PATCHWORK POLICIES: IMMIGRANT INTEGRATION IN THE UNITED STATES*

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ABSTRACT

The United States is known as the quintessential immigrant nation, one that has successfully integrated tens of millions of newcomers over its history. This integration has occurred, we contend, in the absence of any coordinated national integration policy. Indeed, the U.S. federal government has no official definition of immigrant integration. Rather, the prevailing approach of U.S. governments and the American public is one of laissez-faire integration: immigrants are expected to use their own resources, family, friendship networks, and perhaps the assistance of local community organizations to survive and thrive in the United States. While there are examples of federal, state, and municipal policies that can facilitate immigrants' integration, these offer, at best, a patchwork of policies that do not form a coherent response to immigrant settlement. As a result, immigrants can be treated very differently in different parts of the country.

RÉSUMÉ

Les États-Unis sont connus comme le pays par excellence des immigrants, celui qui a intégré avec succès des dizaines de millions de nouveaux arrivants depuis ses débuts. Cette intégration a eu lieu, à notre avis, en l'absence de toute politique d'intégration nationale coordonnée. En effet, le gouvernement fédéral américain n'a pas de définition officielle de l'intégration des immigrants. Au contraire, l'approche dominante des gouvernements des États-Unis et du public américain est une intégration de style laissez-faire : les immigrants sont censés utiliser leurs propres ressources, la famille, les réseaux d'amitié, et peut-être l'assistance des organisations communautaires locales pour survivre et prospérer aux États-Unis. Bien qu'il existe des exemples de politiques fédérales, étatiques, et municipales qui peuvent faciliter l'intégration des immigrants, celles-ci offrent, au mieux, un ensemble de politiques qui ne forment pas de réponse cohérente à l'établissement des immigrants. En conséquence, les immigrants peuvent être traités très différemment dans différentes parties du pays.

A. WHO MIGRATES TO THE UNITED STATES? LAW AND DEMOGRAPHICS

While the popular image of the United States is one of enduring immigration, national origin quota laws shut off large-scale migration between the 1920s and 1965, relegating issues of immigration and integration to relative insignificance. Only after Congress repealed these laws in 1965 did the United States again become an immigrant nation: in 2010, almost 40 million foreign-born people constituted 12.9 percent of the country's 309 million residents, a proportion four times the global average.[1] The majority of these immigrants, 53 percent, were born in Mexico, Central and South America, or the Caribbean, with Mexicans the largest group.

The 1965 Immigration and Nationality Act still structures immigrant admissions today. A series of preference categories, which heavily favour family reunification, allocate between 416,000 and 675,000 visas to would-be migrants. U.S. citizens can also sponsor an immediate family member outside the annual limit imposed by Congress. As a result, two-thirds to three-quarters of legal immigrants enter the United States in any given year due to family ties. The remainder enter as economic migrants, usually high-skilled workers sponsored by U.S. employers, or as refugees or asylees.

The United States is also home to a significant undocumented population, migrants who enter the country clandestinely or overstay legal visas for tourism, study, or temporary work. In 2010, an estimated 11.2 million migrants lacked legal residency papers, about 29 percent of the country's foreign-born individuals (Passel and Cohn 2011). Undocumented, or "illegal," migration has become a defining feature of American immigration debates, as has the issue of border control. A majority of U.S. residents think most immigrants in the country are illegal.[2] Border enforcement was already a priority before the terrorist attacks of 11 September 2001, but since 2003, when immigration services and enforcement were transferred to the new U.S. Department of Homeland Security, policing borders has gained further salience within a framework of national security.

While the U.S. government has no official definition of integration, many Americans would associate successful integration with an absence of significant differences between immigrants and the native born in socio-economic outcomes like labour market participation and college attendance, and in socio-political indicators, such as adopting U.S. citizenship and speaking English.[3] Here we see both successes and challenges. The foreign born work more than the native born, but they earn less and are more likely to live in poverty.[4] Part of the income gap stems from the low level of schooling among a large proportion of immigrants—32 percent do not hold a high school diploma—but this does not account for the entire difference, raising questions about employment equity and discrimination. Because only a minority, 43 percent, are naturalized citizens, many immigrants cannot vote and consequently have a hard time using the ballot box to exert political pressure for policies to benefit the foreign born.[5]

B. THE POLICY-MAKING FRAMEWORK: U.S. FEDERALISM AND PUBLIC OPINION

The United States is a federal system, with power divided between a national (federal) government, 50 states, and about 20,000 municipalities. The laws that the national government creates are, according to the U.S. Constitution, "the supreme law of the land." Congressional authority is clearest and strongest in deciding who may enter the country and under what conditions, a prerogative repeatedly confirmed by the courts, most recently in June 2012 when the U.S. Supreme Court invalidated most provisions of a controversial immigration law enacted by Arizona state policymakers in 2010. The federal government does not, however, administer a formal immigrant integration policy beyond a modest refugee resettlement program.

In the absence of a national policy, integration is left to families and ethnic communities, and states and localities, which have power to legislate in areas such as education and social programs. Increasingly, local governments and their electorates resent the fact that they shoulder this responsibility, and associated cost, but have no authority over admissions. Sub-national governments consequently have become important sites of integration debates, especially as migrants disperse to new metropolitan and rural areas. Policymakers have proposed, and sometimes enacted, a growing number of state bills and local ordinances; some aim to facilitate integration, but many others seek exclusion (Laglagaron et al. 2008; Newton 2012; Ramakrishnan and Wong 2010). A full portrait of integration policy in the United States would require an analysis of 50 states and thousands of municipalities home to immigrants.

Contemporary American immigration and integration politics are also enmeshed in internally fragmented party politics and public opinion. Two-thirds to three-quarters of Americans disagree with statements that *legal* immigrants are a burden on social services, increase crime, or increase the likelihood of a terrorist attack, but when queried about *illegal* migrants, between half and three-quarters of Americans express agreement (German Marshall Fund 2009, 2011). Unlike in many European countries, immigrants' cultural and religious diversity does not raise much concern. Two-thirds of Americans feel that immigration enriches the culture of

the United States. The legal status of migrants—not their culture or work ethic—is the central public policy issue in the United States.[6]

C. INTEGRATION, SETTLEMENT, AND EXCLUSION: A POLICY PATCHWORK

Many policies that facilitate immigrants' integration flow from the legacies of the 1960s civil rights movement, when native-born minorities led by African Americans mobilized for equality in law and practice. Increasingly, though, contemporary policy-making directed specifically at immigrants emphasizes exclusion. Immigrant advocates have turned to the courts to fight exclusionary measures.[7]

1. Civil Rights Legacies: Education and Language Access

Primary and secondary education is largely a state responsibility, but the federal government has stepped in to enforce civil rights laws. In 1968, Congress enacted the Bilingual Education Act (BEA), which—until it expired in 2002—provided a federal remedy for discrimination against students who did not speak English. It also made federal funding available for programs taught in languages other than English. During its 34 years, the BEA generated constant controversy, especially over whether it should help maintain minority languages and cultures or only provide remedial or transitional English instruction (Schmid 2001; Spolsky 2004). Voters in California, Arizona, and Massachusetts adopted ballot measures to ban bilingual education in public schools in 1998, 2000, and 2002, respectively. In 2001, the federal English Language Acquisition Act (ELAA), enacted as Title III of the No Child Left Behind Act, replaced the BEA. ELAA contains no reference to "bilingual education" and prioritizes English-only instruction by measuring school success in English language proficiency alone. The change in teaching pedagogy that ELAA forces on states, some claim, will hurt the academic achievement of immigrant children and makes it more difficult for them to adapt to life in the United States (England 2009).

Unlike in Canada, the U.S. government has done little to create and fund programs that teach English to adult immigrants even though more than half of the 85 percent of immigrants who speak a language other than English at home report not speaking English very well. The Workforce Investment Act of 1998, which includes as Title II the Adult Education and Family Literacy Act, is the main national program for adult ESL instruction. Inadequate funding has resulted in long waiting lists for ESL classes, sometimes up to three years, and overcrowded, understaffed classrooms (Tucker 2006). The case of adult language instruction illustrates well the American public's laissez-faire philosophy on immigrant integration. While 91 percent of Americans feel it is very or somewhat important that immigrants speak English, only 30 percent believe the government should pay for English language classes.[8]

Immigrants with limited English do enjoy some language access guarantees, rooted in Title VI of the 1964 Civil Rights Act. Congress and the President have used the Act to mandate that administrative agencies at various levels of government hire bilingual personnel and translate forms, notices, and applications for limited-English proficient (LEP) individuals.[9] Similarly, Section 203 of the 1975 amendments to the Voting Rights Act of 1965, another piece of civil rights legislation, provides language access at the ballot box.[10] As of 2002, 466 local jurisdictions in 31 states were legally required to provide voting information and ballots in non-English languages (U.S. Commission on Civil Rights 2006). Large immigrant gateway cities such as San Francisco, New York, and Washington, D.C. have also adopted their own, more expansive, language access policies.

2. Citizenship and Legality: Who Deserves Social Benefits?

The U.S. government provides a number of public benefits that constitute an important, though minimal, safety net for the poor, elderly, and disabled. The major programs include food stamps, Supplemental Security Income (SSI, a monthly income supplement for the aged, blind, and disabled), welfare assistance to indigent families (known as Temporary Aid to Needy Families, or TANF), Medicaid (health care for the poor), and Section 8 subsidized housing. Because many newcomers are poorer than the native born, federal benefits can provide much needed assistance with integration.

Government policy, however, increasingly uses citizenship and legal status as criteria for receiving public benefits. Undocumented immigrants are not eligible to receive federally-funded benefits other than emergency Medicaid. Legal immigrants used to be eligible for benefits on the same basis as U.S. citizens, but this ended with the Personal Responsibility and Work Opportunity Reconciliation Act, commonly known as the Welfare Reform Act, in 1996. In its original form, the Act terminated or limited federal benefits to legal immigrants, with the exception of refugees and immigrants with long work histories or military connections (Fix, Capps, and Kaushal 2009). As of 2012, some benefits have been restored to some immigrants, but many exclusions stand.

Anti-immigrant rhetoric over public benefits, also heard in recent debates over healthcare reform, carries serious consequences for integration. For example, many legal immigrants eligible for Medicaid avoid using the program because they are confused by complex eligibility requirements or because they have the mistaken impression

that using Medicaid would make them a "public charge," possibly rendering them ineligible for U.S. citizenship (Feld and Power 2002). This can have disastrous consequences for immigrants' health and for the public purse; uninsured immigrants often lack access to preventative services and then rely on costly emergency room visits when they become critically ill.

3. Fighting the Turn toward Exclusion: The Role of the Courts

Policy reforms over the past two decades have shifted the burden of determining and financing social policy from the federal government to state and local governments. A number of these sub-national governments have responded with exclusionary legislation aimed at non-citizens. Cities such as Hazleton (PA), Escondido (CA), and Farmers Branch (TX) gained national attention in 2006 when they passed ordinances barring undocumented migrants from working and renting homes in their cities. In 2007, legislatures in Arizona, Oklahoma, Tennessee, and West Virginia made it illegal for employers to hire undocumented workers (Laglagaron et al. 2008). More recently in 2011, the state of Alabama enacted a law that is even harsher than a similar anti-immigrant law enacted in Arizona in 2010. The Alabama law, among other things, requires police to ask the immigration status of people stopped or arrested if the police have "reasonable suspicion" that the individual is an unauthorized migrant, makes it illegal to harbor or transport undocumented immigrants, and requires schools to track the immigration status of their students. Subsequent court rulings have blocked several of the law's provisions, but others have been allowed to go into effect. While exclusionary legislation often targets undocumented migrants, it can affect legal immigrants, too. For example, 28 U.S. states have adopted—often by direct popular vote or referenda—policies that declare English the official language of government (English First 2012).

The terrorist attacks of 2001 also spawned a series of laws undermining non-citizens' legal rights and their ability to carry out daily activities. The federal USA PATRIOT Act of 2001 restricts immigrants' civil liberties by creating new grounds for deportation and making it easier for federal officials to detain foreign-born individuals suspected of terrorist activities. The REAL ID Act of 2005 requires proof of lawful immigration status to get valid state-issued photo identification. This makes it impossible for undocumented immigrants to obtain a driver's license, which in the United States commonly serves as identification for everything from using the public library to opening a bank account. Finally, a total of 68 law enforcement agencies in 24 states had, by September 2011, entered into agreements with the U.S. Department of Homeland Security, pursuant to Section 287(g) of the 1995 Immigration and Nationality Act, to help federal officials enforce immigration laws by apprehending undocumented immigrants in their jurisdictions (USCIS 2012).

Many such laws and policies face legal challenges. Cases brought forward by immigrant rights and civil liberties advocates have ended in some notable victories. For example, in 1975, Texas enacted a law denying educational funding for undocumented immigrant children and allowing local school districts to prevent these children from enrolling. The U.S. Supreme Court struck down the state law in its 1982 *Plyler v. Doe* decision, ruling that undocumented children have a constitutional right to a free, public education. Courts also declared unconstitutional a 1994 California initiative that prohibited illegal immigrants from accessing social services, health care, and public education, since it infringed on federal jurisdiction over immigration. The courts are not always sympathetic to immigrants' claims, however. For example, undocumented workers lost some important labour protections in the 2002 Supreme Court decision, *Hoffman Plastic Compounds Inc. v. NLRB*. Also, while many of the provisions of both Arizona's and Alabama's anti-immigrant laws have recently been struck down, controversial provisions that allow police to check a person's immigration status while enforcing other laws still stand. In our assessment, despite bright spots including President Obama's recent decision to stop deporting certain undocumented youth, the current turn to exclusionary policies contributes to a climate of fear that hinders the integration of immigrants, including those not directly targeted by legislation.

D. THE FUTURE OF IMMIGRANT INTEGRATION POLICY IN THE UNITED STATES

It is important to emphasize that the United States continues to be a land of opportunity for many immigrants, and especially their children. It provides stable government under a rule of law, economic mobility for many, and a relatively open society tolerant of religious, cultural, and racial diversity. All those born in the United States, regardless of their parents' legal status, receive U.S. citizenship at birth. While no paradise, many migrants move to the United States because it offers a better life than many other places in the world, for them and their children.

This does not mean that exclusionary, or even laissez-faire, policymaking should continue. We believe that immigrants' integration would be faster, easier, and more successful if the federal government instituted a comprehensive set of settlement policies focused on language training and socio-economic security. While U.S. politicians and voters tend to be suspicious of

government intervention, often adopting a "pull yourself up by the bootstraps" mentality, we see an important precedent for federal action in refugee settlement policy.[11] Working through public-private partnerships, the federal government provides funding to community-based organizations for refugee integration. Refugees have also been protected during welfare reform, remaining eligible for various programs despite cuts to other immigrants. Refugee settlement programs appear to work: refugees enjoy better outcomes in education and the labour market (Portes and Rumbaut 2001, 2006) and greater civic and political integration (Bloemraad 2006) than similarly situated non-refugees.

Refugee programs were justified, initially, as in the national interest since many refugees fled Communist countries. These policies were also defended then, and even more today, on humanitarian grounds. If immigrant settlement were also seen to be in the national interest and an important humanitarian endeavour, it might be possible for the United States to develop a comprehensive national integration policy. This will require vigorous advocacy by civil society groups and support by a significant group of voters. If the growing second generation, who hold U.S. citizenship and can vote, takes to heart the challenges their parents faced, the coming decades may bring change to U.S. policies, thereby ameliorating immigrants' integration.

NOTES

* This article is a highly condensed version of the authors' chapter: "Immigrant Integration and Policy in the United States: A Loosely Stitched Patchwork.": 205-232 in *International Perspectives: Integration and Inclusion*, edited by James Frideres and John Biles. Montreal and Kingston: Queen's Policy Studies Series, McGill-Queen's University Press, 2012.

[1] The United Nations estimates that in 2005, 191 million people lived outside their country of birth, three percent of the world population (UNPD 2006). As with the global statistics, the U.S. percentage counts the proportion of foreign-born individuals, regardless of legal status. Unless otherwise indicated, all U.S. statistics are from multiple years of the American Community Survey, conducted by the U.S. Census Bureau. Available at http://www.census.gov/acs/www/.

[2] According to a 2011 survey, 55 percent of Americans think most immigrants are illegal, an increase from the 48 percent with a similar view in 2008 (German Marshall Fund 2009, 2011).

[3] U.S. scholars and policymakers often examine the "second generation," the children of immigrants, to assess integration, even if all children born in the United States are citizens and not technically immigrants. Of all children under the age of 18 in the United States, 23 percent (or 16.3 million) live in a household with at least one immigrant parent. The mixed legal status of many immigrant families, with children who are citizens but parents who are non-citizen legal residents or undocumented, generates fierce debates over whether such families should receive public benefits, which are often tied to citizenship or legal status.

[4] For more details, see Bloemraad & de Graauw (2012: 211).

[5] With the exception of a very few municipalities, non-citizens cannot vote in the United States, unlike in some European countries. There is some evidence that more immigrants are applying to naturalize (Baker 2009), but migrants without legal residency can never access citizenship under their current status.

[6] When it comes to working hard, Americans hold similar views on legal and illegal immigrants, with about 9 out of 10 judging that migrants are hard workers.

[7] It is impossible to cover all the policies, at all levels of government, which could be seen as promoting (or harming) immigrant settlement. Here we provide some key illustrations of the legacies of civil rights legislation, and the anti-immigrant turn in contemporary legislation.

[8] This survey was also conducted in Canada and six European countries: France, the U.K., Germany, Italy, the Netherlands, and Spain. A virtually identical proportion of residents in the other countries, 89 percent, felt it important that immigrants know the national language, but only respondents in the U.K. were less likely to support government language classes, at 25 percent, than Americans; Canadians, at 48 percent, were most likely to support public funding of language instruction (German Marshall Fund 2009).

[9] Following complaints about spotty implementation, President Clinton issued Executive Order 13166, "Improving Access for Persons with Limited English Proficiency," in 2000, an order reaffirmed by the Bush Administration in 2002.

[10] Election officials must provide bilingual voting assistance in communities where a single language minority group makes up five percent of the voting-age population or has more than 10,000 voting-age citizens and is limited-English proficient. Section 203 applies to persons of American Indian, Asian, Alaskan Native, or Spanish heritage, the groups that Congress found to face barriers in the political process.

[11] In addition, some localities in the United States are formulating and implementing policies to promote the social integration of newcomers in their jurisdictions (de Graauw 2008, 2012). Since the federal system facilitates policy "borrowing" between governments, we might see the diffusion of inclusive as well as exclusionary policies.

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