

2010-2011 Immigration Controversy Paper Proposal

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Table of Contents

I. Philosophical Approach.....3

II. Reasons the Debate Community Should Debate Immigration.....5

III. Reasons the Debate Community Should Not Debate Immigration.....7

IV. Controversy Areas under the Reduce Restrictions Mechanism:

- a. Reduce restrictions for visas.....11
- b. Reduce restrictions for asylum.....18
- c. Reduce restricts on undocumented immigrants.....35
- d. Reduce restrictions for social services.....43

VI. Potential Resolutions.....45

VII. “Reduce Restrictions” Mechanism Evidence.....48

VIII. Immigration Reports.....50

Philosophical Approach

Our Philosophy Regarding Mechanisms

Immigration mechanisms revolve around two central questions: First, should the United States Federal Government increase or decrease restrictions on immigration? Second, how should the United States Federal Government better enforce current restrictions on immigration? The reality is that most of the comprehensive immigration reform proposals include the use of a variety of mechanisms (see the comprehensive immigration proposals at the end of this document). The comprehensive proposals normally defend: increasing border security, increasing enforcement of current laws on employers, and then some combination of increases and decreases on immigration restrictions depending on political preference. For the sake of this controversy paper, however, we attempted to identify a mechanism well suited for an intercollegiate debate resolution. Here was our thinking:

First, although a comprehensive reform proposal would better get to the heart of the debate over immigration, it is not well suited for current debate practices. It is telling that even the high school immigration topic for the 1994-1995 was directional rather than comprehensive: “Resolved: That the United States government should substantially strengthen regulation of immigration to the United States.” Through our research we found it was too difficult to identify exactly what a comprehensive reform mechanism would look like without resorting to a large inflexible list that would force the affirmative to defend contradictory political philosophies in the name of achieving *comprehensive* reform.

Second, the enforcement mechanisms do not force the affirmative to generate enough controversy. It would be too easy for the affirmative to simply defend increasing funding to current enforcement efforts which is rarely controversial outside of budget trade off disadvantages.

Although it is clear that in the status quo enforcement is a serious issue, we believe these debates are somewhat inevitable with any proposal to reform immigration.

Third, the restrictions literature is bidirectional with each side better suited for a particular set of controversy areas. The increasing restrictions literature is better suited for debates over border security and employer hiring practices. The decrease restrictions literature is better suited for debates over visas, asylum laws, undocumented immigrants, and social services. After reviewing all of the above controversy areas, we decided that the “reduce restrictions” side of the mechanism would produce better debates over the heart of the immigration controversy while providing the negative with plenty of options to challenge the goals and/or policies of the affirmative.

Our Philosophy Regarding Controversy Areas

One of the reasons immigration is such a unique area for debate is that both the goals and policy recommendations are sites of controversy. As such, we decided that it was more important to find controversy areas fit with our mechanism rather than trying to include all areas of the immigration debate and hoping the topic committee could sort it out. As we explained above, we have excluded border security and employer regulations because those areas are less consistent with the “reduce restrictions” mechanism. The worst case scenario (in our opinion) would be for someone to vote for the immigration area in hopes of reading an increased border security affirmative only to have the topic committee decide that it was too inconsistent with the other mechanisms and exclude it. We have, therefore, chosen controversy areas that broadly fit within the mechanism of reducing restrictions on immigration. If this paper proposal loses because the community would rather debate the “increase restrictions” side of the spectrum then we can address that in next year’s paper proposal.

Reasons the Debate Community Should Debate Immigration

1. The college debate community has not debated immigration recently (if ever).

Immigration is a persistent controversy that pre-dates the foundation of the United States Federal Government. The high school debate community debated immigration for the 1994-1995 season, but we do not believe the topic has even been debated by the National Debate Tournament (we are not sure about CEDA but certainly not since the merger). We are not sure why immigration has never been debated, but we hope that this proposal will help people to decide that now is the time for our community to take us this rich and complex subject area.

2. Immigration debates include a diversity of perspectives that reflect current debate practices.

There is no way around it; the college debate community includes a wide array of argumentative styles, structures, and approaches. Immigration has everything a debater could want ranging from intense politics debates to intense critical debates. At issue here is the basic question, “Who should and who should not be a part of our country?” That fundamental question, however, begs a series of larger questions that implicate foreign policy, domestic policy, legal doctrine, ethics, and the basic definition of citizenship.

In our opinion, we can continue to pick topics that are better suited for a particular debate perspective or we can have a topic that encourages a wide range of questions. In our experience, the topics that are designed to encourage a smaller set of argumentative approaches do not result in less argumentative diversity. Instead, the narrow topics result in arguments that have less connection to the topic. The immigration topic is just about as big of an argumentative tent as anyone can find. In our opinion, everyone benefits when the topic encourages debaters to research, win, and learn about a topic that intersects so many intellectual areas while remaining focused on a basic resolution.

3. Immigration is timely and intense.

Scholars, politicians, and activists, have deep seated positions on immigration and the controversy continues to be a part of our national political discourse. As we discuss in the next section, we do not believe that the reduce restrictions mechanism is **too** timely, but it is evident that this controversy is not going away anytime soon. We believe debaters should be at the forefront of this intense political discussion rather than avoiding it in favor of less salient issues.

Reasons the Debate Community Should Not Debate immigration

1. Is immigration too timely?

The release of the NPR near the close of the debate season has generated some discussion about picking topics that are too timely. Although we certainly understand this concern, we would hate for the debate community to dismiss good topics because of this fear only to find out that the political prediction did not come through. Rather than using this space to argue for/against choosing topics based on their political probability, we want to simply outline why immigration *might* not be as vulnerable to this argument as people may assume.

First, political predictions are just that—predictions *and* political. Depending on whom you ask immigration is either right around the corner or on its way to being shelved until another day. Here is an older quote from Rahm Emanuel that demonstrates his earlier philosophy regarding immigration: “Rep. Rahm Emanuel of Illinois, an architect of the Democratic campaign that regained control of the House last year, says his party will not attempt comprehensive immigration reform until at least the second term of a prospective Democratic president.”¹ More recent evidence suggests that Obama is considering pushing immigration during 2011 in order to drum up Latino support for his re-election bid in 2012. In our opinion, the speed of the health care debate combined with the potential for fiscal reform and energy to dominate the agenda going into mid-term elections suggest that immigration may not be as close to the top of the agenda as several pro-immigration reform special interest groups would have us believe.

Second, even if President Obama pushes for comprehensive immigration reform, it appears as though compromise positions will once again dominate the agenda. Given the controversy surrounding health care, it appears highly unlikely that Obama will defend reducing restrictions on immigration. In immigration debates, the easiest position to defend is increased border security and

¹ Washington Times, “Emanuel sees immigration shelved until second term,” 7/25/2007
http://www.house.gov/apps/list/press/ca50_bilbray/morenews/07252007.shtml

that appears to be exactly what President Obama is lining up to do (please excuse this extended quotation):

Since assuming the presidency, Obama has offered little in terms of specifics of his notion of immigration reform. The rather vague vision laid out during his campaign—secure borders, increasing legal migration to unify families and satisfy employers, and a path to citizenship for unauthorized migrants in otherwise good standing^[3]—and Napolitano's November speech are as specific as it has gotten. But more important than his words, his Senate voting record and the policies and practices carried out by his administration show that Obama falls within the broad center of a political spectrum that is remarkably narrow on matters of immigration and boundary enforcement. With few exceptions—Obama not being one of them—both sides of the proverbial aisle now embrace a "security first" position that prioritizes strengthening the enforcement apparatus above all else. In this regard, the similarities of Obama's policies vis-à-vis those of his Republican predecessor are far more significant than the points of divergence.

The first sign that Obama has failed to break out of this narrow view on the questions of immigration and border policing was his selection of Napolitano to head the Department of Homeland Security. As governor of Arizona, Napolitano declared a state of emergency along the state's boundary with Mexico in 2005, saying that "the federal government has failed to secure our border," which, she said, threatened the wellbeing of all Arizonans. The move freed up \$1.5 million for Arizona border counties so as to, in Napolitano's words, "provide our law enforcement community with another valuable tool to fight crime related to illegal immigration."^[4] The following year, she deployed the state's National Guard along the divide in support of the Border Patrol, the growth of which she has long supported.

The second sign was in May, when Obama submitted his first budget proposal as president, calling for maintaining a force of 20,000 Border Patrol agents for fiscal year 2010.^[5] Few have grasped how conservative and simultaneously radical such a proposal is compared with border policy in the recent past. It was not until 1976-77 that the total number of Border Patrol agents surpassed 2,000, more than 50 years after the agency was created. In 2009, the Obama administration envisioned recruiting, training, and hiring a comparable number as the federal government's task for a single year. By contrast, Bill Clinton's first budget proposal (released in early 1993) actually called for a reduction of 93 agents.^[6] Around the same time, the Office of Management and Budget told the Border Patrol it would have to "do more with less" in the future.²

In our opinion, forcing the affirmative to reduce restrictions on immigration does not have as much potential for the "Obama effect" as nuclear weapons policy did precisely because immigration

² Nevins 2010 (Joseph Nevins teaches geography at Vassar College. He is the author of *Dying to Live: A Story of U.S Immigration in an Age of Global Apartheid*, and *Operation Gatekeeper and Beyond: The War on "Illegals" and the Remaking of the U.S.-Mexico Boundary*, "Security First: The Obama Administration and Immigration "Reform",² <http://www.zcommunications.org/security-first-the-obama-administration-and-immigration-reform-by-joseph-nevins>)

reform depends more on the legislative process than nuclear weapons policy does. As a result, it is likely (in our opinion) that President Obama will push for increased border security and abandon the more controversial campaign promises which have the potential of impacting our debate resolution.

Obviously, we could be 100% wrong and President Obama could propose comprehensive reductions in restrictions on immigration right in the middle of the debate season, but there is still a debate to be had as to whether that is a good or a bad thing.

2. Comprehensive reforms are not well suited for debate resolutions:

Our greatest concern regarding immigration centers on the differences between modern debate conventions and the literature surrounding immigration. In particular, the debate community has increasingly sought to write very specific debate resolutions that encourage (or force) the affirmative to defend individual actions rather than comprehensive reforms. Some of this is a product of the community acceptance of Plan Inclusive Counterplans which make comprehensive reform affirmatives subject to a wider array of negative counterplans. Some might argue that the increased specificity stems from a concern that broad topics make it difficult for the negative to adequately prepare for the wide range of affirmative proposals. Either way, the reality is that proponents of immigration reform on both sides of the political spectrum generally defend *comprehensive* reform rather than individual proposals. Now, this does not mean that there are not plenty of solvency advocates for individual components of the immigration debate. Instead, it means that this controversy area does not have a simple solution. Immigration is a complex issue that spans domestic and foreign policies. Immigration reform has clear implications for debates in the legal, political, and ethical realms of political discussion. In short, it may be difficult to write a resolution that accesses the core reforms proposed in the literature because the debate community has become more and more focused on developing narrowly tailored resolutions.

In our opinion, if this controversy area is chosen then it would be an opportunity for the debate community to revisit the basic question over the desired size and scope of resolutions. We believe that one of the greatest strengths of this controversy area is that it allows the topic committee the opportunity to write several resolutions along the spectrum of broad to narrow and let the community vote.

Reduce Restrictions for Visas Controversy Area By Jacob Uzman

Visa reform is an important section of the immigration debate because visas are one of the primary ways that immigrants legally enter the United States. Furthermore, the numerous amounts of visa types offers Affirmative teams a wide array of Affirmative options. Not only does the United States have generic visas available to everyone, but the United States also has visas specific to national origin that have been established through bilateral free trade agreements. The variety of Affirmative options will ensure that the topic evolves throughout the year and will force in-depth case research on the negative. This will probably enhance the amount and quality of the education we receive from the topic.

The H-1B Visa

The United States will be facing a labor shortage in 2014³. There will be two million available jobs in science, technology, and engineering sectors; however the number of graduates in those areas is decreasing⁴. Bill Gates has said “that the only way to solve the “critical shortage of scientific talent” was to open the country’s doors”⁵. The failure to adequately address the coming shortage will result in a massive shrinking of the US economy⁶. The current immigration system relies on an antiquated system of quotas and visa caps that prevents us from utilizing foreign workers to make up the difference.

The H-1B visa is designed to allow immigrants with “specialty occupations” to enter the United States. Specialty occupations are those that require “(a) theoretical and practical application

³ Nwokocha, Paschal. “Immigration Law: American Employment-Based Immigration Program In a Competitive Global Marketplace: Need for Reform” *William Mitchell Law Review*. 35(2008). Lexis. (Hereinafter Nwokocha, Need for Reform)

⁴ Nwokocha, Need for Reform, supra note 1.

⁵ “Beauty and the Geek.” *The Economist Newspaper Limited*. 2008.
<http://www.financialexpress.com/news/beautyandthegeek/326498/0>

⁶ Sultan, Tarik. “Pieces of Reform: Immigration: 2009 and Beyond” *Arizona Attorney* 45(2009). Lexis. (Hereinafter Sultan, Pieces)

of a body of highly specialized knowledge, and (b) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry in the United States"⁷. Employees can stay in the US for a maximum of six years⁸. Congress first implemented the cap on H-1B visas in 1990. While the cap went as high as 195,000 allotted visas in 2001-2003, the cap has since reverted back to the original cap of 65,000 visas⁹. The cap on H-1B visas is designed to protect US workers from being displaced by foreign workers.¹⁰ Additionally, Obama's stimulus package last year made it even harder to hire H-1B workers by classifying any TARP recipient as H-1B dependent. This classification creates an additional set of barriers that the company must overcome before hiring an H-1B worker¹¹. The Heritage Foundation has argued that such restrictions will further delay "the ability of businesses to restart the national economic engine"¹². Additionally, Som Mittal, the President of the National Association of Software and Services Companies argues that some of these restrictions "are against the principles of free trade and are creating trade barriers"¹³.

The visa cap further deprives the US of capital by hampering the ability of companies to hire the best talent. Foreign students come to the US for education purposes, but they are forced to leave after their education is over because the H-1B cap prevents them from acquiring jobs in the US¹⁴. This is also problematic because "foreign nationals residing in the United States filed 25.6% of the international patent applications"¹⁵. The H-1B visa cap forces these foreign nationals to return to their home country, which means that cutting edge innovations and technological advancements

⁷ 8 Cromwell, Courtney "Friend or Foe of the U.S. Labor Market: Why Congress Should Raise or Eliminate the H-1B Visa Cap" *Brooklyn Journal of Corporate, Financial, & Commercial Law*. 3(2009). Lexis. (Hereinafter Cromwell, Friend/Foe).

⁸ Cromwell, Friend/Foe, supra note 5

⁹ Cromwell, Friend/Foe, supra note 5

¹⁰ Cromwell, Friend/Foe, supra note 5

¹¹ "Stimulus Package Makes It Harder To Hire H-1B Workers" *Techweb*. February 18, 2009. Lexis.

¹² Sherk, James and Nguyen, Diem. "Restricting H-1B Visas is Bad for Business and Economy." *The Heritage Foundation*. May 13, 2009. Lexis (Hereinafter Sherk and Nguyen, Bad for Business)

¹³ "US H-1B proposal is against free trade principles" *Hindustan times*. April 24, 2009. Lexis.

¹⁴ Cromwell, Friend/Foe, supra note 5

¹⁵ Cromwell, Friend/Foe, supra note 5

will be occurring in other countries, hurting our own economic development. Additionally, the H-1B visa cap forces US companies to go overseas to recruit the foreign nationals who can't make it through the visa system¹⁶. This off-shoring is detrimental to the US economy because it causes more unemployment and risks a loss in the US' leading role in innovation.¹⁷

In response to the problems of the visa cap, proponents of the H-1B visa program have argued that the US should return the cap to the 2001 cap of 195,000 visas¹⁸ or eliminate the cap entirely as “[a]rbitrary caps...hinder American companies in the “unpredictable, fast paced, and fiercely competitive global high-tech labor markets”¹⁹. Congress could also implement a “sliding scale percentage” and limit the number of H-1B visas allotted to companies based on their size; however either of these methods would resolve the economic issues that the current cap on H-1B visas has created²⁰.

However, there is substantial negative ground against any case that raised or eliminated the H-1B visa cap. There is a zero-sum tradeoff of intellectual capital between countries. As the -1B visa draws foreign nationals into the US, those nationals leave their home countries, resulting in a brain drain. The Federation for American Immigration Reform explains:

The United States has more foreign-born professionals than any other country and has been increasing its supply of H-1B visas, temporary work visas for skilled professionals.³⁰

Between 1996 and 1999, the share of H-1 visas issued to workers from developing countries increased 40 percent, from 53 to 74 percent of total H-1 admissions. Indian-born H-1B visa

¹⁶ Cromwell, Friend/Foe, supra note 5

¹⁷ Cromwell, Friend/Foe, supra note 5

¹⁸ Sherk and Nguyen, Bad for Business, supra note 10

¹⁹ Cromwell, Friend/Foe, supra note 5

²⁰ Cromwell, Friend/Foe, supra note 5

holders in the U.S. account for a full 30 percent of India's total software labor force—a loss especially damaging for a country where more than 40 percent of adults are illiterate.^{31,32}²¹ There is also a potential that the cap elimination could complicate and jeopardize student visas because “student visas can only be obtained after convincing a consular official that the recipient intends to return to home after graduation”²² Additionally, the off-shoring that results from the H-1B visa cap may actually be beneficial to the US and global economy²³. This is simply a cursory look at the potential negative ground that a debate about H-1B visas offers, and it may be that there are even more reasons why the raising or eliminating the cap on H-1B visas would be problematic.

Family Visas

Another problem with the current immigration system is the cap on family visas. If an immigrant is traveling to the US and seeking to become a permanent resident, their family members must also apply for a family visa. Spouses and children must apply for a Family Second Preference (F2) visa. The number of these visas, however, is capped at 114,000 with the possibility of being increased if there are unused visas in the Family First Preference category or if the number of applicants exceeds 226,000²⁴. The restrictions on permanent residents imperil family unity if the rest of the family is not living in the United States. Permanent residents cannot leave the US for long periods of time, otherwise United States Citizenship and Immigration Services may “determine that the permanent resident [has] abandoned his permanent residence in the United States, and if so, the

²¹ “Brain Drain” *Federation for American Immigration Reform*. Updated 10/02 (Hereinafter Brain Drain)

²² Brain Drain, *supra* note 19

²³ Farrell, Diana. “Who Wins in Offshoring?” *International Herald Tribune*. February 7, 2004. <http://www.mckinsey.com/mgi/mginews/offshoring.asp>

²⁴ Rooyen, Wim van. “Family Unity for Permanent Residents and Their Spouses and Minor Children: A Common Sense Argument for Revival of the “V” Visa. *Texas Wesleyan Law Review*. Fall 2008. Lexis. (Hereinafter Rooyen, Family Visa).

permanent resident may be ineligible to return to the United States”²⁵. Family members outside the United States will also have a difficult time visiting the permanent resident in the United States²⁶.

The lack of family unification creates a series of problems. First, it creates economic problems by forcing permanent residents to send their wages back overseas rather than keeping it in the United States²⁷. With family unification, permanent residents “are more likely to spend their money in their new home country, spending on consumption and investment in the local economy”²⁸. Additionally, “[r]esearch shows that family unification contributes to the reduction of crime and tends to increase the economic productivity of the migrant”²⁹. Second, the barriers US immigration policy have constructed encourages illegal immigration³⁰. Third, this problem creates humanitarian concerns:

These long waiting periods cause massive problems. The most obvious are the humanitarian ones. Husbands and wives are separated for the first 5 or 6 years of their marriages.

Newborn children are separated from one or both of their parents for the first 5 or 6 years of the child’s life. Whatever one’s views on immigration preferences for extended families, prolonged separations of newlywed, husbands and wives and newborn children from their parents are heartbreaking. If we are going to talk about family values, then I think this is a problem we have to fix. ³¹

One of the ways to resolve this issue is to reclassify the spouses and children of permanent residents as immediate relatives³². Visas for immediate relatives do not have quotas or caps on the

²⁵ Rooyen, Family Visa, supra note 22.

²⁶ Rooyen, Family Visa, supra note 22.

²⁷ Rooyen, Family Visa, supra note 22.

²⁸ Ades, Gisela Alouan. “Lawful Permanent Residents: The Forced Bachelors and Bachelorettes of America” *The University of Miami Inter-American Law Review*. Spring 2009. Lexis. (Hereinafter Ades, Bachelor/Bachelorettes).

²⁹ Ades, Bachelor/Bachelorettes, supra note 26.

³⁰ Ades, Bachelor/Bachelorettes, supra note 26.

³¹ Legomsky, Stephen, “Hearing on Shortfalls of the 1986 Immigration Reform Legislation” Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law. 4/19/2007. (Hereinafter Legomsky, Shortfalls)

³² Rooyen, Family Visa, supra note 22.

number of visas that can be issued³³. This is probably the easiest way to alleviate the problem caused by numerical ceilings:

Some of the current bills, including the STRIVE Act introduced by Representatives Gutierrez and Flake, would further raise the total ceiling on family sponsored immigrant visas generally and on 2As in particular. I very much applaud those steps, but I would respectfully urge Congress to go one step further. I submit it is not enough simply to increase the statutory ceiling, as was done in 1990, and just hope the new number proves to be optimal in the long run. Better, I would suggest, is to make these 2As immediate relatives, just like the spouses and the children of U.S. citizens. This would exempt them from the numerical ceilings and would finally end the prolonged waits that not only cause needless hardship but also encourage illegal immigration.³⁴

H-2B Visa

The Visa area also provides unique ground for critical affirmatives. There is a potential for a great debate about the way our visa program provides US companies with modern day slave labor. Currently, the H-2B visa “is severely lacking in safeguards for the worker”³⁵. The H-2B visa is for temporary guest workers who will not be working in the agriculture sector. Due to the lack of regulation, the H-2B visa has been categorized as a form of modern slavery:

The plight of guest workers has been referred to as a form of contract slavery. n74 Contract slavery is one of the most prevalent forms of modern slavery. n75 Describing modern slavery as an overarching category existing [*534] in recent times allows one to see the many similarities with the more traditional form of slavery known around the world. n76 Included in the definition of modern slavery are the following ideas: 1) legal ownership is avoided; 2) there are very low purchase costs; 3) there are very high profits; 4) a massive supply of potential slaves exists; 5) there is only a need for a short-term relationship; 6) these slaves are

³³ Rooyen, Family Visa, supra note 22.

³⁴ Legomsky, Shortfalls, supra note 29.

³⁵ Tripathi, Ragini. “The H-2B Visa: Is this How We Treat a Guest?” *The Scholar: St. Mary’s Law Review on Minority Issues*. Spring 2009. Lexis (Hereinafter Tripathi, H-2B).

disposable; 7) and contrary to traditional slavery, there need not be an ethnic difference between employer and employee. n77 Contract slavery becomes difficult to enforce under traditional contract law because so much of the control on the person signing the contract happens after the contract is signed. n78 This last point was certainly true for the Indian workers in Mississippi. n79³⁶

The primary problem is a lack of oversight for H-2B visas and a lack of labor protections³⁷. Affirmatives could attempt to deal with the problem of H-2B slavery by establishing better oversight over the H-2B process or increasing enforcement of regulations.

³⁶ Tripathi, H-2B, supra note 33.

³⁷ Tripathi, H-2B, supra note 33.

Reduce Restrictions for Asylum Controversy Area
By Kevin Kuswa, Ph.D.

Overview

This is a great area and we could craft a balanced resolution that is just about asylum and refugees (see the addendum on resolution) or as part of a larger immigration resolution. A few general comments:

a). Asylum policy is smaller than immigration policy in terms of the numbers of people involved, although the two areas are closely related and asylum policy is now considered a sub-set of immigration. Roughly 10 percent of Permanent Immigrant Status goes to people seeking asylum and refugees. In 2004, 71,000 were asylees or refugees out of 950,000.³⁸ Numbers of refugees have gone down over the past 10 years, particularly after 9-11, but a small rebound can be seen under Obama. More recent data points to some fluctuation within a relatively stable range:

A total of 60,108 persons were admitted to the United States as refugees during 2008. The leading countries of nationality for refugees were Burma, Iraq, and Bhutan. During 2008, 22,930 individuals were granted asylum, including 12,187 who were granted asylum affirmatively by U.S. Citizenship and Immigration Services (USCIS) and 10,743 who were granted asylum defensively by an immigration judge during removal proceedings. The leading countries of nationality for persons granted asylum were China, Colombia, and Haiti.³⁹

b). Persecution is hard to prove. This makes for good debate. For example, what constitutes “political” persecution and what does not? For refugees, this notion of persecution is typically determined group by group and covers classifications of people in their home countries (or in flight

³⁸ Congressional Budget Office Series Paper, '06 (“Immigration Policy in the United States”, February 2006, <http://www.cbo.gov/ftpdocs/70xx/doc7051/02-28-Immigration.pdf>, acsd 4/11/10). More data on the numbers and percentages is plentiful: Congressional Budget Office data, Department of Justice, Immigration and Naturalization Service numbers, Statistical Yearbook of the Immigration and Naturalization Service; Department of Homeland Security, Office of Immigration Statistics, Yearbook of Immigration Statistics; and Department of State, Bureau of Consular Affairs, Report of the Visa Office, available at http://travel.state.gov/visa/about/report/report_2750.html. Also visit the Office of Immigration Statistics Web page at <http://www.dhs.gov/immigrationstatistics>.

³⁹ Martin & Hoefler, June 2009 (Daniel & Michael, Refugees and Asylees: 2008, Office of Immigration Statistics, http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_rfa_fr_2008.pdf, accsd 4/11/10)

from the home country). These determinations are made for broad and often transitory political reasons and are intended to promote the humanitarian ideology of the United States. For asylum, the issues are more case-by-case and usually focus on people who are already in the United States. Non-US citizens who have fled an oppressive situation and made it into the US can make an “offensive” claim for asylum and try to gain permanent legal status. Other non-US citizens who are also in the country but are detained or in the process of being deported can make a “defensive” claim for asylum on the way out of the country. The goals of those seeking refugee status and asylum are generally the same and the classifications are often used to stand in for each other even though the application process and the policies are distinct. One easy way to think about the difference is that “refugees” refers to groups that are outside the US and “asylees” refers to individuals who are in the US and are seeking asylum on a case-by-case basis.

c) Overall the debates in this area are deep and meaningful. The gender debates are outstanding with an array of solvency advocates for making gender persecution easier to demonstrate and more inclusive. The terrorism debates are also quite heated because of the explicit fears (put into legislation like the Real ID Act after 9-11) that loose refugee and asylum law allows would-be terrorists to gain admission into the country. The debates over the standards for proving persecution are also fascinating and well-balanced. The categories of persecution may be broad in principle, but standards and stipulations are strict as well as subject to interpretation by unpredictable and widely divergent immigration judges. Moreover, the Congress/Court/Exec. debate is rigorous and topic specific with lots of advantages and disadvantages tied to different forms of governmental action (both in tandem and to the exclusion of other action). This area is certain not to disappoint because the values behind the arguments are fundamental on both sides—the controversy is all about state responsibility, human rights, justice, state ideology, citizenship, globalization, identity, and nationalism.

2. Background Information, Terms

The definitions of terms and concepts are significant, especially because of the legal nature of many of the classifications and standards. This points to a fruitful topicality debate depending on the various terms of art deployed in the resolution not to mention high-tech debates over who is and is not included under the various classifications of persecution (and the effects of those inclusions). To clarify the ways a person can attempt to earn asylum, it is worth reviewing the actual process:

Aliens present in the United States may apply for asylum with the United States Citizenship and Immigration Services Bureau (USCIS) in the Department of Homeland Security (DHS) after arrival into the country, or they may seek asylum before a Department of Justice's Executive Office for Immigration Review (EOIR) immigration judge during removal proceedings. Aliens arriving at a U.S. port who lack proper immigration documents or who engage in fraud or misrepresentation are placed in expedited removal; however, if they express a fear of persecution, they receive a "credible fear" hearing with an USCIS asylum officer and — if found credible — are referred to an EOIR immigration judge for a hearing.⁴⁰

As apparent in the literature, the jurisdictional questions themselves are pregnant with possibility.

Some of the US government agencies involved include the Department of State, the Department of

⁴⁰ Wasem, Immigration Policy Expert, Domestic Social Policy Division, 2005 (Ruth Ellen, "US Immigration Policy of Asylum Seekers," Feb. 16, 2005, CRS Report for Congress, accsd 4/11/10 <http://www.au.af.mil/au/awc/awcgate/crs/rl32621.pdf>. Also: To be eligible for refugee or asylum status, an applicant must meet the definition of a refugee set forth in 101(a)(42) of the Immigration and Nationality Act (INA): a person who is unable or unwilling to return to his or her country of nationality because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. An applicant for refugee status is outside the United States, while an applicant seeking asylum status is in the U.S. or at a U.S. port of entry. Although the INA definition of refugee indicates that the individual is outside his or her country of nationality, the INA also provides the President with the authority to designate countries whose nationals may be processed for refugee status within their respective countries (i.e., in-country processing). In 2008, nationals of Cuba, Vietnam, republics of the former Soviet Union, and Iraq were designated for in-country processing. In-country processing was also conducted for extraordinary individual protection cases for which resettlement was requested by a U.S. ambassador. Martin & Hoefler, June 2009 (Daniel & Michael, Refugees and Asylees: 2008, Office of Immigration Statistics, http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_rfa_fr_2008.pdf, accsd 4/11/10)

Homeland Security, the Asylum Division of US Citizenship and Immigration Services, and the Executive Office for Immigration Review (EOIR) of the U.S. Department of Justice (DOJ).

It may make the most sense to group together refugee and asylum policy for the purposes of crafting a resolution because there is so much overlap and a lot of the debates are similar.⁴¹ It might also be possible to include each of these sub-areas in a “list” wording that requires multiple actions or allows for one of many actions. We will offer some starting points at the end of this section and at the end of the overall paper. Within the literature, the biggest distinction between a refugee and an asylee is the geographic location of the claim:

“Refugees and asylum-seekers are people who are unable or unwilling to return to their home country because of the risk of persecution or because of a well-founded fear of persecution. Refugees apply for admission from outside of the United States; asylum-seekers request legal admission from within the United States or at a U.S. port of entry.”⁴²

To provide more context on these terms, recent history will be instructive. The history of refugee policy is complex and goes back to at least 1921 with debates over quotas and priorities for admitting immigrants, but a good starting point for current policy is the 1980 Refugee Act:

Congress passed the 1980 Refugee Act to consolidate the profusion of special and ad hoc arrangements, to bring U.S. criteria and procedures for granting refugee status into line with international law, and to grant resettlement assistance. The Act (8 USC 1101 (a)(42)) defines refugees as persons who are persecuted or who have “. . . a well founded fear of persecution on

⁴¹ Generally, any alien present in the United States or at a port of entry may apply for asylum regardless of his or her immigration status. Asylum may be obtained in two ways: affirmatively through a USCIS Asylum Officer or defensively in removal proceedings before an immigration judge of the Executive Office for Immigration Review (EOIR) of the Department of Justice. To obtain asylum, an alien must apply within one year from the date of last arrival or establish that an exception applies based on changed or extraordinary circumstances. An alien applies for asylum in the United States by filing Form *I-589, Application for Asylum and for Withholding of Removal*.

Martin & Hoefler, June 2009 (Daniel & Michael, Refugees and Asylees: 2008, Office of Immigration Statistics, http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_rfa_fr_2008.pdf, acsd 4/11/10)

⁴² Congressional Budget Office Series Paper, '06 (“Immigration Policy in the United States”, February 2006, <http://www.cbo.gov/ftpdocs/70xx/doc7051/02-28-Immigration.pdf>, acsd 4/11/10)

account of race, religion, nationality, membership in a particular social group, or political opinion."

The Act anticipated a "normal flow" of refugees into the United States of 50,000 a year. One of its goals was to establish political and geographic neutrality in judging refugee status, ending the then-existing presumption that all those leaving communist lands were refugees.⁴³

The 1980 Act is presently the subject of debate and reform through the Refugee Protection Act of 2010 introduced by Senator Leahy (D-VT) and Senator Levin (D-MI), "legislation designed to strengthen America's commitment to providing refuge to victims of religious, political, ethnic and other forms of persecution by repairing many of the most severe problems in the U.S. refugee and asylum systems."⁴⁴ This legislation is unlikely to pass in the next year but its mere introduction points to a number of solid solvency advocates for specific policies, not to mention the confirmation that the refugee and asylum area is contemporary and in need of scrutiny. Moreover, even if the Act does pass, there is plenty of debate over whether it does enough and what it leaves out.

3. Ground

Some of the ground is predictable and some is not, as is true with all topics. The areas that are predictable from the outset are good places to hunker down and have a debate: US humanitarian leadership, human rights protection and identity politics, the role of the family in citizenship and nationalism, external pressure and solutions to global conflicts, all of the agent debate surrounding appropriate jurisdiction and effective policy-making, trends in global migration and population, homeland security, the meaning of persecution and its sources, and on-the-ground enforcement. Realizing that aff and neg ground could overlap or even reverse depending on the wordings, we have split the ground discussion into an aff section covering the types of cases and advantages that

⁴³ Simcox and Jenks, 1992 (David and Rosemary Feb. "Refugee and Asylum Policy: National Passion versus National Interest," http://www.npg.org/forum_series/ref&asylum_policy.htm, accsd 4/13/10)

⁴⁴ Human Rights First, March 15, 2010 (<http://www.humanrightsfirst.org/media/asy/2010/alert/591/index.htm>, accsed 4/11/10, "Senators Introduce Bill Strengthening U.S. Commitment to Refugees: Legislation comes 30 years after landmark Refugee Act of 1980")

might emerge from an “ease asylum and refugee restrictions” wording and a neg section commenting on generic positions that could be used against such cases.

a) In Favor of Relaxing Restrictions—(AFF)

The best ground for the affirmative is in the direction of human rights, gender discrimination, including global protections for differences in sexual orientation, US soft power good, children’s rights, specific regional conflict situations (such as the Drug War in Mexico), modeling arguments, homeland security, and cultural norms such as a stance against female genital mutilation. Even if the current refugee structure works in some areas, “a good system can be made even better.”⁴⁵ Even more importantly, particular mechanism and policy defenses are abundant:⁴⁶

--Change/Eliminate Moral Turpitude Clause. This clause currently prohibits anyone from claiming persecution if they fail the moral turpitude test by being linked to previous persecutors, irresponsible behavior such as drinking, idolatry, etc., or to criminal activity. Of course much of

⁴⁵ Voice of America News, March 2010 (“UN Urges Revamp of US Refugee Policy,” Michael Bowman, 17 March 2010, <http://www1.voanews.com/english/news/usa/UN-Urges-Revamp-US-Refugee-Policy-88225672.html>, acsd 4/11/10)

⁴⁶ Tally Kritzman-Amir, *Brooklyn Journal of International Law*, 2009, 34 *Brooklyn J. Int'l L.* 355, “Not in My Backyard: On the Morality of Responsibility Sharing in Refugee Law.”

Andy Rottman, *University of Colorado Law Review*, Spring, 2009, 80 *U. Colo. L. Rev.* 533, “THE ROCKY PATH FROM SECTION 601 OF THE IIRIRA TO ISSUE-SPECIFIC ASYLUM LEGISLATION PROTECTING THE PARENTS OF FGM-VULNERABLE CHILDREN.”

Michelle A. McKinley, *Harvard Journal of the Legal Left*, 2009, 5 *Unbound* 55, 15455 words, “Conviviality, Cosmopolitan Citizenship, and Hospitality”

Dana R. Green, Spring, 2009, 40 *Colum. Human Rights L. Rev.* 701, “NOTE: NAVIGATING NORTH: HOW THE CANADIAN APPROACH TO FIRM RESETTLEMENT SHOULD GUIDE U.S. IMPLEMENTATION OF THE REFUGEE CONVENTIONS”

Ellen A. Jenkins, Fall, 2009, 40 *Golden Gate U.L. Rev.* 67, “COMMENT: TAKING THE SQUARE PEG OUT OF THE ROUND HOLE: ADDRESSING THE MISCLASSIFICATION OF TRANSGENDER ASYLUM SEEKERS”

Sean T. Masson, Summer 2009 (37 *Hofstra L. Rev.* 1135, “NOTE: CRACKING OPEN THE GOLDEN DOOR: REVISITING U.S. ASYLUM LAW'S RESPONSE TO CHINA'S ONE-CHILD POLICY”)

Riikka E. Morrill, Winter, 2010, (33 *Suffolk Transnat'l L. Rev.* 87, 9487 words, NOTE: THE PLIGHT OF THE PERSECUTED: THE EUROPEAN UNION AND UNITED STATES ASYLUM LAW.”)

Kala M. Strawn, Spring, 2009 (24 *Wis. J.L. Gender & Soc'y* 205, 15217 words, ARTICLE: STANDING IN HER SHOES: RECOGNIZING THE PERSECUTION SUFFERED BY SPOUSES OF PERSONS WHO UNDERGO FORCED ABORTION OR STERILIZATION UNDER CHINA'S COERCIVE POPULATION CONTROL POLICY.”)

this information is provided from the home country so false accusations against those seeking asylum are common.

--Ease burden of proof for asylum and refugee status. Remove cases from immigration courts, create separate federal appellate court. There are a number of mechanisms that would help to streamline the process, either alone or in combination with other change. The counterplan ground is also fertile here, for “The current system emphasizes efficiency (i.e., expediting decisions quickly with little explanation), routine, and nationality-based blanket decisions, rather than meaningful, individual case assessments.”⁴⁷ Small changes in the process could have far-reaching effects and the need for a complete overhaul is also compelling and well-supported:

“The Refugee Act of 1980 created an explicit asylum provision in U.S. immigration law and established a comprehensive framework for the resettlement of refugees to the United States. Symposium panelists will discuss new barriers that have made it more difficult for legitimate refugees to receive asylum in this country, and the documented disparities in asylum adjudications. They will also assess the effectiveness of the current U.S. refugee resettlement program with regard to identifying refugees in the greatest need of resettlement, adjudicating their cases fairly and efficiently, and providing them with adequate targeted post-arrival integration assistance. Speakers will address the need for the Obama Administration and Congress to move forward a series of key reforms in asylum and refugee policy.”⁴⁸

--Broaden ability to demonstrate persecution in one of the following areas: race, religion, nationality, membership in a particular social group, or political opinion. This might mean

⁴⁷ Zeigler and Stewart, 2009 (Sara L., Kendra B., *frontiers*/2009/vol. 30, no. 2 “Positioning Women’s Rights within Asylum Policy: A Feminist Analysis of Political Persecution.”)

⁴⁸ Human Rights First, March 15, 2010 (<http://www.humanrightsfirst.org/media/asy/2010/alert/591/index.htm>, accessed 4/11/10, “Senators Introduce Bill Strengthening U.S. Commitment to Refugees: Legislation comes 30 years after landmark Refugee Act of 1980”)

including non-state actors as agents that can practice oppression and persecution recognized by the United States, and gender also plays a role here because current attempts to incorporate gender persecution use existing categories. The ability to directly debate male norms in human rights standards is part of the asylum literature:

“**Asylum** is a time-honored concept that has evolved from a practice of offering general refuge to a very specific legal status that offers protection to specific people in specific situations. In the current era, in which **asylum** is an official form of state aid to foreigners, there has been some disagreement as to the purpose of **asylum**, whether it is humanitarian or political in nature. This Note finds the political conception of **asylum** most logically appealing and agrees that **asylum's** purpose is to provide both protection and societal membership to victims of persecution in order to condemn state or state-condoned human rights violations. Gender-based persecution clearly falls under this "political purpose" rubric as it robs victims of both safety and societal membership and involves acts that are clearly odious to American society and law. As gender-based persecution fulfills the political purpose of **asylum**, it should, therefore, be recognized within the legal framework governing **asylum** in the United States. Unfortunately, the current American framework, based on the Refugee Convention penned by the United Nations in 1951, contains an inherently male bias and does not reflect the full range of human rights violations the United States should be able to condemn through the use of **asylum**, including gender-based persecution.”⁴⁹ There have been steps to incorporate gender persecution into the existing categories, but the attempts have been shallow and have not succeeded:

⁴⁹ Crystal Doyle, Spring, 2009 (15 Wash. & Lee J. Civil Rts. & Soc. Just. 519, 18145 words, STUDENT NOTE: Isn't "Persecution" Enough? Redefining the Refugee Definition to Provide Greater Asylum Protection to Victims of Gender-Based Persecution.)

The international community, as well as the United States and various other developed nations, has taken steps to integrate gender-based **asylum** claims into the current framework. These steps have included the issuance of guidelines meant to help adjudicators fit a gender-based persecution claim into one of the five **asylum** grounds, the amendment of statutes to define "particular social group" as including sex, and the addition of gender as a sixth basis for **asylum**. Unfortunately, none of these solutions has been entirely satisfactory, as even the best ones still require victims of gender-based persecution to prove the intent of their attacker(s). Because of the often personal nature of gender-based persecution claims, such intent can be difficult to prove, and, consequently, many valid **asylum** claims are denied.⁵⁰

--Create new classification of persecution for application, open up current category to more cases such as gang violence or gender.⁵¹ This is a great area and the literature base covering gender persecution is massive. Just one example in this sub-area would deal with "derivative asylum," the process of applying for asylum for one's children or relative because of their fears of persecution. Law and policy on this matter conflicts, particularly when the specific cases of China's One Child Policy and other nations' practices of female genital mutilation are considered. The stages for this kind of change multiply with each subsequent Court decision, making it a broader question than, "Should we allow for derivative asylum?" Even if derivative asylum is incorporated, the parents may not be protected, resulting in a situation where, in order to avoid persecution and suffering, a child's parents are deported from the US while the child is sent to adoption or resettlement services

⁵⁰ Crystal Doyle, Spring, 2009 (15 Wash. & Lee J. Civil Rts. & Soc. Just. 519, 18145 words, STUDENT NOTE: Isn't "Persecution" Enough? Redefining the Refugee Definition to Provide Greater Asylum Protection to Victims of Gender-Based Persecution.)

⁵¹ Allen Abrams, '09 (Editor-in-Chief Virginia Law Weekly, 30 October 2009, Volume 62, Number 10, "Asylum Law Prof. Explains New Obama Policy" http://www.lawweekly.org/?module=displaystory&story_id=2668&edition_id=132&format=html, accessed 4/11/10)

in the US. More directly, the argument would be that China's One-Child Policy creates persecution. Models of Australian legal action on asylum from China provide a good path for the US. even though it could flood the process. The root argument here is that we need to cover unaccompanied minors and minors with a real fear of persecution in the home country:

The United States should reconsider its approach to determining the asylum eligibility of unaccompanied children claiming persecution under China's one-child policy. Although the 2008 BIA decision, *Matter of J- S-* outlines a clearer standard for determining asylum eligibility of spouses of those persecuted under China's one-child policy, it does not adequately address asylum claims brought by unaccompanied children of those persecuted under the policy. The Australian High Court has offered useful guidance in assessing such claims, and U.S. immigration authorities should take note of the *Chen Shi Hai* decision in future asylum cases. Although it is important to assess whether children are persecuted due to the imputed political opinion of their parents, it is also necessary to assess whether such children are persecuted due to their membership in a social group of children born in violation of the one-child policy. Assessing asylum claims in this way gives the most careful consideration to the protection of a child who may be in need of international protection. Within that assessment, however, U.S. courts and immigration authorities should be careful to define the parameters of a social group of children persecuted under the one-child policy.⁵²

Of course derivative asylum is not always enough because in some cases other standards and requirements are used to preclude a comprehensive solution. Some examples involve giving children asylum but then deporting the mother or parents, protecting the parents insofar as the child effects the parents (but still refraining from actually granting asylum to the children), not protecting

⁵² Brian Edstrom, 2009 ("Assessing Asylum Claims from Children Born in Violation of China's One-Child Policy: What the United States Can Learn from Australia," *Wisconsin International Law Journal*, vol. 27, no. 1 (2009)

minors who are not accompanied by an adult because there is no original source from which the claim can be derived, or simply inconsistency in determining the validity of the claim.

--Reverse post 9-11 policies that restrict certain types of immigration in the name of homeland security: “(B)oth the USA Patriot Act of 2001 and the REAL ID Act of 2005 expanded the definition of terrorism to bar noncitizens who provide “material support” to terrorists, with no exceptions for individuals who did so under threat to themselves or their families.”⁵³

--Mandate higher numbers of accepted asylum cases and/or refugee allotments. The signal arguments about the human rights model and the image of America occur within the numerical limits and how they are framed:

“Before the beginning of each fiscal year, the President consults with Congress to establish an overall refugee admissions ceiling as well as five regional allocations and an unallocated reserve. The total ceiling for refugee admissions increased from 70,000 in 2007 to 80,000 in 2008, due to the expected resettlement of Iraqi, Bhutanese, and Iranian refugees in the Near East/South Asia region.”⁵⁴

b) . Against Relaxing Restrictions---(NEG)

Intrinsic arguments against asylum streamlining exist and offer some predictable space to stake out on the negative, including reasons why asylum is bad or ineffective for political change. In addition, the negative can always turn to a criticism of US cultural imperialism or soft power, contending that humanitarian leadership from the U.S. is a bad model or a bad precedent not to mention the risks of giving the US a mask of benevolence in the international arena. In many of the specific examples researchers will find negative arguments from within the country of origin,

⁵³ Zeigler and Stewart, 2009 (Sara L., Kendra B., *frontiers*/2009/vol. 30, no. 2 “Positioning Women’s Rights within Asylum Policy: A Feminist Analysis of Political Persecution.”) Also see the PATRIOT Act, §411(a)(1)(F); REAL ID Act, §103(b)(cc)(VI).

⁵⁴ Martin & Hoefler, June 2009 (Daniel & Michael, *Refugees and Asylees: 2008*, Office of Immigration Statistics, http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_rfa_fr_2008.pdf, accsd 4/11/10)

whether it is a backlash position, a larger political argument within the governing structure of the home country, concerns about non-state actors creating more persecution that cannot be detected, further oppression on an individual's family or cultural group based on US actions, or even more migration such that future cases will be denied. These actions do depend on support from the US public as well, leading to arguments about aid fatigue ("refugee fatigue"), disaster pornography, whitewashing, or focus trade-offs.

"The United States is still one of the very few countries in which refugee protection is a popular cause. We rely on the people of the United States for the daily example of commitment and compassion," he said. "Since the promulgation of the Refugee Act, the United States has granted asylum to more than 500,000 [people] and resettled nearly three-million refugees from overseas.

Each of these people brings and enduring gratitude for hope restored and the capacity to contribute to the [new] community in which he lives," said Guterres."⁵⁵

And, even more locked-in, the negative can always argue against state-based solutions by criticizing a unilateral approach, a non-regional approach, or a policy that prevents the UN or the international community from taking further action in the future.

Arguments revolving around US soft power, human rights leadership and hegemony are plentiful. Negatives can also prepare by getting deep into the legal components such as enforcement, circumvention, clog, agent counterplan debates, and all the reasons legal changes may fail in practice. We will spell out other ways to secure negative ground down below, but we have realized that the topical/case specific counterplan ground is excellent in this area depending on the advantages claimed by the aff. This list should help initiate negative research:

⁵⁵ Voice of America News, March 2010 ("UN Urges Revamp of US Refugee Policy," Michael Bowman, 17 March 2010, <http://www1.voanews.com/english/news/usa/UN-Urges-Revamp-US-Refugee-Policy-88225672.html>, acsd 4/11/10)

--Educate officials instead of pursuing policy change. When we look at Canada's refugee and asylum policy, we find a viable alternative to legislative change: educating officials and judges involved in the process.

--Eliminate the categories completely. The negative may be able to counterplan to remove the categories altogether, particularly if the resolution requires additional areas and more inclusion into the existing ones. A counterplan to simply require demonstration of persecution without proving a certain type of persecution could solve the case without opening the floodgates to everyone.

The solution to this problem may be to eliminate the requirement that persecution be "on account of" particular grounds. It may be enough to simply require proof of persecution alone. At least in the United States, the standard for "persecution" is quite high and, coupled with all the other current restrictions and limitations on **asylum** claims, the elimination of the five grounds may provide relief to victims of gender-based persecution, while preventing an over-expansion of the refugee definition. This solution is not without its difficulties, such as a possible fear of opening up "floodgates" of applications, but it may prove to be a more workable solution than the current American scheme or any of the other legal frameworks that have been implemented in other countries. Therefore, given the necessity of rethinking our current **asylum** system, the possibility of eliminating the five grounds of **asylum** is an idea that should be strongly considered.⁵⁶

--Temporary Protected Status. This category allows groups of people to stay in the US for a specified period of time because of a disaster in the group's home country. The notion of "temporary" protection would force a debate over the permanent component in "Permanent Legal Immigration," allowing a counterplan to try to solve for some of the aff's humanitarian claims (by

⁵⁶ Crystal Doyle, Spring, 2009 (15 Wash. & Lee J. Civil Rts. & Soc. Just. 519, 18145 words, STUDENT NOTE: Isn't "Persecution" Enough? Redefining the Refugee Definition to Provide Greater Asylum Protection to Victims of Gender-Based Persecution.)

protecting the group under TPS instead of the plan) and run a politics net benefit or attacks on the way the plan would be implemented. TPS could solve for the case (or be a good affirmative under some topic wordings):

In the Immigration Act of 1990 Congress refined and expanded the concept of "Extended Voluntary Departure" into "Temporary Protected Status (TPS)," an arrangement for ostensibly temporary refuge for aliens from troubled countries. The legislation significantly expands the coverage of American refugee policy, extending potential eligibility for safe haven in the United States to hundreds of millions of those threatened in their home countries by generalized violence or environmental disasters such as famines, earthquakes and floods.⁵⁷

In addition, the debates between state sovereignty and the protection of human rights are always near the surface in this area and would make for good clash on the aff or the neg. A comparison between US and European asylum policy concluded: "there is an increasing willingness and capacity of states to control mass asylum seeking. State constraints in asylum policy arise more from domestic than from international legal norms. Asylum policies are everywhere shaped by the two increasingly conflicting principles of liberal nation-states: popular sovereignty and the protection of human rights."⁵⁸

The ability to earn asylum and greater protections for refugees can also send a signal that opens the floodgate to more applications and expands the burden on the system. Changes in Australian law point to this link argument:

Australia's Chen Shi Hai decision, however, has potentially opened a new door, at least in Australian courts, for a "crushing caseload" of cases brought by Chinese children who claim to belong to a

⁵⁷ Simcox and Jenks, 1992 (David and Rosemary, Feb. "Refugee and Asylum Policy: National Passion versus National Interest," http://www.npg.org/forum_series/ref&asylum_policy.htm, accsd 4/13/10)

⁵⁸ Joppke, European University Institute, Florence, Italy, 1997 (Christian, "Asylum and State Sovereignty: A Comparison of the United States, Germany, and Britain," *Comparative Political Studies*, Vol. 30, No. 3, 259-298 (1997))

social group of “black children” without truly suffering a reasonable fear of prosecution due to that status. For U.S. immigration authorities to open a new door to Chinese asylum applicants claiming persecution due to membership in a social group of “black children” invariably invites additional applications from those who may not be the most deserving of U.S. protection. Therefore, in assessing claims from out-of-plan children, U.S. immigration authorities should be very careful to define the context and situations in which discriminatory treatment of out-of-plan children truly amounts to persecution.⁵⁹

There is an inherency debate as well because the Obama Administration is making a few moves to incorporate gender persecution into asylum law:

The Obama administration has opened the way for foreign women who are victims of severe domestic beatings and sexual abuse to receive asylum in the United States. The action reverses a Bush administration stance in a protracted and passionate legal battle over the possibilities for battered women to become refugees. In addition to meeting other strict conditions for asylum, abused women will need to show that they are treated by their abuser as subordinates and little better than property, according to an immigration court filing by the administration, and that domestic abuse is widely tolerated in their country. They must show that they could not find protection from institutions at home or by moving to another place within their own country.⁶⁰

On the other hand, the new policies do not include female genital mutilation, opening ground for the affirmative advantage or a link to cultural imperialism:

⁵⁹ Brian Edstrom, 2009 ("Assessing Asylum Claims from Children Born in Violation of China's One-Child Policy: What the United States Can Learn from Australia," *Wisconsin International Law Journal*, vol. 27, no. 1 (2009))

⁶⁰ JULIA PRESTON, July 16, 2009 ("New Policy Permits Asylum for Battered Women," NYT, <http://www.nytimes.com/2009/07/16/us/16asylum.html>, acsd 4/11/10)

The new policy does not involve women fleeing genital mutilation. Any applicant for asylum or refugee status in the United States must demonstrate a “well-founded fear of persecution” because of race, religion, nationality, political opinion or “membership in a particular social group.” The extended legal argument has been whether abused women could be part of any social group that would be eligible under those terms. Last year, 22,930 people won asylum in this country fleeing all types of persecution; the number has been decreasing in recent years. Because asylum cases are confidential, there is no way of knowing how many applications by battered women have been denied or held up over the last decade. The issue is further complicated by the peculiarities of the United States immigration system, in which asylum cases are heard in courts that are not part of the federal judiciary, but are run by an agency of the Justice Department, with Homeland Security officials representing the government.⁶¹

The debates surrounding refugee policy and asylum law go in a lot of different directions to be sure, but that is the strength of this sub-area: it is clearly defined, reaches a number of controversial considerations without losing its specificity or mooring, and it unites the political with the philosophical in a beautiful way:

Some express concern that potential terrorists could use asylum as an avenue for entry into the United States, especially aliens from trouble spots in the Mideast, northern Africa and south Asia. Others argue that — given the religious, ethnic, and political violence in various countries around the world — it is becoming more difficult to differentiate the *persecuted* from the *persecutors*. Some assert that asylum has become an alternative pathway for immigration rather than humanitarian protection provided in extraordinary cases. Others maintain that current law does not offer adequate protections for people fleeing human rights

⁶¹ JULIA PRESTON, July 16, 2009 (“New Policy Permits Asylum for Battered Women,” NYT, <http://www.nytimes.com/2009/07/16/us/16asylum.html>, acsd 4/11/10)

violations or gender-based abuses that occur around the world. At the crux is the extent an asylum policy forged during the Cold War can adapt to a changing world and the war on terrorism.⁶²

⁶² Wasem, Immigration Policy Expert, Domestic Social Policy Division, 2005 (Ruth Ellen, "US Immigration Policy of Asylum Seekers," Feb. 16, 2005, CRS Report for Congress, accsd 4/11/10 <http://www.au.af.mil/au/awc/awcgate/crs/rl32621.pdf>)

Reduce Restrictions for Undocumented Immigrants Controversy Area By Brendon Bankey

Overview

One key area of controversy within the immigration debate is establishing how the United States should resolve the citizenship status of the 10.8 million⁶³ undocumented immigrants currently in the U.S. The past twenty years of U.S. immigration policy has focused on enforcement as the primary means of addressing undocumented workers. Such strategies have been ineffective at curbing the flow of undocumented immigrants.⁶⁴ Furthermore, the United States does not have the capacity to deport 10.8 million people.

One positive step towards addressing deficiencies in the current system would be to resolve the status of undocumented immigrants. The Immigration Reform and Control Act of 1986 is the last piece of legislation meant to address the scope of undocumented immigrants. Pia M. Orrenius and Madeline Zavodny explain:

IRCA involved two separate legalization programs: the Legally Authorized Workers (LAW) program and the Special Agricultural Workers (SAW) program. The LAW program allowed undocumented immigrants who had lived in the United States since January 1, 1982, and met certain other criteria to apply for temporary legal residency. Successful applicants could then become legal permanent residents after 18 months by meeting several criteria, such as demonstrating basic knowledge of the English language and American civics. The SAW program required that illegal immigrants have worked in US agriculture for at least 90 days during each of the previous three years or for at least 90 days during the last year to receive

63

NPR 2010 ("Number Of Immigrants Living In U.S. Drops," <http://www.npr.org/templates/story/story.php?storyId=123668455>)

⁶⁴ Nevins 2010 (Joseph Nevins teaches geography at Vassar College. He is the author of *Dying to Live: A Story of U.S Immigration in an Age of Global Apartheid*, and *Operation Gatekeeper and Beyond: The War on "Illegals" and the Remaking of the U.S.-Mexico Boundary*, "Security First: The Obama Administration and Immigration "Reform",<http://www.zcommunications.org/security-first-the-obama-administration-and-immigration-reform-by-joseph-nevins>)

temporary permanent resident status. SAWs could then receive legal permanent resident status in one or two years.⁶⁵

2. Aff Ground

Resolving the status of undocumented immigrants has an array of advantage areas for both sides of the spectrum. From a policy perspective, resolving status is necessary to bolster the economy:

The economic case is clear. Immigrants who become citizens consistently pursue higher-paying jobs and higher education, spend more and provide higher tax revenue. Just imagine what 12 million newly documented Americans could do for the economy. The legalization process also brings economic benefits like the retention of remittances. Reform will reunite families separated by our immigration system and keep monies in the U.S., instead of having workers send substantial portions of their salary to their family members abroad. As an example of the potential, U.S. remittances to Latin America alone totaled almost \$46 billion in 2008. Of that, Mexico received almost \$24 billion. Reducing remittances offers an obvious potential cash infusion for our economy, as billions of dollars currently being sent overseas would instead be spent in American shops and restaurants, creating jobs and helping to get our economy going.⁶⁶

Furthermore, addressing undocumented immigrants is a precondition to effective enforcement and improving Department of Homeland Security efforts to prevent terrorism:

⁶⁵ Pia M. Orrenius & Madeline Zavodny, 2006. "Does Immigration Affect Wages? A Look at Occupation-Level Evidence," IZA Discussion Papers 2481, Institute for the Study of Labor (IZA)

66

Hondo 2010 (**Rep. Mike Honda (D-Calif.)**, "Immigration reform: The multi-trillion dollar question (Rep. Honda)," <http://thehill.com/blogs/congress-blog/campaign/79925-immigration-reform-the-multi-trillion-dollar-question-rep-honda>)

For more info, see: Pia M. Orrenius & Madeline Zavodny, 2006. "Does Immigration Affect Wages? A Look at Occupation-Level Evidence," IZA Discussion Papers 2481, Institute for the Study of Labor (IZA)

Meissner et al 2007 (Doris Meissner, Deborah W. Meyers, Demetrios G. Papademetriou & Michael Fix, "Symposium: Reforming U.S. Immigration Policy: Immigration and America's Future: A New Chapter," 5 Geo. J.L. & Pub. Pol'y 473, Lexis)

Immigration reform will fail if it leaves 12 million undocumented immigrants living and working in the United States. Undocumented migrants drive down wages, and they threaten national security by supporting an illegal infrastructure and providing a pool of underground workers which may obscure would-be terrorists. Today's undocumented would also undermine tomorrow's enforcement. Millions of undocumented employees make non-credible the threat of worksite enforcement, and create strong incentives for bad-apple employers to continue flouting the law. Their continued presence would also send a signal to others that life as an undocumented immigrant here remains a viable option.⁶⁷

From a critical perspective, strategies to address disparities towards undocumented immigrants are necessary to challenge the system of knowledge production which sustains U.S. cultural hegemony and neoliberalism:

It is through this process of (de)legitimizing certain bodies through the trope of citizenship that differentiated mobilities, forms of institutional access, and capacities to participate in political processes take shape. Whiteness, citizenship, and freedom function within these texts as a chain of equivalences. Whiteness becomes equated with citizenship, and citizenship with freedom, revealing the specific moves through which "this country's national identity, normality, and superiority are not independent, however, of the existence of nonwhites. An integral part of defining free Americans is by contrast to those who are non-American and unfree."³³ The nation constructed by this discourse empowers whites to associate their identities with freedom. Thomas Nakayama and Robert Krizek's study of college students, who were inclined to conflate white with majority, status, and American, reveals the extent to which these articulations become internalized within U.S.

⁶⁷ Rosenblum 2007 (Marc R. Rosenblum is an Associate Professor of Political Science at the University of New Orleans, "A "Path to Citizenship" for Current Illegal Immigrants?" Council of Foreign Relations, <http://www.cfr.org/publication/12971/>)
Siegel 2009 (Bryn Siegel is the a Managing Editor of the Akron Law Review, "THE POLITICAL DISCOURSE OF AMNESTY IN IMMIGRATION POLICY," http://www.uakron.edu/law/lawreview/v41/docs/Siegel_final08.pdf)

Americans.⁶⁴ Such equivalences are assumed, acted on, and thus provide the parameters for the social scripts we follow in our daily practices. In this sense, the discourse of whiteness explored within this section becomes a "material force"⁶⁵ by defining citizenship as both white and free vis-à-vis immigrant alien as racialized and unfree, thus enabling the differentiated mobilities of citizens and noncitizens. The spatial formation of a nation in which whiteness is synonymous with freedom articulates the nation as a free space for whites, in which they are able to move when and where they wish, while those whose bodies are marked through the tropes of race and class through which illegal alien is imagined may be detained, exploited, and abused.⁶⁸

3. Case Areas

Specific proposals to address undocumented immigrants range from blanket amnesty to more conservative measures demonstrated by Senator Schumer and Senator Graham:

For the 11 million immigrants already in this country illegally, we would provide a tough but fair path forward. They would be required to admit they broke the law and to pay their debt to society by performing community service and paying fines and back taxes. These people would be required to pass background checks and be proficient in English before going to the back of the line of prospective immigrants to earn the opportunity to work toward lawful permanent residence.⁶⁹

Schumer and Graham's proposal should not incite fears of the controversy being affected by legislation during the middle of the year. If an immigration proposal occurs, it will likely include Schumer and Graham's language of 'going to the back of the line' to avoid GOP attacks that it

⁶⁸ Rowe 2004 (Aimee Carrillo Rowe is an assistant professor of rhetoric at the University of Iowa, "Whose "America"? The Politics of Rhetoric and Space in the Formation of U.S. Nationalism," *Radical History Review* 89 (2004) 115-134, Project Muse)
For more on neoliberalism, see: Kretsedemas 2008 (Philip Kretsedemas is an assistant professor of sociology at the University of Massachusetts, "Immigration Enforcement and the Complication of National Sovereignty: Understanding Local Enforcement as an Exercise in Neoliberal Governance," *American Quarterly*, Volume 60, Number 3, Project Muse)

⁶⁹ Schumer and Graham 2010 (Senators, "The right way to mend immigration," <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/17/AR2010031703115.html>)

allows amnesty for law breakers. The Immigration Policy Center explains why such proposals will be unsuccessful:

However, there remains a temptation to create high penalties in exchange for a green card because many politicians want to ensure that people have paid the price for coming to the country illegally. An overly punitive process, however, ultimately defeats the purpose of a legalization program because it will deter people from participating and potentially drive people further underground.⁷⁰

A. Decreasing Restrictions on Immigration

One method of addressing the status of undocumented immigrants is to decrease the scope legalization provisions. A plan within this area would eliminate current provisions which stifle the transition to legal status. In light of the aforementioned Immigration Policy Center paper, the U.S. could eliminate its back of the line provisions, which force undocumented workers to decide between illegal status and waiting years for reentry into the U.S.

Furthermore, current programs for immigration could be expanded to allow undocumented immigrants in the U.S. This could apply to visas alongside other immigration programs. One example is the Military Accessions Vital to the National Interest program which targets legal immigrants for military employment. The program has numerous restrictions:

In addition to barring undocumented immigrants from enlisting under its auspices, the MAVNI program does not allow the enlistment of visa overstayers or persons who have fallen out of status. Furthermore, no one with a criminal record is eligible under this program; Army MAVNI recruits are not permitted to apply for the “conduct waivers” that

⁷⁰ Immigration Policy Center 2010 (“Focusing on the Solutions: Key Principles of Comprehensive Immigration Reform,” Immigration Policy Center Special Report, March, http://www.immigrationpolicy.org/sites/default/files/docs/Solutions_Paper_032310.pdf)

are sometimes available to US citizens and some Lawful Permanent Resident (LPR) recruits who have criminal records.⁷¹

Expanding opportunities for military service is a unique area of the immigration reform debate which enables the affirmative to engage in the structure of the U.S. military as well as discussions of military readiness.⁷²

B. Amnesty

Amnesty, although a dirty word on Capitol Hill, is a possible solvency mechanism for resolving immigration status. Although there are not policy proposals which support blanket amnesty, there is a wealth of literature which criticizes the concept of citizenship embedded in U.S. immigration policy. By extending citizenship to all undocumented immigrants, the affirmative may topically delegitimize national identity:

This means that citizenship is not merely an identity but is perhaps more adequately understood as a function of space and power. For instance, many Latino citizens suffer abuse at the hands of the INS and other state officials. Even though their identities may be defined as U.S. citizens, they are not necessarily free to participate, move, or belong to U.S. America in the same ways as white Anglos, for whom the national space is defined.³⁶ When Latino students in Los Angeles hit the streets in protest of Proposition 187, Anglos passing by in cars shouted at them to "go back to Mexico." This case reveals that some citizens are freer to exercise their citizenship than others. The fact that Anglo motorists responded to

⁷¹ Stock 2009 (Lt. Col. Margaret D. Stock, "Ten Things That Immigration Lawyers Should Know About the Army's New Non-Citizen Recruiting Program," <http://shusterman.com/pdf/mavniarmyimmigrationfornonimmigrants209.pdf>)

⁷² See: Lt. Col. Margaret D. Stock, 2009, "Essential to the Fight: Immigrants in the Military Eight Years after 9/11," Immigration Policy Center's Special Reports, The Immigration Policy Center Arizona Republic 2007 ("A military route to citizenship," <http://www.azcentral.com/arizonarepublic/news/articles/0917dreamwar0917.html>) Boston Globe 2007 ("Immigration bill offers a military path to US dream," http://www.boston.com/news/nation/articles/2007/06/16/immigration_bill_offers_a_military_path_to_us_dream/?page=2)

Latino citizens as *noncitizens*, even as the latter were exercising their fundamental right to free speech, demonstrates the unevenness with which citizenship may be enacted. Here, white citizens' sense of ownership over the national space is enacted as both a racist and a nationalist exclusion. While all people involved in the scenario are citizens, then, Latino citizenship is subordinated to a white sense of belonging (and a sense that Latinos do *not* belong), which is a material manifestation of the kinds of anti-immigration discourse legitimating such differentiated forms of belonging.⁷³

4. Neg Ground

A. Immigration Spillover DA

Opponents of immigration reform argue that expanding citizenship to undocumented immigrants will encourage massive immigration because prospective immigrants think they will receive equal protections. Impacts include the economy, terrorism, drug trafficking, and general DHS overstretch.

More importantly, this controversy allows teams to discuss the effectiveness of the affirmative in light of other means of immigration reform:

Amnesty should be viewed as part of a comprehensive reform of immigration policy, not as sufficient in and of itself. A fundamental problem with an amnesty is that it creates an expectation of future amnesties. Hopes of gaining legal status conditional on living or working in the US for a certain period of time would likely encourage more undocumented immigration. In addition, an amnesty is likely to lead to larger undocumented flows as families reunify in the US with members who qualified for legal status. If the US goal is to

⁷³ Rowe 2004 (Aimee Carrillo Rowe is an assistant professor of rhetoric at the University of Iowa, "Whose "America"? The Politics of Rhetoric and Space in the Formation of U.S. Nationalism," *Radical History Review* 89 (2004) 115-134, Project Muse)

discourage undocumented immigration, then policymakers need to consider other policies as well, including a guest worker program and tougher workplace enforcement.⁷⁴

B. Politics

Although the politics disad will inevitably be introduced on next year's topic, it is worth noting that the interaction between the controversy and Capitol Hill is excellent and will provide for great politics debates next year. This controversy will allow negatives to expand past generic discussions of political capital towards the interaction between key lobbies, constituencies, and Congressional committees that will vary between each proposal. Furthermore, affs will be forced to defend their specific proposal in the context of broader immigration reform and the desirability of focusing on enforcement as opposed to expanding immigration.

⁷⁴ Pia M. Orrenius & Madeline Zavodny, 2006. "Does Immigration Affect Wages? A Look at Occupation-Level Evidence," IZA Discussion Papers 2481, Institute for the Study of Labor (IZA)

Removing Restrictions for Social Services Controversy Area By Mitch Hagney

Overview: Given that there is so much overlap between this area and the current high school topic, we did not invest a ton of space here to this area. Suffice it to say that there are intense political, legal, and ethical fights about how much access undocumented immigrants should have to social services. The broad areas include:

Education

Decreasing primary education opportunities for noncitizens is inherent and potentially has large advantage areas. Annually, undocumented students cost California alone an estimated sum over \$10 billion⁷⁵ in tax dollars, and nationally the sum could be as high as 34 billion.⁷⁶

Undocumented immigrants are eligible for in-state tuition if they apply to state universities in the state where they reside.

Health Care

There have been several affirmative cases in high school that extend social services for health care to undocumented immigrants. President Obama went out of his way to ensure that the most recent health care legislation did not provide access to undocumented immigrants.⁷⁷ The high school affirmatives demonstrate a wide range of policy and critical advantages ranging from:

⁷⁵ <http://usgovinfo.about.com/od/immigrationnaturalizatio/a/caillegals.htm>

⁷⁶ http://www.usillegalaliens.com/impacts_of_illegal_immigration_education.html

⁷⁷ The Guardian '10 (Chris McGreal, "US healthcare bill leaves illegal immigrants excluded", March 22, <http://www.guardian.co.uk/world/2010/mar/22/us-healthcare-bill-illegal-immigrants>)

bioterrorism⁷⁸, disease outbreak⁷⁹ (specifically swine flu⁸⁰), state budgets⁸¹, human rights leadership⁸², and the economy.⁸³

Social Security

Some undocumented immigrants are eligible for a type of social security called Supplemental Security Income, which is available to persons not receiving other forms of Social Security over the age of 65 or who are disabled in some way. This is true in a couple instances, including but not limited to U.S. armed forces service members, membership of federally recognized Indian tribes, noncitizens admitted as Amerasian immigrants or Cuban/Haitian entrants under the Refugee Education Assistance Act⁸⁴ (Social Security Online), or a noncitizen that an immigration judge has withheld an order of removal for⁸⁵.

Giving undocumented immigrants access to Social Security is a possible affirmative.

Section 202(y) of the Social Security Act requires noncitizens in the United States to be “lawfully present” to receive benefits (Nuschler and Siskin)⁸⁶. There is good discussion on both sides of

⁷⁸ **Wynia and Gostin ‘2**, Director of the Institute for Ethics at the American Medical Association and American law professor who specializes in public health law at Georgetown (Matthew and Lawrence, “The bioterrorist threat and access to health care”, p. proquest)

⁷⁹ **Park ‘4** J.D. Candidate at Florida State University College of Law (Seam, Georgetown Immigration Law Journal, “Substantial Barriers in Illegal Immigrant Access to Publicly-Funded Health Care: Reasons and Recommendations for Change,” Spring, 18 Geo. Immigr. L.J. 567)

⁸⁰ **Seattle Times ‘9** (Richardo Alonso-Zaldivar, “How will the uninsured fare in swine flu outbreak? Swine flu could shine a glaring light on the best and worst about American-style health care,” May 4, http://seattletimes.nwsource.com/html/health/2009172221_apusmedswinefluuninsured.html)

⁸¹ **Knutson ‘8**, Articles Editor of the Boston College Third World Law Journal (Ryan, Boston College Third World Law Journal, “Deprivation of Care: Are Federal Laws Restricting the Provision of Medical Care to Immigrants Working as Planned?” Spring 2008, 28 B.C. Third World L.J. 401)

⁸² **Berdion, 7** – J.D. Candidate at SMU School of Law (Marcella X. Berdion, SMU Law Review, “The Right to Health Care in the United States: Local Answers to Global Responsibilities,” Fall 2007, 60 SMU L. Rev. 1633)

⁸³ **Forys, 8** – Student at Loyola University Chicago School of Law and member of the Annals of Health law (Tamara, Annals of Health Law, “Left Out in the Cold: How the United States' Healthcare System Excludes Immigrants,” Summer 2008, 17 Ann. Health L. 351)

⁸⁴ <http://www.ssa.gov/pubs/11051.html>

⁸⁵ <http://www.foxnews.com/story/0,2933,79013,00.html>

⁸⁶ <http://fpc.state.gov/documents/organization/46681.pdf>

whether or not amnesty would help the sustainability of social security. It is unlikely, however, that an affirmative can increase access to social security without providing amnesty, because social security would provide the federal government with an address for a known unauthorized noncitizen, which would probably cause their deportation.

Potential Resolutions

We believe the transition to controversy papers rather than simple problem area papers has been extremely helpful in directing the topic committee towards successful mechanisms and as a result better topics. Below is a slate of potential resolutions for the community to consider. We acknowledge upfront that these resolutions have not been investigated with the rigor that is necessary to frame the actual college debate topic, but we believe these resolutions represent a starting point if the community picks this controversy area.

The debate community has a wide variety of perspectives on the appropriate formulation of a resolution. We have, therefore, categorized our potential resolutions using the analytic frames we have heard most often in topic discussions.

I. Simple and Elegant

a) Resolved: The United States Federal Government should substantially reduce its restrictions on immigration.

II. List Topics:

a) Resolved: The United States Federal Government should substantially reduce its restrictions on granting asylum and/or visas.

b) Resolved: The United States Federal Government should substantially reduce its restrictions on immigration in one or more of the following areas: visas, asylum, social services, undocumented immigrants currently residing in the United States.

c) Resolved: The United States Federal Government should substantially reform its immigration policies in one or more of the following ways:

- Reduce restrictions for granting visas;
- Reduce restrictions for granting asylum;
- Reduce restrictions for qualifying for social services;

Reduce restrictions for undocumented immigrants to achieve citizenship.

Asylum and Refugee Resolution Stems Addendum

This section should not deter any other explorations into the wording of a topic about immigration, refugees, and asylum policy. That said, there are a few ways to think about writing a resolution from this controversy. In addition to the wordings suggested, there are also a number of “noun-verb” combinations to mix and match. The verb seems to be directional in terms of “lightening restrictions, loosening standards, relaxing regulations,” while the nouns become a variable both in terms of the type of policy or law (refugee policy, asylum law, both) and in terms of the object (refugees, asylees, individuals or groups experiencing persecution). There are also ways to mandate legal action by specifying the Court as the agent or a type of court decision or even a specific series of decisions. On the flip side, it would also work to specify Congressional action by listing legislation to be changed or reformed. Mandating Executive Action would also work, but would be the least attractive of the options because sequencing would give the negative a leg up in the agent counterplan debate that might be hard to contend with on the affirmative. Here are some stabs at wordings:

a) Broad

R: That United States refugee policy should be substantially changed.

b) Narrow

R: That the United States Federal Government should remove a substantial number of obstacles to applying for and receiving asylum into the United States.

c) Narrow—passive voice

R: That refugee policy/law should be substantially revised and improved by at least significantly relaxing restrictions on asylum into the United States.

d) Middle-of-the-Road and “literature based”

R: That United States refugee and asylum policy/law should be substantially streamlined by removing obstacles to the ability to receive asylum, adding more comprehensive categories for claims of persecution, and significantly increasing the annual allocation for refugees into the United States.

VII. "Reduce Restriction" Mechanism Evidence (1/2)

"Reduce Restrictions" is commonly used in the context of immigration. US-Mexico relations are no exception.

Zogby Poll, 2006

("Zogby Poll: Americans, Mexicans Want Closer Ties, But Suspicion Abounds," March 19, <http://www.zogby.com/templates/printnews.cfm?id=1082>, accsd 4/16/10)

The survey revealed that respondents in both nations oppose a U.S. proposal to build a wall to protect its southern border. While 69% of Americans oppose the wall, 90% of Mexicans oppose it. American support for an economic aid program for Mexico drops significantly if the prospect of improving immigration restrictions is taken out of the equation. Just 47% of U.S. respondents said they would support an aid package for their southern neighbor in exchange for greater U.S. access to the Mexican oil and gas industry. Asked if they would be willing to reduce restrictions on immigration in exchange for Mexico allowing greater American investment in the Mexican oil and gas industry, 52% of Americans said they would not support such a proposal. Mexicans do not appear to want more U.S. involvement in their economy, the survey shows. A majority (53%) said they would not favor a U.S. economic aid package in exchange for greater controls on immigration into the U.S., and 65% said they were not willing to accept more U.S. control of the Mexican oil and gas industry in exchange for tighter immigration restrictions. Nearly two in three said they disagreed with the idea of trading a U.S. economic aid package for more U.S. investment in the Mexican oil and gas industry. More respondents than not in both countries said they believe the violence produced by drug traffickers is a bigger problem for the U.S. than for Mexico because it is a consumer of illegal drugs, but more people than not in both countries agreed that U.S. lawmen should not be allowed to work in Mexico to hunt criminals, including drug traffickers.

"Removing restrictions" on immigration is a means of reducing barriers to entry. Flanagan's book is literally packed with a discussion of maintaining or reducing immigration restrictions. Flanagan, 2006

(*Globalization and Labor Conditions*, Robert J., p112,

Why have the international organization that achieved notable reductions in trade barriers failed to mount a parallel effort to reduce restrictions on international migration?..International migration does not provide a parallel opportunity for political reciprocity. The political economy of immigration guarantees that immigration barriers will mainly emerge in destination countries. Countries of emigration have little to offer in exchange. In some destination countries, declining immigrant quality may provide another barrier to removing immigration restrictions.

"Reducing restrictions" is a common way to work for freedom of movement, a basic human need.

Nangula Shejavali, 2009 ("Migration Under Spotlight in New UN Report," Oct. 9, <http://allafrica.com/stories/200910120052.html>, accd 4/15/10)

BEING able to decide where to live is a key element of human freedom, and can be highly effective in raising a person's income, health and education prospects. This is one of the main arguments of the UNDP's latest Human Development Report, 'Overcoming barriers: Human mobility and development', which "lays out the case for governments to reduce restrictions on movement within and across their borders, so as to expand human choices and freedoms".

“Reduce Restriction” Mechanism Evidence (2/2)

Immigration Restrictions Contextual Evidence

Jennifer Chacon, Assistant Professor, U.C. Davis, School of Law, 2007

(Connecticut Law Review, 39 Conn. L. Rev. 1827, Lexis)

Almost 120 years have passed since the Supreme Court decided the Chinese Exclusion Case, but the underlying rationale of the decision still undergirds contemporary immigration law. Throughout the past century, courts and lawmakers have used the rhetoric of security to justify U.S. **immigration restrictions** and harsh U.S. removal policies. Such rhetoric is most common in times of crisis, when racialized assumptions about dangerousness prompt crisis responses aimed at certain groups of non-citizens and their communities.

Continues....

Like the conflation of migrant status and criminality, the linkages between immigration status and national security threats have deep historical roots that have been reinforced through law. n125 In wartime and other times of national security crises, whether real or perceived, the nation's leaders have used the rhetoric of security to justify heightened **immigration restrictions**. n126 During times of peace, however, those favoring **immigration restrictions** have tended to focus on economic or cultural concerns. n127 September 11, 2001, signaled the beginning of a new era of crisis in the United States, and once again, national security became the touchstone of immigration reform rhetoric.

Immigration Restrictions Contextual Evidence

LIAV ORGAD, Radzyner School of Law, The Interdisciplinary Center Herzliya; Visiting Researcher Harvard Law School, 2010

(The American Journal of Comparative Law, 58 Am. J. Comp. L. 53)

From one variant of a cosmopolitan perspective, culture-based criteria can be justified in cases where they are used to keep out criminals, terrorists, and the like. n185 Yet, it will be an arbitrary criterion as long as its purpose is to admit only people of "our kind." n186 Excluding is only legitimate when there is an actual threat to individual [*89] freedoms otherwise everyone should have a right to sign the "contract," even if it "changes the character of the community." n187 A cosmopolitan view sees the whole world as the beneficiary of goods. **Immigration restrictions** prevent individuals from enjoying the goods of living in a liberal society. Furthermore, a cosmopolitan view asks to balance potential costs derived from admission of culturally diverse migrants with potential benefits of such admission to the whole world.

Sample Immigration Reports

America's Voice:

http://americasvoiceonline.org/pages/reform_agenda/

Center for American Progress:

http://www.americanprogress.org/issues/2009/12/immigration_principles.html

Immigration Policy Center:

<http://www.immigrationpolicy.org/issues>

Federation for American Immigration Reform:

http://www.fairus.org/site/PageNavigator/legislation/legislative_resources/Legislation_main/

Council on Foreign Relations

<http://www.cfr.org/publication/20030/>

Brookings Institute

http://www.brookings.edu/reports/2009/1006_immigration_roundtable.aspx