

# U.S. IMMIGRATION: A SEARCH FOR PRINCIPLES AND PREDICTIONS

EDWIN G. WEST

*Carleton University*

**F**OR SOME TIME NOW the United States has been receiving a wave of immigration that is comparable in magnitude to that prior to the First World War. What difference there is between the two periods relates mainly to areas of origin. Whereas the turn-of-the-century immigrants were mainly Europeans, today they are more likely to come from the Philippines, Korea, Cuba, and, most of all, Mexico.

The agencies charged with enforcing immigration laws appear to be failing under the strain. The Immigration and Naturalization Service is reportedly undermanned, mismanaged, and suffering from low morale.<sup>1</sup> The biggest challenge is the new phenomenon of large-scale clandestine entry. Estimates of foreigners living illegally in the United States range up to twelve million and more. Most of them are Mexicans. The Border Patrol estimates that for each illegal immigrant apprehended, there are two who succeed. Some authorities believe that the ratio is closer to five-to-one.

There are certainly many anguishing stories being reported as a unique human drama unfolds. And surely nobody would deny that here we have one of the most urgent problems of the 1980s and one that demands particularly serious reflection by those who profess to uphold the principles of liberty. Of the most serious questions, consider the following: At what point do immigrants have the right to close the door on other immigrants? Should immigration be controlled according to the criterion of the desirable growth of the national income (GNP)? Or is the main test the ability of a nation state to culturally absorb large numbers of new visitors?

## THE EVOLUTION OF IMMIGRATION LAWS

Before attempting some answers, it will be useful to review the relevant facts. America's laws on entry over the last century have vacillated notoriously, reflecting the nation's schizophrenia about

immigration in a country forged by immigrants. In the earlier part of the nineteenth century, what legislation was passed was actually designed to make it easier for the newcomers. By the 1880s, however, Americans were alarmed by an influx of Chinese and banned them in 1882 under laws that were to last for more than 60 years. Between 1900 and 1910, America let in about nine million other immigrants, but in the 1920s it restricted immigration by the imposition of national-origin quotas that had a Western European bias. In 1965 the quotas were removed, having come to be regarded as racist.

The present law is a complex bundle of special dispensations and exemptions, but on one aspect it is consistent: it encourages family reunification. Young children and parents of any U.S. citizen can enter in unlimited numbers. Other relatives have to go on a waiting list. Apart from this, the law can also be said to be uniform in that it treats each nation equally, providing no more than 20,000 preference visas a year for any one country. But in this case the consistency in policy seems to be a doubtful virtue. After all, what is the point of treating Luxembourg as if it were as populous as India?

Of all the separate classes of immigrants, that of the refugee has been the most clumsily handled. Until recently, refugees admitted into the United States were restricted almost exclusively to persons fleeing from Communist governments. Those trying to escape from right-wing regimes were typically prevented by severe legal barriers. Although the regulations have been restrictive, however, various attorneys general have had to devise ad hoc solutions to meet such crises as the flight of refugees from Hungary in the fifties, from Cuba in the sixties, and from Vietnam in the seventies.

In 1979 the Refugee Act removed the anti-Communist bias and increased to 50,000 the quota of refugees allowed in. Yet the 120,000 Cubans in the recent past, together with the 15,000 Haitians, seem to have overwhelmed even this latest piece of legislation.

The recent Select Commission appointed by Congress has presided over a debate about correct policy concerning refugees, illegal aliens, and other immigrants. Issues have included the question of amnesty for most illegal aliens who already live and work in the United States, new legislation against hiring other illegal aliens, a ceiling of about 750,000 people a year, and, the most controversial of all, an identity card or data bank system legitimating all citizens and legal alien residents permitted to work in the United States.

## THE SEARCH FOR PRINCIPLES

What then is the basis for a consistent and well-principled policy on immigration? Many observers believe that the major consideration is the U.S. economy. In Mexico, 46 percent of the population is under 15 years of age, while in the United States the proportion is 25 percent. The age group 15-29 in Mexico is expected to grow from 15 million in 1980 to 30 million by the end of the century. In contrast, this same age group in the United States is expected to fall from its present figure of about 30.5 million to just under 26 million by 1995. Such demographic trends, it is widely believed, have serious implications for the future of the U.S. economy. The argument is that without the immigration of young workers there can be expected a substantial shortage of them in the near future.

Those, too, who believe that economic growth is a function of population growth will be impressed by the fact that the current rate of natural increase in the United States is a mere 0.6 percent compared with 3.45 percent in Mexico. So while the population of Mexico is expected to double in 20 years (and to reach nearly 122 million in total by the end of the century) the U.S. population is expected to increase by a mere 21 percent. A more liberal immigration policy, therefore, so runs the argument, would make up for America's lagging *total* population growth and would consequently help maintain economic growth to the benefit of all.

This kind of argument has strong overtones of mercantilism, especially in its tendency to judge everything by its effect on the size of population and the GNP. But if these were the major targets for a country, it would mean that one of its best policies (if it could get away with it) would be simply to annex territory. America's GNP, for instance, would rise in even more striking fashion if Mexico were simply taken over! For the classical liberal, of course, the trouble with such mercantilist reasoning is that all individuals are regarded as component parts of a larger entity called *The State*. Meanwhile, there are problems with the argument even on its own terms. For instance, if the growth of an economy really is a simple function of population growth, then Mexico has nothing to fear in the future. As its population grows, so will its economy and so will opportunities for employment. The pressure of its citizens to emigrate can therefore be expected automatically to contract. Yet the same advocates of liberal immigration into the United States use the economic growth argument to justify their proposals and to

champion the cause of present low-income Mexicans.

### *The Principle of Liberty*

We come now to the more crucial issue of the principle of liberty and how *it* can be applied to the sensitive question of immigration. According to John Stuart Mill's version of the basic idea of freedom, to be found in his essay *On Liberty* (1859), there is one simple principle that justifies compulsion or legal penalties:

That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.

At first sight, at least, such a doctrine, when applied to the immigration problem, suggests that it would be quite consistent for governments to put constraints on immigrants, but only on the grounds that other (resident) individuals will be harmed. On further scrutiny, however, the notion of "harm" seems too vague. Some might argue that the only kind of "harm to others" that is consistent with the notion of (negative) liberty is that harm which impedes the freedom of others; the only meaningful form of coercion is "coercion to prevent coercion." But even then we need to know more precisely what constitutes "coercion."

More important, we should reconsider the part of Mill's quotation where he refers to the "power . . . exercised over any member of a civilized community." Since immigrants are not members of the community, this seems to preclude a straightforward application of his principle. The question, in Mill's terms, then becomes: Under what circumstances should immigrants be permitted to *become* members of the community? Clearly, Mill's apparently simple formula is insufficient, so we have to undertake a deeper search for basic criteria.

It will be contended here that what has been neglected hitherto has been an adequate exploration of the principle of property. Since many, if not most, libertarians profess a belief in this principle as well as in liberty, the point will become more relevant as we proceed.

Consider the following scenario: It is possible in many parts of the world for an individual or individuals to purchase territory. Suppose that five Scotsmen buy an island and incorporate it in a joint company in which each of them is allocated an equal share.

This transaction is consistent with both liberty *and* private property. The essence of private property is the power of exclusion. These five shareholders, therefore, will have the power to exclude any outsiders from entering their island and from participating in the jointly owned property. Of course, it is also consistent with the principles of private property that the terms of agreement can include provisions to allow others to *purchase* entry into the corporation. Among these provisions would be the stipulation of the required majority to approve transferability of shares. In the case of private companies, the agreement of *all* present members is sometimes required. In other words, the voting rule here is one of unanimity; but that need not always be so.

The libertarian might object that the parallel between private governments and societies is false. But the purpose of the illustration has been to prompt him or her to consider the principle of private property *simultaneously* with the principle of liberty. If one upholds both principles, one should ask whether there are any elements of property principles in the very notion of the term *society*. Since property is defined as the power to exclude, there may be lurking around in many people's minds the idea that, because the state is collective property (the collective simply being the individual members in joint association), the unconditional right of immigrants to enter may not exist. And notice that the right to exclude from property is not based on inhumane antisocial feeling. Its chief purpose is to construct proper incentives without which markets would hardly exist and economic development would not take place.

That private property serves to provide inducements to owners to add value to their assets and, in general, to be productive is not a trivial issue. The legitimacy or justification of powers of exclusion can better be seen after such private development has occurred. Thus, in our example, suppose the five people occupy an island that was relatively barren. Following upon ownership, the island is slowly made habitable by the hard work and investment of the owners. From self-imposed levies they may eventually provide, for instance, roads, dock facilities, and cultivatable land. To allow others at this stage to enter the island and take advantage of the new facilities free of charge would violate private property principles.

Clearly, the agreement of our Scotsmen to occupy and develop an island must contain some elements of a social as well as an

economic contract. It is always possible that typical members may never want to sign away their right to associate with, or hire, whomever they wish. They may take the view that such an unwaived right should take priority over any "harm" that admission of an outsider might cause among their fellow citizens. But if this is the case, all that is being argued here is that the concept of property might simultaneously, and inconsistently, be in the process of erosion. The economist, at least, sees a way of reconciliation between liberty and property so that both might coexist (under constraints). The members need not sign away the right of association with outsiders in an absolute sense if the condition is laid down that the costs imposed by the immigrant are paid by the member, by the immigrant, or by both. Of course, it is quite likely that the social contract would make an exception for family members.

In the real world there is, in fact, considerable hostility to the idea of the free immigration of large numbers of relatively poor individuals. One fear is that they are likely to take advantage of publicly provided goods and "welfare state" benefits at taxpayers' expense. There is, nevertheless, considerable misunderstanding here. Since usually the immigrants are young workers, then, provided they soon gain entry into the work force, they immediately *become* taxpayers and begin to contribute toward publicly provided goods. Immigrants present their new host countries with the benefits of the power to tax them. Since their expected working life is longer than average, this is a significant point. And especially at a time when the indigenous population is aging, such an influx of new workers at the base of the age pyramid will do much to maintain the conventional redistribution from young to old (retired) members of society.

If it is felt that the expected taxes are still insufficient to purchase entry into the country, then it is up to existing residents to propose additional prices or levies. The point is that under a system of private property there must be *some* price that can be reached where reconciliation is achieved.

### *The Principle of Equity*

No doubt many will object to an apparent unfairness of imposing extra taxation upon immigrants who already are poorer than existing residents. Without wishing to deny their case, it is simply being emphasized here that such objections may have nothing to do with arguments about the principles of liberty or property. In fact,

the issue of "unfairness" belongs to another category, namely, the accepted principles of equity. For existing residents to forgo charging the economic price of entry into a country implies an opportunity cost. Undertaking it is equivalent to making a gift. Such donations, of course, need not automatically be disqualified. That is, one can respect the principle of property, which is the power to exclude, at the same time as deciding to spend some of the fruits of it in the form of voluntary donations. With respect to poor people living abroad, the "donation" can be in the form of conventional transfers or in the granting of legal rights to immigrate and share the benefits of the collective capital created by the "donors."

Such attitudes are indeed often recognized in national endeavors to provide aid to undeveloped countries. And in view of the oft-repeated allegations that such aid eventually benefits the nonpoor and the bureaucracies of such countries, the alternative of providing more liberal immigration laws that allow in more low-income people might seem a more feasible way of aiding the "target individuals." It is not just the immigrant who is at issue. He (she) may make remittances to relatives in the home country. We can therefore be sure that such funds find a direct way to poor individuals and avoid the losses inherent in political transfers from one government to another.

Questions of "cultural assimilation" will next be raised. Return to our example of the five Scotsmen owners of our island. They may well object to the potential entry of, say, ten Indians to their island because of what they fear will be an unwanted change in the "Scottishness," that is, the whole cultural environment, within their territory. Some would argue that at this level it is numbers that count. Small minorities of immigrants are not such a threat to cultural traditions as are large minorities. Those who make this kind of argument would normally want to abandon the usual 50-percent majority voting in such instances and to resort to higher majority rules and even to referenda.

In the case of the United States, it would be difficult to contend that there is one homogeneous culture (like "Scottishness"). America is almost *the* land of (heterogeneous) immigrants. Indeed, it is her special achievement to have created a country where cultural divergences can coexist. So we return again to the consideration of "equity."

One unique American complication occurs here. Consider the likely future effects of liberal immigration policies on U.S. blacks.

Hitherto, their relative income position in society has improved whenever immigration laws have been tightened. Judging from the past, if entry is limited severely in the next two decades, American blacks are likely to enjoy a further improvement. Because of differential fertility rates, there will be relatively more blacks between 15 and 29 years of age in the coming decade—just at the time of a decrease in the white population in this age group. Consequently, the relative demand for the employment of young blacks will increase—and this will be in considerable contrast to their present situation. (Currently, up to 40 percent of black teenagers are unemployed.)

Some strong upholders of “equity” will not be inhibited by such considerations. So long as most would-be immigrants from, say, Mexico have significantly lower incomes than the poorest of American blacks, the duty of the United States, it will be argued, is unambiguous. It should favor the poorest of the poor regardless of the accident of birth and location. Other advocates of the principle of “equity,” including Adam Smith (who respected the similar principle known in the eighteenth century as “beneficence”), would qualify it with a “distance factor.” This means that one’s charitable disposition should descend in intensity the further one moves from a given geographic center. Thus, to Adam Smith, an individual’s concern for his immediate family should be stronger than for his neighbors, and concern for the latter will outweigh that for people in other parts of his country. The needs of his countrymen, in turn, will carry more weight than those of foreigners.

So a clear consensus on whether Americans should have a strict or a liberal immigration policy will not be easy. But the main objective here is to place most of the problem in the category of “equity” and to distinguish this from the issues of “liberty” and “property.”

#### UNION OPPOSITION

Our discussion has been conducted in the normative terms of “what should be.” The economist is more likely to want to dwell upon the positive economics of “what will be” under given realistic circumstances. These circumstances include recognition that individual self-interest operates in the political as well as the private environment. And the political expression of self-interest is usually manifested in pressure groups that have incentives to lobby govern-

ments. Labor unions, for instance, can be expected to support strict immigration laws with the aim of protecting the job security of their members. It is not surprising, therefore, to find them strongly backing sanctions against employers of illegal entrants. Union philosophy is usually reflected in the sentiment of the current Labor Department secretary. To cite one example, when Ray Marshall was secretary he observed: "I am convinced that we are sowing the seed of future civil-rights struggles, and we would be better off if we were to confront the issue now." The assumption is that immigration causes serious unemployment. Thus, the secretary of labor in the Carter administration and the commissioner of the Immigration and Naturalization Service in the Ford administration both attributed the unemployment of 2 million to 3 million Americans to illegal aliens.<sup>2</sup>

The fallacy in the argument that immigration causes long-run unemployment is, of course, the mistaken belief that there is a fixed number of jobs in the economy. In fact, after a temporary lag, the extent of employment generally increases with increased immigration. During the lag, many workers are reported as statistically unemployed while they are engaged in job search. Much of the short-term situation, then, can be characterized as voluntary unemployment. Short-term increases in the labor turnover also follow immigration surges. These can similarly be described as stemming from voluntary quits as new workers are learning about available occupations.

But if immigration has no serious long-run consequences for unemployment, it may have an effect on relative wages. It is more likely to be this threat that unions are most sensitive to. The immigration of workers of a given standard and type of skill (and with little savings) reduces the marginal product of native workers in the same class and raises the marginal product of capital. One can predict that unions will resist such an outcome by using their combined political voting strengths to oppose, selectively, the kind of immigration that carries the most potential danger to their members.

These considerations bring to the fore another type of private property that is entwined with the immigration problem—what can be called the private property in the vote. Since the basic constitution has predetermined such property along with the basic ground rules of democracy, the libertarian is presented with another type

of constraint when searching for a consistent stand on the immigration question.

Such considerations might, at first sight, explain the Reagan administration's apparently tough new policy. Only a slight increase in the number of immigrants is to be permitted (from Canada and Mexico). Beyond this, a ten-year waiting period is now required for permanent resident status for illegal aliens already in the country, and severe penalties are to be imposed upon employers who hire workers knowing them to be illegal aliens. So far, however, it has not been made clear how the tighter enforcement of the immigration law is to be accomplished in practice. The Reagan administration has evidently accepted some of the advice of the Select Commission on Immigration and Refugee Policy (SCIRP) which reported in February 1981. This body recommended civil penalties against employers who knowingly employ illegal aliens. But again, no clear mechanism was stipulated through which employers could verify a worker's legal status. No serious enquiry was made whether verification of the status of workers is feasible without a national identity card.

We must presume, therefore, that employer sanctions are not likely to have much effect in reducing employment opportunities for illegal aliens. As a consequence, the substantial clandestine entry of immigrants will continue unabated. But this situation would seem to refute our proposition that domestic pressure groups will use the property right of their vote to effectively curb immigration. A still closer look at events, however, suggests more support for our theory.

We have seen that votes can be marshalled wherever special interest groups find it beneficial to do so. The feasibility of such political pressure depends on the prevailing costs of organization. Normally, these will be lower where the membership of the organization is concentrated either geographically or occupationally. Conversely, where potential members are widely dispersed, the conditions for organization into trade unions are unfavorable. Usually the latter situation occurs where the marginal productivity of workers is low and labor turnover is high. And it is precisely in the low-wage and high-turnover occupations that most of the illegal immigrants are concentrated. Unions will be less sensitive to the immigration of such workers than to higher-productivity workers.

It so happens that the practice of the present law as it relates to higher-productivity workers is to grant visas to applicants in certain

occupations in which there are "shortages" and to deny visas to applicants in "crowded" occupations. It is relatively easy, meanwhile, for a professional association or a trade union to make out a case that its occupation is "crowded." A union-negotiated wage at a higher-than-market level will always cause an excess supply of willing workers over the demand for them at that price. Thus, in recent years, physicians, nurses, physical therapists, and dietitians have been withdrawn from the list of the most-favored (Schedule A Occupations) "on the basis not of labor-market studies but of political pressures of interested parties."<sup>3</sup>

While unions representing high-skilled labor will thus resist the immigration of competing workers, it will at the same time be in their interests to encourage the immigration of low-wage individuals. The arrival of the latter reduces the marginal product of low-skilled native workers but raises the marginal product of high-skilled workers. This is a consequence of the economic principle of complementarity, which states that the marginal product of a factor increases the greater the quantity of other factors of production with which it works. Thus, immigration will have redistributive effects against the low-income earners of the native population and in favor of the high-income native workers. Immigration, therefore, appears to be just one of hundreds of instances that demonstrate the perverse effect of the present pattern of democracy in Western countries.

#### CONCLUSION

In trying to find a consistent position on the issue of immigration, the libertarian must simultaneously consider the basic principle of property along with that of liberty. Insofar as the inhabitants of a territory believe in effect that they have a property right to their country, for reasons discussed above, they will automatically believe also that they have a right of exclusion. This does not mean that exclusion will always be observed. Individuals possessing property are not immune to beliefs in equity or justice to their neighbors. Nevertheless, it is intriguing to attempt to determine whether the volume and pattern of immigration that are allowed in practice are a product of these beliefs in justice or, instead, follow from the actions of self-interested individuals who are able to marshal their vote in a more strategic way than other citizens. Arguing from noble principles is one thing. Examining the

real world is another. Those who still pursue the former must, it seems, first recognize the formidable constraints in the present system of democracy just described if their argument is to be realistic and plausible.

1. "The Immigrants," *Wall Street Journal*, Sept. 11, 1980, p. 1.
2. Quoted in Barry R. Chiswick, "Guidelines for the Reform of Immigration Policies," in William Fellner, ed., *Essays in Contemporary Economic Problems* (Washington, D.C.: American Enterprise Institute, 1981-82).
3. *Ibid.*