

US Immigration Policy & Reform:

What does the evidence tell us?

Institute for the Study of International Migration

GEORGETOWN
UNIVERSITY

Family Immigration: Visa Channels & Management Challenges

Report on an experts' roundtable
Georgetown University, Washington D.C.



ABOUT THE PROJECT

The Institute for the Study of International Migration, with the support of the MacArthur Foundation, is organizing a series of public presentations, as well as expert roundtables that address the multiple challenges of immigration reform. The aim of the project is to inform debate on immigration reform, with a focus on addressing the challenges of implementation

SUMMARY

The Institute for the Study of International Migration in the School of Foreign Service hosted a roundtable in February 2015 in which participants from academia, government, and nongovernmental organizations considered the role of family immigration in the United States. The discussion, held under Chatham House rules, centered on family visa priorities and the socioeconomic impacts of admissions based on family ties.

All participants recognized the reunification of family as a core value of US policy. They also identified several challenges to the family-based system. Most expressed concern with the size of admission backlogs, and time in waiting before admission, for family members sponsored by Legal Permanent Residents (LPRs). Visa and per country caps limit admissions as do sometimes overly strict sponsorship (income) requirements.

Participants favored working off the current backlog, expanding the visas available to immediate family of LPRs, and eliminating some more distant family visas. Going forward, they argued for ways to reduce backlogs, perhaps by requiring annual reapplication for visas or identifying applicants who no longer wish to immigrate.

At the same time, participants discussed the adoption of a hybrid system to permit the admission of extended family members through new mechanisms. There might be the possibility of sponsoring a relative as a caretaker for young children; or sponsoring unmarried children who are under the age of 26. Perhaps extended family might apply through employment-based categories and be given priority for family ties.

In discussing the social and economic roles of family-based admission, participants found that a lack of data obscures our understanding and ability to devise appropriate policies. They noted that most data do not differentiate between family-based and employment-based immigrants, but that there are good reasons to expect that intact families provide a support network that may boost the integration of family-based immigrants.

The participants called for improved data on immigration and most felt an independent commission should be formed to institutionalize the coordination, analysis and policy relevance of immigration data. Improved data could steer policy toward better visa management and immigrant integration.

INTRODUCTION

The Institute for the Study of International Migration in the School of Foreign Service hosted a roundtable in February 2015 on “Family Immigration: Visa Channels and Management Challenges.” The roundtable followed Chatham House rules without attribution of comments to individuals. The participants came from academia, government and nongovernmental organizations. The meeting was organized around family visa priorities; and the social and economic roles of family-based immigrants.

FAMILY VISAS PRIORITIES

Family reunification is a core value of the US immigration system. The policy was first adopted in the Immigration and Nationality Act of 1965 which overturned the existing system of national quotas in favor of a visa preference system emphasizing family and employer sponsorship. This system was last adjusted through the Immigration Act of 1990 which made minor changes to the family-based visa category, designated new visa categories for employment-based immigrants, and created a Diversity Visa Lottery program that admits 50,000 immigrants annually from low-admittance regions.

Supporting the principle of family reunification

From its adoption, family-based immigration was intended to make the US immigration system more equitable. Its provisions, particularly the ability of US citizens and lawful permanent residents (LPR) to sponsor immediate family and to apply for extended family reunification, have been important in increasing the number of immigrants from nations previously excluded under the national origin quotas of the 1920s. Family reunification is also seen as means by which immigrants’ integration is smoothed after arrival with intact families providing a safety net. This safety net also helps make family-based immigration low-cost for the US taxpayer because sponsoring families shoulder the costs of integration.

Despite the positive goals of a family-based immigration system, challenges remain. Some debate centers on the definition of family. Currently the US defines family primarily as the immediate or nuclear family while allocating visas also to adult unmarried children of citizens and LPRs, as well as, parents, married children and siblings of US citizens. Many argue that family should continue to be defined broadly to include parents, siblings, and adult children. However, opponents of expansive definitions express concern that the inclusion of married children and siblings leads to chain migration which increases the number of individuals who may immigrate.

Although chain migration has been a significant phenomenon in the past, some analysts speculate that as fertility rates drop in countries with the largest groups of potential citizens, such as China or Mexico, the impact of chain migration may decrease in the future.

Whether or not chain migration remains significant in the future, the current backlog of applicants waiting for admission numbers in the millions and family members in the backlog face long waits before admission, for some visa classes a wait of decades before reunification. The backlogs are due to numerical limits on preference visas, but different nationalities are disproportionately affected due to per-country limits. There are especially long delays for immigrants from Mexico and the Philippines. Immigrants are getting older at the time of admission as a result of delays. In some visa categories, particularly visas for siblings, immigrants arrive in their late 50s spending the majority of their most productive working years abroad.

The large admissions backlog highlights the disparity between the limits on sponsorship of citizens and LPRs. While there is no numerical cap on the number of spouses, minor children and parents of citizens who may be admitted, the spouses and minor children of LPRs face an effective cap of 87,900 annually.¹ These visas are not fully subject to per country limits. Unlike citizens, LPRs are not able to sponsor parents, married children or siblings. Arguably, the long backlogs generated by the caps on LPR sponsorship undermine the traditional emphasis on family reunification.

Several participants expressed concern about the inability of petitioners to contest a decision of non-admissibility. Currently, there is no right to appeal of the decisions of consular officers on the admissibility of a petitioning immigrant. Courts may hear appeals on matters of law, but not on matters of fact determined by the consular officer. Although in 1997 the Commission on Immigration Reform recommended that consular decisions should be appealable, when a US citizen or business is the petitioner, the norm of non-reviewability remains.² Participants agreed on the principle of appeal, but noted that legal developments may soon make it possible. On February 23, 2015, the Supreme Court heard arguments in *Kerry v. Din*, a case in which a consular officer denied a U.S. citizen's Afghani spouse a visa by citing "a broad definition of terrorism activities in the immigration statute."³ The Court will decide whether the U.S. citizen is entitled to challenge the case in court, whether the U.S. government is required to name the

¹ Kandel, William A. "U.S. Family-Based Immigration Policy" *Congressional Research Service* July 11, 2013. <www.law.umaryland.edu/marshall/crsreports/crsdocuments/R43145_07112013.pdf>.

² U.S. Commission on Immigration Reform. *Becoming an American: Immigration and Immigrant Policy*, Report to Congress, 1997.

³ Johnson, Kevin. "Review of consular visa decision for the twenty-first century." *SCOTUS Blog* February 24, 2015. <<http://www.scotusblog.com/2015/02/argument-analysis-review-of-consular-visa-decisions-for-the-twenty-first-century/>>.

statutory provision that made the spouse ineligible; and to provide an explanation for why the consular officer believed the spouse violated that provision.

Improving family sponsored admissions

Meeting participants suggested a number of potential solutions to address current challenges. The first is to adopt a hybrid approach that increases access to admission for spouses and minor children while winnowing down, but not eliminating, access for other family members. Both citizens and LPRs would be able to sponsor spouses and minor children without numerical limits. One participant suggested that children up to the age of 26 could be included in the category exempt from numerical limits, following the precedent set in the Affordable Care Act which allows children to remain on their parents' insurance up to age 26.

At the same time, the admission categories for siblings and adult children could be eliminated. Extended family connections would be given priority, however, for admission under employment-based categories. Some participants suggested moving to something like a point system with family members receiving additional points. Most participants, nevertheless, were uncomfortable with a point system noting that Canada has moved away from a pure point-based admissions program because workers admitted on points have not fared well in the labor market.

Most participants argued that reducing the admission backlog should be a top priority. One solution could be to require sponsored immigrants to reapply annually for admission, reaffirming their interest in coming, so that backlogs do not build up in the first place. The costs of reapplication would need to be thought about because potential immigrants may not be able to afford to pay the current costs of visa application annually. Another way to reduce backlogs would be to regularly review the backlog list to determine whether or not individuals still plan to immigrate when given the opportunity.

Participants also recommended the creation of spousal work permits for those entering under temporary work categories. The recent Presidential action to provide work authorization to spouses of H-1B specialty visaholders who are seeking continuations of stay is a step in the right direction. It is commonplace for both husbands and wives to work, so authorizing the spouse to work strengthens the family and competitiveness of the visa.

Finally, participants were concerned that any future legalization program may put pressure on family-based admissions. If individuals given immigration relief achieve legal status, will they be able to sponsor family from their countries of origin or family

illegally resident in the US? If so, that would greatly increase the number of applicants in a system which already has a significant backlog. But not to do so would undermine the principal of family reunification. Most participants felt that, with family reunification as a core value, policy reform should protect the family and remove inefficiencies that make legal reunification difficult.

SOCIAL AND ECONOMIC ROLES OF FAMILY-BASED ADMISSION

American history is filled with examples of successful immigrant integration and strong integration remains an important goal today. Despite this, social and economic outcomes for immigrants are not adequately tracked; and there is too little firm evidence over how family-based and employment-based admissions affect long term outcomes. Meeting participants considered a number of different issues affecting the social and economic integration of newly-arrived immigrants.

Some participants felt that restrictive immigration policies may hamper immigrant integration. One concern is the strict requirements for sponsorship. After 1996, a higher requirement for proving adequate income (deeming) means that some family sponsors are able to bring over only a few family members at a time. This can create a cycle where poor immigrants are unable to sponsor family, but because family is not available to provide support, poor immigrants are also not able to earn enough to get out of poverty. Moreover, some families can afford to bring their children only after first working for many years in the United States, after the children have received the bulk of their education in their countries of origin. Children who come at older ages, often with poor education and language skills, may be a higher burden on taxpayers over the course of their lifetime than they would have been if they arrived at a younger age.

Another challenge to successful family reunification is the strict bar on admission for those who were in the country illegally. Individuals present in the country illegally for six months must remain outside the country for three years, while those present for a year must remain outside the US for ten years before being legally admitted. These long periods of waiting fracture family unity and may make integration more difficult. It may be preferable to permit exceptions to these rules.

There is a need for more information on the lived experiences of families after reunification to better understand integration outcomes. Some common measures of integration, like educational attainment or job earnings, may not measure how immigrants themselves view success. For example, parents who did not finish primary school in their home countries may believe that success for their children is simply

enrolling in high school, an outcome that outside observers do not see as a symbol of success. Capturing the full meaning of integration should include evaluation of English ability, employment histories, training received, civic participation, community involvement, progress toward naturalization, family stability; and children's' school performance/completion, as well as, civic knowledge and participation.

Better policy requires better information

Creating informed and well-designed policies for family admissions is difficult because there is a lack of data to answer questions about the specific causes and consequences of family immigration. Meeting participants noted that little of the data that measures social and economic impacts of individuals admitted to the US allow for comparison of families and their visa class of admission. While census data record information about foreign-born respondents, they do not capture immigration admission statuses.⁴ Better data could inform policy and improve programmatic responses.

There is a need for more information on the differences between economic outcomes for employment- and family-based immigrants. Researchers have noted some differences that appear to favor immigrants sponsored for work. Employment-based immigrants tend to be better educated and also tend to perform better in the labor market. After they arrive they tend to be employed in jobs commensurate with their training and experience; and to achieve higher earnings over their careers. Family-based immigrants tend to be under-employed relative to their education and training, as well as, earning less over the course of their working life.

However, the full picture may be more complicated. One Urban Institute study from the early 1990s suggests that after fifteen to twenty years, the outcomes for family-based immigrants become equal to those of employment-based immigrants.⁵ Family-based immigrants tend to have larger support networks and advantages – social capital – that facilitate their labor market incorporation and provide other benefits for integration. In other words, economic-based admissions may not markedly outperform family over the long run. There is a lack of more recent and detailed research on various mechanisms that addresses the possible benefits that families provide to the process of integration. A lack of data on admission classes limits our ability to conduct research on these relationships.

⁴ The New Immigrant Survey is longitudinal and may be useful for this purpose, but it is not clear if there will be additional waves of the survey. See “The New Immigrant Survey: Overview” *Princeton University* <<http://nis.princeton.edu/overview.html>>.

⁵ Orcutt Duleep, Harriet, Regets, Mark C., “Admission Criteria and Immigrant Earning Profiles.” *The Urban Institute*, April, 1994. <<http://www.urban.org/publications/405187.html>>.

And while theory and research tells us that employment-based immigrants tend to fare well in the labor market, the role of family in economic integration is murky. We know rather little about family immigrants and the labor market; available data does not capture visa status. There are good reasons to believe, for example, that many foreign-born female healthcare providers in the United States are initially admitted on family-based preference visas. Would a supply of say possible employment-based visas for nurses have competitive impacts on those admitted on family visas? And do families provide job connections, housing and support networks that facilitate sponsored immigrants' integration into the marketplace? If so, will timely reunification reinforce integration?

There is a lack of data on which incentives are most relevant to immigrants choosing to come to the United States. If people have flexibility as to when they move and are not tied to admission application queues, they may not apply for admission until they actually intend to move. People may wish to match immigration to different points in their family's life cycle. There is speculation that backlogs in family admission may be one reason that Chinese immigrants are applying in increasing numbers for EB-5 investor visas, as a path to a green card, and to in-state tuition for their college-age children. Economic incentives may also impact immigration levels more broadly. Knowing more about such timing issues could be useful in devising policies to manage admissions and address backlogs.

Research is also lacking on the process of integration, including how naturalization affects both integration and family admissions. It is often presumed that a primary incentive to naturalize is that it confers the ability to sponsor immediate family with few limitations. But the reasons immigrants choose to naturalize are not always well understood. Incentives could include the ability to live abroad because green card holders generally cannot spend longer than one year outside the country without losing their status. Some immigrants may naturalize to access SSI benefits which, since 1996, LPRs generally cannot receive. Each of these incentives might affect programmatic or policy decisions differently, but without data to understand the choices immigrants make, we are ill-equipped to craft optimal policies.

Finally, there are also few data about the number of people who immigrate but later leave the country, despite some speculation that emigration may be increasing. Meeting participants noted that China is actively trying to recruit its US émigrés to return. We are unable, however, to estimate trends in emigration and its possible impacts. Because we know relatively little about rates of return we are unable to adequately model or forecast foreign-born populations; and we are unable to speculate about how family outcomes may change over time.

There was a consensus among the participants that basic information on visa status should be collected, but also that more detailed information on many aspects of immigration should be available for researchers. Administrative sources of data should be collected with an eye toward bureaucratic reporting, as well as, the needs of research that informs policymaking. Existing government surveys should incorporate more information about immigrant status and immigration processes. The collection of reliable and detailed data; however, can only address the first-order requirements of credible immigration management. Many participants argued strongly for the institutionalization of the data collection on and for the analysis of immigration. Many supported calls for an independent commission, perhaps modeled in part on the International Trade Commission, to manage data collection and provide advice on policymaking.

RECOMMENDATIONS

Several recommendations evolved from the roundtable discussion that address challenges to family-based immigration. These recommendations include:

- Many participants felt that LPRs should be allowed to sponsor spouses and minor children without numerical limits in the same way as citizens.
- Allow the cutoff age for minor children to rise from the current age of 21 to 26.
- Reexamine sponsorship requirements to make sure barriers are not so high that they prevent timely family reunification.
- Improve the collection and dissemination of better data and analysis that informs policymaking:
 - Improve data collection that informs integration outcomes.
 - Institutionalize coordination and analyses of immigration data, perhaps through the creation of an independent commission.
 - Increase the value of electronically collected data with the inclusion of analytic information, linking databases and public release.



*Institute for the Study of International Migration,
Georgetown University*

Family Immigration: Visa Channels & Management Challenges

**February 27, 2015
8:30am – 2:00pm**

**Georgetown University
Mortara Center
3600 N Street NW
Washington D.C. 20007**

<https://mortara.georgetown.edu/events/directions>

MEETING AGENDA

9:00am Introductions

9:15am Family Visas Priorities

The family class includes visas sponsored by US citizens with large number of uncapped visas for immediate family and capped visas for close family members. Legal permanent residents may sponsor immediate family subject to visa and per-country caps. There are large backlogs for family members and long waits. How should the system be structured? Should some visa classes be removed including say the diversity visas? What would the impact be of clearing backlogs and removing selected visa caps?

10:45 Coffee break

11:00am Social and Economic Roles of Family-Based Admission

It is often remarked that family-based immigrants are not as economically successful as employment-based immigrants. At the same time family admissions may generate benefits for lesser skilled immigrants and supply middle-to-highly skilled jobs. What are the often overlooked benefits of family supports? What middle-to-highly skilled jobs does family fill and what how might these compete with proposed expansion of temporary working visas?

12:30pm Working lunch

2:00 pm Adjourn

PROVISIONAL LIST OF ATTENDING EXPERTS

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|----------------------|--|
| Edward Alden | Council on Foreign Relations |
| Muzaffar Chishti | Migration Policy Institute |
| Daniel Costa | Economic Policy Institute |
| Jason DeParle | New York Times |
| Maria E. Enchautegui | Urban Institute |
| Susan F. Martin | Institute for the Study of International Migration |
| Elzbieta Gozdziaak | Institute for the Study of International Migration |
| Sarah Graveline | Institute for the Study of International Migration |
| William Kandel | Congressional Research Service |
| Lara Kinne | Institute for the Study of International Migration |
| Rey Koslowski | University at Albany State University of New York |
| Magteld LaBella | Office of Policy and Strategy - CIS DHS |
| B. Lindsay Lowell | Institute for the Study of International Migration |
| Susan Martin | Institute for the Study of International Migration |
| Doris Meissner | Migration Policy Institute |
| David North | Center for Immigration Studies |
| Erin Oshiro | Asian Americans Advancing Justice |
| Lisa Roney | Immigration Consultant |
| Galya Ruffer | Northwestern University |
| Imara Salas | Institute for the Study of International Migration |
| Abbie Taylor | Institute for the Study of International Migration |
| Nili Yossinger | Institute for the Study of International Migration |