of the legislation seemed to be accomplishing their intended purposes. As noted above with respect

to the two major provisions in IRCA, that of employer sanctions and that of legalization, the former did not appear to be leading to curtailment of unauthorized migration in the years immediately following the legislation's enactment. The legalization program, however, was very successful, attracting about ninety percent of those eligible to qualify for its path to LPR status.⁵⁰

The fourth major question concerns the longer-term effects of IRCA. Particularly important here are the effects of legalization on the lives and accomplishments of those who legalized versus those who did not, or could not. A major research project carried out in Los Angeles on Mexican immigrants and their offspring to examine the effects on integration (as measure by the educational attainment of the children of immigrants) found that the children of those whose parents came to the United States illegally but subsequently legalized advanced educationally considerably farther compared to those whose parents were not able to legalize. The children of legalizing parents also attained just as much as those whose parents came legally in the first place. Moreover, the parents of these offspring came to the U.S. during years that would have made them eligible for IRCA legalization, strongly suggesting that IRCA legalization carried a substantial benefit for the children of those legalizing, raising their educational level considerably and reducing the likelihood that they would have fewer mobility opportunities.⁵¹

Primary Sources

Primary sources of information about the immigrants coming as a result of IRCA include in data on immigration from the annual Yearbooks of Immigration Statistics. Other social, economic, and demographic data on the foreign-born population of the United States are available from microfiles of Census and American Community Survey data.⁵² See also archival sources below.

Archival Source Hyperlinks

- Commission on Immigration and Refugee Policy at USCD
 - <https://library.ucsd.edu/dc/object/bb6451857z>
- Ronald Reagan Presidential Valley
 - <https://www.reaganlibrary.gov/mmcontact-us>
- U.S. Commission on Immigration Reform
 - <https://repositories.lib.utexas.edu/handle/2152/64167>

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