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Permanent Legal Immigration to the United States: Policy Overview

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Summary

The pool of people eligible to immigrate to the United States as legal permanent residents (LPRs) each year typically exceeds the worldwide level set by the Immigration and Nationality Act (INA). In an effort to process the demand for LPR visas fairly and in the national interest, LPR admissions are subject to a complex set of numerical limits and preference categories that give priority for admission on the basis of family relationships, needed skills, and geographic diversity. The INA further specifies that each year, countries are held to a numerical limit of 7% of the worldwide level of U.S. immigrant admissions, known as per-country limits or country caps.

In FY2014, just over 1 million aliens became U.S. legal permanent residents (LPRs). Of this total, 64% entered the United States on the basis of family ties. Other major categories of LPRs were employment-based (15%), refugees and asylees (13%), and diversity migrants (5%). In FY2014, Mexico was the source country of 13% of LPRs who were admitted or adjusted status. Other top countries were India (8%), China (7%), the Philippines (5%), and Cuba (5%). These top five countries made up 38% of all LPRs who were admitted or who adjusted status in FY2014. Rather than newly arriving from abroad, 53% (535,126) were adjusting to LPR status from a temporary (i.e., nonimmigrant) status within the United States.

At the start of FY2015, 4.6 million approved LPR visa petitions—mostly family based petitions—were pending with the National Visa Center because of the numerical limits in the INA. This figure does not represent a processing backlog; rather, it is the number of persons who have been approved for visas that are not yet available due to the numerical limits in the INA. Approximate wait times for numerically limited family and employment preference visas range widely depending on the specific category and country of origin. Prospective family-sponsored immigrants from the Philippines have the most substantial wait times before a visa is scheduled to become available to them; consular officers are now considering the petitions of the brothers and sisters of U.S. citizens from the Philippines who filed almost 24 years ago.

Some have advocated for a significant reallocation of the visa categories or a substantial increase in legal immigration to satisfy the desire of U.S. families to reunite with their relatives abroad and to meet the labor force needs of employers hiring foreign workers. Proponents of family-based migration often maintain that any proposal to increase immigration should also include additional family-based visas to reduce wait times—currently up to years and decades—for those already “in the queue.” Arguing against these competing priorities for increased immigration are those who favor reduced immigration, including proposals to limit family-based LPRs to the immediate relatives of U.S. citizens, to confine employment-based LPRs to highly skilled workers, and to eliminate the diversity visas.

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Four major principles currently underlie U.S. policy on legal permanent immigration: the reunification of families, the admission of immigrants with needed skills, the protection of refugees, and the diversity of admissions by country of origin. These principles are embodied in federal law, the Immigration and Nationality Act (INA) first codified in 1952. The Immigration Amendments of 1965 replaced the national origins quota system (enacted after World War I) with per-country ceilings, and the statutory provisions regulating permanent immigration to the United States were last revised significantly by the Immigration Act of 1990.¹

The critiques of the permanent legal immigration system today are extensive, but no consensus exists on the specific direction legal reforms should take. Many maintain that revision of the legal immigration system should be one of the major components of any comprehensive proposal.² This primer on legal permanent immigration law, policies, and trends provides a backdrop for the policy options and debates that may emerge as Congress considers a revision of the legal immigration system.³

Introduction

The two types of legal aliens are *immigrants* and *nonimmigrants*. As defined in the INA, immigrants are synonymous with legal permanent residents (LPRs) and refer to foreign nationals who come to live lawfully and permanently in the United States. The other major class of legal aliens are nonimmigrants—such as tourists, foreign students, diplomats, temporary agricultural workers, exchange visitors, or intracompany business personnel—who are admitted for a specific purpose and a temporary period of time. Nonimmigrants are required to leave the country when their visas expire, though certain classes of nonimmigrants may adjust to LPR status if they otherwise qualify.⁴

The conditions for the admission of immigrants are much more stringent than nonimmigrants, and many fewer immigrants than nonimmigrants are admitted. Once admitted, however, immigrants are subject to few restrictions; for example, they may accept and change employment, and may apply for U.S. citizenship through the naturalization process, generally after five years.

The prospective immigrant must maneuver a multi-step process through federal departments and agencies to obtain LPR status. Petitions for immigrant (i.e., LPR) status are first filed with U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security (DHS) by the sponsoring relative or employer in the United States. If the prospective immigrant is already legally residing in the United States, USCIS handles most of the process, which is called “adjustment of status” in the INA because the alien is moving from a temporary category to LPR status.⁵ If the prospective LPR has not established a lawful residence in the United States, the

¹ Congress has significantly amended the INA numerous times since 1952. Other major laws amending the INA are the Refugee Act of 1980, the Immigration Reform and Control Act of 1986, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. 8 U.S.C. §1101 et seq.

² Other major components of comprehensive immigration reform that are commonly mentioned are increased border security and enforcement of immigration laws within the U.S. interior; reform of temporary worker visas; and options to address the millions of unauthorized aliens residing in the country.

³ For a discussion of the legislation under consideration, see CRS Report R44230, *Immigration Legislation and Issues in the 114th Congress*, coordinated by (name redacted)

⁴ Nonimmigrants are often referred to by the letter that denotes their specific provision in the statute, such as H-2A agricultural workers, F-1 foreign students, or J-1 cultural exchange visitors. CRS Report RL31381, *U.S. Immigration Policy on Temporary Admissions*, by (name redacted)

⁵ INA §245 details the circumstances under which an alien can change from a nonimmigrant or other temporary status (continued...)

petition is forwarded to the Department of State's (DOS's) Bureau of Consular Affairs in the home country after USCIS has approved it. The Consular Affairs officer (when the alien is coming from abroad) and USCIS adjudicator (when the alien is adjusting status in the United States) must be satisfied that the alien is entitled to the immigrant status. These reviews are intended to ensure that prospective immigrants are not ineligible for visas or admission under the grounds for inadmissibility spelled out in the INA.⁶

Many LPRs are adjusting status from within the United States rather than receiving visas issued abroad by Consular Affairs.⁷ As discussed more fully in the Immigration Trends section below, 53% of all LPRs adjusted to LPR status in the United States rather than abroad in FY2014.

The INA specifies that each year countries are held to a numerical limit of 7% of the worldwide level of U.S. immigrant admissions, known as per-country limits. The actual number of immigrants that may be approved from a given country, however, is not a simple percentage calculation. Immigrant admissions and adjustments to LPR status are subject to a complex set of numerical limits and preference categories that give priority for admission on the basis of family relationships, needed skills, and geographic diversity.

Current Law and Policy

Worldwide Immigration Levels

The INA provides for a permanent annual worldwide level of 675,000 legal permanent residents (LPRs), but this level is flexible and the INA permits certain LPR categories to exceed the limits.⁸ The permanent worldwide immigrant level consists of three components: *family-based immigrants*, including immediate relatives of U.S. citizens and family-sponsored preference immigrants (480,000 plus certain unused employment-based preference numbers from the prior year); *employment-based preference immigrants* (140,000 plus certain unused family preference numbers from the prior year); and *diversity immigrants* (55,000). Immediate relatives⁹ of U.S. citizens (as well as refugees and asylees who are adjusting status) are exempt from direct numerical limits.¹⁰

The annual level of family-sponsored preference immigrants is determined by subtracting the number of immediate relative visas issued in the previous year and the number of aliens paroled¹¹

(...continued)

to legal permanent resident status without leaving the United States to apply for the LPR visa.

⁶ These include criminal, national security, health, and indigence grounds as well as past violations of immigration law. Section 212(a) of INA. See CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*, by (name redacted) .

⁷ For background and analysis of visa issuance and admissions policy, see CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*, by (name redacted) .

⁸ §201 of INA; 8 U.S.C. §1151.

⁹ “Immediate relatives” are defined by the INA to include the spouses and unmarried minor children of U.S. citizens, and the parents of adult U.S. citizens.

¹⁰ Refugees are admitted to the United States as such and then may adjust to LPR status after one year. Asylees are foreign nationals who request and receive asylum after they have entered the United States. They too, can adjust to LPR status after one year. CRS Report RL31269, *Refugee Admissions and Resettlement Policy*, by (name redacted)

¹¹ “Parole” is a term in immigration law which means that the alien has been granted temporary permission to be present in the United States. Parole does not constitute formal admission to the United States and parolees are required to leave when the terms of their parole expire, or if otherwise eligible, to be admitted in a lawful status.

into the United States for at least a year from 480,000 (the total family immigration level) and—when available—adding employment preference immigrant numbers unused during the previous year. By law, the family-sponsored preference level may not fall below 226,000. As a consequence, the 480,000 level of family immigration has often been exceeded to maintain the 226,000 floor on family-sponsored preference visas, because the number of immediate relatives is greater than 254,000 annually.¹²

Per-country Ceilings

As mentioned above, the INA establishes per-country levels at 7% of the worldwide level.¹³ For a dependent foreign state,¹⁴ the per-country ceiling is 2%. The per-country level is not a quota or set aside for individual countries, as each country in the world could not receive 7% of the overall limit. As the State Department describes, “(T)he country limitation serves to avoid monopolization of virtually all the annual limitation by applicants from only a few countries. This limitation is not a quota to which any particular country is entitled, however.”¹⁵

Two important exceptions to the per-country ceilings were enacted in the past decade. Foremost is an exception for certain family-sponsored immigrants. Specifically, the INA states that 75% of the visas allocated to spouses and children of LPRs are not subject to the per-country ceiling.¹⁶ Prior to FY2001, employment-based preference immigrants were also held to per-country ceilings. The American Competitiveness in the Twenty-First Century Act of 2000 (P.L. 106-313) enabled the per-country ceilings for employment-based immigrants to be surpassed for individual countries that are oversubscribed as long as visas are available within the worldwide limit for employment-based preferences. The impact of these revisions to the per-country ceilings is discussed later in this report. The actual per-country ceiling varies from year to year according to the prior year’s immediate relative and parolee admissions and unused visas that roll over.

Family and Employment-Based Preferences

Within each family and employment preference category, the INA further allocates the number of LPRs issued visas each year. The family preference categories are based upon the closeness of the family relationship to U.S. citizens and LPRs.¹⁷ The employment preference categories are based upon the professional accomplishments and skills needed by U.S. employers. As **Table 1** summarizes the legal immigration preference system, the complexity of the allocations becomes apparent. Note that in most instances unused visa numbers are allowed to roll down to the next preference category. Employment-based visa allocations not used in a given year roll-over to the family preference categories the following year, and vice versa.¹⁸

¹² If the number of immediate relatives of U.S. citizens admitted in the previous fiscal year fell below 254,000 (the difference between 480,000 for all family-based admissions and 226,000 for family preference admissions), then family preference admissions could exceed 226,000 by that difference. However, annual immediate relative admissions have exceeded 254,000 each year since FY1996, and family preference admissions have remained at 226,000 as well.

¹³ §202(a)(2) of the INA; 8 U.S.C. §1152(a)(2).

¹⁴ Macau, the former Portuguese colony that became a special administrative region of the Peoples’ Republic of China in 1999, would be considered a dependent foreign state.

¹⁵ Bureau of Consular Affairs, *Operation of the Immigrant Numerical Control Process*, U.S. Department of State, undated, p. 3, located at <http://travel.state.gov/content/visas/english/law-and-policy/bulletin.html>.

¹⁶ §202(a)(4) of the INA; 8 U.S.C. §1152(a)(4).

¹⁷ For discussion and analysis, see CRS Report R43145, *U.S. Family-Based Immigration Policy*, by (name redacted).

¹⁸ Employment-based allocations are further affected by §203(e) of the Nicaraguan and Central American Relief Act (continued...)

Table I. Legal Immigration Preference System

Category		Numerical limit
Total Family-Sponsored Immigrants		480,000
<i>Immediate relatives</i>	Aliens who are the spouses and unmarried minor children of U.S. citizens and the parents of adult U.S. citizens	Unlimited
Family-sponsored Preference Immigrants		Worldwide Level 226,000
<i>1st preference</i>	Unmarried sons and daughters of citizens	23,400 plus visas not required for 4 th preference
<i>2nd preference</i>	(A) Spouses and minor children of LPRs (B) Unmarried sons and daughters of LPRs	114,200 plus visas not required for 1 st preference [77% are reserved for spouses and children of LPRs]
<i>3rd preference</i>	Married sons and daughters of citizens	23,400 plus visas not required for 1 st or 2 nd preference
<i>4th preference</i>	Siblings of citizens age 21 and over	65,000 plus visas not required for 1 st , 2 nd , or 3 rd preference
Employment-Based Preference Immigrants		Worldwide Level 140,000
<i>1st preference</i>	Priority workers: persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain multi-national executives and managers	28.6% of worldwide limit plus unused 4 th and 5 th preference
<i>2nd preference</i>	Members of the professions holding advanced degrees or persons of exceptional abilities in the sciences, art, or business	28.6% of worldwide limit plus unused 1 st preference
<i>3rd preference—skilled</i>	Skilled shortage workers with at least two years training or experience, professionals with baccalaureate degrees	28.6% of worldwide limit plus unused 1 st or 2 nd preference
<i>3rd preference—“other”</i>	Unskilled shortage workers	10,000 (taken from the total available for 3 rd preference)
<i>4th preference</i>	“Special immigrants,” including ministers of religion, religious workers other than ministers, certain employees of the U.S. government abroad, and others	7.1% of worldwide limit; religious workers limited to 5,000
<i>5th preference</i>	Employment creation investors who invest at least \$1 million (amount may vary in rural areas or areas of high unemployment) which will create at least 10 new jobs	7.1% of worldwide limit; 3,000 <i>minimum</i> reserved for investors in rural or high unemployment areas

Source: CRS summary of §§203(a), 203(b), and 204 of INA; 8 U.S.C. §1153.

Note: Employment-based allocations are further affected by §203(e) of the Nicaraguan and Central American Relief Act (NACARA), as amended by §1(e) of P.L. 105-139. This provision states that the employment 3rd preference “other workers” category is to be reduced by up to 5,000 annually for as long as necessary to offset adjustments under NACARA.

As part of the Immigration Act of 1990, Congress added a fifth preference category for foreign investors to become LPRs. The INA allocates up to 10,000 admissions annually and generally

(...continued)

(NACARA), as amended by §1(e) of P.L. 105-139. This provision states that when the employment 3rd preference “other worker” (OW) cut-off date reaches the priority date of the latest OW petition approved prior to November 19, 1997, the 10,000 OW numbers available for a fiscal year are to be reduced by up to 5,000 annually beginning in the following fiscal year. This reduction is to be made for as long as necessary to offset adjustments under NACARA. Since the OW cut-off date reached November 19, 1997, during FY2001, the reduced OW limit began in FY2002.

requires a minimum \$1 million investment and employment of at least 10 U.S. workers. Less capital is required for aliens who participate in the immigrant investor pilot program, in which they invest in targeted regions and existing enterprises that are financially troubled.¹⁹

Employers who seek to hire prospective employment-based immigrants through the second and third preference categories also must petition the U.S. Department of Labor (DOL) on behalf of the alien. The prospective immigrant must demonstrate that he or she meets the qualifications for the particular job as well as the preference category. If DOL determines that a labor shortage exists in the occupation for which the petition is filed, labor certification will be issued. If there is not a labor shortage in the given occupation, the employer must submit evidence of extensive recruitment efforts in order to obtain certification.²⁰

Other Permanent Immigration Categories

In addition to family-sponsored and employment-based preference categories, several other major categories of legal permanent immigration exist to cover a variety of cases, ranging from aliens who win the Diversity Visa Lottery to aliens in removal (i.e., deportation) proceedings granted LPR status by an immigration judge because of exceptional and extremely unusual hardship.²¹ **Table 2** summarizes these major classes and identifies whether they are numerically limited.

Table 2. Other Major Legal Immigration Categories

	Non-preference Immigrants	Numerical Limit
<i>Asylees</i>	Aliens in the United States who have been granted asylum due to persecution or a well-founded fear of persecution and who must wait one year before petitioning for LPR status	No limits on LPR adjustments as of FY2005. (Previously limited to 10,000)
<i>Cancellation of Removal</i>	Aliens in removal proceedings granted LPR status by an immigration judge because of exceptional and extremely unusual hardship	4,000 (with certain exceptions)
<i>Diversity Lottery</i>	Aliens from foreign nations with low admission levels; must have high school education or equivalent or minimum two years of work experience in a profession requiring two years training or experience	55,000
<i>Refugees</i>	Aliens abroad who have been granted refugee status due to persecution or a well-founded fear of persecution and who must wait one year before petitioning for LPR status	Presidential Determination for refugee status, no limits on LPR adjustments
<i>Other</i>	Various classes of immigrants, such as Amerasians, parolees, and certain Central Americans, Cubans, and Haitians who are adjusting to LPR status	Dependent on specific adjustment authority

Source: CRS summary of §§203(a), 203(b), 204, 207, 208, and 240A of INA; 8 U.S.C. §1153.

¹⁹ See CRS Report R44475, *EB-5 Immigrant Investor Visa*, by (name redacted) and (name redacted)

²⁰ See CRS Report RL33977, *Immigration of Foreign Workers: Labor Market Tests and Protections*, by (name redacted)

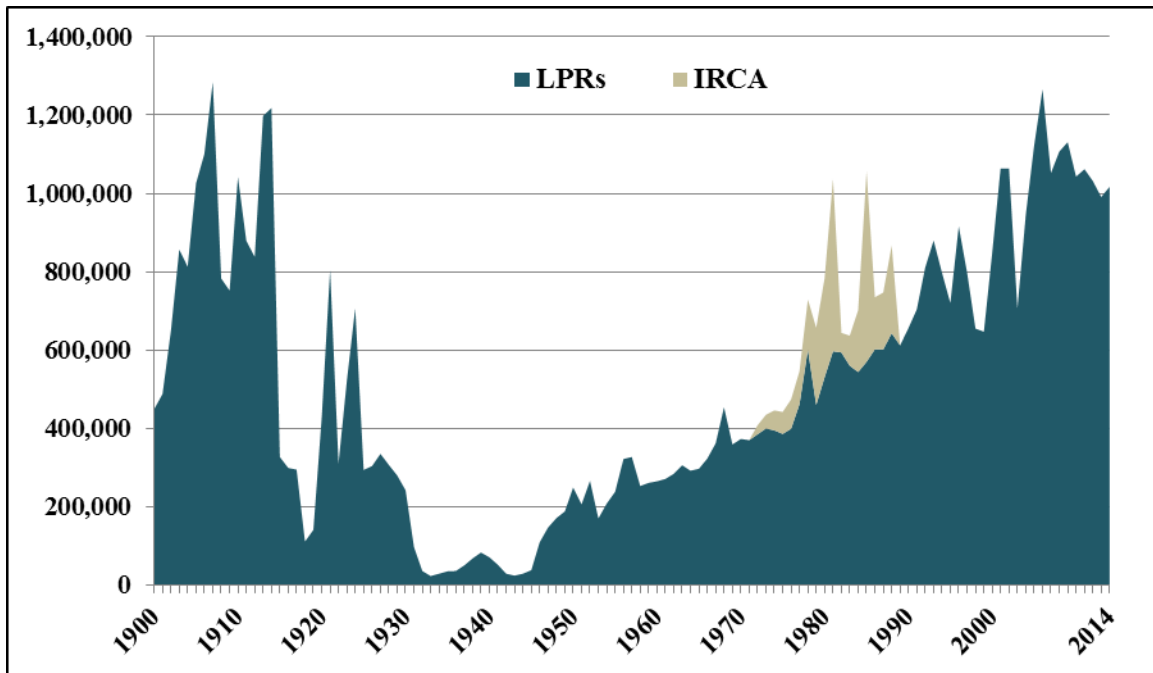
²¹ See CRS Report R41747, *Diversity Immigrant Visa Lottery Issues*, by (name redacted); and CRS Report R42477, *Immigration Provisions of the Violence Against Women Act (VAWA)*, by (name redacted)

Immigration Trends

Immigration Patterns, 1900-2014

Immigration to the United States is not totally determined by shifts in flow that result from lawmakers revising immigration allocations. Immigration to the United States plummeted in the middle of the 20th century largely as a result of factors brought on by the Great Depression and World War II. Those events, which are reflected in **Figure 1**, illustrate how a variety of “push-pull” factors drive immigration. Push factors from immigrant-sending countries include circumstances such as civil wars, political unrest, economic deprivation and limited job opportunities, and catastrophic natural disasters. Pull factors in the United States include such features as strong employment conditions, reunion with family, and quality of life considerations. A corollary factor is the extent that aliens may be able to migrate to other “desirable” countries that offer circumstances and opportunities comparable to the United States.

Figure 1. Annual LPR Admissions and Status Adjustments, 1900-2014



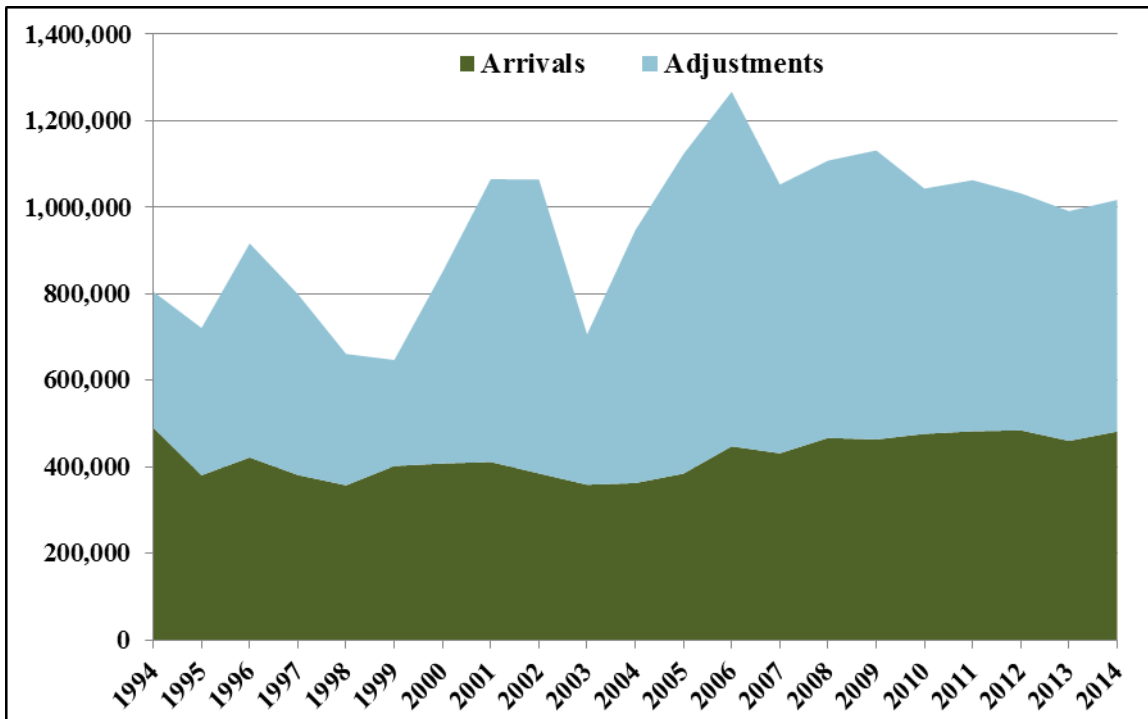
Source: 1900-2013: U.S. Department of Homeland Security, Office of Immigration Statistics, *Yearbook of Immigration Statistics*, multiple fiscal years. 2014: U.S. Department of Homeland Security, Office of Immigration Statistics, *U.S. Lawful Permanent Residents: 2014*, April 2016.

Note: Aliens legalizing through the Immigration Reform and Control Act (IRCA) of 1986 are depicted by year of arrival rather than year of adjustment.

The annual number of LPRs admitted or adjusted in the United States rose gradually after World War II, as **Figure 1** illustrates. The DHS Office of Immigration Statistics (OIS) data present those admitted as LPRs or those adjusting to LPR status. The growth in immigration after 1980 is partly attributable to the total number of admissions under the basic system, consisting of immigrants entering through a preference system as well as immediate relatives of U.S. citizens, that was

augmented considerably by legalized aliens.²² The Immigration Act of 1990 increased the ceiling on employment-based preference immigration, with the provision that unused employment visas would be made available the following year for family preference immigration. In addition, the number of refugees admitted increased from 718,000 in the period 1966-1980 to 1.6 million during the period 1981-1995, after the enactment of the Refugee Act of 1980.

Figure 2. Legal Permanent Residents, New Arrivals and Adjustments of Status, FY1994-FY2014



Source: 1994-2013: U.S. Department of Homeland Security, Office of Immigration Statistics, *Yearbook of Immigration Statistics*, multiple fiscal years. 2014: U.S. Department of Homeland Security, Office of Immigration Statistics, *U.S. Lawful Permanent Residents: 2014*, April 2016.

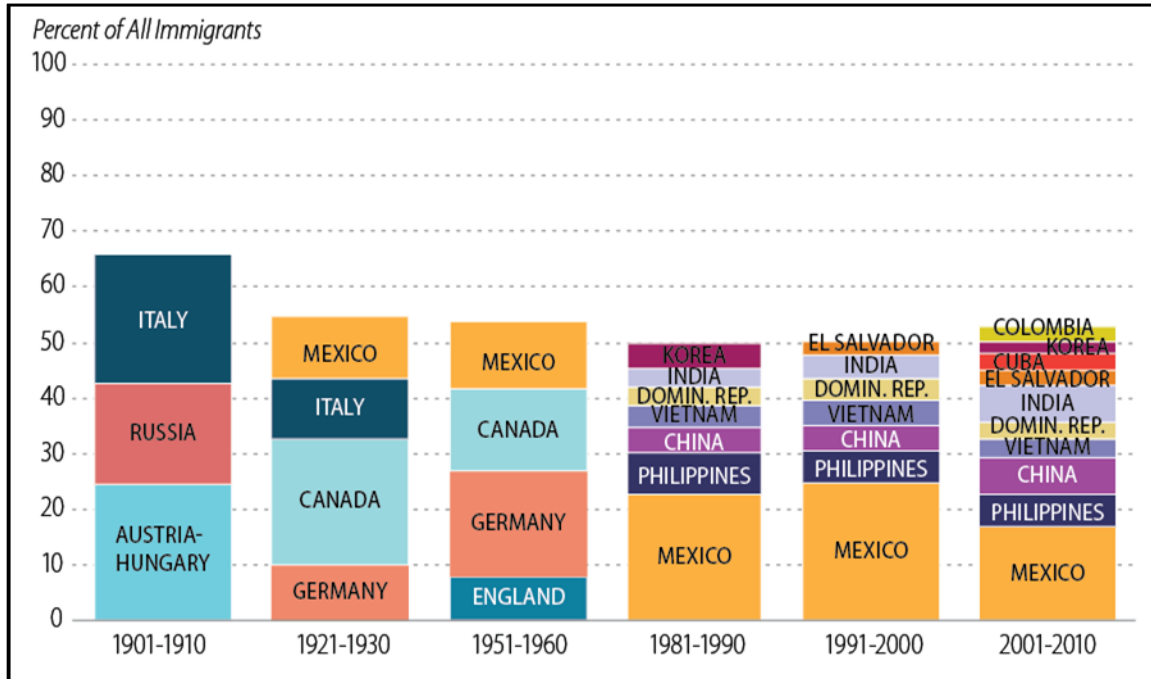
Many LPRs are adjusting status from within the United States rather than receiving visas issued abroad by Consular Affairs before they arrive in the United States. In the past decade, the number of LPRs arriving from abroad has remained somewhat steady, hovering between a high of 481,948 in FY2012 and a low of 358,411 in FY2003. Adjustments to LPR status in the United States have fluctuated over the same period, from a low of 244,793 in FY1999 to a high of 819,248 in FY2006. As **Figure 2** shows, most of the variation in total number of aliens granted LPR status over the past decade is due to the number of adjustments processed in the United States rather than visas issued abroad.

In any given period of United States history, a handful of countries have dominated the flow of immigrants, but the dominant countries have varied over time. **Figure 3** presents trends in the top immigrant-sending countries (together comprising at least 50% of the immigrants admitted) for selected decades. The figure illustrates that immigration at the close of the 20th century was not as dominated by three or four countries as it was earlier in the century. These data suggest that the

²² The Immigration Reform and Control Act of 1986 legalized 2.7 million aliens who were residing in the United States without authorization.

per-country ceilings established in 1965 had some effect. As **Figure 3** illustrates, immigrants from only three or four countries made up more than half of all LPRs prior to 1960. By the last two decades of the 20th century, immigrants from seven to nine countries comprised about half of all LPRs and this pattern has continued into the 21st century.

Figure 3. Top Sending Countries (Comprising at Least Half of All LPRs): Selected Decades



Source: CRS analysis of Table 2, *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, FY2010.

Although Europe was home to the countries sending the most immigrants during the early 20th century (e.g., Germany, Italy, Austria-Hungary, and the United Kingdom), Mexico has been a top sending country for most of the 20th century and into the 21st century. Other top sending countries from FY2001 through FY2010 are the Dominican Republic, El Salvador, Colombia, and Cuba (Western Hemisphere) and the Philippines, India, China, South Korea, and Vietnam (Asia).

FY2014 Admissions

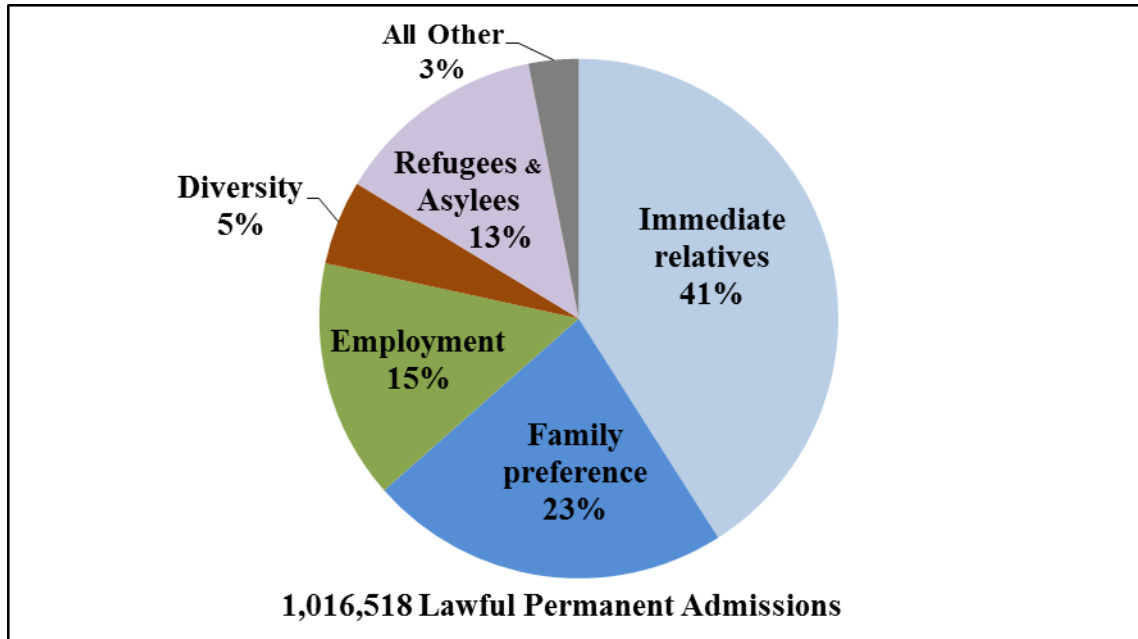
In FY2014, just over 1 million aliens became LPRs. Of this total, almost two-thirds (41% + 23%) entered as family-based immigrants (**Figure 4**). Employment-based immigrants accounted for 15% of all LPRs, refugees and asylees for 13%, and diversity migrants for 5%.

Immediate relatives of U.S. citizens, who are not numerically limited by the INA, accounted for 41% of all LPRs in 2014. This portion of all LPRs can be further broken down by relationship to the U.S. citizen: spouses of U.S. citizens made up 24%, parents of adult U.S. citizens made up 11%, and children of U.S. citizens (including adopted orphans) made up 6% of all LPRs.²³

²³ U.S. Department of Homeland Security, Office of Immigration Statistics, *U.S. Lawful Permanent Residents: 2014*, April 2016.

In FY2014, Mexico was the source country of 13% of LPRs who were admitted or adjusted status. Other top countries were India (8%), China (7%), the Philippines (5%), and Cuba (5%). These top five countries made up 38% of all LPRs who were admitted or who adjusted status in FY2014. Similarly, the leading regions of birth for LPRs in FY2014 were Asia (42%) and North America²⁴ (32%), together accounting for three-fourths of all LPRs.²⁵

Figure 4. Legal Permanent Residents by Major Category, FY2014



Source: U.S. Department of Homeland Security, Office of Immigration Statistics, *U.S. Lawful Permanent Residents: 2014*, April 2016, Table 2.

In FY2014, USCIS adjusted 535,126 aliens (53%) to LPR status, while 481,392 (47%) arrived from overseas and were admitted as LPRs. The fewest LPR adjustments occurred in FY2003, when USCIS was just standing up as an agency after the creation of DHS. In the previous fiscal year (FY2013, the most recent year for which detailed data are available), most employment-based immigrants (87%) adjusted to LPR status from within the United States. Half (53%) of the immediate relatives of U.S. citizens also did so that year. Only 10% of the other family-preference immigrants adjusted to LPR status within the United States in FY2013.²⁶

Approved Visa Petitions Pending

The pool of people who are eligible to immigrate to the United States as LPRs each year typically exceeds the worldwide level set by U.S. immigration law. At the end of each fiscal year, the Department of State publishes a tabulation of approved visa petitions pending with the National

²⁴ North America includes the Caribbean and Central America as well as Mexico and Canada.

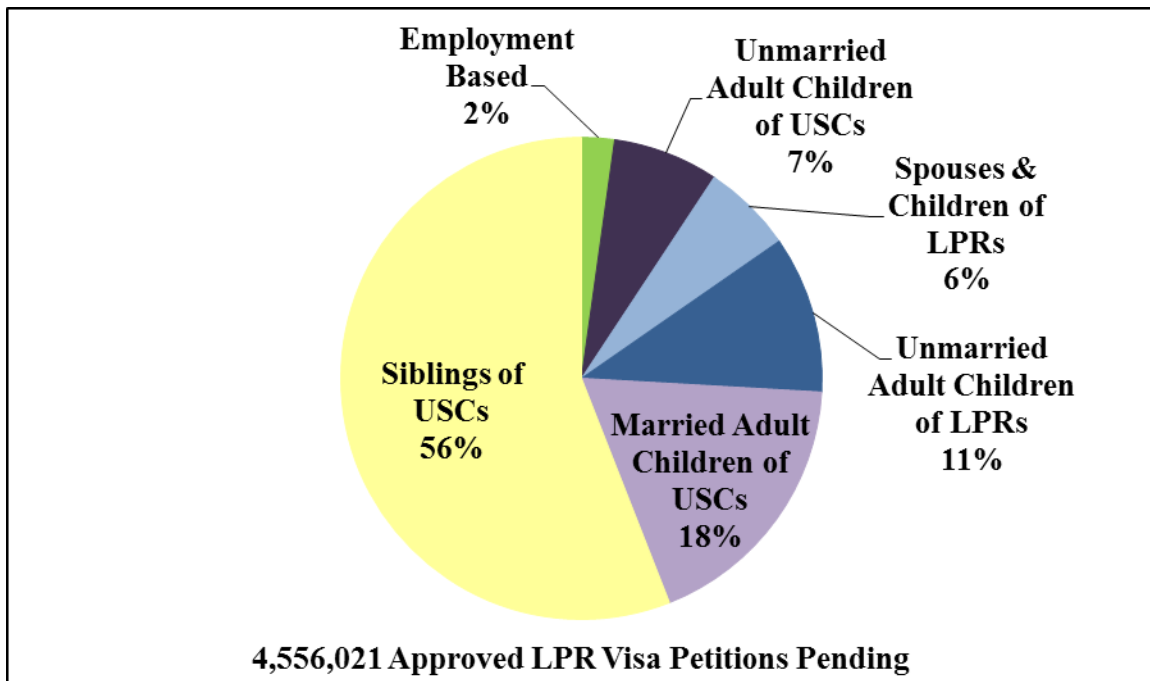
²⁵ U.S. Department of Homeland Security, Office of Immigration Statistics, *U.S. Lawful Permanent Residents: 2014*, April 2016, Table 3.

²⁶ U.S. Department of Homeland Security, Office of Immigration Statistics, *Yearbook of Immigration Statistics: 2013*, Table 7.

Visa Center.²⁷ These data do not constitute a backlog of petitions to be processed; they represent persons who have been approved for visas that are not yet available due to the numerical limits in the INA. The National Visa Center caseload is the data that drive the priority dates published in the *Visa Bulletin* each month.²⁸

Family-based preference categories dominated the queue of 4.6 million approved LPR visa petitions pending with the National Visa Center at the end of FY2015 (**Figure 5**). Over half (56%) of all approved petitions pending were 4th preference siblings of U.S. citizens, and one-quarter (25%) were 1st preference unmarried children and 3rd preference married children of U.S. citizens. Second preference family members of LPRs totaled 17% of the queue.

Figure 5. Approved LPR Visa Petitions Pending November 2015



Source: U.S. Department of State, *Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2015*.

Figure 5 indicates, the employment-based preferences account for only 2% of the 4.6 million LPR visas pending with the National Visa Center as of November 1, 2015. This figure of 100,747 reflects persons registered under each respective numerical limitation (i.e., the totals represent not only principal applicants or petition beneficiaries, but also their spouses and children entitled to derivative status under the INA).

²⁷ U.S. Department of State, *Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2015*.

²⁸ For further specifications of the data that DOS factors into the visa priority dates, see U.S. Department of State, Visa Office, *Annual Numerical Limits for Fiscal Year 2015*, located at <http://travel.state.gov/content/visas/english/law-and-policy/statistics/immigrant-visas.html>.

Caveat on the Queue

USCIS performance data suggest that USCIS has not yet forwarded a substantial portion of the LPR caseload to the National Visa Center.²⁹ Similarly, the I-485 Inventory that USCIS maintains on all pending employment-based adjustment of status cases suggests that large numbers of employment-based LPR petitions might be in the “pipeline.”³⁰

Visa Processing Dates

According to the INA, family-sponsored and employment-based preference visas are issued to eligible immigrants in the order in which petitions are filed. Spouses and children of prospective LPRs are entitled to the same status and order of consideration as the person qualifying as the principal LPR, if they are accompanying or following to join (referred to as derivative status). When visa demand exceeds the per-country limit, visas are prorated according to the preference system allocations (detailed in **Table 1**) for the oversubscribed foreign state or dependent area.³¹

Family-Based Visa Priority Dates

Table 3 presents a recent *Visa Bulletin* published monthly by the Department of State for all five family-sponsored preference categories. It indicates that, as of April 12, 2016 (the date when the May *Visa Bulletin* was published), relatives of U.S. citizens and LPRs who fell into these categories and who had approved petitions for admission to the United States were all waiting for a visa to become available.

Table 3. Priority Dates for Family Preference Visas, as of May 2016

Category	Worldwide	El Salvador, Guatemala, Honduras	India	Mexico	Philippines
F1—Unmarried adult children of USCs	11/22/2008	11/22/2008	11/22/2008	2/8/1995	10/1/2004
F2A—Spouses & minor children of LPRs	11/1/2014	11/1/2014	11/1/2014	8/15/2014	11/1/2014
F2B—Unmarried adult children of LPRs	9/1/2009	9/1/2009	9/1/2009	9/8/1995	5/1/2005
F3—Married adult children of USCs	12/1/2004	12/1/2004	12/1/2004	10/8/1994	1/22/1994
F4—Siblings of citizens age 21 and over	7/22/2003	7/22/2003	7/22/2003	4/8/1997	10/1/1992

Source: U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin for May 2016*, April 12, 2016.

Notes: The “F” codes are used by DOS in its *Visa Bulletin* to refer to the various family-sponsored preference categories. The second family-sponsored preference category is divided into two groups: 2nd Preference A, consisting of spouses and minor children of LPRs; and 2nd Preference B, consisting of adult unmarried children of LPRs. **USCs** refer to U.S. citizens, and **LPRs** refer to lawful permanent residents.

²⁹ Performance data from the first quarter of FY2016 indicate that 3.5 million petitions were pending. Communication with USCIS indicates that most of these will eventually be forwarded to the National Visa Processing Center. See https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/all_forms_performancedata_fy2016_qtr1.pdf.

³⁰ For further discussion and analysis on numerical limits and backlogs, see CRS Report R42048, *Numerical Limits on Employment-Based Immigration: Analysis of the Per-Country Ceilings*, by (name redacted).

³¹ U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin For May 2016*, April 12, 2016.

“Priority date” means, for example, that unmarried adult sons and daughters of U.S. citizens (1st preference) who filed petitions on November 22, 2008, were being processed for visas as of April 12, 2016. Depending on the country of origin, persons in this category who had submitted petitions even earlier were also being processed for visas. Likewise, as of April 12, 2016, married adult sons and daughters of U.S. citizens (3rd preference) who filed petitions over 11 years ago (December 1, 2004) were being processed for visas (with older priority dates for some countries). Brothers and sisters of U.S. citizens (4th preference) could expect to wait almost 13 years, with considerably longer waits for siblings from Mexico and the Philippines. Prospective family-sponsored immigrants from the Philippines all had the longest wait times for a visa to become available to them; consular officers as of April 12, 2016, were considering petitions of brothers and sisters of U.S. citizens from the Philippines who filed over 23 years ago.³²

Amidst these long queues, the spouses and children of LPRs (category 2FA in **Table 3**) had the most recent priority date: November 1, 2014. Ten years ago, in FY2006, the spouses and children of LPRs faced a four-year queue. Two years ago, in May 2014, that preference category had a priority date of September 8, 2013, equal to a seven-month queue. The number of approved pending petitions for spouses and children of LPRs dropped from 332,636 at the end of FY2011 to 238,417 at the end of FY2013. It is unclear whether this decline represents diminishing demand for these visas, delays by USCIS in submitting approved petitions to the National Visa Center, or a backlog of petitions in the “pipeline” that have yet to be processed and approved.

Employment-Based Visa Priority Dates

Table 4 presents the May *Visa Bulletin* for the five employment preference categories. It indicates that, as of April 12, 2016 (the date when the May *Visa Bulletin* was published), the priority workers visa category (i.e., extraordinary ability) was current. Visas for workers with advanced degrees were current worldwide, but those seeking advanced degree visas from China and India had September 1, 2012, and November 22, 2008, priority dates, respectively. Visas for professional and skilled workers had a worldwide priority date of February 15, 2016, except for workers from China, India and the Philippines, who had longer waits.³³

Table 4. Priority Dates for Employment Preference Visas, as of May 2016

Category	Worldwide	China	El Salvador, Guatemala, Honduras	India	Mexico	Philippines
1 st —Priority workers	current	current	current	current	current	current
2 nd —Advanced degrees	current	9/1/2012	current	11/22/2008	current	current
3 rd —Skilled/professional	2/15/2016	8/15/2013	2/15/2016	9/1/2004	2/15/2016	8/8/2008
3 rd —Unskilled/Other	2/15/2016	4/22/2007	2/15/2016	9/1/2004	2/15/2016	8/8/2008
4 th —Special immigrants	current	current	1/10/2010	current	current	current
5 th —Investors	current	2/8/2014	current	current	current	current

Source: U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin for May 2016*.

Note: The 3rd employment preference category includes skilled and unskilled worker categories (see **Table 1**).

³² For more on the family-based visa queue, see CRS Report R43145, *U.S. Family-Based Immigration Policy*, by (name redacted).

³³ For more analysis of factors driving the employment-based visa queue, see CRS Report R42530, *Immigration of Foreign Nationals with Science, Technology, Engineering, and Mathematics (STEM) Degrees*, by (name redacted).

Concluding Observations

Some posit that revision of the system of permanent legal immigration should be a major component of any immigration reform proposal.³⁴ In recent years, Congress has considered proposals to alter the legal immigration system—either with a comprehensive approach³⁵ or with incremental revisions aimed at strategic changes.³⁶

Those favoring expanded immigration typically advocate for specific changes. Some favor a significant reallocation of the visa categories or a substantial increase in legal immigration to satisfy the desire of U.S. families to reunite with their relatives abroad and to meet the labor force needs of employers hiring foreign workers. Others favor a reallocation toward employment-based immigration to help U.S. employers compete for the “best and the brightest,” including foreign professional workers in science, technology, engineering, or mathematics (STEM) fields.³⁷ Proponents of family-based migration maintain that any proposal to increase immigration should also include the option of additional family-based visas to reduce wait times—currently up to years or decades—for those already “in the queue.”

Arguing against these competing priorities for increased immigration are those who favor reduced immigration, including proposals to limit family-based LPRs to the immediate relatives of U.S. citizens, to confine employment-based LPRs to highly skilled workers, and to eliminate the diversity visas.

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³⁴ Other aspects of the U.S. immigration system that also receive attention during calls for reform include increased border security and enforcement of immigration laws within the U.S. interior, reform of temporary worker visas, and options to address the millions of unauthorized aliens residing in the country.

³⁵ In June 2013, the Senate in the 113th Congress passed a comprehensive reform bill, S. 744, that would make significant changes to the system of permanent legal immigration. For a full discussion of S. 744 as passed, see CRS Report R43097, *Comprehensive Immigration Reform in the 113th Congress: Major Provisions in Senate-Passed S. 744*, by (name redacted) .

³⁶ In December 2014, the House Committee on the Judiciary ordered to be reported legislation (H.R. 2131) that also would have revised the allocation of LPR visas. For more information, see CRS Report R43320, *Immigration Legislation and Issues in the 113th Congress*, coordinated by (name redacted)

³⁷ See CRS Report R42530, *Immigration of Foreign Nationals with Science, Technology, Engineering, and Mathematics (STEM) Degrees*, by (name redacted) .

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