

Ethics in Current U.S. Immigration Policy

By David J. Maco, Ian E. Smith, Jules R. Watson

“Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore, send these, the homeless, tempest-tossed, to me: I lift my lamp beside the golden door.”

-Emma Lazarus

Historically, the United States has welcomed immigrants from all corners of the world. Ellis Island in the Atlantic and Angel Island in the Pacific are testaments to the sheer volume of people and their different places of origin throughout the world that wish to come here and be a part of this “melting pot” of cultures. Now however, there is growing concern over the immigrants coming here illegally from Mexico. Although it is the first time we have had large amounts of immigrants arriving by land this is not a new issue. Native Americans aside, every group of immigrants from Christopher Columbus to the more recent immigrants arriving from China and other parts of Asia have all come by boat. Mexican Immigrants however, can enter from any point along the long Texas, Arizona, New Mexico or California borders. This is a major concern to many U.S. citizens not only because it is very difficult to monitor vast expanses of desert and coastline, but current attitudes and policies encourage rampant undocumented and uncontrolled immigration.

In order to examine this situation in an ethical manner we will be using the ethical theories of Utilitarianism and Justice. First, these terms must be defined in order to clearly communicate our thoughts, opinions, and recommendations. Utilitarian’s claim that “the only actions that count morally are those that create the greatest amount of utility, or the greatest overall positive consequences.”¹ It is easy to imagine this principle in theory; however, due to the uneven playing field that is reality, only using the principle of Utilitarianism would not be sufficient for evaluating the situation at hand. Due to this fact, we will also be implementing the theory of Justice. Justice is the principle that “The justice of a social scheme depends essentially on how fundamental rights and duties are assigned and on the economic opportunities and social conditions in the various sectors of society.”² In addition to the overall justice theory we will be focusing on the Equal Liberty Principle. This principle is defined as “Each person has an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all.”³ Through the use of these theories we can demonstrate how the current United States immigration policies, attitudes, and practices neither produce the greatest good for the greatest number nor provide justice between privileged and unprivileged cultures.

As the current immigration policies of the United States continue to age, the concerns over immigration continue to be a growing problem. With old policies becoming outdated and irrelevant the demand for new policies continues to rise. The inadequacy of the current policies has caused society to become very polarized in their search for a solution. Extreme positions have become the norm and the middle ground has been marginally ignored. The immigration policy that exists today not only discriminates against many immigrants but violates utilitarian and social justice ethical frameworks. The need for a restructuring of policy that allows for fair access and opportunity is more apparent now than ever. The United States needs to adopt a policy that will not only benefit the country but also the immigrants who wish to become United States citizens.

Background

It wasn't until after the civil war that a lack of immigration policy became an issue. In order to control immigration the Immigration service was established in 1881. While regulations had been put in place, the United States generally had open borders. By 1920 immigration regulations dealt mostly with barring nationalities, from 1882 until 1952 the Chinese exclusion act barred Chinese immigration. The changes to policy in 1920 dealt with large increases in immigration after WWI coupled with a struggling U.S. economy. The large immigration numbers were a drain on a weak economy. The solution at the time was the national origins quota system which assigned limits on the number of immigrants of each nationality. The system worked, immigration numbers decreased over the next 40 years and were negative in periods of the great depression. The 1965 Immigration and Naturalization act replaced the national origins system putting a limit on the number of immigrants from each hemisphere rather than each country. This system increased immigration again but has drawn criticism on favoring certain immigrants.⁴

As time passed in our nation's history our immigration policy has grown more restrictive. Different eras of immigration policy have formed different eras of immigrants (race, class, education level.) The lack of policy early in our history created what many people think of the US today. Immigrants who fled persecution or were in search of a better life came to the United States unimpeded. Today however, the United States immigration policy has gone from taking the tired, the hungry, and the poor to choosing the rich, the famous, and immigrants who will most significantly boost the economy.

As of March 2005, the undocumented immigrant population had reached nearly 11 million.⁵ All of these people are in the United States living, earning wages and doing so illegally. Obtaining permanent residence and legal working status is a lengthy process, and the United States requires that this process be completed before citizenship will be granted. Currently, there are many ways to legally become a permanent resident in the United States. However, all of these take a significant period of time and none of them guarantee permanent residence.

The following information was obtained from the United States Citizenship and Immigration website.⁶

Immigration through a family member:

Immigration through a family member is currently one of the avenues that can be used for immigrants to gain permanent residency in the United States. In order to immigrate through this process, an immigrant must have a family member who is currently a legal citizen of the United States. Then through a lengthy process of applications and paperwork the immigrant may become a citizen if certain requirements are met and they are accepted.

Immigration through Investment

Immigration through Investment allows an immigrant to obtain permanent citizenship through investment in a new commercial enterprise. There are three specific avenues through investment in which one can immigrate. All include investment in U.S. corporations and can require investments up to one million dollars. Also, they require statistical evidence that the investment has helped improve the United States economy.

Immigration through employment

There are currently four categories in which employees can fall. The four categories of workers available are as follows:

1. Priority workers

This category includes workers of extraordinary capabilities in any area of employment. This can include athletics, business, medical professions, etc...

2. Professionals with advanced degrees or persons with exceptional ability

This category includes all individuals who have obtained advanced degrees abroad and people with exceptional skills. This may also include medical professionals in rare fields.

3. Skilled or professional workers

The third group in order of preference will include the following: Professionals with bachelor's degrees, professional skilled laborers and lastly unskilled laborers. Anyone who falls into this category doesn't meet the requirements for a higher level.

4. Special Immigrants

Finally, the fourth group includes foreign religious workers and United States government workers from abroad.

If an immigrant is trying to come to the United States using this process, they will be given preference based on which of these four categories they fall into. The first category is given the most preference and so forth.

Immigration through the “Diversity Lottery”

The last method of permanent residency to be discussed is the “Diversity Lottery”. This is a lottery system in which each year 55,000 immigrant visas are available to people who wish to come to the United States from countries with low rates of immigration into the United States. Given our current situation with Mexico, immigrants from that country are given the lowest preference due to their relatively high immigrant population already here.

Discussion

Although there are many ways in which an immigrant can obtain permanent residence in the United States, it appears as though the system is inherently discriminatory and violates the Equal Liberty Principle. The Equal Liberty Principle states that “Each person has an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all.”³ The United States is becoming overly selective about who they allow into this country and denying each person an equal right to basic liberties. Therefore, the United States is violating the theory of justice ethics in the Equal Liberty Principle.

As previously described, if immigrating through investment preference is given to those who are already succeeding elsewhere, then those who are struggling in a foreign country will have a much smaller chance of receiving citizenship. The people immigrating through investment are required to invest a significant amount of funds in order to qualify for permanent residency. By establishing such high standards for potential immigrants, we are providing a significant good for an insignificant amount of people. Utilitarianism requires us to do just the opposite, providing as much good as we can for as many people as we can. Immigrant investors are already successful and have less need to leave their home countries. The people who need to immigrate most are those who are looking to earn money in the United States to support themselves and their families. They are the poor, hungry and tired. Moving to the United States allows them the opportunity to make a better life for themselves and future generations.

Again, in the above requirements, when immigrating through employment, preference is given to the smartest, most accomplished, and most athletic. It would seem as though many of these people who have great attributes would generally have less need to immigrate to the United States. If they are succeeding in their home countries the opportunities that the United States presents are more of a benefit than a necessity. However, on the other end of the spectrum, people who are looking for public education and people needing opportunities to earn advanced degrees have a much slimmer chance of obtaining residency, despite the fact that they are the ones who’s social status will benefit most from coming to the United States. Thus, through the requirements of both of these avenues of immigration, the system is discriminatory and violates both social justice and utilitarian ethical frameworks

Once immigrants have entered the U.S. it must be decided how these people will be integrated into the social systems such as social security. According to Carens, “we do not owe potential immigrants the same treatment as we do to our fellow citizens,” however they do still deserve basic rights and opportunities.⁷ From a social justice ethical framework, an elderly immigrant who has recently become a citizen, would not be entitled to social security because throughout their life they have contributed little or nothing to the program compared to a natural born citizen of the United States. It would be socially unjust to the people who have spent their entire lives paying into the social

security fund to afford these same benefits to a recent immigrant who has not worked as hard to acquire them. On the other hand there are many young people coming to the U.S. to get educated and desire to contribute to U.S. society.

The United States accepts immigrants who wish to pursue an academic career in great numbers. However, as these students fulfill their academic requirements; the United States does not allow them opportunity for citizenship. This creates an ethical dilemma. The United States is providing a service and giving information to these students. However, once they are finished we are not allowing them the opportunity to use their skills and knowledge within the United States.

In this case the United States is not achieving the greatest good for the greatest number of people. The United States is giving these students a huge asset in the form of knowledge and skills, yet does not allow them to use their knowledge in the U.S. These students are not given opportunity for citizenship and thus not allowed to provide benefit directly to our country. Due to the possibility that these students may not have opportunity to use their new skills and knowledge in their home countries, the benefits from their education are severely compromised.

In light of recent public attention about these policies, some proposals in the immigration debate are being brought about by citizens and their elected representatives. Some of these proposals include, building a fence or wall across the entire U.S. – Mexico border or conversely completely opening the borders to all immigrants. However, much of society remains polarized.

There is a large population of citizens in the United States who are in support of more open borders. Arguments in support of this position include a boost to the economy, a movement towards a non-discriminatory selection system and promotion of social justice in the immigration process. In opposition, other citizens are concerned about who we are letting into our country and have mobilized in support of largely closing the U.S. – Mexico border. Whereas citizens supporting closed borders are concerned with homeland security, economic burdens and cultural preservation.

While recognizing that homeland security has legitimate implications here, the latter two could possibly be a veneer for justifying a discriminatory naturalization system. In the past, the majority of immigrants have had to “pay their dues” to live here. Citizens of the U.S. have rarely received large droves of immigrants, especially those who bring significant cultural differences, without discriminating against them. The Irish and Chinese who arrived here in the 19th century were severely discriminated against. The immigrants were paid very low wages and often worked to death.

While this sort of outright abuse of human rights would not be acceptable in today’s litigious society, the same sort of discriminatory backlash is occurring against Hispanic and other Latin immigrants today. Immigrant workers often suffer significantly lower compensation and considerably worse working conditions. The Bracero Program is a good example of Mexican immigrant’s treatment in the United States. During the programs tenure over 3 million braceros came across the border to work in farms in the southwest.⁸ While the workers contributed to the farms, they were taken advantage of. The US official in charge of the program, Lee Williams, went so far to call the program “legalized slavery”⁹

Another major concern of immigration is the effect on the United States economy. Concerns with the possible impact these immigrants would have on the economy ranges

from jobs that U.S. citizens would have otherwise been working in, to an increased strain on public services like education and welfare. It can be debated whether or not many jobs would have been filled if illegal immigrants were not gunning for them. However, the impact of cheaper labor coming into the market would otherwise stimulate the economy.

Cheaper labor means more jobs can be accomplished for less money, thus in effect acting in the best interest of the state and its citizens. From a utilitarian perspective, not allowing such stimulation would be a disservice to the good of the American people. In fact there is a near academic consensus that immigration boosts a states' economy .¹⁰ In further support of this position, there are two rebuttals to the argument that immigrants are a drag on the economy. First, is that most of these immigrants aren't coming here to live off of welfare and barely scrape by in a country with significantly higher living expenses. The vast majority of immigrants come to the U.S. specifically to work hard so they can raise the quality of life of their families. Second, although children and the elderly will not work and contribute directly to the economy via income taxes, they create a larger need for services such as education and healthcare which in turn creates jobs to satisfy those needs.¹¹ Also, by educating these immigrant's children, the U.S. is providing future generations an opportunity to not have to rely on social services such as welfare. Utilitarianism clearly dictates that the U.S. needs to change its' policies towards immigrants in order to serve the greatest good. Another argument against open borders is the idea of cultural preservation.

American culture is a composition of hundreds of national origins, races and religions, all of which contribute to the overall culture that is American society. "If a country is going to admit immigrants of diverse backgrounds, then it ought to recognize the inevitable consequences, and accept cultural mixing and diversity as Canada and the United States have." ⁷ Considering that American culture is already extremely diverse, preserving it at any one point in time is not only unattainable, but also illogical. American culture is an entity which is constantly changing. An attempt to stop the changing process would destroy the underlying principles of American culture and become a culture that is, for lack of a better word, un-American.

It is also necessary to examine the flip side of cultural preservation because these immigrants came from a culture just as intrinsically valuable to them as ours is to us. Yet, they chose to leave that culture and join ours. They are choosing to abandon much of their cultural identity for a chance at a better life in the United States. There is often cultural resistance when different cultures come into direct contact, but accusing them of diminishing our culture would be the equivalent of accusing any person not of Native American decent in the U.S. of doing the same thing. We cannot expect immigrants to abandon their original culture altogether, consequentially diverse immigrants will lead to diverse culture. ⁷ In order to promote social justice there must be mutual respect for both immigrant and host cultures.

One of the reasons that cultures are always changing is the fact that people are always moving and bringing their culture with them. Many immigrants claim that every human has an inherent right to free and unrestricted movement. Here in the U.S. people's inherent right to free and unrestricted movement is true to a point. The U.S. is where the most advanced property rights exist. The right to free and unrestricted movement applies as long as no ones personal property is infringed upon. One citizen cannot enter another citizen's property without permission. Additionally, one citizen cannot even do things on

their own property that diminishes their neighbor's rights to enjoyment and free use of their property. Therefore, this inherent right has very clear and set limits in the U.S.

If the United States of America is our property, what right does any immigrant have to come here, especially without our consent? With the assumption that nations are always going to have borders and citizens for that matter, the answer is none. There is a big difference between public property and private property. The term "public" applies to everyone, such as when referring to a public park or library. But this term does not include illegal immigrants who do not pay taxes to contribute to the upkeep of such public properties. Again, we come to the fact that we do not owe potential immigrants the same treatment as we do to our fellow citizens.⁷ However, for social justice to be achieved, we must accept potential immigrants if they have the means to come here and contribute to these "public properties." Social justice implies doing things that one (a nation) is not required to do, but are done in order to raise the well being for the underprivileged.

In examining the U.S.'s social justice and utilitarian obligation to raise the level of well being for as many as possible, we can look at push and pull factors. Obviously, the state of the U.S. economy is a pull factor. Using Mexico as an example, the political and social strife that its' people must endure to live there is a push factor. Our country's GDP dwarfs most other continents. Not only that, but people are guaranteed numerous rights and freedoms when considered a citizen of the U.S. Not many other places in the world can boast either of those claims. The United States has always been a destination country for immigrants and although that was not necessarily our intended effect, to live by such virtue will always attract the less fortunate. As long as we (the citizens) remain in control of our own destinies and to some degree our countries destiny, it will always be a top choice for oppressed and impoverished people the world over.

The last and perhaps most urgent argument against open borders is the concern for homeland security. If we cannot control who gets into our nation, then as a nation we are not safe from those who wish to harm us. This establishes the necessity for controlled immigration and naturalization. Many immigrants avoid the authorities and choose to enter the country illegally for the reason that they probably would not be granted citizenship or possibly not allowed into the U.S. altogether. This is a legitimate concern for these immigrants because current policy does not provide most immigrants with a feasible and legal way into the country.

Recommendations

The United States must overhaul the current immigration policies and attitudes. Not only are the current practices inherently discriminatory, but as we've shown they also violate utilitarian and social justice ethical theories. Moving this country towards an effective and more importantly, a fair immigration policy will benefit not only the United States as a whole, but also, both the current citizens and potential citizens.

#1

Provide a feasible avenue for permanent immigrants to acquire citizenship.

The United States is a destination country for immigrants and whether we want the poor and unskilled to come here or not, they will be coming. How we deal with the immigrants is our only true control over the situation. The Social Justice ethical framework will help guide the U.S. government and society in how to help these

immigrants help themselves. While the Utilitarian ethical framework provides us with clear evidence that we *should* accept immigrants for our own good as well as theirs. In the short run, these additional immigrants will not be able to contribute as much to this countries economy as for example an immigrant investor, in the long run, the U.S. would be easing the strain on social services such as welfare and food stamp programs. By educating these immigrant's children, the U.S. is providing their families with an opportunity to emerge out of a class of poverty and into a more prosperous role for both themselves and the United States.

#2

Improve the collection and use of information about the people we are both turning away from the border and allowing into the U.S.

Although it will be a long process, it is imperative for the United States to collect and retain as much information about immigrants as possible. First, as immigrants come here legally, the United States must maintain national security and ensure that the immigrants becoming citizens are not criminals or terrorists that may harm society. While easier said than done, the United States can make significant improvements from the status quo. Second, as immigrants are sent out of the country, the United States must maintain information about these people so that if they attempt to come back to the United States more appropriate actions can be taken.

#3

The United States should seek to retain foreign students as opposed to sending them back to their country of origin.

There is also a misappropriation of information relating to immigrant college graduates. Immigrants who come to the U.S. to get a college education often do not have the option of becoming a citizen after they complete their studies. Again the U.S. government does not bother to try and retain the new graduates, but deports them back to their respective countries where there may or may not be opportunity for them to use their new knowledge and skills. Instead the United States should seek to integrate them into the workforce and further aid them to becoming United States citizens. The immigrant students who decide to stay will create benefits in two fold. Not only will the students have better opportunity to use their skills, but those skills will be put to use in the United States economy.

#4

People who are caught with an illegal status in the U.S. more than once should completely forfeit any chance of becoming a legal U.S. citizen.

Aside from the penal system, the current government keeps very poor records on illegal immigrants. Essentially, when an illegal Mexican immigrant gets deported just across the border into Mexico, the immigrant receives a fresh start. Since their last attempt turned out to be unsuccessful (they were sent back to Mexico) the offender is free to try and come to the United States again. Currently, there are no consequences for people who are caught crossing the border illegally multiple times.

In accordance with the utilitarian and social justice ethical frameworks it is apparent that current U.S. immigration policy must be refined. We must take into account not only avenues in which immigrants will come to the U.S. but also how to successfully integrate them into our society. It is clear that a compromise must be found because neither side can have its way completely. Our country's physical integrity must be maintained for national security of the state. However, as a privileged society, we must accept both the intended and unintended consequences. Our country was founded on the principles that all men are created equal and freedom is not a luxury to be enjoyed solely by the rich, but a right inherent to every human being. Social justice and utilitarianism are by no means the only ethical frameworks that can be applied here, but these two frameworks put together provide us with a new and clear perspective on an issue as old as society itself. Current U.S. immigration policies are not acceptable and policy makers must realize that drastic change in policy, as well as attitudes, must be made before this age old problem will ever go away.

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