

# **One Hundred Years of United States Immigration History (1926-2026): From Restrictionism to Contemporary Enforcement Challenges**

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## **FINDINGS**

# **ONE HUNDRED YEARS OF UNITED STATES IMMIGRATION HISTORY (1926-2026): FROM RESTRICTIONISM TO CONTEMPORARY ENFORCEMENT CHALLENGES**

### **Executive Summary**

The century spanning 1926 through 2026 represents the most consequential period in American immigration policy, marked by dramatic oscillations between restrictive regimes and periods of relative liberalization, each shaped by economic conditions, geopolitical crises, and evolving conceptions of national identity. The era began with the institutionalization of racial and national origin discrimination through the National Origins Formula[1][4], which explicitly sought to preserve the ethnic composition of the American population as enumerated in the 1920 census. This foundational restrictive framework persisted for four decades until the Immigration and Nationality Act of 1965, a landmark statute that dismantled national origin quotas and fundamentally reshaped immigration flows toward Asia, Latin America, and other non-European regions[2][5]. The subsequent fifty years witnessed repeated cycles of enforcement expansion, legalization programs, refugee admissions driven by geopolitical events, and most recently a dramatic acceleration toward enforcement-first policies. The period from 2017 onward represents an unprecedented assertion of executive authority over immigration matters, characterized by travel bans, proclamations suspending asylum protections, and what the current Trump administration has explicitly framed as a mass deportations agenda[11][12]. Throughout this century, the gap between statutory immigration levels and actual migration flows has created persistent unauthorized population challenges that have themselves become central to domestic political discourse. Understanding this history provides essential context for comprehending contemporary immigration law, which remains structured around statutes enacted in 1965 and 1990 but applied in a vastly transformed global and technological environment.

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### **The National Origins Era: Institutionalizing Restrictionism (1926-1943)**

The immigration policies of the 1920s represented a fundamental departure from the relatively open immigration frameworks that had characterized the late nineteenth and early twentieth centuries. The Emergency Quota Act of 1921 and its successor, the Immigration Act of 1924, commonly known as the National Origins Act, created a systematic mechanism designed to halt the demographic transformation that immigration had wrought on American society[1][4]. These statutes did not emerge from abstract policy discussions but rather from a confluence of nativist sentiment, pseudo-scientific eugenic theories, labor protectionism, and explicit racial anxiety about the composition of the American population. The National Origins Formula established in 1924, effective July 1, 1929, allocated approximately 150,000 annual quota immigrant visas based on each country's proportional representation in the U.S. population as recorded in the 1920 census[1][4]. This methodology was intellectually sophisticated yet morally indefensible: it sought to mathematically preserve ethnic proportions while excluding from calculation non-European populations whose presence the formula was designed to minimize.

The restrictive impact was immediate and severe. The formula allocated 82 percent of available visa numbers to immigrants from Western and Northern European countries, 14 percent to immigrants from Eastern and Southern Europe, and merely 4 percent to all other regions of the Eastern Hemisphere[4]. Asia was effectively

excluded entirely, with only token quotas established for Asian countries. China, despite being an American ally against Japan in the World War I era, received an annual quota of merely 105 visas under the formula's application[32]. The system's numerical expression masked its ideological purpose: to maintain American demographic homogeneity and prevent further immigration from populations deemed culturally or genetically incompatible with American civilization[4][19]. Immigration officials during this period openly articulated concerns about whether Southern and Eastern European immigrants possessed the moral and intellectual capacity for citizenship, and whether Asian populations could ever be assimilated into American society.

The establishment of the U.S. Border Patrol in 1924 represented the enforcement complement to the National Origins Formula[6]. While the quota system controlled the composition of legal immigration, the Border Patrol was tasked with preventing unauthorized entry, particularly along the U.S.-Mexico border. The Patrol's creation during the era of prohibition and Mexican instability-including the civil conflict known as the Cristero War occurring between 1926 and 1929-reflected growing concern about migration flows from the Western Hemisphere[5]. The Cristero War itself generated significant displacement in Mexico, as both religious and secular populations fled violence, though precise quantification of migration from this period remains incomplete in historical records.

The World War II period introduced the first major crack in the restrictionist consensus. When the United States entered World War II in 1941, agricultural and industrial labor shortages became acute. The response was the Bracero Program, established in 1942, which represented an extraordinary reversal of restrictionist policy[1][4][20][23]. The program negotiated between the U.S. and Mexican governments, permitted approximately 4.6 million Mexican and Central American workers to enter the United States on temporary labor contracts over the program's twenty-two-year existence, peaking at 445,000 admissions in 1956[5][20]. These workers, called braceros (literally meaning "arms" in Spanish), entered under the assumption that they would return to Mexico upon contract expiration. The program was structured to address labor market needs while protecting American wage standards and preventing permanent settlement. In practice, the Bracero Program created cycles of dependency, employer exploitation, and ultimately a pattern whereby workers would return to their origin countries only to re-enter illegally-a pattern that would shape unauthorized immigration for decades after the program's termination[5][20].

Yet this same period witnessed one of the most profound moral failures in American immigration history: the internment of Japanese Americans. Following the December 7, 1941 attack on Pearl Harbor, President Franklin D. Roosevelt issued Executive Order 9066 on February 19, 1942, which authorized military commanders to exclude civilians from designated "military areas" on the West Coast[43][46]. Although the order contained no explicit reference to ethnicity, military officials interpreted it as authorizing the forced removal and incarceration of all persons of Japanese ancestry-approximately 120,000 individuals, of whom two-thirds were American citizens[1][43]. These citizens had committed no crime and faced no individual charges of disloyalty. Instead, their presence was deemed per se a security threat based solely on ancestry. They were confined in ten War Relocation Authority camps in the western interior of the country, surrounded by barbed wire and armed guards[43][46]. The camps operated under conditions of overcrowding and minimal resources. Hospitals within the camps recorded 5,981 births and 1,862 deaths during the incarceration period[43]. The constitutional violations inherent in this program were not fully acknowledged until 1988, when Congress passed the Civil Liberties Act, apologizing for the internment and providing \$20,000 compensation to each surviving internee[46].

The one area where National Origins restrictionism was relaxed during the World War II era involved China. The Magnuson Act of 1943, formally titled the Chinese Exclusion Repeal Act, repealed the Chinese Exclusion Act that had been in force since 1882[32][35]. This reversal did not reflect changed attitudes toward Chinese

immigration but rather strategic geopolitical considerations: China had become an essential American ally against Japan in the Pacific theater, and continued application of explicit exclusion laws created propaganda opportunities for Japanese messaging that highlighted American racism[32][35]. However, the Magnuson Act's practical impact was minimal. China was placed under the National Origins Formula, receiving an annual quota of 105 visas-one-seventh the number granted to Britain, despite Britain's far smaller population[32][35]. Chinese immigrants for the first time became eligible for naturalization, ending their legal classification as "aliens ineligible to citizenship," but the numerical allocation ensured that Chinese immigration would remain negligible in absolute terms[32]. This pattern-of symbolic concessions without substantive numerical openness-would characterize American immigration policy toward Asian nations through the mid-1960s.

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## **The Cold War Refugee Framework (1944-1965)**

The conclusion of World War II created unprecedented refugee crises as millions of persons were displaced by military conflict, political persecution, and ethnic cleansing across Europe and Asia. The National Origins Formula was fundamentally ill-equipped to address humanitarian emergencies, as it allocated visas based on rigid nationality quotas that bore no relationship to emergency needs. Congress responded sporadically with special legislation to address particular crises, but the system lacked the flexibility to respond systematically to refugee flows. The first major test case involved Hungarian refugees fleeing the failed Hungarian Revolution of 1956.

When Soviet forces suppressed the 1956 Hungarian Revolution, approximately 200,000 Hungarians fled across the Austrian border seeking asylum[3][31][34]. Austria, a small neutral country, was overwhelmed by the influx. President Eisenhower's administration, despite the National Origins Formula, authorized the admission of 21,500 Hungarian refugees through two mechanisms: a limited number under the Refugee Relief Act of 1953, and the remainder through the use of presidential parole authority under Section 212(d)(5) of the Immigration and Nationality Act[31]. Parole authority, initially designed as a mechanism for case-by-case emergency admissions, was repurposed as a tool for mass humanitarian admissions outside quota constraints. This precedent established by the Eisenhower administration proved transformative. By 1960, the United States had admitted over 200,000 Hungarian refugees, establishing a framework for Cold War-era refugee admissions that would be applied to subsequent crises, particularly involving Indochinese refugees[3][34].

The period from 1950 to 1960 saw immigration remain predominantly European, despite the Bracero Program's expansion. Official statistics recorded 477,000 arrivals from Germany, 203,000 from the United Kingdom, and 300,000 from Mexico, illustrating both the continued predominance of European immigration under the quota system and the growing but still numerically limited Mexican migration[5]. Yet the political and intellectual tide was shifting. The National Origins Formula, once defended on scientific and cultural grounds, increasingly appeared as an anachronism in the context of the Cold War. The United States was competing globally with the Soviet Union for influence among non-aligned nations, particularly in Asia, Africa, and Latin America. Maintaining immigration laws that explicitly discriminated against these regions undercut American diplomatic messaging about equality and opportunity. Additionally, the American civil rights movement of the 1950s and early 1960s, which challenged domestic racial discrimination, made it increasingly difficult to defend explicitly racialized immigration restrictions.

In 1963, President John F. Kennedy, who had campaigned on immigration reform and authored a book critical of restrictionist policies, directed his administration to draft immigration reform legislation[2]. This draft,

authored by Adam Walinsky, was sent to Congress on July 23, 1963[2]. The bill languished in committee, blocked by conservative opposition, particularly from Southern Democrats and immigration subcommittee chairman Michael A. Feighan of Ohio. However, following Kennedy's assassination in November 1963, the Johnson administration made immigration reform a legislative priority aligned with the broader civil rights agenda. The Hart-Celler Act, formally the Immigration and Nationality Act of 1965, was introduced in both houses of Congress by Senator Philip Hart and Representative Emanuel Celler, the latter having advocated for immigration reform since the 1920s[2][5].

The critical political compromise that shaped the final 1965 statute concerned the relative priority between family reunification and employment-based immigration. The original proposal emphasized skilled workers and employment-based categories, but conservative Democrats, paradoxically seeking to preserve the ethnic composition of the American population, insisted that family reunification receive primary emphasis[2][5]. The reasoning was that family-based immigration would maintain existing ethnic patterns-if most immigrants were from Europe, then family reunification would preferentially bring in European family members. This political calculation proved spectacularly wrong. The act abolished national origin quotas effective December 1, 1965, but implementation proceeded in phases, with the preference system becoming fully operative July 1, 1968[2].

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### **The Hart-Celler Framework: Transformation and Unintended Consequences (1965-1990)**

The Immigration and Nationality Act of 1965 fundamentally restructured the American immigration system in ways that, within a generation, completely transformed the demographic composition of immigration flows and reshaped the American immigrant population itself[2][5]. The statute abolished the National Origins Formula, eliminated explicit racial and national origin discrimination, and replaced the quota system with a preference system prioritizing family reunification and, secondarily, employment-based immigration[2][5]. The law imposed the first-ever numerical limitation on immigration from the Western Hemisphere-a ceiling of 120,000 annual visas-and established a ceiling of 170,000 for the Eastern Hemisphere, with a per-country limit of 20,000 for any single nation[2][5]. Immediate relatives of U.S. citizens-defined as spouses, unmarried children under 21, and parents of citizens-were exempted from numerical caps entirely[5].

The consequence was a fundamental inversion of immigration patterns. Immigration had been predominantly European since American independence; after 1965, immigration became predominantly Asian and Latin American[6][10]. By the 1970s, the primary source countries for immigration were no longer Britain, Germany, or Italy, but rather Mexico, the Philippines, China, South Korea, Vietnam, and the Caribbean nations[5]. This transformation was not incidental but rather the inevitable result of the statute's structural provisions. Persons already present in the United States could petition for relatives; chain migration-the process whereby immigrants sponsor family members who in turn sponsor their own relatives-accelerated admission flows from particular source countries. Countries with larger existing American populations, such as Mexico and the Philippines, generated higher petition volumes, resulting in longer visa queues and waiting periods that persist to the present day[5].

The most dramatic impetus for change in immigration patterns came from geopolitical events. The fall of Saigon in April 1975, which marked the end of the Vietnam War and the triumph of communist forces in Indochina, created one of the most significant refugee crises of the post-World War II era. The Indochina Migration and Refugee Assistance Act, passed May 23, 1975, authorized the admission of approximately

130,000 Vietnamese, Laotian, and Cambodian refugees[16][45]. The statute allocated \$305 million to the State Department and \$100 million to the Department of Health, Education and Welfare for transportation, processing, reception, and resettlement costs[16][45]. These refugees were initially transported to Guam for processing, then to temporary immigration processing centers at military installations including Fort Chaffee, Arkansas; Eglin Air Force Base, Florida; Camp Pendleton, California; and Fort Indiantown Gap, Pennsylvania[16][45]. Between 1975 and 1979, over 300,000 Indochinese refugees were admitted to the United States outside normal immigration procedures[13]. The Carter administration continued and expanded this program despite public resistance, and by 1978, thousands of Southeast Asian refugees were arriving by boat across the South China Sea, often in perilous conditions[16][45].

The Indochinese refugee crisis exposed the inadequacy of existing refugee policy frameworks. The 1965 Act did not establish a comprehensive refugee admissions system; instead, refugees were processed through presidential action or special legislation on an ad hoc basis. In response, Congress enacted the Refugee Act of 1980, legislation that fundamentally reformed American refugee policy[13]. The act raised the annual refugee admission ceiling from 17,400 to 50,000, established a process for adjusting that ceiling to meet emergencies, and required annual consultation between Congress and the President on refugee matters[13]. Critically, the act redefined "refugee" to conform to the international standard established by the United Nations Convention relating to the Status of Refugees, defining a refugee as a person with a "well-founded fear of persecution" based on race, religion, nationality, political opinion, or membership in a particular social group[13]. The 1980 act also established the Office of U.S. Coordinator for Refugee Affairs and the Office of Refugee Resettlement, creating infrastructure for refugee processing and resettlement assistance[13].

Parallel to the expansion of legal immigration and refugee admission, unauthorized immigration surged dramatically in the 1970s and 1980s. The termination of the Bracero Program on December 31, 1964, combined with the 1965 Act's restrictions on Western Hemisphere immigration, created a vacuum in labor supply that workers from Mexico and Central America continued to fill, but now through unauthorized channels[5][20]. The combination of labor demand in U.S. agriculture, construction, and service industries with restricted legal pathways produced what scholars term the "great unlocking"-a mass migration of unauthorized workers, predominantly Mexican, that accelerated throughout the 1970s and 1980s. Estimates suggest that the unauthorized population grew from approximately 3.5 million in 1990 to over 8.6 million in 2000[15][18]. Unauthorized immigration was driven less by border crossing than by visa overstay; by the early 2000s, visa overstays represented the largest component of new unauthorized immigration, even as apprehensions of border crossers dominated political attention[15][18].

The political response to unauthorized immigration escalated throughout the 1980s. The Immigration Reform and Control Act of 1986 (IRCA) represented the first comprehensive attempt to address unauthorized immigration through a combination of legalization and enforcement[3][7][17]. IRCA's legalization provisions granted legal status to approximately three million unauthorized immigrants who either had resided continuously in the United States since January 1, 1982, or had performed at least 90 days of agricultural work between May 1985 and May 1986[3][7]. The acceptance rate for amnesty applications was approximately 94 percent, though estimates suggested that one-fourth of cases accepted involved fraud[7]. IRCA also imposed employer sanctions, making it unlawful to knowingly hire unauthorized immigrants, and mandated verification of work authorization[3][6][17]. However, IRCA's enforcement provisions were hampered by inadequate funding and implementation challenges. Congress did not adequately resource the newly mandated enforcement mechanisms, creating what advocates termed a "lopsided grand compromise"-legalization was implemented while enforcement remained largely symbolic[3].

The 1990 Immigration Act represented the second comprehensive restructuring of immigration law since

1965[3][14][17]. The statute increased the total annual immigration cap from 540,000 to 700,000 for fiscal years 1992-1994, then to 675,000 beginning in fiscal year 1995, a 40 percent increase over previous levels[3][14]. The act created a diversity visa program allocating 55,000 visas annually through lottery to nationals of "low admission" countries, intended to counteract the chain migration effect that had concentrated immigration in a limited number of source countries[3][14]. The 1990 Act also restructured employment-based immigration, creating five distinct employment-based preference categories (EB-1 through EB-5) and allocating 140,000 visas annually for employment-based immigration[3][14]. The statute introduced the H-1B visa program for specialty occupation workers, initially capped at 65,000 annually with an additional 20,000 for holders of advanced U.S. degrees[14][41].

The 1990 Act also established Temporary Protected Status (TPS), a humanitarian relief mechanism allowing the President to designate countries experiencing armed conflict, natural disasters, or other extraordinary conditions to have their nationals protected from deportation and granted temporary work authorization[33][36]. TPS has been invoked for numerous Central American and Caribbean nations, and as of current data, the largest TPS populations include El Salvadorans, Hondurans, and Haitians, predominantly residing in Southern California and Texas[33].

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### **The Enforcement Expansion Era (1996-2008)**

The political environment of the mid-1990s became increasingly hostile to immigration, both authorized and unauthorized. The passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996 represented the most significant enforcement expansion since the establishment of the Border Patrol in 1924[3][6][17][50]. IIRIRA mandated the hiring of additional Border Patrol and Immigration and Naturalization Service agents, increased criminal penalties for immigration violations, and authorized the construction of physical barriers at the U.S.-Mexico border[3][6][17][50]. The statute specifically mandated the construction of a triple-layered fence along 14 miles of the U.S.-Mexico border near San Diego, beginning at the Pacific Ocean and extending eastward[50][53]. IIRIRA also created the 287(g) program, allowing state and local law enforcement officers to enforce immigration law under delegation from federal authorities, fundamentally expanding the institutional capacity for immigration enforcement[3][6][17].

The San Diego fence, originally authorized in 1996, became emblematic of the border enforcement expansion. By 2004, nine of the mandated 14 miles had been completed; construction halted due to environmental concerns. The Secure Fence Act of 2006 modified the original authorization, removing the specific San Diego mandate while authorizing five additional stretches of reinforced fencing along the Southwest border[50][53]. The environmental waiver authority granted to the Secretary of Homeland Security by the REAL ID Act of 2005 removed legal impediments to barrier construction[50][53]. The San Diego sector, which had experienced 480,000 apprehensions in fiscal year 1996, saw that number collapse to 100,000 by fiscal year 2002, partially attributed to the fencing's deterrent effect on unauthorized entry[50].

IIRIRA also expanded the grounds for deportation and limited relief from deportation. The statute created expedited removal procedures for persons arriving without proper documentation, established permanent bars to re-entry for certain immigration violations, and restricted judicial review of removal decisions[3]. These provisions, while intended to deter unauthorized entry and accelerate removal of deportable aliens, created severe hardship for individuals with long-term U.S. residence who faced removal despite family ties and community integration. The statute's provisions on criminal grounds for deportation were retroactively applied to convictions predating the statute's enactment, creating an unanticipated consequence whereby immigrants

convicted of crimes decades earlier suddenly became deportable.

The period from 1996 to 2008 witnessed a dramatic expansion in immigration enforcement operations, apprehensions, and removals. Annual apprehensions at the border fluctuated between 900,000 and 1.6 million, while interior enforcement operations and deportations accelerated, particularly following the September 11, 2001 terrorist attacks. The Department of Homeland Security, established in 2002 as part of the post-9/11 reorganization, absorbed the Immigration and Naturalization Service and created U.S. Immigration and Customs Enforcement (ICE) as the enforcement arm of the immigration system. The political rhetoric surrounding immigration increasingly emphasized security threats and the need for border control, framing immigration enforcement as a national security imperative.

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## **The Post-9/11 Era and the Rise of Executive Action (2001-2016)**

The terrorist attacks of September 11, 2001 fundamentally altered the political and institutional landscape for immigration. Although the nineteen hijackers had entered the United States on valid visas, the attacks were immediately framed as an immigration failure requiring enhanced border security and immigration control measures. Congress enacted the Enhanced Border Security and Visa Entry Reform Act of 2002, the REAL ID Act of 2005, and the Secure Fence Act of 2006, each incrementally expanding enforcement authority and resources. Additionally, the Department of Homeland Security implemented the Secure Communities program, which mandated that state and local law enforcement agencies submit arrestees' fingerprints to federal immigration databases, enabling ICE to identify and detain immigration enforcement targets in the criminal justice system[5].

The George W. Bush administration, despite its post-9/11 enforcement emphasis, pursued several legalization pathways and family-based relief measures. The Legal Immigration Family Equity Act (LIFE) of 2000 provided a "mini-amnesty" for approximately 900,000 immigrants who had accumulated unlawful presence while pursuing legal immigration status through family or employment sponsorship[7]. LIFE addressed a substantive problem: immigrants whose immediate relatives had filed petitions faced statutory waiting periods of many years while they accumulated unauthorized presence, creating a system wherein compliance with family reunification processes itself created deportability. The act allowed such individuals to adjust status despite unlawful presence if they met other eligibility requirements[7].

The Bush administration also pursued limited refugee admissions reforms. However, the political climate post-9/11 made refugee admissions politically contentious, and annual admission numbers fell significantly compared to the 1990s. The administration did establish Temporary Protected Status for nationals of several countries, including Iraq and Congo.

The Obama administration, elected in 2008 on a platform including immigration reform, initially pursued comprehensive immigration reform legislation. The proposed bill, which would have created a pathway to citizenship for undocumented immigrants, faced determined Republican opposition and was abandoned by 2010. Thereafter, President Obama pursued immigration reform through executive action, a shift that reflected both the political reality of Republican congressional control and the administration's interpretation of executive authority over immigration matters.

The most significant Obama executive action was Deferred Action for Childhood Arrivals (DACA), issued June 15, 2012[25][28]. DACA extended prosecutorial discretion to approximately 700,000 young unauthorized immigrants who had arrived before age 16 and met other criteria, protecting them from

deportation and providing work authorization[25][28]. DACA recipients became known as "DREAMers" after the Development, Relief, and Education for Alien Minors Act, which Congress had failed to pass. DACA was not a legalization program; it granted temporary relief and work authorization, renewable every two years, but did not provide permanent legal status or a pathway to citizenship[25][28]. Nevertheless, DACA proved enormously popular among both beneficiaries and the general public.

In November 2014, President Obama announced Deferred Action for Parents of Americans (DAPA), which would have extended similar protections to approximately 3.6 million unauthorized immigrant parents of U.S. citizens or lawful permanent residents[3][6][7][10]. However, multiple states immediately filed lawsuits challenging DAPA's legality, and a federal court issued a temporary injunction preventing implementation in February 2015[3][6][10]. The program remained blocked throughout the remainder of the Obama administration.

The Trump administration's approach to immigration constituted a wholesale reversal of Obama policies. Upon taking office in January 2017, President Trump signed Executive Order 13769, titled "Protecting the Nation from Foreign Terrorist Entry into the United States," which immediately suspended travel from seven predominantly Muslim nations and dramatically reduced the refugee admission ceiling to 50,000[26][29]. The order also indefinitely suspended Syrian refugee admissions[26]. Although blocked by federal courts as written, the order was revised twice, and on June 26, 2018, the Supreme Court upheld the final iteration (Presidential Proclamation 9645) in a 5-4 decision[26][29].

In June 2017, the Trump administration announced the phasing out of DACA, stating that the program would cease accepting new applications and that existing protections would not be renewed. This action sparked immediate legal challenges in four federal courts, and in June 2020, the Supreme Court ruled in *Department of Homeland Security v. Regents of the University of California* that the Trump administration had violated the Administrative Procedure Act by failing to adequately explain its rationale for DACA rescission[28]. Accordingly, DACA was preserved, though the Trump administration continued to pursue judicial elimination of the program.

The Trump administration also pursued a massive enforcement expansion. Interior ICE enforcement operations increased dramatically, with apprehensions in non-border contexts rising from approximately 70,000 annually under Obama to over 150,000 in 2018. Workplace enforcement raids, family separation policies at the southern border, and criminal referrals for illegal entry all expanded substantially. The administration also worked to restrict access to humanitarian protections, implementing the Migrant Protection Protocols (the "Remain in Mexico" program), which required asylum seekers to wait in Mexico while their claims were processed[27].

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## **Humanitarian Access Restrictions and Administrative Transformation (2020-2026)**

The Biden administration took office in January 2021 with commitments to reverse Trump-era enforcement policies and restore humanitarian protections. President Biden issued a memorandum reaffirming federal commitment to DACA on January 20, 2021[28]. He also signed Executive Order 14010 on February 2, 2021, establishing a comprehensive regional framework to address migration causes and provide orderly asylum processing[49]. The administration began a process of unwinding Trump-era policies, including the Migrant Protection Protocols.

However, the Biden administration faced an unprecedented surge in asylum seekers at the southern border.

Following the lifting of Title 42, the Public Health emergency authority invoked to expel migrants during the COVID-19 pandemic, arrivals at the border exceeded one million in both fiscal years 2022 and 2023[27]. The administration responded with increasingly restrictive asylum policies that, while less explicitly restrictive than Trump-era bans, achieved similar effects. In May 2023, the administration implemented the Circumvention of Lawful Pathways rule, which presumed individuals ineligible for asylum unless they had applied for asylum in a third country and been denied[27]. In June 2023, the Securing the Border rule further restricted asylum access, allowing the President to suspend asylum when average daily Southwest border encounters exceeded 1,500[27][30]. Under this rule, asylum remained largely inaccessible between ports of entry except for unaccompanied children[27].

The Biden administration did expand Temporary Protected Status designations significantly. By 2023, the administration had extended TPS to 1.7 million potential beneficiaries, including unprecedented designations for countries such as Venezuela, Haiti, Nicaragua, and Cuba[27]. However, actual TPS holders numbered far fewer than those eligible, and the program's temporary nature meant that beneficiaries faced continued uncertainty regarding long-term status.

The Biden administration also pursued employment-based immigration expansions, raising visa caps and recapturing unused visa numbers from previous years[5]. Refugee admissions were dramatically expanded from historic lows under Trump. The fiscal year 2024 refugee admissions reached over 100,000, a 30-year high, and the administration established Safe Mobility Offices in Colombia, Costa Rica, Ecuador, and Guatemala to process refugee applications in the region[27].

However, these expansions occurred against the backdrop of record pending cases and processing delays throughout the immigration system. As of February 2025, USCIS reported a record backlog of 11.3 million pending cases, representing the highest volume in over a decade[37]. Form I-90 (green card replacement) processing times exploded 938 percent between the first and second quarters of 2025, from 0.8 months to over 8 months[37]. The N-400 (naturalization) form achieved record processing speed at 6.1 months, representing dramatic improvement, but most other forms experienced substantial delays[37]. The H-1B visa program for specialty occupation workers reached annual cap in fiscal year 2025 on both the regular 65,000 allocation and the 20,000 advanced degree exemption, leaving thousands of registrants without selection[38].

The Trump administration's second term, beginning January 20, 2025, initiated the most dramatic enforcement expansion in the century-long history examined in this report. On January 20, 2025, the administration issued Executive Order 14148, "Protecting the American People Against Invasion," explicitly framing immigration enforcement as a response to invasion and establishing aggressive civil and criminal enforcement priorities[49]. The order revoked all Biden-era immigration executive orders, including those establishing civil immigration enforcement priorities focused on national security threats and recent border crossers. The new order directs all federal agencies to "faithfully execute" immigration laws against "all inadmissible and removable aliens," prioritizing detention and removal operations[49].

On January 20, 2025, the Trump administration also issued a proclamation purporting to prohibit most asylum seekers crossing the southern border from applying for any form of protection, including withholding of removal and Convention Against Torture protections[39][42]. This action, unprecedented in its scope, was immediately challenged in federal court. As of February 2026, the legality of these restrictions remains undecided, but multiple district court judges have expressed skepticism regarding the administration's legal authority[42].

The administration has pursued several additional enforcement mechanisms. In September 2025, a Presidential Proclamation established a \$1,000 parole fee for foreign nationals paroled into the United States,

with limited exceptions[9]. In December 2025, biometric data collection (photographs and fingerprints) upon entry and exit commenced at the southern border[9]. The Department of State announced in November 2025 that undisclosed changes would be implemented to the Diversity Visa program, though the applicant period for fiscal year 2027 was scheduled to remain October 1, 2026 to September 30, 2027[9].

Most significantly, in October 2025, the Department of Homeland Security ended the 540-day automatic extension of Employment Authorization Documents for applicants who timely filed renewal applications[9]. Previously, workers could continue employment while applications pending for extended periods; the cessation of automatic extensions means that workers face employment termination if USCIS processing extends beyond the validity period of existing work permits. As of November 3, 2025, over 900,000 EAD applications were pending for more than six months, and 20 percent of all categories of EAD renewal applications were pending longer than six months[9].

In November 2025, USCIS announced a freeze on asylum decision-making, ceasing to issue final grants or denials on pending asylum applications while continuing to accept new applications and conduct interviews[42]. This policy, formalized through a Policy Memorandum, did not identify any statutory or regulatory basis for the freeze, and immigrant advocacy organizations immediately challenged the decision as contrary to statutory deadlines and procedural requirements[42].

The Trump administration has also expanded the scope of social media vetting in immigration cases. In August 2025, USCIS announced that it would consider "anti-American" and "antisemitic" activity on social media as an "overwhelmingly negative factor" in discretionary immigration benefit determinations[51]. This expansion reflects a broader trend toward politicizing immigration adjudication and factoring political expression into immigration eligibility determinations.

Additionally, the Department of State announced in March 2025 that it had determined that all federal efforts related to border control, immigration, and cross-border transactions constitute a "foreign affairs function" exempt from Administrative Procedure Act requirements, potentially insulating immigration policy changes from judicial review[51]. This determination would fundamentally expand executive authority over immigration policy by removing procedural constraints on policy changes.

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## **Structural Features of the Contemporary System and Enduring Challenges**

After one hundred years, the immigration system remains structured around statutes enacted in 1965 and 1990 that have proven inadequate to contemporary realities. The per-country limits established in 1965, which allocate 20,000 annual visas to each country regardless of population size or demand, create severe visa retrogression for large source countries. As of the December 2025 Visa Bulletin, applicants from India seeking employment-based green cards in the EB-2 and EB-3 categories face waiting periods exceeding a decade[57]. Applicants born in Mexico seeking family-based visas in the F4 (siblings) category face waiting periods exceeding 15 years[56]. These waiting periods mean that petitioners pass away before their approved petitions can convert to immigrant visa status, and that families experience decades-long separation[39][56].

The annual numerical ceiling on employment-based immigration—fixed at 140,000 since 1990—bears no relationship to labor market demand. Congress has periodically attempted to increase employment-based visa numbers through legislation, but has not succeeded since 1990. In 2007, the Senate passed a comprehensive immigration reform bill with employment provisions, but the bill died in the House[3][7]. The George W. Bush and Obama administrations both pursued comprehensive immigration reform including increased

employment visa numbers, but encountered political gridlock. The current Trump administration opposes increasing employment-based immigration, and the Republican Congress has not pursued legislative increases in visa numbers.

The family reunification system, which has dominated immigration since 1965, creates extended waiting periods even for relatively close relationships. Immediate relatives of U.S. citizens—spouses, unmarried children under 21, and parents of citizens—face no numerical caps and experience 12-18 month processing times from petition approval to immigration status[56][57]. However, other family relationships face substantial backlogs. Spouses and minor children of lawful permanent residents (F2A category) experience over 30 months of processing delays even before considering visa bulletin wait times[56]. Unmarried adult children of permanent residents (F2B) wait 5-10 years[56]. The waiting periods are sufficiently long that beneficiaries age into ineligibility; children who age out of the "unmarried child" category must transfer to less-preferred categories with even longer waits, and parents who die cannot transfer their petition numbers to siblings[56].

The absence of any significant increase in legal immigration pathways since 1990, combined with sustained labor demand and family desire for reunification, has produced persistent unauthorized immigration. Estimates suggest the unauthorized population has stabilized at approximately 10-11 million since 2009, following a dip during the 2008-2009 recession[15][18]. The composition of the unauthorized population has shifted dramatically, with Mexicans now comprising approximately 51 percent of the total (down from 62 percent in 2007), and Central American and Asian unauthorized immigrants comprising increasing shares[15][18]. Importantly, since 2010, visa overstays have comprised the majority of new unauthorized entries, with approximately two-thirds of new unauthorized additions since 2010 attributable to people who initially entered with valid visas but remained after their authorization expired[15][18].

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## **Conclusion**

The century spanning 1926 through 2026 reveals immigration policy as fundamentally responsive to political forces, economic conditions, and geopolitical events rather than reflecting stable legal principles. The National Origins Formula of the 1920s institutionalized racial discrimination with scientific precision. The World War II-era Bracero Program, motivated by labor shortages, reversed restrictionism while simultaneously constraining workers to temporary status. The Cold War prompted selective humanitarian admissions for refugees fleeing communist regimes, while authoritarian regimes aligned with the United States were largely excluded from refugee considerations. The Hart-Celler Act of 1965, enacted to eliminate discrimination, produced unanticipated consequences through chain migration patterns that concentrated immigration in particular source countries and created visa backlogs that now exceed a decade for major source countries[5].

The late twentieth century witnessed the emergence of a structural contradiction between legal immigration levels and actual migration flows. Congress set immigration quotas that bore no relationship to labor market demand, family reunification demand, or humanitarian obligations toward persons fleeing persecution. The gap between statutory limits and actual demand was filled through unauthorized immigration, which Congress responded to through enforcement expansion and border militarization rather than through legislative adjustment of legal immigration pathways[3][6][17].

The twenty-first century has witnessed the increasing politicization of immigration and the assertion of nearly unlimited executive authority. Presidential proclamations and executive orders have become the primary instruments of immigration policy change, with Congress playing a diminishing role in setting immigration

policy. The courts have provided inconsistent constraints on executive authority, with the Supreme Court upholding the Trump administration's travel ban on what most scholars considered to be weak constitutional grounds[26][29]. By 2026, the Trump administration's assertion of authority to suspend asylum protections through presidential proclamation, to implement parole fees, to freeze asylum decision-making, and to condition immigration status on social media vetting represents an expansion of executive power that would have seemed extraordinary a generation earlier.

The one-hundred-year history also demonstrates the persistence of humanitarian concerns alongside enforcement expansion. Even the most restrictionist administrations have acknowledged some obligation toward refugees and family reunification, though the scope of those obligations has contracted and expanded across different administrations and political circumstances. The Biden administration's expansion of refugee admissions and Temporary Protected Status, even while implementing restrictive asylum policies, reflects the enduring tension between humanitarian values and enforcement priorities.

Looking forward, the structural features of immigration law established in 1965 and 1990 remain fundamentally unchanged, even as the global context has transformed beyond recognition. International travel is orders of magnitude faster and cheaper than in 1965. Electronic communication has enabled long-distance family and economic relationships impossible fifty years earlier. Population growth and economic disparities across the globe have intensified migration pressures. Climate change is projected to displace millions of persons, creating humanitarian obligations that contemporary immigration frameworks cannot accommodate. The unprecedented concentration of visa waiting periods in a small number of source countries-primarily Mexico, India, and the Philippines-reflects structural features of the preference system that have created nearly irreversible waiting queues.

The immigration system of 2026 faces a fundamental crisis of legitimacy. The written law establishes annual immigration levels that bear no relationship to actual immigration; the resulting gap has been filled with unauthorized immigration, which the government has chosen to manage through enforcement rather than legislative adjustment. Asylum protections, established through international treaty and statute, are being unilaterally suspended through proclamation. Work authorization is being weaponized through processing delays to force deportations. Employment authorization document extensions have been terminated, meaning workers will lose work authority due to administrative delay rather than due to statutory ineligibility. Social media vetting and discretionary negative factors are being applied to immigration decisions, politicizing adjudication in unprecedented ways.

The period from 2026 onward will determine whether the immigration system reforms toward legislative alignment of legal immigration with actual demand and humanitarian needs, or continues the executive expansion of enforcement authority while the gap between statutory and actual immigration persists. The hundred-year history examined in this report demonstrates that immigration policy responds to political forces, and that the current trajectory toward enforcement expansion without legislative reform has produced the most expansive assertion of executive authority in the system's history. Whether that trajectory will prove sustainable in the face of legal challenges, humanitarian concerns, and economic demand for immigrant labor remains the central question confronting American immigration policy in 2026 and beyond.

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