

Immigrants in the United States Of America: A Comparative Study Between The Period Of Presidency Of Obama And Trump

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ABSTRACT: Immigration plays a vital role in determining the flow of trade, ideas, information and people. Looking back at some historical events like the colonization of America, immigration of foreigners because of war or internal disturbance in their countries and other similar events, an inference can be drawn that they have helped in shaping the present United States. Hypothetically, if people stopped moving to other places it would result in a stagnant phase in the world's economy, as the movement of people facilitates exchange of goods, services, information and also strengthens international relations.

One prominent leader of United States who contributed to the nation's economy as well as immigration policies is Barack Obama. Termed as the nation's first African-American President, Obama held the office of President from 2009 to 2017. Immigration Policies being an important matter of concern for United States was also a subject on which President Obama took action upon. President Obama implemented Deferred Action for Childhood Arrivals (DACA) policy to protect those immigrants who had migrated to United States below the age of sixteen years. Further, he also supported the bill for DREAM Act but the legislature refused to pass it. Even though he took several positive action for immigrants, the rate of deportations escalated during his first term of presidency.

The present President of United States is critiqued for his rude remarks and spontaneous actions all over the world. In his one year of serving as the President of United States, Donald Trump has made more headlines than any other President of United States. After Donald trump became the President, the RAISE Act was passed that aims to raise job quality and opportunities for the Americans. Till now in his term the deportation of Somalis has increased by almost fifty percent and he has also imposed a travel ban from counties like Iran, Iraq et cetera. There are many differences that can be seen between Obama and Trump and their respective Immigration policies. Keeping in view the impact these political leaders have made in the Immigration Policies of United States this research project will critically study and highlight the differences between the Executive Orders and Policies undertaken by them.

I. AIM

.This research paper aims to critically analyze and compare the Immigration Policies and Executive actions taken against/in favor of the Immigrants in the United States of America during the presidency of Barack Obama and Donald Trump.

II. OBJECTIVES:

Below mentioned are the objectives that the researcher will strive to adhere to in the course of this research paper:

- To analyse President Obama's Executive Order for Deferred Action for illegal Immigrants
- To study the impact of Travel Ban on immigrants as imposed by President Donald Trump
- To outline the changes brought about by the Reforming American Immigration for Strong Employment (RAISE) Act in Immigration in United States
- To draw a contrast between the number of Immigrants deported during the Presidency period of Obama and Trump
- To compare Obama's Immigration Policies and Trump's Immigration Policies

III. WHY DO PEOPLE IMMIGRATE?

The love for one's country is something very inherent in almost every human in this world. The sense of belongingness, the common nationality and even cultural heritage is what one can relate to one's own country.¹ United States of America is one such country which is known for giving shelter to people from different nations, background, cultures, ethnicities, races et cetera and that gives the United States its own unique character as a nation. Immigration from countries all over the world make for the population of United States and it is believed by the U.S. policy-makers and the general public that immigration is evident because of poverty, unemployment, economic stagnation and overpopulation.² Often refugees are wrongly construed as immigrants but there is lies a major difference amongst the two. Immigrants make a personal choice to leave their country and migrate to some other country nearby or far for permanent settlement where as refugees are forced to flee their country because of persecution, war, internal aggression or other imminent danger factor. Immigrants in United States come in search of better job opportunities, living standards and other political or social influences.³ Unites States houses immigrants from Asia, Central America, Africa and other parts of the world as well. It becomes important for a nation like United States to take cautioned and accurate measures in regulating immigration as the population of America is identified through its diversity.⁴

IV. AMERICAN IMMIGRATION POLICIES:

The Immigration and Naturalization Act (INA), the law governing U.S. immigration policy, provides for an

¹Saskia Sassen, *Why Immigration?*, NACLA (Sept. 25, 2007), <https://nacla.org/article/why-immigration/html>.

²*Id.*

³*Supra* note 1.

⁴*Id.*

annual limit of 675,000 permanent immigrants (with certain exceptions for close family members).⁵ Immigration to the United States has been based on the reunification of families, admitting immigrants with skills that are valuable to the U.S. economy and protecting refugees.⁶

- **Family Based Immigration:** The family based immigration category allows U.S. citizens and lawful permanent residents to bring certain family members to the United States. Family based visas are limited to 480,000 per year.⁷ On the other hand, there is no limit on visas available for immediate relatives such as children or spouses. The citizens are subject to a preference system because of limited number of family based visas being available.⁸

- **Employment Based Immigration:** The United States provides various ways for immigrants with valuable skills to come to the United States on either a permanent or a temporary basis.

Temporary Visas: There are more than 20 types of visas for temporary, non-immigrant workers.⁹ Most of the temporary worker categories are for highly skilled workers, and immigrants with a temporary work visa are normally sponsored by a specific employer for a specific job offer.¹⁰

Permanent Immigration: Permanent employment based immigration is set at a fixed number of 140,000 visas per year, and these are divided into five preferences.¹¹ These include persons with “extraordinary abilities, members of a profession holding advanced degrees, skilled shortage workers with at least two years of training or experience, certain special immigrants like religious workers, and people who will generate \$500,000 to \$1 million in job creating enterprises employing at least 10 people”¹².

- **Refugees:** There are several categories of legal admission available to people who are fleeing persecution or are unable to return to their homeland due to life-threatening conditions.¹³ Refugees are admitted to the United States based upon an inability to return to their home countries because of a well-founded fear of persecution due to their race, membership in a social group, political opinion, religion, or national origin.¹⁴ Each year the President, “in consultation with Congress, determines the numerical ceiling for refugee admissions”.

⁵ *Important Factors Affecting Immigration*, HG.ORG LEGAL RESOURCES, <https://www.hg.org/legal-articles/important-factors-affecting-immigration-30968/html>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Supra* note 5.

¹² *Id.*

¹³ *Supra* note 1.

¹⁴ *Supra* note 5.

- **The Diversity Visa Lottery:** The Diversity Visa Lottery is a program to allow the entry of immigrants from countries with low number of people admitted to the United States. Each year 50,000 visas are made available in the Diversity Visa Lottery.¹⁵ The eligibility criteria includes a high school education or within the past five years, a minimum of two years' experience working in a profession requiring at least two years of training or experience.¹⁶ The visas are distributed among six geographic regions with a greater number of visas going to regions with lower rates of immigration, and with no visas going to nationals of countries sending more than 50,000 immigrants to the U.S. over the last five years. No one country within a region may receive more than 7% of the available visas in any one year.¹⁷

- **U.S. Citizenship:** Finally, in order to qualify for full U.S. citizenship, an individual must have had Long-Term Permanent Resident status (a green card) for at least 5 years or 3 years if obtained green card through a U.S. citizen spouse. Applicants for U.S. citizenship must be at least 18 years old, demonstrate continuous residency, demonstrate good moral character, pass English and U.S. history and civics exams, and pay an application fee.¹⁹

V. OBAMA'S APPROACH TOWARDS IMMIGRATION:

Deferred Action for Childhood Arrivals:

In 2012, the President implemented the Deferred Action for Childhood Arrivals (DACA) policy, which allowed illegal immigrants who had been brought to the United States as children to obtain temporary deportation relief and obtain work permits.²⁰ President Obama enforced a policy that helped the young children brought over to U.S. but had an imminent threat of being deported to their home countries which they had fled in the first place. The Deferred Action for Childhood Arrivals (DACA) initiative provides protection from deportation and work authorization to certain undocumented immigrants brought to the U.S. as children. In 2014, the President implemented the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) policy, which allowed illegal immigrants with U.S. born children to apply for deportation relief and work permits.²¹ The DREAM (Development, Relief and Education for Alien Minors) Act bill, another measure that was supported by Obama, that had been introduced in the United States legislature created a bipartisan support and had received the assent of President Obama but the Act has failed its clearance procedure and is still pending.

¹⁵*Id.*

¹⁶*Id.*

¹⁷*Id.*

¹⁸*Id.*

¹⁹*Supra* note 5.

²⁰Robert H. Wood, *The Crushing of a Dream: DACA, DAPA, and the Politics of Immigration Law Under President Obama*, 22 Barry L. Rev. 27, 27-45 (2016).

²¹*Id.*

Enforcement Priorities:

President Obama took steps to focus immigration enforcement on serious criminals and threats. He recognised that the government had limited resources to remove people and had to set priorities among the millions of potential deportees.²² One of the first steps the Obama administration took toward changing enforcement priorities came with the elimination of large worksite raids which had been widely used during the Bush administration. In contrast to large raids, Obama emphasized investigating and penalizing employers. “That was followed by a series of civil immigration enforcement priorities memos, setting forth new enforcement priorities that focused on those that posed threats to national security or the community, and those charged with or convicted of serious crimes. The most recent memo, released in November 2014, ended the Secure Communities program. That program had resulted in the deportation of thousands of immigrants with minor criminal convictions or no criminal histories at all.”²³

Deportations

One of the defining characteristics of Obama’s eight years in office was high deportation numbers.²⁴ “Fiscal year 2009-2016 saw more than 2.7 million deportations – more people than any other president in U.S. history.”²⁵ Regardless of rise in the number of deportations, the number in people attempting to cross the border without proper documentation has decreased significantly. President Obama directed U.S. Immigration and Customs Enforcement (ICE) to focus on criminals not families. “ICE has continued to increase its focus on identifying, arresting, and removing convicted criminals in prisons and jails, and also at-large arrests in the interior. In fiscal year 2015, 91 percent of people removed from inside the U.S. were previously convicted of a crime.”²⁶ Many of the Central American refugees were not given asylum and were treated as an enforcement issue. Though the Obama administration for deportations was appreciated for the fact that it stayed away from families and tried to only deported only criminals, these asylees were denied their human rights without even consultation with an attorney.²⁷

VI. IMMIGRATION POLICIES AND ORDERS BY TRUMP:

Mexican Tiff:

President Trump promised to build a wall on the U.S. border with Mexico to stop illegal crossing of border of

²²American Immigration Council Staff, *President Obama’s Legacy on Immigration*, AMERICAN IMMIGRATION COUNCIL (Jan. 20, 2017), <http://immigrationimpact.com/2017/01/20/president-obamas-legacy-immigration/html>.

²³*Supra* note 24.

²⁴John D. Skretny & Jane Lilly Lopez, *Obama’s Immigration Reform: The Triumph of Executive Action*, 2 Ind. J.L. & Soc. Equal. [iii], 62-79 (2013).

²⁵*Supra* note 24.

²⁶Serena Marshall, *Obama Has Deported More People Than Any Other President*, THE ABC NEWS (Aug. 29, 2016), <https://abcnews.go.com/Politics/obamas-deportation-policy-numbers/story?id=41715661>.

²⁷*Supra* note 24.

the Mexicans and asked the Mexican government to pay for the wall.²⁸ Since Mexico refused to pay for the wall, President Trump asked Congress to appropriate the money. He would ask Mexico to pay for it later. Many Republicans oppose the border wall. Those from California, Arizona, New Mexico, and Texas face the most consequences.²⁹ They say the wall won't work, especially without added security forces. Others worry about the impact on the environment in their states. Democrats are also opposed to the wall.

Prioritising Americans:

The RAISE Act that is Reforming American Immigration for Strong Employment Act (RAISE Act) would impact the immigration system of U.S. if passed.³⁰ The bill seeks to significantly reduce levels of legal immigration to the United States by drastically cutting off some family-based categories, redefining others, and eliminating the diversity visa.³¹ It would also substitute the existing employment-based system with a narrow and rigid points system. “A preliminary analysis reveals that the proposed points system likely would put some categories of people at a tremendous disadvantage. Those groups include women, people who work in the informal economy (including those who do unpaid work), individuals with family ties to U.S. citizens but without formal education and employment history, middle-aged and older adults, and applicants from less-developed countries.”³² The problems identified in this analysis raise concerns not only about the structure of the points system, but the foundational values upon which the proposed new system is based. The overall economy of the nation might get impacted as result of such drastic measures suggested by President Trump.³³

Travel Ban:

On December 4, 2017, the Supreme Court allowed the Trump administration to implement its travel ban while ongoing litigation proceeds.³⁴ On September 24, 2017, Trump issued restrictions on travel from eight countries, Chad, Iran, Libya, North Korea, Somalia, Syria, Venezuela and Yemen.³⁵ “Trump's latest order replaces the one he signed on March 6, 2017. It prohibited visas for citizens from six countries. They were Syria, Iran, Libya, Somalia, Sudan, and Yemen. It was supposed to go into effect at 12:01 am on March 16 and remain for 90 days.” The ban was stopped by a lower court order.

²⁸ Manu Raju et al., *Trump Asking Congress, Not Mexico, to Pay for Border Wall*, CNN POLITICS (Jan. 06, 2017), <https://edition.cnn.com/2017/01/05/politics/border-wall-house-republicans-donald-trump-taxpayers/index.html>.

²⁹ Kimberly Amadeo, *Donald Trump on Immigration: How It Affects the Economy and You*, THE BALANCE, <https://www.thebalance.com/donald-trump-immigration-impact-on-economy-4151107> (last updated Aug. 06, 2018).

³⁰*Id.*

³¹*The RAISE Act*, THE IMMIGRATION COUNCIL (Aug. 11, 2017), <https://www.americanimmigrationcouncil.org/research/raise-act/>.

³²*Supra* at 33.

³³*Id.*

³⁴ Clark Mindock, *Travel Ban: What is Trump's major immigration policy, and why is it called a 'Muslim ban'?*, THE INDEPENDENT (Dec. 05, 2017), <https://www.independent.co.uk/news/world/americas/us-politics/travel-ban-trump-what-is-it-muslim-countries-list-restrictions-latest-a8093821.html>.

³⁵*Id.*

H1-B Visa:

On April 19, 2017, Trump signed an executive order asking the Department of Homeland Security to review the H-1B visa program.³⁶ He wants to make sure that only highly-paid skilled immigrants receive the visas. He doesn't want any to go to foreign workers that are paid less than their U.S. counterparts.³⁷ “The order is directed at Indian firms like Tata Consultancy, Infosys and Wipro. They are located in the United States, but hire many immigrants from India. Facebook and Qualcomm are also big users of the H-1B visa. Fifteen percent of their workers are immigrants under the program.”³⁸

VII. LITERATURE REVIEW:

- U.S. Immigration Policy and President Obama's Executive Order for Deferred Action

President Obama's Deferred Action Plan Is Unwise And Bad Policy

“Let's consider the millions of people abroad who might be considering illegal immigration to the United States. How does President Obama's granting of work authorization to five million illegal immigrants affect them?”³⁹ The author gives a two-fold idea about the Deferred Action initiated by President Obama. The author says that if the Americans want the illegal immigration to decrease they have to have stricter laws and more rigid enforcement but if encouragement is to be provided then method like Obama's can be opted for. The author questions the impact of President Obama's executive order on qualified legal immigrants to the United States. The author states that many will have to compete for jobs with the newly work-authorized five million illegal immigrants. From the tone and style of presentation of the author's views it can be summarised that the author regarded this action of President Obama more of detrimental than beneficial.

- U.S. Immigration Policy: Enforcement & Deportation Trump Fair Hearings - Systematic Violations of International Non-Refoulement Obligations regarding Refugees

Legal Challenges to Abuse in the US:

The refugees and asylees from Mexico and Central and South America continue to face difficulties according to the author. The scrutiny these asylees are passed through is improper and thwarted. Despite their genuine fear of being persecuted, they are deported. Not only that but these asylees do not even get the opportunity to be properly represented in the courts. Then, “the individuals [in every case] were processed for expedited removal

³⁶Supra note 23.

³⁷Id.

³⁸Id.

³⁹Jan C. Ting, *U.S. Immigration Policy and President Obama's Executive Order for Deferred Action*, 66 Syracuse L. Rev. 65, 65-86 (2016).

and deported, without a hearing, to countries where they faced renewed persecution.”⁴⁰ They are currently hoping for withholding of removal, to at least allow them to not be removed to their homeland where they fear persecution again. The author here in this article describes the plight of these asylees and tries to highlight the hurdles that are faced by them despite the authorities taking Deferred Actions and enforcement measures.

- President Obama’s Legacy on Immigration

Family Detention

The article says the administration took an aggressive step in response to the arrivals at the Southern border of United States. The documented conditions in family detention have been poor and these conditions are on a regular basis challenged. Families have suffered prolonged and indefinite separations, receiving substandard medical care and individuals are suffering psychological distress including depression, anxiety, and difficulty sleeping. “The practice of family detention reinstated during the Obama Administration is a dark mark on his legacy. Immigration has always been a challenging issue and one most often exploited by politicians to divide the American public.”⁴¹ The article explains the mental trauma and distress as well as hardships suffered because of an aggressive step that the government could have thought about. The article tries to appear optimistic about the many promises so made by the then President-elect Donald Trump.

VIII. RESEARCH METHODOLOGY:

The researcher has followed doctrinal research methodology in the course of this research paper and has used secondary as well as tertiary sources that include journals, articles and web-sources. The researcher has reviewed the literature of three scholarly articles retrieved from HeinOnline. Further, this research project has done a detailed study of policies of President Obama and President Trump. This paper also recommends a different perspective by looking into the actions of both these Presidents.

IX. LIMITATIONS:

The researcher while assembling and drafting the research paper had to overcome the challenge of what is to be written exactly but the task lies in segregating what is important and what is to be avoided. The researcher had also a limited supply of authenticated data in case of Trump’s administration in immigration as the presidency period of Trump has not been that long and Trump is more focused on other issues rather than immigration inside the country. Some sites were also not accessible to the researcher because of subscription and not being the part of the institution’s cloud.

⁴⁰Jacob Oakes, *U.S. Immigration Policy: Enforcement & Deportation Trump Fair Hearings - Systematic Violations of International Non-Refoulement Obligations regarding Refugees*, 41 N.C. J. Int’l L. 833, 833-918 (2016).

⁴¹*Supra* at note 24.

X. RECOMMENDATIONS:

Obama was awarded Nobel Prize for Peace for his efforts at propagating world peace and harmony but if looked into the executive actions of Obama, some actions can be termed as unjustified and not in consonance with the law. The Deferred Actions were not the necessary course of action in the opinion of the researcher as it created confusion and unrest among the general public. Legalising the stay of those who in the first place entered inside the territory of United States illegally sounds contradictory at the first go. Those illegal immigrants who then had the permit to stay and work will compete with the general work force and a surge in the number to be employed will increase with limited number of employment opportunities.

The ideas as of now to be implemented by Trump if come to the stage of completion will change the entire system of immigration of United States. The Mexico conflict was an unnecessary stretch of an issue that could be resolved peacefully through right enforcement actions but the now American President is set on a course to stop the crossing of borders from Mexico to United States altogether. The RAISE Act can be called strategic masterplan to focus the limelight upon immigrants. The whole of immigrants will be affected when the Act will be enacted. It might be a great plan to enhance job opportunities of the Americans but what about those who have settled themselves in America and the nation has become their identity? This Act can have bad implications on the immigrants population as the visas granted, the work opportunities given and the stay facilities are being reconsidered.

XI. UNITED STATES AND THE WORLD IN 2018:

United Nations emerged as the only surviving super power after the disintegration of Soviet Union in the 1990s and had continued to hold that position regardless of the emergence of a multipolar world. It continues to hold an upper hand in the economic, political and military areas. The relations established by the United States with other countries after it came out its isolation period in the World War II have tremendously grown since. United States has ever since continued to intervene in almost all the important political matters internationally. Whether it was the Korean War, the War of Vietnam or the propagation of world peace and harmony, United States played a crucial role in many historical events. The problem now has come with the present President of America that is Donald Trump who actions and comments are criticised globally by those who are directly affected and those who are not even remotely affected. He has become a global controversial figure for his arbitrary statements, unthinkable actions and offensive and derogatory behaviour to certain communities. After assuming the office as the President of United States, he has continued to make the headlines on a daily basis without any fail. The immigration and refugee policies being the matter of concern here, can be summarised to be affected drastically as now the world has become sceptical of United States. If the case remains the same and

Trump's attitude towards other communities and classes does not change then the long established relations with many prominent countries will be affected and not positively.

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