

US IMMIGRATION POLICY: YESTERDAY AND TODAY

WEEK 1: HISTORY OF US IMMIGRATION

- **New Spain and the Borderlands (1521 – 1821)**
 - Immigration: Limited to Spanish subjects and others as authorized by the King
 - Naturalization: No legal concept of naturalization
- **Colonial America (1600-1789)**
 - Immigration: Relatively open and non-regulated
 - Naturalization: Available as either English subject or colonial citizen
- **Frontier Expansion (1790 – 1880)**
 - Naturalization Law of 1802
 - Naturalization limited initially to "free white persons" of "good moral character," later extended to "persons of African origin"
 - Treaty of Guadalupe Hidalgo (1848) / Gadsden Purchase (1853)
 - Mexicans in the annexed areas were offered U.S. citizenship
 - Fourteenth Amendment (1868)
 - "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States..."
 - Interpreted in U.S. v. Wong Kim Ark (1898) to include anyone regardless of parents' status
- **The Great Wave (1880 – 1919)**
 - Immigration Acts of 1882 / 1891
 - Established permanent Office of Immigration, funded by a \$0.50 per-person fee
 - Entry denied to "criminals, lunatics, idiots, or persons deemed liable to become a public charge"
 - Chinese Exclusion Act (1882)
 - Driven by political conditions in post-Gold Rush California
 - Gave rise to the first great wave of commercial human smuggling
- **The Great Pause (1920 to 1964)**
 - Immigration / National Origin / Oriental Exclusion Act of 1924
 - Restricted immigration from southern and eastern Europe by establishing a 2% quota by country of origin based on 1890 US Census
 - Excluded all Asians as "non-white," but granted exemption for all natives of Western Hemisphere – including Mexico – as "white"
 - First law to distinguish between "immigrant" (permanent) and "nonimmigrant" (temporary) visitors
 - Mexican Repatriation (1929- 1936)
 - An unconstitutional process with no basis in law
 - At least 400,000 deported, including many US citizens
- **The Pause Starts to Thaw (1943 to 1964)**
 - Exclusion Laws Repealed (1943 – 1946)
 - Chinese Exclusion Laws repealed in 1943 (China now a WWII ally)
 - Luce-Celler Act (1946) ended exclusion of South Asia Indians and Filipinos
 - Displaced Persons Acts of 1948 / 1950
 - Provided for the limited immigration of displaced persons from Europe
 - Mexican Farm Labor Agreement (Bracero Program) 1942-1964
 - Bureaucratic red tape led to extensive use of undocumented workers who had little choice but to remain in the US and illegally relocate family members

- **The Second Wave (1965 to 2016)**
 - Immigration and Nationality Act Amendments of 1965 (Hart-Cellar Act)
 - National-origin quotas replaced by a two-tier preference system for immigration: Family-based (“family reunification”) and Employment-based
 - Annual immigration cap established at 290,000 – but with only 120,000 for the Western Hemisphere, leading to further undocumented Mexican immigration
 - New non-immigrant visa categories created for temporary visitors
 - Refugee Act of 1980
 - Provided a permanent and systematic procedure for the admission of refugees, with an annual cap above and beyond the Hart-Cellar cap
 - Created a new definition of refugee based on “...persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion”
 - Immigration Reform and Control Act of 1986 (IRCA)
 - Amnesty given to 3 million undocumented immigrants in exchange for intensified enforcement
 - Immigration Act of 1990 (IMMACT)
 - Total immigration cap increased to 700,000 annually
 - Family-based immigration limited to immediate family members
 - Employment-based immigration capped at 140,000, with new requirements
 - Temporary Protected Status added for foreign nations whose home country is subject to armed conflict or natural disaster
 - Diversity Immigrant Visa (“Diversity Lottery”) added and capped at 55,000
 - Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)
 - Increased categories of criminal activity (e.g. shoplifting) for which immigrants can be deported and imposed mandatory detention for as much as 2 years
 - Restricted states from offering in-state tuition to undocumented residents
 - Permitted the Attorney General to enter into agreements with state and local agencies to perform immigration enforcement functions
 - Flores Settlement (1997).
 - Settlement between U.S. Justice Department and litigants who alleged mistreatment of unaccompanied minors in detention
 - Currently interpreted to mean that all minors in detention — accompanied by parents or not — cannot be held for more than 20 days
 - DACA (2012)
 - Executive order for deferred action for childhood arrivals

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