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What We Can Learn from Our Relatively Open Borders

[Peter Skerry](#) • July 27, 2021 • [0 Comments](#)

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Alex Nowrasteh and Benjamin Powell's immigration research offers a decidedly fresh, invigorating perspective on a critical policy debate that has grown increasingly stale as it has become more and more salient in our politics. Yet I am doubtful how much their many insights will help Americans grapple with this perennially fraught issue. At a time when economic inequality has emerged as one of the more pressing concerns on the national agenda, our authors embrace what they identify as a utilitarian perspective on free immigration's positive impact on economic efficiency. Yet they have little at all to say about how the economic gains they argue would follow from unconstrained immigration would be distributed. Or as the nineteenth-century British utilitarian Henry Sidgwick might ask: Would the anticipated increase in total utility from unrestricted immigration also result in an increase of average utility—or at least not a diminution of the utility of the average American? Additionally, and in light of our nation's overdue appreciation of the continuing plight of African Americans, would the presumed increase in total utility from unrestricted immigration benefit them? Obviously not easy questions to con-

sider, but also ones that our authors do not address.

Further, I would challenge Nowrasteh and Powell to elaborate on their postulate that governmental expenditures are inevitably and uniformly a threat to economic freedom. Putting aside the growth of such expenditures resulting from the New Deal's response to the Depression, World War II certainly resulted in massive and costly governmental growth that was undeniably in defense of economic freedom. So were programs like the Marshall Plan in Western Europe and the G.I. Bill here at home. Then, too, the Cold War and nuclear competition with the Soviet Union required massive governmental expenditures that eventually led to greatly increased economic—as well as political—freedom around the world.

Turning to Nowrasteh and Powell's intriguing case studies—what they refer to as quasi-natural experiments—of sudden, unpredicted, but delimited mass immigration to Israel and to Jordan, the relevance of their findings to the American context is questionable. After all, neither of these two small nation-states is comparable in size, history, or longevity to the United States. Nor, even more importantly, is the arrival and integration of Russian Jews in Israel after the demise of the Soviet Union comparable to the fate, say, of millions of Spanish-speaking immigrants to the United States during the same period. Not only do such Russians share an important cultural heritage—Judaism—with their new countrymen, but their embrace by Israel, however ambivalent, is nevertheless a critical component of the state's *raison d'être*.

In fact, the departure of Russian Jews from their home country and their arrival and settlement in Israel look more like what refugees experience than immigrants. And this is even more evident with the Kuwaiti Palestinians who arrived in Jordan in 1990 at the outbreak of the First Gulf War. Although the distinction between refugees and immigrants has typically and purposely been blurred by advocates seeking to augment the visibility and clout of both, the divergent circumstances and goals of two such populations inevitably impact outcomes. Notable among these: immigrants typically seek what the authors refer to as economic freedom; refugees by definition seek physical safety and political liberty. Such motives must impact the outcomes pointed to by our authors. Yet in their analyses they fail to acknowledge them.

Following up on the authors' quasi-natural experimental approach, I would point to an important case that they overlook and is arguably more relevant than the Israeli or

Jordanian experiences. I refer of course to America's de facto experiment with illegal (or undocumented) immigration. For about thirty-five years now, since passage of the Immigration Reform and Control Act (IRCA) of 1986, the United States has in effect been experimenting with lax enforcement of its immigration laws. To be sure, one might widen this window to include the period between passage of the Immigration and Naturalization Act of 1965 and the 1986 measure, during which time immigration law enforcement was extremely lax and illegal immigration gradually but steadily increased—such that it surfaced in earnest in Washington during the Carter administration. The United States has experienced some illegal immigration for much of its history. But it has never risen to the numerical levels or political salience of the current period. This is not to suggest that as a nation we have de facto open borders. We clearly do not.

But neither have we adopted the one tool that would undeniably curtail illegal immigration: a blanket program of meaningful sanctions on those employing the undocumented. The laws that are on the books are sporadically and unevenly enforced both geographically and temporally. And yes, they are enforced on some groups more than others. Hispanics are undoubtedly under more scrutiny from immigration enforcement than South Asians. But then, there are proportionately more undocumented among Hispanics here than among South Asians. In any event, for about thirty years now the United States has been home to from 10 to 12 million or more undocumented immigrants, many of whom have eschewed the opportunity to pursue the path to legal status and eventual citizenship.

For better or worse, the millions of illegal immigrants have been the focus of much of our episodic immigration debate. And I would argue that our unresolved reckoning with undocumented immigration has been a surrogate for a broader, more substantive debate about our immigration policy more generally. Stop and consider the complaints one has been hearing for years now about the undocumented from many Americans: (1) they have broken the law by arriving or staying here without authorization; (2) they are a fiscal burden on schools, hospitals, and other locally based and funded services; (3) they are taking jobs away from native-born workers; (4) they do not speak and are not learning English; and (5) they are disproportionately involved in criminal activities.^[1] With the exception of the first point, I would point out that these complaints—some of which have some validity, others not—are similar, if not

identical, to those lodged against immigrants generally, especially poorly educated, unskilled immigrants and their families.

I do not believe that the ubiquitous and inevitable distinction between legal and illegal immigration is as valid or as helpful as it is widely taken to be. In field research and interviews with border patrol agents, I have invariably heard them express two divergent perspectives. First, they insist defensively on their status as “federal law enforcement agents,” who are not only armed (a factor in determining status and pay) but just as professional and critical as colleagues—such as FBI or DEA agents—who enjoy much greater recognition and prestige than they. Second, border patrol agents—virtually to a man, or a woman—at some point volunteer, usually while sitting in a van and talking late at night on patrol, that if they were in the migrants’ shoes, they, too, would be attempting to enter the United States illegally in order improve things for themselves and their families!

Ah, but there’s the rub! Border and other immigration enforcement personnel lack status in the federal law enforcement hierarchy—and suffer from burnout and attrition more than their fellow federal agents, say, at the DEA—precisely because the laws they enforce are not considered, even by themselves, as commensurate with those enforced by other federal agencies. As legal scholars put it, presence in the United States without appropriate permission and documentation is not a *malum in se*, but rather a *malum prohibitum*—not an inherent moral wrong or crime, but a statutory violation.

However much elected officials and nervous bureaucrats lean on the sharp dichotomy between documented and undocumented immigrants to deal with this most intractable of issues—and however much large numbers of Americans consequently embrace this distinction—the fact is that problems associated with the undocumented are also much in evidence among poorly educated, unskilled legal immigrants and their families. Nevertheless, the complexity and volatility of immigration policy and politics have resulted in our elites needing to simplify the framing of the issue to something like: legal immigrants are good; illegal immigrants are bad. And while this distinction has itself come under scrutiny and criticism from immigrant advocates who defend the undocumented and thereby attempt to blur the distinction (“There are no illegal human beings!”), the bright line drawn between legal and illegal immigration, however inadequate and misleading, remains useful to the participants in this contentious debate.

My point is that for more than half a century, the United States has been conducting an experiment in relatively open borders. Once again, this has been nothing like the extreme open-borders policy that our authors pose as the null hypothesis. After all, there are millions of would-be immigrants patiently waiting in line for years overseas to obtain visas and join their families already here. Then, too, tens of thousands of immigrants get deported every year. Nevertheless, the resulting chaos and lack of attention to promoting the settlement and assimilation of migrants—legal as well as illegal—approximates the kind of experiment in open borders more than our authors acknowledge. And the outcome is obviously unacceptable to many Americans whose anxieties and concerns may be poorly or offensively articulated, but are not without foundation.

Finally, it is critical to consider the political context in which these migration dynamics have been playing out. While the authors address the impacts of immigrants on our political as well as economic institutions, their understanding of the former is limited and overlooks important changes since the last wave of immigrants ended during the 1920s. An ephemeral but nevertheless revealing example is the rhetoric from globalization-obsessed elites who have been fueling discourse about “open borders” and “a borderless globe” since the fall of the Berlin Wall. Here the desired—and hardly unsuccessful—goal is typically to draw attention away from “illegal immigrants” and toward a borderless world in which “no one is illegal.”

A more pertinent example of critical institutional change overlooked by our authors is the disappearance of the state and local party organizations that skillfully wielded ethnic appeals and patronage to draw immigrants and their children into politics. Today, those institutions have been replaced by media-driven, racially framed claims that in the wake of the civil rights movement imitate the political posture of African Americans. The upshot is that Hispanics, as well as other newcomers, have been conditioned to mobilize themselves not as newly arrived immigrants, but as long-suffering, racially oppressed minorities who merit remedies similar to those afforded, however begrudgingly, to black Americans. One outcome is the oft-repeated mantra that America is becoming “a majority-minority nation,” which has hardly been welcome news among many already marginalized white Americans. All the more ironic, then, is the evidence that most immigrants, Hispanics in particular, conform to the broad pattern of upward mobility and assimilation displayed by previous migrants

from Europe. Indeed, half of Hispanics consistently identify themselves as racially white, and they intermarry with white Americans in ever increasing numbers.

These critical changes in our political institutions escape the attention of Nowrasteh and Powell. To be sure, their primary focus is on immigration's impact on economic institutions. But given their broader concerns to promote dramatically less restrictive immigration policies, it behooves them to consider not only such specific developments in our politics, but more generally how political institutions shape and influence how economic outcomes are defined and interpreted. For as David Hume noted, men fight for their interests, but their interests are a matter of opinion.

Note

[1] See Ruben G. Rumbaut and Walter A. Ewing, "The Myth of Immigrant Criminality and the Paradox of Assimilation: Incarceration Rates among Native and Foreign-Born Men," *Immigration Policy Center* (Washington, DC: Spring 2007). Also Noah Pickus and Peter Skerry, "Good Neighbors and Good Citizens: Beyond the Legal-Illegal Immigration Debate," in Carol M. Swain, ed., *Debating Immigration*, Second Edition (NY: Cambridge University Press, 2018), 194-216. And Peter Skerry, "Immigration and Social Disorder," in Norton Garfinkle and Daniel Yankelovich, eds., *Uniting America: Restoring the Vital Center to American Democracy* (New Haven: Yale University Press, 2006), 124-138.

ALSO FROM THIS ISSUE

Lead Essay

- **Would Immigrants Destroy our Freedoms?** by **Benjamin Powell**

Looking specifically at immigrants' effects on economic institutions, Benjamin Powell finds little to be concerned about. Natural experiments in Israel and Jordan in particular suggest that immigration does not lead to reduced economic freedom, and historical data from the United States corroborates this. Though the matter isn't open and shut, the evidence needed to establish a likelihood of harm appears so far to be lacking.

Response Essays

- **How to Counter Possible Political Dangers of Immigration Without Barring Migrants** by **Ilya Somin**

Suppose that immigration skeptics are right, and that higher immigration levels


threaten American institutions. That threat need not always come to fruition; in particular, if we suspect that it's coming, we can prepare for it. Not only that, but economists have observed that higher immigration levels translate to substantially more wealth for both the immigrant and the host country. Ilya Somin argues that we can and should spend some of this new wealth on sustaining the institutions that help to create it.

- **Divided: Open Borders and the Political Fracturing of Societies by Eric Kaufmann**

Eric Kaufmann explains the mechanism by which immigrants degrade a host country's institutions: Because they are of a different ethnicity, immigrants cause mistrust; labor unions in particular are weakened. This results in a relatively free market for labor, which lowers living standards for the working class. Beyond a certain level of fragmentation, even political parties come to be dominated by ethnic concerns, and ethnic parties corrode a society still further. The way to address these problems, says Kaufmann, is to limit immigration to the rate at which immigrants can assimilate to the host society.

- **What We Can Learn from Our Relatively Open Borders by Peter Skerry**

Peter Skerry writes that if legal immigration is greatly increased, the legal immigrants will resemble the illegal ones. But illegal immigrants commit more crime, inflict burnout and attrition on our immigration enforcement agencies, take jobs from native-born workers, and entice businesses into a pattern of illegal employment. All of these are directly harmful to American institutions, which means that legal immigration should not be expanded.

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