

Guiding Principles for Immigration Policy in a Post-Pandemic World

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July 2020

The COVID-19 pandemic has shone a spotlight on inequalities in U.S. society. By the end of June 2020 more than two and a half million people have been diagnosed with COVID-19 and more than 130,000 people have died across all 50 states; yet not all communities have been hit evenly. Many white Americans do not know a single person with the virus. Hispanics and African Americans have been hit especially hard.¹ Data from New York City showed that the virus was killing Latinos at 1.6 times the rate of Whites.² In Utah, New Jersey, Washington state and Oregon, Latinos were approximately twice as likely as their population percentages to be infected.³ In the closing weeks of June 2020, in counties where at least a quarter of the population is Latino there was a 32 percent increase in new cases, as compared to a 15 percent increase in all other counties.⁴

The reasons behind this disparity are many. Immigrants tend to be overrepresented in roles deemed “essential” and continue to work in hospitals, grocery stores, restaurants, food production plants, and other locations. These roles provide them with little ability to protect themselves from close contact with others, as they provide the goods and services we all need. The foreign-born comprise 17 percent of the U.S. workforce, but 19 percent of workers in industries vital to the COVID-19 response, including 26 percent of workers in the manufacturing of food, medicine, and cleaning agents and 27 percent of workers in agriculture.⁵ Immigrant workers are also disproportionate in the industries hardest hit by layoffs due to social distancing measures.⁶ Noncitizens in these jobs are particularly vulnerable in that they often lack access to safety net programs such as unemployment insurance or food stamps, have lower incomes, and are less likely to have health insurance and access to health care.⁷

Despite the differential impact of COVID-19 on many immigrants and regardless of the essential roles they have played in a struggling economy, we have seen discrimination and abuse targeting immigrants, particularly Asian Americans, and renewed calls to restrict immigration further.

Even before the pandemic, immigrant advocates saw a need to reformulate their strategies for reforming the nation’s immigration

system. Well-researched arguments tied to immigrant contributions to the economy and our education system were not winning the day. Nor were appeals to humanitarian concerns and issues of human rights. Then the COVID-19 pandemic came and exacerbated the need for a new line of thinking. Those who support a restrictive and punitive immigration policy had new cause to go after legal and unauthorized immigrants. Double-digit unemployment and public health fears tied to a virus that has derogatorily been labeled “Chinese” have set the stage for further efforts to limit immigration. In fact, the president has already issued two proclamations restricting legal immigration under the dubious justification that it will protect American jobs.⁸

In this environment, how do academics and advocates counter anti-immigrant arguments that are short-sighted and not grounded in reasoned evidence? How do we communicate the facts regarding the critical role played by immigrants in the economy in a way that will move the public and political actors to support rational, constructive immigration policies? How do we focus on the contributions of foreign-born workers without alienating the far larger share of workers who are not foreign-born?

While the nation’s response to the pandemic has been flawed—with a terrible loss of life and economic suffering—the tragedy of the pandemic and policy responses represents an opportunity for a reset in thinking to inform public deliberation. Where there has been success in response to the COVID-19 pandemic and its economic consequences two common elements stand out: decentralized decision-making and approaches that have emphasized positive-sum solutions, where benefits to an individual are not at the expense of others and may even bring benefits to others. With little clear national leadership, decisions were made at the state and local level; calls for isolation, lockdown, and social distancing to “flatten the curve” were grounded in the argument that the health of each of us depended on the actions of all of us.

Considering the future of immigration policy, efforts to find decentralized and positive-sum solutions may be useful guiding principles to think about in the months and years to come.

Decentralized Solutions

One theme emerging from the pandemic is the value of state and local solutions. When the White House showed little leadership during the crisis, Americans turned to their governors, mayors, and state health officials many of whom stepped in to provide their constituencies with COVID-19-related data and guidance for preventing the virus' spread.

State leadership extended benefits to immigrant communities that had been left out of federal support programs. For example, California created a \$75 million cash assistance program to provide relief to unauthorized immigrants who were ineligible for federal relief programs and unemployment insurance.⁹ Several other states and cities have implemented similar programs for undocumented immigrants affected by the pandemic.

The conception of states as "laboratories of democracy" that provide a testing ground for policy ideas is not new. Within the limits of federal law, for decades, states and localities have created policies intended to best deal with the daily realities of immigrants living and working within their communities. There is no national immigrant integration plan. Some states have taken the lead on integrating immigrants by providing English language instruction, naturalization assistance, and expanding eligibility for driver's licenses, health care, and in-state tuition for certain undocumented immigrants. In contrast, other states and localities have determined that enhanced cooperation with ICE on immigration enforcement was in their best interests as others have rejected these policies.

In the aftermath of the COVID-19 crisis, increased power sharing between the federal government, states, and localities may provide a way forward. For example, a state-based visa program that grants states a larger role in requesting the number and type of immigrant workers needed to supplement their labor force could be on the table.¹⁰ Given the unevenness of the economic downturn and recovery following the pandemic, states may welcome a nimbler immigration system that is responsive to their unique economies and labor needs. Other states may choose not to participate due to a combination of high unemployment rates and anti-immigrant sentiment.

However, it is not at all clear that even the reddest of states are eager to reject legal immigration. In September 2019, President Trump issued an Executive Order requiring states to consent, in writing, to resettle refugees. This came with the assumption that, given the choice, states would choose to reject refugees. In fact, the Governors of 42 states consented, and only Texas refused before a federal judge blocked the executive order. While not required to do so, more than 100 mayors also sent the White House letters welcoming refugees to their cities.¹¹

If the United States is to move further down the immigration federalism path, the federal government must provide leadership. History has shown that the "laboratories of democracy" have their limits, and clear lines must be drawn to ensure that acting in their own self-interest does not result in discrimination, abuse, and civil rights violations. Just as early, strong federal leadership could have slowed the spread of the virus and decreased confusion over proper safety measures and re-opening the economy,

Congress, the courts, and the White House have a role to play in setting the parameters within which states may act.

Positive-Sum Solutions

Thomas Friedman's critically-acclaimed book, *The World is Flat: A Brief History of the Twenty-First Century* was widely seen as a harbinger of a new world order. In a "flattened" world, people are interconnected on a level playing field in which all competitors have equal opportunity. Within the new economic and social order, the strongest, fastest, and smartest succeed.¹² A motif of competition runs throughout the book. For example, Friedman explains that "Every morning in Africa, a gazelle wakes up. It knows it must run faster than the fastest lion, or it will be killed. Every morning a lion wakes up. It knows it must outrun the slowest gazelle, or it will starve to death. It doesn't matter whether you are a lion or a gazelle. When the sun comes up, you better start running."

Taken at face-value, protectionist trade policies and restrictive immigration policies appear to align with Friedman's arguments about competition. If you want to stay ahead of the other gazelles, then you may support policies that slow them down; as a ravenous lion, you may seek to quickly breach any natural or human-made barriers that protect the gazelles as they graze.

However, Friedman's story is as much about collaboration as it is about competition, as can be seen in his rules for how businesses can best cope in a flat world.

Rule #1: "When the world goes flat—and you are feeling flattened—reach for a shovel and dig inside yourself. Don't try to build walls."

In the short run, a hardening of borders on international travel and trade, but also within the United States, may be necessary to slow the spread of the coronavirus. In the long run, however, maintaining such restrictions, including constructing a "big, beautiful wall," undermines the collaboration essential to mutual prosperity:

Rule #4: "The best companies are the best collaborators. In the flat world, more and more business will be done through collaborations within and between companies, for a very simple reason: The next layers of value creation—whether in technology, marketing, biomedicine, or manufacturing—are becoming so complex that no single firm or department is going to be able to master them alone."

This second part of Friedman's story cautions us against viewing the world as a zero-sum game, where every gain that one individual or one group makes comes at the cost of another individual or another group. In contrast, a key insight from economics that informs Friedman's writing is that many interactions are positive-sum. They grow the pie and allow for bigger slices for all.

Zero-sum thinking is the basis of the "immigrants are taking our jobs" argument. The arguments are questionable as anti-immigrant groups were making this claim when the U.S. national unemployment rate was under four percent. These claims have grown even louder as we enter a sustained period of double-digit unemployment. But these arguments remain suspect as they fail

to see how immigrants also grow job opportunities for everyone.¹³ According to labor economist Mark Regets, policies like the president's immigration restrictions "... assumes there is a fixed number of jobs, which no economist believes, that any new entrant into the labor market must take a job from someone else, and cites a number about lost jobs without noting that research shows hiring people in high-skilled positions often supports jobs for other workers at a company."¹⁴ The labor force is a pie that can grow; the labor market can be a positive-sum solution with more open immigration policies recognizing that immigrants help to grow the pie.

A positive-sum approach would emphasize the added value that immigrant workers bring to the nation's response to COVID-19 and to rebuilding the economy. Not only are foreign-born workers "essential" during the pandemic, but they will be critical to rebuilding the post-pandemic economy. Native-born U.S. workers will always be the majority of workers in most industries in most areas of the country. The foreign-born labor force provides an important complement to the native workforce—in specific industries and in particular geographic areas, but also in the economy at large. Recent U.S. Census data shows that the non-working age population (age 0 to 14 and 65 and older) is growing faster than the working-age population. The non-working-age population grew by 13.1 million, while the working-age population increased by only 6.4 million.¹⁵ Foreign-born workers help to balance that trend. The foreign-born labor force is disproportionately younger than native-born workers and is literally doing more of the heavy lifting. For example, in Northern Virginia, 56.5 percent of Latino workers living in households with total incomes of less than 150 percent of the poverty line are concentrated in three essential occupational groups—food preparation/service, buildings and grounds cleaning and maintenance, and construction—as compared to just 20.5 percent of non-Latino workers in similar households. Moreover, in the latter two groups, the average age of Latino workers is approximately four years younger than non-Latinos.

A further example of a mutually-beneficial positive-sum approach can be seen in the connection between public health, immigration, and vaccination clearly evident in the COVID-19 pandemic. We can only contain the virus if all individuals, regardless of immigration status, have access to testing, healthcare, and, eventually, a vaccination. Vaccines can facilitate herd immunity for all, when approximately 70 percent of a population has acquired immunity either through a vaccine or naturally induced through recovery from COVID-19.¹⁶ However, if a significant number of individuals—including immigrants whose immigration status leaves them vulnerable—do not receive a vaccination, then the risk of infection and disease goes up dramatically for everyone in the population. While the spread of communicable disease is a global phenomenon, initial outbreaks are local. Estimates suggest that there are 10.7 million undocumented immigrants in the United States. Nationwide the undocumented population accounts for just over three percent of the population, however the undocumented population is not evenly distributed but locally concentrated. For example, in Las Vegas, over eight percent of the metro population is estimated to be unauthorized.¹⁷ If immigration status reduces vaccine adoption, then the health of the entire country is compromised as local outbreaks have been difficult to contain.

Forging a Way Forward

The efficacy of decentralized policymaking and positive-sum solutions are not unrelated, but rather complement one another. Decentralized decision-making sets the stage for a sense of common identity and the pursuit of mutually-beneficial, positive-sum solutions adapted to local context. At the state and local level, stakeholders are most likely to identify and endorse choices that bring people together around common interests. Decentralized decision-making may lead to additional California-like solutions that prioritize the public health of all over punishing unauthorized immigrants for their inability to work legally in the U.S. States already can ease licensing requirements so that foreign-born workers can obtain the documentation needed to work. Taken even further, if state leaders have more authority over immigration policy, they are in a better position to ensure that adequate numbers of foreign health care workers will be able to work in their states.

Successfully pursuing such strategies around immigration policy in the face of COVID-19 may establish a framework for addressing multiple other policy issues that have received woefully inadequate responses. Climate change, immigration reform, economic inequality, and an aging transportation and utility infrastructure are examples of national and global problems that have long been recognized, but where responses have been piecemeal and insular at best. COVID-19 is a public health risk that we cannot kick down the road. Recognizing that immigrants are part of the solution – both in terms of public health and economic recovery – and developing appropriate decentralized policy responses advancing our common interests may offer lessons for a path forward in other policy domains.

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The Immigration and Economic Recovery Symposium explores what role immigrants play in the economic recovery of the United States post-COVID crisis.

The views expressed in this paper are those of the authors and do not necessarily reflect the views of the Center for Growth and Opportunity at Utah State University or the views of Utah State University.

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