**Season 19  
—  
Debating the 2018-2019 NSDA Policy Resolution**

Policy debaters must have a solid understanding of the history of the year’s topic of study. The purpose of this article is to give competitors the underlying knowledge of that history while relating it to the following resolution:

***Resolved: The United States federal government should substantially reduce its restrictions on legal immigration to the United States.***

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*Content collected and written by Vance Trefethen. Chris Jeub wrote the worksheets at the end of the essay.*

History of Immigration



NSDA’s 2018-2019 Policy Resolution:

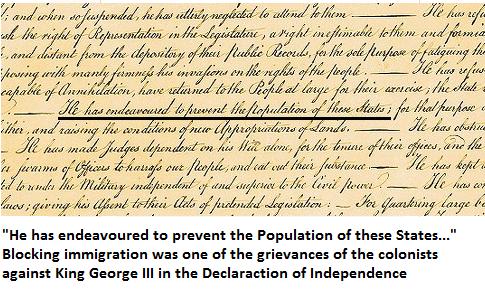
Resolved: The United States federal government should substantially reduce its restrictions on legal immigration to the United States.

This year’s resolution calls our attention to legal immigration into the United States. With the exception of native American Indians, ours is a nation historically composed mostly of immigrants or the descendants of immigrants.[[1]](#footnote-2) Perpetually in the news and policy discussions, Donald Trump’s campaign slogans in 2016 and his policies during his first year and a half in office have escalated controversy over numerous immigration issues. Though much of the controversy deals with illegal immigration (building a wall, stepped up deportations), this resolution only allows us to change the rules to increase legal immigration, leaving illegal immigration changes extra-topical.

Let’s review the history of legal immigration and our government’s restrictions on it as they have developed over the years.

Colonial History

While the native American Indians technically immigrated in the prehistoric past, European colonization of the New World after Columbus began the modern wider stream of immigration to America. English colonization of what would become the United States began with the farming colony of Virginia (1607) and the refuge for religious dissenters in Massachusetts (1620). Between 1630 to 1640 a large scale migration of Puritans came to New England and began populating the northeastern part of the country. Virginia began growing with faster levels of immigration later in the 17th century.

Other immigrant groups—like Quakers, the Scotch-Irish, Dutch, Germans, Swedish and others—arrived in the decades that followed. Despite the growing population, the vast size of the continent and the reluctance of many Europeans to make the voyage left the need for more labor as a challenge to the colonial economies.

The need for labor to staff the tobacco and rice plantations in the South led to the importation of African slaves to that region. Their numbers grew rapidly, and the first U.S. Census in 1790 found that African-Americans comprised one-fifth of the country’s population. Indentured servitude, where the migrant signs a contract committing him to an employer for a certain number of years of labor in exchange for the cost of the trip, also provided a source of workers.

“The thirteen colonies (or their ruling authorities) realized that they would have to increase their populations if they were to be successful. They quickly set about devising institutions and policies that would attract migrants from Europe. The basic foundation of their campaign was the institution of indentured servitude, which meant an exchange of the cost of transport for several years of labor, permitting those with inadequate funds to migrate. After a protracted process of passing and implementing laws aimed at improving the enforcement of both sides of the indenture contract (and improving terms to secure an edge over competitors), was enormously effective and it accounted for more than 75 percent of arrivals from Europe to the thirteen colonies.”[[2]](#footnote-3)

The colonies’ desire to increase immigration to solve labor shortages became one of the many sore points of contention between the colonists and the British crown that led to the American Revolution. One of the grievances levied against King George III in the Declaration of Independence was that he was blocking immigration:

“He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.”

Immigration in Early U.S. History

The U.S. Constitution mentions naturalization (among the powers granted to Congress in Art. 1 Sec. 8) but does not mention immigration. These are not exactly the same thing. According to Merriam-Webster:

Immigration: travel into a country for the purpose of permanent residence there

Naturalization: to become established as if native

A person can immigrate without naturalizing. An example would be someone today with a green card who lives here all their life but never applies for citizenship. And people have been naturalized without immigrating. Examples include the American Indians, who were already here and were granted citizenship in 1924 by an Act of Congress; or the residents of Puerto Rico who were granted citizenship by Congress in 1917, two decades after the island was captured during the Spanish-American War.

In the late 1700s and early 1800s, Congress did set regulations on naturalization and the qualifications for citizenship. But immigration itself was left largely as a concern of the States before the Civil War. While the federal government issued passports during this time, they were not required for entry into the U.S. (they were used because other countries required them for entry). Congress did not even get around to asserting exclusive federal authority to issue passports until 1856 – before that, they were issued by not only the State Department but also by states or even cities.[[3]](#footnote-4) This chapter of State management of immigration in our nation’s history is often forgotten under the assumption that the federal government has always had exclusive control over immigration.

“Undesirable persons, however that was defined, were dealt with in three main ways during this time period: returning the immigrant to their home country, punishment of the immigrant for attempting to enter the state, or punishing the parties responsible for transporting the immigrant to the state. All of these methods of regulation and punishment necessitated actual state level institutions, processes, procedures, and manpower to implement state laws. By the mid-1800s, states, especially New York and Massachusetts, had to staff almshouses, hospitals, labor placement services, offices to collect taxes and bonds for immigrants and state immigration officials were empowered to deport, remove, and relocated persons who were deemed undesirable to other parts of the state, other parts of the U.S., or to send the immigrant back to their country of origin. The elaborate network of state level bureaucracy is a sharp contrast to the national government’s absence of similar bureaucracy and personnel in immigration during this time period.”[[4]](#footnote-5)

Early Federal Regulation of Immigration

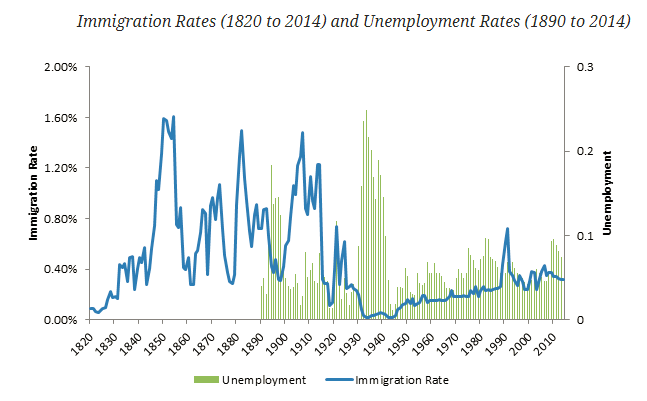
After the Civil War, as the country rapidly industrialized, labor shortages once again drew more immigrants to fill the gaps. But some of the many who came were “different” from those who had arrived in generations past. The growth of Chinese immigration to the West, and the racial bias of European-Americans who became disturbed by their sudden influx, motivated Congress to pass the first federal restrictions on immigration in 1882: The Chinese Exclusion Act.

Congress also in 1882 banned the entry of immigrants who were of unfit mental health and those who carried infectious diseases. A political test was added in 1901 (the Anarchist Exclusion Act) in reaction to the assassination of Pres. McKinley by an anarchist from a Polish-American family. The federal government also negotiated with Japan to discourage Japanese immigration, without great success, in the early 1900s.

Quota by Origin

The Emergency Quota Act of 1921, followed by the Immigration Act of 1924, established comprehensive limits on total immigration into the United States that were based on the national origins of the would-be immigrants. The 1924 law used the ethnic origins of Americans as determined in the census of 1890 as the basis for setting quotas for new immigrants (to avoid counting all the “undesirable” immigrants who had arrived in recent years). The goal was to make new immigrants match the ethnic proportions of Americans that were already here, and it specifically intended to limit immigration from Eastern and Southern Europe, as well as from Asia and Africa. Instead, the quota system favored immigration from Northern and Western Europe.

The Great Depression of the 1930s radically curtailed immigration into the United States. It was obvious to would-be immigrants that there was no point coming to the U.S. to seek opportunity if there were already no jobs available for a large percentage of its own citizens. We can pause here to note that immigration into the U.S. historically typically grows or shrinks at rates inverse to the unemployment rate.[[5]](#footnote-6)



Immigration & Nationality Act of 1965

Greater awareness of the evils of racism, as manifested in the growing civil rights movement within the U.S. in the 1960s, led Congress to begin reconsidering the system of quota by origin. In 1965, Congress passed and Pres. Lyndon Johnson signed the Immigration & Nationality Act, which abolished the ethnic quotas in favor of preferences for relatives of U.S. citizens, skilled immigrants, and refugees. Caps on total immigration and per-country limits still existed, however, and Pres. Johnson calmly downplayed its potential impact, predicting that the new law “will not reshape the structure of our daily lives or add importantly to either our wealth or our power.”[[6]](#footnote-7)

But Johnson was wrong. The INA had a dramatic impact on legal immigration into the United States.

“In reality (and with the benefit of hindsight), the bill signed in 1965 marked a dramatic break with past immigration policy, and would have an immediate and lasting impact. In place of the national-origins quota system, the act provided for preferences to be made according to categories, such as relatives of U.S. citizens or permanent residents, those with skills deemed useful to the United States or refugees of violence or unrest. Though it abolished quotas per se, the system did place caps on per-country and total immigration, as well as caps on each category. As in the past, family reunification was a major goal, and the new immigration policy would increasingly allow entire families to uproot themselves from other countries and reestablish their lives in the U.S. In the first five years after the bill’s passage, immigration to the U.S. from Asian countries–especially those fleeing war-torn Southeast Asia (Vietnam, Cambodia)–would more than quadruple. (Under past immigration policies, Asian immigrants had been effectively barred from entry.) Other Cold War-era conflicts during the 1960s and 1970s saw millions of people fleeing poverty or the hardships of communist regimes in Cuba, Eastern Europe and elsewhere to seek their fortune on American shores. All told, in the three decades following passage of the Immigration and Naturalization Act of 1965, more than 18 million legal immigrants entered the United States, more than three times the number admitted over the preceding 30 years.”[[7]](#footnote-8)

Greater awareness of the plight of refugees (possibly sparked by the mass exodus of many “boat people” from Vietnam after the end of the war in 1975 and escalating dramatically in 1978) led to the passage of the Refugee Act of 1980, which amended the INA. It raised the annual quota of refugees to 50,000 and created emergency procedures for handling situations when the inflow exceeds the quota. It also created the federal Office of Refugee Resettlement, charged with managing resettlement assistance to incoming refugees.

Conflicts and violence in Central America during this time led to a large increase in immigrants/refugees arriving, legally and illegally, in the United States.

“In the 1960s, several countries in the region attempted industrialization largely through import substitution. However, the divided class structure endured and became the basis for revolutionary and counter-revolutionary, insurgency and counter-insurgency movements, and civil warfare in the region during the 1970s through the early 1990s. Warfare not only killed thousands and displaced millions, it also institutionalized a migration pattern that heretofore had been very minor: emigration to El Norte. Massive refugee flows moved through the isthmus into the United States and, to a lesser extent, Mexico, Costa Rica, Canada, and Belize. ... The United States sided with conservative governments in El Salvador and Guatemala, labeling its actions anticommunist, and invested billions of dollars. When hundreds of thousands of Salvadorans and Guatemalans fled their homelands and sought asylum in the United States, this aid became the primary reason for denying the refugees’ tales of torture, forced recruitment, and other crimes. To accord them political asylum would have undermined the U.S. government’s policies ... A conservative estimate of this exodus, derived largely from the 1990 U.S. census, is that more than a million Central Americans fled their homelands and sought safe haven in the United States during the tumultuous decade of the 1980s.”[[8]](#footnote-9)

We mention here, in passing, the Immigration Reform & Control Act (IRCA) of 1986. Though mostly dealing with illegal immigration, it also created an amnesty for 3 million illegal immigrants already living in the U.S. at that time.

Expanding and Contracting: The 1990’s to Today

Sentiments toward immigration in modern times often track the performance of the economy. When people feel secure in their jobs and unemployment is low, few are worried about the arrival of more immigrants. When recession hits and unemployment rises, more public concern arises about immigrants “taking our jobs,” and legislation to restrict it becomes more widely advocated. But there can be a time lag between the economic downturn and the arrival of legislation restricting immigration, as the slow wheels of Congress turn or a new election intervenes, such that by the time restrictions are imposed, the economy has already recovered.

That’s what happened after the passage of the Immigration Act of 1990. The economy was doing well, and Congress increased the total immigration limit to 700,000 per year. Then a recession hit, leading to higher unemployment, which peaked at almost 8% in the summer of 1992.[[9]](#footnote-10) Pres. George H. W. Bush lost his re-election campaign and popular sentiment turned against higher levels of immigration.

Congress passed three laws in 1996 that had significant effects on immigration, much of it clamping down on illegal immigration (which we will not extensively discuss here, since it’s extra-topical), but some of it affecting legal immigrants as well. The first was the Antiterrorism and Effective Death Penalty Act (AEDPA) of 1996. AEDPA increased federal power to detain and deport immigrants, including those here legally, and created new “fast track” deportation procedures.

The second law was the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996. This law expanded the list of crimes, including many seemingly minor ones, for which a legal immigrant could be deported (for example, jumping a subway turnstile ).[[10]](#footnote-11)

The third was the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996.

“ PRWORA restricted immigrant eligibility in all federally funded assistance programs. Prior to its enactment, legal immigrants residing in the United States by and large had access equal to citizens with regard to public assistance benefits. The new citizenship criterion elevates the importance of formal citizenship in a way that is inconsistent with both previous U.S. policy and international standards. Most liberal industrialized democracies make presumptively permanent residents eligible for the same benefits as citizens (Aleinikoff and Klusmeyer 2002; Fix and Laglagaron 2001). In the United States, previous policy permitted access to welfare benefits for immigrant residents after five years of residence. Although some immigrants were required to have a sponsor sign an affidavit of support in the past, these contracts were found by some courts not to be legally enforceable and thus were generally considered a moral rather than a legal obligation. PRWORA stipulated that sponsors must accept this now legally enforceable responsibility until their charge becomes a U.S. citizen or has worked forty quarters.  
… In addition to reduced eligibility for most federally funded programs, PRWORA imposed new proof of citizenship requirements for federal public benefits and it introduced greater complexity in compliance for those families that maintain eligibility through new program rules. As noted earlier, PROWRA also increased the responsibility of immigrants who sponsor family members for immigration, by making the longrequired affidavit of support legally binding and enforceable and by raising the income sponsorship bar to 125 percent of the federally defined poverty level. The law also formalized the blanket ineligibility of undocumented immigrants for virtually all social services in the United States, although their U.S.-born citizen children remain eligible for programs for which they are qualified.”[[11]](#footnote-12)

In addition to economic considerations (e.g. unemployment) and social costs (e.g. welfare), a third factor influencing public attitudes toward immigration is national security. The terrorist attacks of 9/11/2001 focused great public scrutiny on how the foreign perpetrators had entered the country (legally) and what could be done to reduce the likelihood of such foreign schemes in the future. The Homeland Security Act of 2002 dissolved the old Immigration and Naturalization Service and moved its functions into three agencies inside the new Department of Homeland Security: Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP) and the US Citizenship & Immigration Services (USCIS). This reorganization focused on better enforcement of existing laws rather than significant overhaul of immigration rules themselves.

Congress considered, but never enacted, major immigration reform bills during the decade of 2000-2010 as public attention focused on the large number of illegal immigrants already living in this country. Public frustration at Congress’ inability to pass significant immigration reform legislation culminated with Pres. Barack Obama’s declaration in 2012 that he would begin acting on his own executive authority in this policy area. Announcing a policy known as Deferred Action for Childhood Arrivals (DACA), Obama provided relief from deportation and for many illegal immigrants who came to the U.S. before age 16 (often brought by their parents who were immigrating illegally). Also known as “Dreamers,”[[12]](#footnote-13) their situation created a lot of public sympathy for their plight, since they had grown up most of their lives in this country and often had no connection at all to their country of citizenship. DACA recipients have relief from deportation and can legally work in this country, but have no path to citizenship and their status could be revoked or changed at any time.

Perhaps tiring of Pres. Obama’s policies on immigration, whether upset by his bypassing of Congress or presumed sympathy for people here illegally, public opinion shifted again, as manifested in the election of Pres. Donald Trump. Trump made numerous campaign speeches advocating reduced immigration (legal and illegal) and began early in his term to use executive authority to terminate DACA and restrict immigration into the United States from countries perceived to be national security threats. Many of his proposals are tied up in the courts, and the outcomes may not be known until later in this academic season.



Worksheet: History of Immigration Policy

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Answer the following in the spaces provided.

1. Would you argue that America is a nation of immigrants? Why or why not?

2. Were the first colonists pro or anti immigration?

3. Can someone immigrate without naturalizing?

4. What was Congress’s first act to limit immigration? What motivated it?

5. How did the Emergency Quota Act of 1921 and the Immigration Act of 1924 favor immigration from Northern and Western Europe?

6. Explain how immigration rates and unemployment rates are related.

7. What presidential administration began removing immigration by quota?

8. How did the Refugee Act of 1980 amend the INA?

9. How do modern sentiments toward immigration track the performance of the economy?

10. How are “DREAMers” treated under President Obama’s executive action of DACA?

Answers

1. Answers may vary on this question. Note the introductory comments in this document, particularly the first footnote: “Technically, that’s true of all nations, since humans do not spring from the soil. The difference is that most nations’ citizens cannot remember or identify their first arriving ancestors in the ancient past nor determine when they arrived. Immigration to America is recent enough that we can remember it and identify our origins from elsewhere.” (Page 3)

2. The first colonists were pro immigration. “The colonies’ desire to increase immigration to solve labor shortages became one of the many sore points of contention between the colonists and the British crown that led to the American Revolution.” (Page 4)

3. Yes. “A person can immigrate without naturalizing.” (Page 4)

4. “The growth of Chinese immigration to the West, and the racial bias of European-Americans who became disturbed by their sudden influx, motivated Congress to pass the first federal restrictions on immigration in 1882: The Chinese Exclusion Act.” (Page 5)

5. “The goal [of the acts were] to make new immigrants match the ethnic proportions of Americans that were already here, and it specifically intended to limit immigration from Eastern and Southern Europe, as well as from Asia and Africa. Instead, the quota system favored immigration from Northern and Western Europe.” (Page 6)

6. “Immigration into the U.S. historically typically grows or shrinks at rates inverse to the unemployment rate.” (Page 6)

7. The Johnson administration began removing immigration by quota. “Lyndon Johnson signed the Immigration & Nationality Act, which abolished the ethnic quotas in favor of preferences for relatives of U.S. citizens, skilled immigrants, and refugees.” (Page 7)

8. The Refugee Act of 1980 “raised the annual quota of refugees to 50,000 and created emergency procedures for handling situations when the inflow exceeds the quota. It also created the federal Office of Refugee Resettlement, charged with managing resettlement assistance to incoming refugees.” (Page 8)

9. “Sentiments toward immigration in modern times often track the performance of the economy. When people feel secure in their jobs and unemployment is low, few are worried about the arrival of more immigrants.” (Page 8)

10. “DACA recipients have relief from deportation and can legally work in this country, but have no path to citizenship and their status could be revoked or changed at any time.”

1. Technically, that’s true of all nations, since humans do not spring from the soil. The difference is that most nations’ citizens cannot remember or identify their first arriving ancestors in the ancient past nor determine when they arrived. Immigration to America is recent enough that we can remember it and identify our origins from elsewhere. [↑](#footnote-ref-2)
2. Stanley Engerman, Kenneth Sokoloff “Once Upon a Time in the Americas: Land and Immigration Policies in the New World” https://economics.yale.edu/sites/default/files/files/Workshops-Seminars/Economic-History/engerman-090412.pdf [↑](#footnote-ref-3)
3. # Prof. John Torpey, The Invention of the Passport: Surveillance, Citizenship and the State, p. 95.

   [↑](#footnote-ref-4)
4. Prof. Anna O. Law, DePaul Univ. 2011 “Colonial and State Immigration Policy and Immigration Federalism, 1700s-1892” https://poseidon01.ssrn.com/delivery.php?ID=170124119105000018097118121001075077122024024079020086078021114005121121108104119081017021040022038009060124016103094117003031055090056092048088113101004100027112067066009020082100022064099092092112029099000086017106112001127075111005114101121078123006&EXT=pdf [↑](#footnote-ref-5)
5. Chart by David Bier 2016 “Why Unemployment Is Lower When Immigration Is Higher” https://www.cato.org/blog/why-unemployment-lower-when-immigration-higher [↑](#footnote-ref-6)
6. https://www.history.com/topics/us-immigration-since-1965 [↑](#footnote-ref-7)
7. https://www.history.com/topics/us-immigration-since-1965 [↑](#footnote-ref-8)
8. Sarah J. Mahler and Dusan Ugrina 2006. “Central America: Crossroads of the Americas” https://www.migrationpolicy.org/article/central-america-crossroads-americas [↑](#footnote-ref-9)
9. http://bancroft.berkeley.edu/ROHO/projects/debt/1990srecession.html [↑](#footnote-ref-10)
10. Opal Tometi 2016. “Black Lives Matter Co-Founder: The Immigration Challenge No One Is Talking About” http://time.com/4312628/immigration-1996-laws/ [↑](#footnote-ref-11)
11. Audrey Singer 2004 “Welfare Reform and Immigrants” https://www.brookings.edu/wp-content/uploads/2016/06/200405\_singer.pdf [↑](#footnote-ref-12)
12. The term derives from a bill proposed, but never passed, in Congress known as the “Development, Relief and Education for Alien Minors” (DREAM) Act, which would have granted legal status to children brought to the U.S. illegally by their parents. [↑](#footnote-ref-13)