

## *The Historical Presidency*

# Lyndon Johnson's Ambivalent Reform: The Immigration and Nationality Act of 1965

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*Among the flurry of legislative reforms achieved by Lyndon Johnson, few have proven more transformative than the Immigration and Nationality Act of 1965 (INA). Hailed at its recent fiftieth anniversary as one of the Great Society's egalitarian triumphs, few observers realize how reluctant LBJ was to champion the measure in the first place or how close it came to defeat in Congress. Saved by difficult compromises, the INA ultimately supplanted racist national origins quotas with a competing set of immigration opportunities and restrictions. The result was a contradictory law that recast the U.S. demographic landscape in spite of itself.*

Keywords: presidency, immigration, refugees, Lyndon Johnson, Congress, Great Society, civil rights, Cold War

### Introduction

Even by the outsized standards of Lyndon Johnson (or LBJ) and his Great Society juggernaut, the Immigration and Nationality Act of 1965 (INA) was monumental. The new law marked a dramatic break from immigration policies of the past by abolishing eugenics-inspired national origins quotas that barred nearly all Asian and African newcomers and reserved about seventy percent of visas for immigrants from just three countries: Great Britain, Ireland, and Germany. In their place, the INA established a preference framework that continues to guide American immigrant admissions, with family ties receiving highest priority followed by occupational skills and political refugee status. The product of contentious political wrangling, this immigration reform ultimately transformed the demographic makeup of the country (Schwartz 1968; Reimers 1992; Cose 1992; Tichenor 2002; Daniels 2004). Although few historians believe that the INA's champions anticipated just how profoundly it would change the U.S. demographic landscape (Reimers 1992; Ngai 2004; Lee 2014; Chin 2015), Johnson recognized that its passage was especially significant—enough so that he oversaw the staging of an

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elaborate signing ceremony at the base of the Statue of Liberty. White House staffers were given strict instructions by the President to physically block political rivals like New York Governor Nelson Rockefeller from the cameras assembled on the dais at Liberty Island.<sup>1</sup> Hinting at the INA's potential impact, Johnson predicted that the new law would "strengthen us in a hundred unseen ways" (Johnson 1965). Fifty years later, this sweeping immigration reform is being commemorated alongside the Voting Rights Act as one of the crowning—and most controversial—achievements of the hard-driving Johnson years (Gjetlten 2015; Munoz 2015; Wolgin 2015).

Yet the INA, also called the Hart-Celler Act, very nearly languished among the more than one hundred proposals that the Johnson administration submitted and lawmakers enacted during its first years in office. In fact, Johnson himself posed the first major hurdle to policy innovation. As the first section of this essay elucidates, generations of presidents were frustrated by the politics of immigration reform and Johnson in particular had good reason to eschew the passion his slain predecessor had for action on this issue. Getting the President on board required herculean efforts from reformers and clear linkages to be drawn between immigration policy and the administration's civil rights and foreign policy agendas. The next formidable barrier, as we shall see in the second section, came from immigration restrictionists both inside and outside Congress who adamantly opposed a marked expansion in immigration opportunities, especially for those originating from nontraditional source countries. Johnson and the INA's legislative supporters overcame these legislative headwinds by making significant concessions in terms of admissions preferences and the creation of new limits on Western Hemisphere immigration. The result, as I discuss in the concluding section, is a transformative law that has provoked sharply contrasting views of its meaning and impact. In the end, the Hart-Celler Act is a reflection of the arduous struggles between Johnson, reformers, and congressional stalwarts over its form and substance. Rather than a straightforward sea change in U.S. immigration policy, the INA is better understood as a mosaic of reforms with crosscutting implications that continue to haunt American immigration politics.

## Presidents, Immigration Reform, and LBJ's Late Conversion

When he became president in late 1963, Lyndon Johnson knew well that nearly all of his predecessors from the Gilded Age onward found immigration policy to be a political buzz saw. Over time, few occupants of the Oval Office sought to leave their mark on how immigrant admissions and rights were governed and even fewer had a measure of success in doing so. It was Congress, not the American presidency, who dominated immigration policy making for most of the nation's history (Tichenor 2004). Presidents who resisted Chinese exclusion on diplomatic grounds in the late nineteenth century, for instance, were castigated by mass publics in the West and ignored by large House and

1. Lawrence O'Brien Oral History Interview, September 18, 1985, LBJ Library.

Senate majorities eager to curry favor with the Sinophobic vote.<sup>2</sup> Woodrow Wilson vetoed literacy test legislation designed to discourage southern and eastern European immigration during his first term, only to have his veto of similar legislation overridden by large bipartisan majorities in 1917 (Wilson 1958, 187–88; Higham 1963, 192–93). In the 1930s, a period when draconian national origins quotas barred entry for most newcomers and demagogues like Representative Martin Dies (D-TX) blamed unemployment on past immigration policies, the Roosevelt administration avoided clashes with immigration restrictionists in Congress (Dies 1934; Tichenor 2002, 156–67). When Eleanor Roosevelt and Frances Perkins considered endorsing a Wagner-Rogers bill in 1939 that would have provided asylum to 20,000 German Jewish children, the White House insisted they maintain silent neutrality as nativist lawmakers blocked action.<sup>3</sup>

Cold War presidents like Harry Truman and Dwight Eisenhower were far more aggressive in challenging draconian immigration policies they saw as damaging to U.S. geopolitical interests. Both administrations enjoyed some success in winning temporary refugee relief for European “displaced persons” and Hungarian insurgents, either taking independent executive action or gaining passage of modest refugee relief laws (Truman 1953, 10; Loescher and Scanlan 1986, 17–62). However, neither president was able to secure significant changes in federal immigration policies that explicitly favored northern and western Europeans. In fact, congressional defenders of immigration restriction gained passage of the McCarran-Walter Act of 1952 (over a Truman veto) that fortified the exclusionary national origins quota system begun in 1924 and established new bars based on ideology and sexual preference (Divine 1972, 177–91; Reimers 1992, 54–56). “In no other realm of our national life,” Truman lamented during his battle with congressional restrictionists, “are we so hampered and stultified by the dead hand of the past, as we are in this field of immigration” (Truman 1953, 443–44). Eisenhower fared no better during his two terms, lecturing Congress during his final year in office about the need to liberalize federal immigration laws (Eisenhower 1961, 308–10).

Perhaps no president was more closely identified with the cause of liberal immigration reform than John F. Kennedy (or JFK). During his senate tenure, Kennedy joined with pro-immigration colleagues like Philip Hart (D-MI) and Kenneth Keating (R-NY) in proposing unsuccessful bills to replace the McCarran-Walter Act. He also celebrated America’s immigration traditions as author of *A Nation of Immigrants* in 1958, ghost written by adviser Meyer Feldman and promoted by the Anti-Defamation League.<sup>4</sup> His 1960 victory invigorated pro-immigration reformers. Despite their high expectations, however, Kennedy got nowhere on plans to alter U.S. immigration law due to potent opposition from conservative Democrats like Senator James Eastland (D-MS) and Representative Frances Walter (D-PA), who controlled the immigration

2. Rutherford B. Hayes, for instance, elicited public outrage and was burned in effigy when he vetoed the Fifteen Passenger Bill which was designed to restrict Chinese immigration. See Williams 1924.

3. Frances Perkins to Cornelia Bryce Pinchot, December 31, 1939, Frances Perkins Papers, 1939 Correspondence File, General Records of the Labor Department, Record Group 174, National Archives, Washington, DC. See also Wyman 1984, 89-96.

4. John F. Kennedy to Lyndon B. Johnson, June 29, 1955, Senate Files, Pre-Presidential Papers of John F. Kennedy, John F. Kennedy Library, Boston, Massachusetts; Interview with Meyer Feldman, December, 1994, Washington, DC.

subcommittees of both houses. It was not until 1963 after Walter's death that JFK proposed legislation to dismantle national origins quotas with a new preference system giving top priority to immigrant job skills and education (Kennedy 1966, 137–38). The White House soon discovered that Walter's successor as chair of the House immigration subcommittee, Michael Feighan (D-OH), strongly opposed the administration's blueprints for reform.<sup>5</sup>

Some immigration scholars have argued that the nation's grief over Kennedy's assassination combined with Johnson's prowess as a legislative leader "meant the end of the quota system and its replacement by a preference system was virtually inevitable" (LeMay 1987, 111). But few Washington insiders shared this conviction in the first stages of the Johnson administration.<sup>6</sup> Although LBJ famously insisted "there was not time to rest" in pursuit of his Great Society agenda, it was unclear early on whether he wanted immigration reform to figure prominently on that agenda (Johnson 1971, 161; Leuchtenberg 1971, 161). In fact, he was all too familiar with the legislative headaches that immigration reform posed by the time he became president, having been whipsawed by rivals on the issue for years in the Senate. In 1952, he joined conservative Democrats and Republicans in voting for the McCarran-Walter Act and again in overriding Truman's veto 57 to 26. As Senate Majority Leader in 1955, reporters noted that Johnson "exploded with invective" when pressed about holdups on progressive immigration reform (Dallek 1992, 485).

Yet he also joined northern liberals of his party in supporting modest refugee relief legislation favored by the Eisenhower administration in 1953 and 1957. His own oscillations on the issue reflected the challenges of leading Senate Democrats who were deeply divided between conservatives opposed to any opening of the gates and liberals committed to dismantling national origins quotas.

During his first days as president, Johnson's willingness to pursue immigration reform was an open question. Acutely aware of his silence on the issue while mobilizing on a broad slate of civil rights, antipoverty, and other initiatives, White House officials who worked on immigration policy during Kennedy's tenure urged LBJ to support the dismantlement of national origins quotas. However, Johnson initially refused the idea when urged by former Kennedy advisers like Meyer Feldman, who were told that immigration was an explosive issue that could hurt other reform plans.<sup>7</sup> He also worried about being assailed for flip-flopping on the issue by championing Kennedy's proposal after having voted for the McCarran-Walter Act of 1952. To his own close adviser, Jack Valenti, Johnson voiced grave reservations about backing immigration reform legislation that enjoyed little public support.<sup>8</sup>

Behind the scenes, administration officials who had been appointed by Kennedy and who favored sweeping immigration reform persuaded close LBJ advisers such as

5. Abba Schwartz to Theodore Sorenson, November 6, 1963, Theodore Sorenson Papers, Legislative Files, Legislation 1963 Folder, May 21–November 13, 1963, John F. Kennedy Library; Schwartz 1968, 116.

6. Lawrence O'Brien Oral History Interview; Paul Douglas Oral History Interview, November 1, 1974, LBJ Library; Interview with Meyer Feldman; Interview with Jack Valenti, December 1994; Schwartz 1968, 116–21.

7. Interview with Feldman.

8. Interview with Valenti.

Valenti and Bill Moyers to make their case to an unconvinced president.<sup>9</sup> Three arguments for reform were particularly compelling to Johnson. First, advocates of policy innovation underscored that JFK had described his immigration proposal in 1963 as “the most urgent and fundamental reform” of a New Frontier agenda that Johnson had pledged to advance. Second, reform proponents insisted that Johnson’s endorsement of new immigration legislation would yield electoral premiums in the 1964 campaign. White ethnic voters in the Northeast and Midwest, they insisted, were more likely to vote on immigration than were other mass publics for whom the issue was less salient. Finally, numerous White House advisers and State Department officials told Johnson that national origins quotas hurt American credibility abroad as much as Jim Crowism did. Cold War imperatives also loomed large in these calculations, because, as Senator Philip Hart (D-MI) put it, discriminatory immigration quotas “needlessly provide grist for the propaganda mills of Moscow and Peiping.”<sup>10</sup> The persistence of the national origins quota system also clearly contradicted Johnson’s pledge “to eliminate from this Nation every trace of discrimination and oppression that is based upon race or color” (Johnson 1965). “The President eventually recognized that existing immigration law, and in particular, national origins quotas, created many decades before on racist grounds, was inconsistent with civil rights and racial justice,” recalls Valenti.<sup>11</sup> According to Feldman, LBJ could not ignore the obvious connections between immigration reform and the administration’s most important foreign and civil rights goals. Johnson ultimately became a late convert to immigration reform.<sup>12</sup>

For advocacy groups who had waited for decades to dismantle national origins quotas, Johnson’s first State of the Union Address in 1964 was cause for celebration.

In this speech, the President outlined a civil rights agenda that championed for all citizens access to public facilities, equal eligibility for federal benefits, an equal chance to vote, and “good public schools” for all children. Then he added, “We must also lift by legislation the bars of discrimination against those who seek entry into our country” (Johnson 1961, 116). An administration bill was soon introduced that would increase annual immigration to 165,000 and replace discriminatory per-country quotas in favor of a preference system allocating fifty percent of visas on the basis of special occupational skills or education that benefited the national economic interests. Remaining visas would be distributed to refugees and those with close family ties to U.S. citizens or legal permanent residents.

One week after his address, Johnson held a press conference at the White House that included members of the House and Senate immigration subcommittees as well as a broad and diverse set of advocacy group leaders favoring reform. As the restriction-minded Sen. Eastland and Rep. Feighan looked on uneasily, Johnson went before a phalanx of reporters and television cameras to urge Congress to make U.S. immigration

9. Interviews with Feldman and Valenti; Schwartz 1968.

10. Hart is quoted in Nationalities Services Center, “A New Immigration Proposal: A Fact Sheet on S.3043,” copy in the author’s files.

11. Interview with Valenti.

12. Interview with Feldman.

law more egalitarian. He reminded lawmakers that every president since Truman believed that existing immigration policies hurt the nation in its Cold War struggle with the Soviet Union. Johnson then invoked the language of Kennedy's inaugural address, urging a meritocratic admissions policy that asked immigrants, "What can you do for our country?" "We ought to never ask," he added, "In what country were you born?"<sup>13</sup>

Leading congressional sponsors of the administration's bill, including Senator Hart and Representatives Celler and Peter Rodino (D-NJ), praised the measure. When they finished their statements, Johnson caught Eastland off guard by asking him to address the assembled journalists and policy activists. A surprised Eastland told the gathering that he was prepared to look into the matter "very carefully and very expeditiously."<sup>14</sup>

During the Kennedy years, Eastland refused to hold hearings on any bill intended to revise the system established by the McCarran-Walter Act of 1952. According to Johnson's chief liaison to Congress, Lawrence O'Brien, "It was hard to find Jim Eastland friendly to any measure that was advocated by presidents in the New Deal-Great Society period."<sup>15</sup> Yet after a series of tense Oval Office meetings with Johnson in 1964, Eastland stunned Washington observers by agreeing to temporarily relinquish control of his Immigration Subcommittee to none other than the freshman senator from Massachusetts, Edward Kennedy. As Valenti observed, Eastland "didn't want to fight the President and agreed. . . to go along on this one."<sup>16</sup> Johnson's unusual influence over Eastland removed a formidable impediment to the Hart-Celler bill, but a major legislative hurdle remained.

## The Battle for Immigration Reform: Conflict and Fateful Compromises

When the Ohio Democrat Michael Feighan became chair of the House immigration subcommittee in 1963, many reformers hoped that he would be more receptive than his predecessor, Francis Walter, to revising immigration policy. Yet he soon made headlines by charging that the Central Intelligence Agency had been infiltrated by Soviet spies, and by calling on the State Department to ban Richard Burton from entering the country due to "immoral conduct" with Elizabeth Taylor. Republicans revealed that the once obscure, 20-year veteran of the House was proving to be an embarrassment to their partisan opponents (Duke and Meisler 1965, 30–31). However, Feighan was a far greater headache for Johnson and congressional Democratic leaders in their quest for major immigration reform. Backed by a bipartisan majority of subcommittee members, Feighan introduced

13. "Remarks of the President to Representatives of Organizations Interested in Immigration and Refugee Matters," January 13, 1964, transcript found in Presidential Statement Files, Container 93, LBJ Library.

14. Press Release, "Remarks of Congressional Leaders to Representatives of Organizations Interested in Immigration and Refugee Matters," January 13, 1964, Office of the White House Press Secretary, Emanuel Celler Papers, Library of Congress, Washington, DC, Box 110.

15. O'Brien Oral History, LBJ Library.

16. Interview with Valenti.

his own bill, a substitute for the Johnson proposal, in August of 1964.<sup>17</sup> As his staffers put it, the substitute bill was designed “to avoid charges of inaction by the Subcommittee,” which “would have opened the door to ramming through the Administration bill.”<sup>18</sup> Feighan’s bill promised to “preserve the national origins quota formula,” to give a preference to immigrants with family ties under the quotas, to maintain exclusions for ideology and sexual preference, and to guarantee that “the principle of the Asia-Pacific Triangle remains as is.”<sup>19</sup> Whereas the Johnson administration worked its magic to neutralize a normally obstreperous James Eastland, the unexpectedly deft resistance mounted by Feighan and his nativist allies ensured that no action would be taken on the Kennedy-Johnson bill until after the 1964 election.

During the 1964 campaign, Democrats highlighted immigration reform as one of the key “progressive” goals in their platform.<sup>20</sup> Republican candidates generally said little about the issue. Barry Goldwater promised to revive a Mexican guest worker program, while his running mate, Representative William Miller (NY), occasionally suggested that immigration reform would produce increased unemployment and welfare dependency. Yet there is little indication that immigration had much political salience for most of the electorate (Schwartz 1968, 120–21). Gallup polls found that less than one percent of Americans ranked immigration among the most important problems facing the nation. Nevertheless, shortly after the Democratic electoral windfall of 1964, Johnson sent a special message to lawmakers again endorsing the dismantlement of national origins quotas. When the 89<sup>th</sup> Congress convened in 1965, administration experts testifying before Congress stressed the “urgency” of immigration reform “in terms of our self-interest abroad. In the present ideological conflict between freedom and fear, we proclaim to the world that our central precept is that all are born equal. . . . Yet under present law, we choose among immigrants on the basis of where they are.”<sup>21</sup> Even with improved prospects for immigration reform in the new Congress, however, major challenges still loomed. In particular, immigration restrictionists in the House and Senate demanded two important concessions from liberal reformers and the Johnson administration in exchange for abolishing the national origins quota system.

The Johnson team began its renewed 1965 push for the INA in the House, where 77-year-old Emanuel Celler, the longtime champion of immigration reform, Emanuel Celler, introduced the administration’s bill as H.R. 2580. Yet an important barrier stood in the way. Celler, as chair of the House Judiciary Committee, was locked in an epic feud

17. John P. Leacacos, “Feighan Argues Merits of His Immigration Bill,” *Cleveland Plain Dealer*, August 13, 1964; and Leacacos, “Feighan Upsets Administration,” *Cleveland Plain Dealer*, August 12, 1964, Press clippings file, Michael Feighan Papers, Seely Mudd Manuscript Library, Princeton University, Box 5.

18. “Points to Be Covered In Brief” Memo, August 13, 1964, “Immigration” folder, Feighan Papers, Box 5.

19. “Highlights of Proposed Congressional Action,” staff memorandum, no date, Feighan Papers, Box 5.

20. “Building A Great Society,” Democratic Study Group, 1964 Campaign Cards, Papers of the Democratic Study Group, Library of Congress, Washington, DC, Box 54.

21. Nicholas deB. Katzenbach, Testimony on Immigration Reform, Hearings before the Subcommittee on Immigration and Naturalization, Senate Judiciary Committee, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, pt. 1 (Washington, DC: Government Printing Office, 1965), p.8.

with Feighan, who still chaired the committee's Subcommittee on Immigration and Nationality. Celler initially sought to have Feighan removed from the subcommittee, but he soon discovered that the subcommittee majority sided with their obstreperous chair. As Kentucky Democrat Frank Chelf explained, "I have been on this subcommittee now some eighteen years. I have always been a rather strong believer in the national-origins theory" (Duke and Meisler 1965, 31). When Celler scolded Feighan publicly for perpetuating policies that unfairly discriminated against would-be immigrants and kept out desperate refugees, Feighan retorted, "How about giving the welfare of the American people first priority for a change?"<sup>22</sup> For two months, Feighan dominated hearings on H.R. 2580, peppering administration officials with questions about a new merit-based preference system and its potential impact on the number and diversity of newcomers. According to Johnson's chief liaison to Congress, Lawrence O'Brien, "he had his own views and he was going to be disruptive procedurally to accomplish his objectives." O'Brien added that "there's nothing worse than to have a subcommittee chairman. . . get his nose out of joint."<sup>23</sup>

Frustrated by Feighan's roadblocks, LBJ and House Democratic leaders successfully maneuvered in the spring of 1965 to expand the immigration subcommittee to add Johnson loyalists like Jack Brooks (D-TX) as crucial swing votes. Despite this tactical blow, Feighan privately told anti-immigrant lobbyists that he enjoyed enough bipartisan backing to seriously limit radical policy change. "There is no need for you to be worried about developments because there is no possibility of the opposition here opening 'pandora's box'" and dramatically expanding immigration opportunities, he reassured anxious nativists.<sup>24</sup> Yet Feighan also understood that Johnson and reformers now had enough political momentum to overcome delaying tactics. It was time, he concluded, for supporters of the national origins quota system and McCarran-Walter restrictions to try to influence inevitable legislation. "My greatest concern is that the people who advocate the 'sitting duck' approach to national issues will open the 'box.'"<sup>25</sup> Reporters noted at the time that new political realities—"the pro-administration majorities and a genuine Presidential push"—persuaded opponents of reform that their best strategy was to shape a compromise plan.

In the end, Feighan and his allies agreed to abolish national origins quotas and the so-called Asiatic Barred Zone in exchange for a significant alteration in the administration's proposed preference system for immigrant admissions. The Kennedy-Johnson blueprints for reform consistently envisioned replacing national origins quotas with high-skilled immigration. "At present, [the national origins system] prevents talented people from applying for visas to enter the United States," Kennedy observed in 1963. "It often deprives us of immigrants who would be helpful to our economy and our culture." Legal preferences, he argued, "should be liberalized so that highly trained or

22. "Celler – Calling for Hold-Up," Staff Memorandum, September 22, 1964, Feighan Papers, Box 5.

23. O'Brien Oral History Interview, LBJ Library.

24. Jean Kerbs to Michael Feighan, Western Union telegram, no date; and Feighan to Kerbs, letter, no date, "Immigration" folder, Feighan Papers, Box #5.

25. Jean Kerbs to Michael Feighan, Western Union telegram, no date; and Feighan to Kerbs, letter, no date, "Immigration" folder, Feighan Papers, Box #5.

skilled persons may obtain a preference without requiring that they secure employment here before emigrating.”<sup>26</sup> Immigrant merit and skills were to trump discriminatory restrictions based on race, ethnicity, religion, or nationality. In May 1965, however, Feighan proposed a compromise with the White House that profoundly altered these plans to make family reunification, rather than occupational skills and education, the centerpiece of a new preference system for immigrant admissions. Feighan was convinced (incorrectly, as he later discovered) that reserving most visas for immigrants with family ties to U.S. citizens and legal permanent residents would decidedly favor European applicants and thus maintain the nation’s ethnic and racial makeup (Bon Tempo 2008, 96). Feighan and other House opponents of the Hart-Celler bill agreed to dismantle the national origins quota system and the so-called Asiatic-Barred Zone. However, in exchange Johnson would have to sacrifice the administration’s emphasis on individual merit. Convinced that family-based immigration was far preferable to discriminatory national origins quotas, the White House eventually acceded to Feighan’s demand to make immigrant skills, education, and professional occupations far less important than family ties (Reimers 1992, 69–74).

The administration bill’s new legal preference system established four preference categories for family reunification, which were to receive nearly three-quarters of total annual visas. Spouses, minor children, and parents of U.S. citizens over the age of 21 were granted admission without visa limits. Two preferences were established for economic goals, including a preference not to exceed ten percent of the annual visas for “qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States.” The revised bill left a quarter of annual visas for economic-based admissions and refugee relief (Stern 1974). This revised preference system was well-received by conservative Democrats in the Senate, most of whom opposed Johnson’s original immigration proposal, introduced by Philip Hart (D-MI) as S. 500.

The compromise plan’s emphasis on family-based immigration even reassured Senator Strom Thurmond of South Carolina, who switched to the Republican party in 1964 and vigorously opposed a new merit-based admissions process that he believed would trigger seismic shifts in the volume and composition of U.S. immigration. “The preference which would be established by this proposal are based,” Thurmond told colleagues and constituents, “on sound reasoning and meritorious considerations, not entirely dissimilar in effect from those which underlie the national origins quotas of existing law.”<sup>27</sup> In other words, as the Japanese American Citizens League and other Asian groups protested, the new system was designed to perpetuate racial biases codified in federal immigration law for generations:

Inasmuch as the total Asian population of the United States is only about one half of 1 percent of the total American population, this means that there are very few of Asia-Pacific origin in this country who are entitled to provide the specific preference priorities to family

26. Congressional Record, July 23, 1963, pp. 13132-33.

27. Congressional Record, September 17, 1965, p. 24237.

members and close relatives residing abroad. . . . Thus, it would seem that, although the immigration bill eliminated race as a matter of principle, in actual operation immigration will still be controlled by the now discredited national origins system and the general pattern of immigration which exists today will continue for many years yet to come.<sup>28</sup>

Along with the legal preference system, the nonquota status of Mexican immigration in particular and Latin American admissions in general were a prominent concern for restrictionists in both houses of Congress during the legislative wrangling of 1965. In the House, Feighan pointed out that no numerical limitations were placed on Western Hemisphere immigration in the 1920s because the numbers were so small; in 1965, he warned colleagues that Latin American entries “has shown a steady increase each year” and that demographic research indicated that the Latin American population was sure to grow “from some 69 millions to some 600 millions.”<sup>29</sup> In negotiations with Feighan and other House stalwarts, however, Johnson was unwilling to budge on this issue. The notion of cap on Western Hemisphere immigration was adamantly denounced by Secretary of State Dean Rusk and other foreign policy advisers, who argued that taking such a step would be a huge setback to relations with Central and South American countries. Indeed, Rusk warned the president that such a measure would alienate Latin American nations already outraged by Johnson’s decision to send U.S. troops into the Dominican Republic on April 28, 1965. “We will vex and dumbfound our Latin American friends,” Rusk told key White House advisers, “who will now be sure we are in final retreat from Pan Americanism” (Bernstein 1996, 256).

The administration’s stand on Western Hemisphere immigration came under withering attack in the Senate, however. In particular, southern Democrats led by Sam Ervin, Jr. (NC) threatened to block action on S. 500 in the Senate immigration subcommittee unless concessions were made. Public opinion also presented a challenge for liberal immigration reformers. Consistent with other surveys, a June 1965 Gallup poll found that only 7% of respondents favored increasing immigration opportunities, while 72% preferred decreased or unchanged immigration levels (Bon Tempo 2008, 92–94). Facing a major logjam and eager to convince the public that his reform plan was not “a revolutionary bill,” Johnson and pro-immigration lawmakers compromised with Ervin and his restriction-minded colleagues on an annual ceiling for Western Hemisphere immigration. As O’Brien explained, “Listen we’re not going to walk away from this because we didn’t get a whole loaf. We’ll take half a loaf or three-quarters of a loaf.”<sup>30</sup>

Buoyed by compromises on the admissions preference system and a new ceiling on Western Hemisphere immigration, the INA passed both houses with large bipartisan majorities. The new immigration system provided 170,000 visas for immigrants originating in the Eastern Hemisphere (no country was to be allotted more than 20,000 visas), and 120,000 visas for Western Hemisphere immigrants (no per-country limits). Spouses, minor children, and parents of American citizens were exempted from these numerical

28. Reimers 1992, 73; Congressional Record, September 20, 1965, p. 24503; Goldfarb 1982, 412–48.

29. Michael Feighan, “Highlights of the Immigration Issue,” January 18, 1965, copy on file with the author.

30. O’Brien Oral History Interview, LBJ Library; Tichenor 2002, 215.

ceilings. All other persons from the Eastern Hemisphere were placed on waiting lists under seven preferences: four preference categories and 74 percent of visas were reserved for family reunification, two preference categories and 20 percent for needed professionals and unskilled workers, and one preference category and 6 percent of visas for refugees. During the televised signing ceremony at the base of the Statue of Liberty in October 1965, Johnson celebrated the legislation for repairing “a deep and painful flaw in the fabric of American justice” (Johnson 1965). Yet if the INA proved to be one of the hardest-won reforms of the Johnson presidency, its significance barely registered for most Americans. A Harris poll conducted at the end of 1965 found that in sharp contrast to broad public interest in Medicare, civil rights, and other legislative initiatives, only 3% described the new immigration law as important to them.

### The INA as Rorschach Test: Rival Verdicts on an Intricate Reform

In their efforts to turn the signing ceremony for the Immigration and Nationality Act of 1965 into a triumphant spectacle at Liberty Island, Lyndon Johnson and his advisers hoped to stir popular support for the new law and to rise above the intense political conflicts that made major immigration reform elusive for so long. Over time, however, this landmark legislation has persistently inspired polarizing debates and discordant interpretations. A few months removed from its 50<sup>th</sup> anniversary, nearly all observers concur that the INA dramatically transformed America’s demographic landscape but agree on little else. Consider three decidedly different portraits from recent immigration scholarship. For Christian Joppke, the 1965 reform represents a monumental turning point when harsh ethnic selection was supplanted by source-country universalism, thereby codifying “the liberal norm of racial nondiscrimination” (Joppke 2005, 91). Discerning darker, restrictive elements of the law, Mae Ngai finds that by imposing new limits on Western Hemisphere immigration for the first time, legal Mexican immigration was unjustly constrained. A more fundamental flaw of the 1960s reformers, she points out, is that they facilitated “the persistence of numerical restriction” by maintaining an overall cap on immigration (Ngai 2004, 252–56). On the other end of the spectrum, restriction-minded scholars like Otis Graham vehemently denounce the Hart-Celler Act for opening America’s gates to unprecedented numbers of Asian and Latino newcomers and overall levels of mass immigration that rivaled the early 20th century (Graham 2003). How can one law provoke such disparate evaluations of its meaning and impact? The answer, as I have detailed in earlier work, lies in the fact that the INA emerged from years of challenging coalition building and months of painful negotiations (Tichenor 2002, 176–218). The result was not a clarion sea change in U.S. immigration policy, but rather a mosaic of reforms with cross-cutting implications.

To immigration champions who tried for decades to unravel draconian restrictions established in the early twentieth century, the signal achievement of the INA was that it at long last dismantled the odious and racist national origins quota system and Asiatic Barred Zone. Although Johnson initially hoped to duck immigration reform, it is telling that he could not escape its linkage to broader civil rights (and Cold War) imperatives that drove the administration, a commitment to eliminate barriers based on race, religion, and

ethnicity. Soon after the 1964 election, Vice President Hubert Humphrey clarified the explicit ties that the Johnson administration drew between an immigration overhaul and the larger causes of civil rights reform and racial justice. “We have removed all elements of second-class citizenship from our laws by the Civil Rights Act,” proclaimed Vice President Hubert Humphrey. “We must in 1965 remove all elements in our immigration law which suggest that there are second-class people” (Tichenor 2002, 214–15).

Of course, the INA did not end discrimination on the basis of race and nationality in U.S. immigration policies any more than the Civil Rights Act made racial struggles and second-class citizenship magically disappear in America. Yet it would be a mistake to understate the significance of the INA as a turning point in American immigration law, one that expanded immigration opportunities in important new ways. For leading immigration reformers of 1965, the INA’s most important feat was its decisive rejection of overtly racist national origins quotas that had haunted American immigration policy since the Progressive Era. “The American nation stands today as eloquent proof that there is no inherent contradiction between unity and diversity,” proclaimed Representative Peter Rodino of New Jersey (Chin 2015, 57).

It is equally valid to note, however, that the INA codified compromises that were designed to guard a particular ethnic and racial makeup of the United States favored by immigration restrictionists in Congress like Feighan, Eastland, Ervin, Thurmond, and others. When the INA’s chief sponsors ultimately relented and agreed to a new ceilings of 120,000 on annual Western Hemisphere immigration in 1965, it marked the first time Congress imposed significant restraints on Latin American immigration across its borders. When combined with the demise of the Bracero Program (a bilateral guest worker program with Mexico) one year earlier and the nation’s lingering appetite for cheap imported labor, these new limits encouraged a surge in unauthorized immigration from Mexico and other Latin American countries in following years that has dominated public debate on this issue ever since.

Johnson’s far more prominent concession was to make family ties, rather than job skills, the centerpiece of the U.S. immigrant admissions system. It was a shift in the preference system that reformers and opponents believed (wrongly, as it turned out) would benefit European immigrants over all others. As *The Washington Post* observed at the time, “the most important change, in fact, was in direction, shuffling the preference categories to give first consideration to relatives of American citizens instead of to specially skilled persons. This had more emotional appeal and, perhaps more to the point, insured that the new immigration pattern would not stray radically from the old one.”<sup>31</sup> It was a view echoed by the American Legion, whose membership was rattled by the thought of ending national origins quotas: “Nobody is quite so apt to be of the same national origins of our present citizens as are members of their immediate families, and the great bulk of immigrants henceforth, will not merely hail from the same parent countries as our present citizens, but will be their closer relatives” (Heller and Heller 1966, 8–9). Ironically for a reform intended to remove ethnic and racial hierarchies in national immigration

31. *The Washington Post*, October 4, 1965, p. 16.

law, Feighan and other immigration restrictionists in Congress altered the INA's preference categories precisely to discourage non-white, non-European immigration.

In contrast to the expectations of these lawmakers, the character of legal immigration to the United States changed significantly very soon after the INA's new preference categories were put into effect. To the chagrin of congressional xenophobes, the law's emphasis on family reunification did not freeze the nation's ethnic and racial composition nor did it codify the view of Feighan, Ervin and others that the United States must remain an essentially European country. To begin with, decreasing numbers of Europeans elected to immigrate to the United States in the years after the INA became law due to increasing economic prosperity and relative political stability at home. Family-based preferences also spurred a phenomenon called chain migration in which the naturalization of an immigrant from Asia, Latin America, or Africa opened the gates to his or her brothers and sisters and their spouses and children, who in turn could sponsor their own family members. Moreover, the new immigration law allowed for the admission of immediate family members of immigrants above numerical restrictions, raising annual legal immigration by 100,000 between 1965 and 1975 with far greater surges in subsequent decades. By the end of the 1970s, about four times as many U.S. legal immigrants came from Asia and Latin American than from Europe and Canada. These trends eventually were affirmed in Congress where bipartisan majorities enacted the Immigration Act of 1990. Whereas the INA had the unintended consequence of facilitating a far larger number and variety of immigrants than its authors projected, the Immigration Act of 1990 increased annual admissions by 40 percent and explicitly endorsed large-scale Asian and Latin American immigration through family preferences. The saga of American immigration policy in general and the INA in particular reflects, as Anna Law aptly notes, "a cycle of unintended consequences" (Law 2002).

## Conclusion

Today, as in the past, efforts to significantly revise U.S. immigration laws and policies have produced major political divides that explode even the most unified party coalitions and that make straightforward problem definition a pipedream. Campaigns for sweeping reform in this arena regularly have followed a tortured path of false starts, prolonged negotiation, and frustrating stalemate. When lightning has struck for passage of nonincremental reform, enactment has hinged upon difficult compromises over rival goals and interests. The result is legislation that is typically unpopular among ordinary citizens, compels key stakeholder groups to swallow bitter pills, draws fire from determined opponents, and places new and often competing policy demands on the national state. These dynamics—intraparty conflicts, elusive problem definition, difficult compromises, and unpopular outcomes—typically have made most American presidents proceed with caution. Indeed, modern presidents from Franklin Roosevelt to Ronald Reagan and Bill Clinton usually have preferred to guardedly and opportunistically respond to congressional initiative on the issue. Those who have bucked this trend, such as Jimmy Carter in his pursuit of employer sanctions-amnesty legislation and George W. Bush in his

quest for comprehensive immigration reform, have tended to suffer embarrassing defeats led by members of their own party.

Lyndon Johnson stands apart for successfully shepherding landmark immigration reform through Congress. In many respects, LBJ enjoyed many exceptional advantages in championing the INA, including its close association with his martyred predecessor and broader civil rights reform; a near consensus of foreign policy experts that reform served national geopolitical interests; a strong economy; an electoral landslide in 1964 and, concomitantly, huge partisan gains in both houses of Congress. The fact that these especially favorable circumstances did not make the Johnson administration immune from an arduous legislative struggle underscores the enormously daunting political barriers that usually emerge when major immigration reform is at stake. Against this backdrop, it is perhaps not surprising that frustrated presidents like Dwight Eisenhower and Barack Obama controversially have claimed independent executive power to shape immigration policy, even when it has incurred the wrath of congressional restrictionists and other domestic critics. The INA was decades in the making, and its enactment in 1965 was trying and uncertain despite being attached to Johnson's Great Society juggernaut.

It is equally revealing that in the end, Johnson's success in winning passage of the INA depended significantly upon painful compromises, including cross-cutting reform packages that both expanded and restricted immigration opportunities in new ways. Whether one celebrates or condemns the INA, it is clear that the Hart-Celler Act defies simple characterization precisely because it is an intricate law with multiple meanings and impacts. The headlines then and now are not wrong: the INA marked a monumental watershed in U.S. immigration policy by ending a draconian national origins quota system that were explicitly rooted in eugenicist notions of Northern and Western European superiority. That fact that it took 20 years after the defeat of Nazi Germany for Congress to remove these barriers in American immigration law speaks to how effectively Cold War nativists knitted together racial hierarchy and national security fears. This history made it especially fitting that the Johnson administration coupled the INA with the Civil Rights and Voting Rights Acts. It is equally true, however, that opponents of diverse immigration left their imprints on the INA by winning new limits on Western Hemisphere immigration and by making family ties rather than individual skills the keystone of the legal preference system. The dramatic and unanticipated demographic shifts that these restriction-minded provisions helped spur underscore the INA's transformative, yet variegated, influence on American life.

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