

INTERNATIONAL RELATIONS, MATERIAL AND MILITARY POWER, AND UNITED STATES IMMIGRATION POLICY: AMERICAN STRATEGIES TO UTILIZE FOREIGNERS FOR GEOPOLITICAL STRENGTH, 1607 TO 2012

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ABSTRACT

What is the relationship between immigration and United States material and military interests? What policies and laws have American leaders devised to use immigrants for geopolitical strength? These questions are important because they shed light on historical and mechanistic facets of U.S. immigration policy and law, an important transnational or nontraditional security issue, and a pressing contemporary policy area for U.S. leaders. This article answers them by using International Relations (IR)/ Security Studies concepts and literature, primary sources such as private letters and legal statutes, and secondary works by historians, political demographers, and legal and migration scholars to detail connections between immigration and the material and military strength of a state. It identifies three primary ways America has at times enacted laws and policies to use immigrants for geopolitical strength since the seventeenth century, which are: (1) recruiting foreigners as laborers or soldiers for military assistance during conflict, and more generally, (2) boosting population, and (3) enhancing the skill set of the members of the polity for national strength during war and peace. The article concludes with research and policy implications of its findings, including an appeal for leaders to use more immigrants in the military and remain mindful of human rights when forming policy.

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INTRODUCTION

Senator John Sherman was asked by his fellow congressmen, who had recently enacted the 1882 Chinese Exclusion Act and looked to further restrict immigration, to explain a policy assumed essential when he voted for it two decades prior. He reminded them that the Act to Encourage Immigration during the Civil War was for “the free immigration that was necessary . . . to strengthen our armies and enable us to manufacture the vast supplies needed for the support of our troops.”¹ President Lincoln had declared after its enactment that “our [i]mmigrants” are “one of the principal replenishing streams which are appointed by Providence to repair the ravages of internal war, and its wastes of national strength and health.”² True to this

1. Cong. Rec. 1787 (Feb. 17, 1885) (statement of Sen. John Sherman). The 1864 Act to Encourage Immigration set up a federal Commissioner of Immigration reporting to the Department of State and an Immigration Office in New York City as well as allocated funding for attracting immigrants to the U.S. An Act to Encourage Immigration, ch. 246, § 1, 13 Stat. 385, 385-386 (1865).

2. Abraham Lincoln, *Annual Message to Congress*, in 8 THE COLLECTED WORKS OF ABRAHAM LINCOLN 141 (Roy P. Basler ed., 1953). Sherman was debating with his fellow Senators a bill that would become the 1885 Contract Labor Law. See Samuel P. Orth, *The Alien Contract Labor Law*, 22 POL. SCI. Q. 49 (1907).

sentiment, the Union had used over 500,000 foreigners as soldiers during the Civil War, but Senator Sherman spoke in a calmer geopolitical environment and the policy of using immigrants to support the army seemed out of tune with the immigration sentiment of the day.

Over a century and half after the Civil War, a similar dynamic can be observed today, with leaders seeking foreigners for the military at a time when many Americans have called for stricter immigration laws. President George W. Bush signed Executive Order 13269 on July 3, 2002, to utilize immigrants in the armed forces to assist “the United States during the period of the war against terrorists of global reach.”³ More recently, the Department of Defense (DOD) launched the Military Accessions Vital to National Interest (MAVNI) program, which uses legal non-citizens with technical skills for the Global War on Terrorism, in 2009 and then expanded it in 2012.⁴ These policies have been formed during a period of strong calls for strict immigrant control, as noted by the House passing H.R. 4437 in 2005 and Arizona enacting SB 1070 in 2010 that sought, amongst other enforcement measures, to criminalize an immigrant for failing to carry documents.⁵

These examples are not one-time policy peculiarities: Bush and the DOD, as did Lincoln and Sherman, continued a tradition of using immigrants for geopolitical strength that began before the Revolutionary War, when the American colonies were part of the British Empire.⁶ With U.S. leaders today attempting to overhaul the federal immigration system—Congress tried comprehensive reform in 2006-07 and again in 2013—a greater understanding of this topic is required to help policy makers in this area, especially considering that analysts argue that the U.S. immigration system is inadequate for advancing American interests in the global community.⁷ The

3. Exec. Order No. 13269, 67 C.F.R. 45287 (July 4, 2002), available at <http://www.gpo.gov/fdsys/pkg/FR-2002-07-08/pdf/02-17273.pdf>.

4. The website for the MAVNI program is at <http://www.goarmy.com/benefits/additional-incentives/mavni.html> (last visited July 17, 2015). See also John M. Lorenzen, *The Military Accessions Vital to National Interest Program: What It Is and How It Can Be Made Relevant* (2011); (monograph, School of Advanced Military Studies, United States Army Command and General Staff College); Julia Preston, *U.S. Military Will Offer Path To Citizenship*, N.Y. TIMES, Feb. 14, 2009; Julia Preston, *Pentagon Reopens Program Allowing Immigrants with Special Skills to Enlist*, N.Y. TIMES, Oct. 27, 2012.

5. The Border Protection, Anti-terrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437) was a bill in the 109th United States Congress, and the Support Our Law Enforcement and Safe Neighborhoods Act (S.B. 1070) was signed into law by Arizona Governor Jan Brewer on April 23, 2010. See, e.g., Joel S. Fetzer, *Why Did House Members Vote for H.R. 4437?*, 40 INT'L MIGRATION REV. 698 (2006); Kristina M. Campbell, *The Road to S.B. 1070: How Arizona Became Ground Zero for the Immigrant's Rights Movement and the Continuing Struggle for Latino Civil Rights in America*, 14 HARV. LATINO L. REV. 1 (2011).

6. See, e.g., Darlene C. Goring, *In Service to America: Naturalization of Undocumented Alien Veterans*, 31 SETON HALL L. REV. 400 (2000-2001); James B. Jacobs & Leslie Ann Hayes, *Aliens in the U.S. Armed Forces: A Historico-Legal Analysis*, 7 ARMED FORCES & SOC'Y 187 (1981).

7. On post-9/11 U.S. immigration policy, see MICHAEL JONES-CORREA WITH MIGRATION POLICY INSTITUTE, *CONTESTED GROUND: IMMIGRATION IN THE UNITED STATES* (2012); MITTELSTADT ET AL., WITH MIGRATION POLICY INSTITUTE, *THROUGH THE PRISM OF NATIONAL SECURITY: MAJOR IMMIGRATION POLICY AND PROGRAM CHANGES SINCE 9/11* (2011); MARC R. ROSENBLUM WITH MIGRATION POLICY

United States has been the largest recipient of immigrants in the post-World War II period, with about one million legal immigrants per year coming to America over the past decade, and approximately eleven million undocumented immigrants presently in the country.⁸ Given this high influx of migrants, leaders are in a position to use immigration to enhance geopolitical strength and take measures to ensure human rights are upheld for citizens and immigrants if acting in the national interest.

Despite its contemporary importance, the material and military dimension of U.S. immigration policy has received insufficient treatment.⁹ International Relations (IR) scholars, such as Fiona Adamson, Christopher Rudolph, and Myron Weiner, have laid conceptual foundations for how security, international relations, and international migration intersect for states, but their empirical work does not focus on the military component of U.S. immigration policy since the country's founding.¹⁰ Susan Martin, Daniel Tichenor, and Aristide Zolberg—scholars using historical-institutionalist frameworks in their studies—have richly traced the development of the policy area since

INSTITUTE, *US IMMIGRATION POLICY SINCE 9/11: UNDERSTANDING THE STALEMATE OVER COMPREHENSIVE IMMIGRATION REFORM* (2011). Many analysts argue the U.S. immigration policy system is inadequate for attracting and retaining the skilled labor needed to compete in today's global economy. See, e.g., Ayelet Shachar, *Talent Matters: Immigration Policy-Setting as a Competitive Scramble Among Jurisdictions*, in *WANTED AND WELCOME? POLICIES FOR HIGHLY-SKILLED IMMIGRANTS IN COMPARATIVE PERSPECTIVE* 85-104 (Triadafilos Triadafilopoulos ed., 2013); VIVEK WADHWA WITH ALEX SALKEVER, *THE IMMIGRANT EXODUS: WHY AMERICA IS LOSING THE GLOBAL RACE TO CAPTURE ENTREPRENEURIAL TALENT* (2012); DARRELL M. WEST, *BRAIN GAIN: RETHINKING U.S. IMMIGRATION POLICY* (2010). But see B. Lindsay Lowell, *Skilled Immigration Policy in the United States: Does Policy Admit "Enough" Skilled Workers?*, in *WANTED AND WELCOME? IMMIGRANTS AND MINORITIES, POLITICS AND POLICY* 105-122 (Triadafilos Triadafilopoulos ed., 2013).

8. For statistical demonstration see Migration Policy Institute, *Legal Immigration to the United States, 1820-Present*, MIGRATION POLICY, <http://www.migrationpolicy.org/programs/data-hub/charts/Annual-Number-of-US-Legal-Permanent-Residents?width=1000&height=850&iframe=true> (last visited June 27, 2015); Migration Policy Institute, *Unauthorized Immigrant Population Profiles*, MIGRATION POLICY, <http://www.migrationpolicy.org/programs/us-immigration-policy-program-data-hub/unauthorized-immigrant-population-profiles> (last visited June 27, 2015).

9. By "material and military strength," this article is referring to "hard" (e.g., economic or military) rather than "soft" (e.g., cultural or ideational) forms of state power. The term "material" is often used to refer to the hard power of states and it can include non-military (such as economic) and military sources of power. This article uses what some may consider the redundant wording "material and military power" instead of "material power" to use terminology that may make more intuitive sense to readers not steeped in International Relations (IR) "power" literature. Although this article attempts precision in regard to what it means by power, the meaning of power is contested in IR. See David A. Baldwin, *Power and International Relations*, in *HANDBOOK OF INTERNATIONAL RELATIONS* 177-191 (Walter Carlsnaes, Thomas Risse & Beth A. Simmons eds., 2002); Michael Barnett & Raymond Duvall, *Power in International Politics*, 59 *INT'L ORG.* 39 (2005); *BACK TO BASICS: STATE POWER IN A CONTEMPORARY WORLD* (Martha Finnemore & Judith Goldstein eds., 2013); see also discussion *infra* Part I.

10. See, e.g., Fiona Adamson, *Crossing Borders: International Migration and National Security*, 31 *INT'L SECURITY* 165 (2006); Christopher Rudolph, *Globalization and Security: Migration and the Evolving Conceptions of Security in Statecraft and Scholarship*, 13 *SECURITY STUD.* 1 (2003) [hereinafter Rudolph, *Globalization & Security*]; CHRISTOPHER RUDOLPH, *NATIONAL SECURITY AND IMMIGRATION: POLICY DEVELOPMENT IN THE UNITED STATES AND WESTERN EUROPE SINCE 1945* (2006) [hereinafter RUDOLPH, *NAT'L SEC. & IMMIGRATION*]; MYRON WEINER, *GLOBAL MIGRATION CRISIS: CHALLENGE TO STATES AND TO HUMAN RIGHTS* (1995) [hereinafter WEINER, *GLOBAL MIGRATION*]; *INTERNATIONAL MIGRATION AND SECURITY* (Myron Weiner ed., 1993); Myron Weiner, *On International Migration and International Relations*, 11 *POPULATION & DEV. REV.* 441 (1985).

the eighteenth century, but their works are wide-scoping and do not concentrate on the military aspect of U.S. immigration policy.¹¹ Law and military scholars have written detailed legal and policy-oriented works that examine the roles foreigners have played in the U.S. armed forces, but these analyses do not consider ways beyond soldiering that immigrants have been utilized for national power.¹² And immigration scholars routinely note that a mercantilist strain, a viewpoint stressing military factors, has underscored state migration policies, but this perspective has been treated cursorily in the literature.¹³

This article presents a more complete analysis of the material and military dimension of American immigration policy since the colonial era by using: IR/Security Studies concepts and literature; primary sources such as government documents, statutes, and private correspondence; and secondary sources by historians, political demographers, and legal and migration scholars, to both detail connections between immigration and the material and military strength of a state and also to identify examples of American leaders forming laws and policies to utilize immigrants for geopolitical strength.¹⁴ It will illuminate that since the seventeenth century security exigencies within the international system have incentivized American officials to use immigration to reach three primary material and military objectives: (1) directly utilizing foreigners for military assistance during conflict, and more broadly and less exactly, using immigrants to (2) increase the size, and to (3) enhance the

11. SUSAN F. MARTIN, *A NATION OF IMMIGRANTS* (2011); DANIEL J. TICHENOR, *DIVIDING LINES: THE POLITICS OF IMMIGRATION CONTROL IN AMERICA* (2002); ARISTIDE R. ZOLBERG, *A NATION BY DESIGN: IMMIGRATION POLICY IN THE FASHIONING OF AMERICA* (2006). On historical-institutionalism methodology see, for example, Paul Pierson & Theda Skocpol, *Historical Institutionalism in Contemporary Political Science*, in *POLITICAL SCIENCE: THE STATE OF THE DISCIPLINE* 693-721 (Ira Katznelson & Helen V. Milner eds., 2002).

12. See, e.g., Goring, *supra* note 6; Lorenzen, *supra* note 4; Lynn G. O'Neil & Omer S. Senturk, *Noncitizens in the U.S. Military* (Mar. 2004) (unpublished Master's thesis, Naval Postgraduate School); Huseyin Yalcinkaya & Melih Can, *The Effect of Executive Order 13269 on Noncitizen Enlisted Accessions in the U.S. Military* (2013) (unpublished thesis, Naval Postgraduate School). For a related work by a historian, see Candice Bredbenner, *A Duty to Defend? The Evolution of Aliens' Military Obligations to the United States, 1792 to 1946*, 24 *J OF POL'Y HIST.* 224 (2012).

13. The conceptualization of U.S. immigration policy within this article shares similarities with a mercantilist/neo-mercantilist account of state migration policy in the sense that they each emphasize viewing immigration as a tool of the state for national power. Despite scholars often noting the role of mercantilist ideas in state migration policies through history, this author could not find a single well-developed study of the topic. For short sketches in the area, see ALAN DOWTY, *CLOSED BORDERS: THE CONTEMPORARY ASSAULT ON FREEDOM OF MOVEMENT* 26-36 (1987); CHRISTIAN JOPPKE, *IMMIGRATION AND THE NATION-STATE: THE UNITED STATES, GERMANY, AND GREAT BRITAIN* 17-23 (1999); C. Passaris, *Immigration and the Evolution of Economic Theory*, 27 *INT'L MIGRATION*, 525 (1989); Aristide Zolberg, *International Migration Policies in a Changing World System*, in *HUMAN MIGRATION: PATTERNS AND POLICIES* 241-286 (William McNeill & Ruth Adams eds., 1978). For a longer analysis with mercantilist themes (though not framed in this context), see VERNON M. BRIGGS, JR., *MASS IMMIGRATION AND THE NATIONAL INTEREST: POLICY DIRECTIONS FOR THE NEW CENTURY* (3rd ed. 2003).

14. The American colonial period is typically designated from the founding of Jamestown in 1607 to the Revolutionary War in 1776.

skill set of the populace during times of war and peace for geopolitical and military advantage in the global system.

In addition to its policy relevance, this study contributes to academic literature in at least five ways, which are identified here to help bring immigration—an important transnational or nontraditional security area and a global phenomenon that frequently brings state and non-state actors into contact—more explicitly within international affairs disciplines.¹⁵ First, this article speaks to a now long-standing debate within the IR discipline over the meaning of “security” and the boundaries of the field that intensified after the Cold War, with some scholars arguing that the discipline should focus on the military dimensions of security and other scholars saying that it should be broadened to include transnational issues such as the environment, epidemics, and immigration.¹⁶ This is more than a scholastic issue because policy areas that are labeled as important matters of U.S. national security receive priority for research and funding.¹⁷ This article contributes to this debate by

15. International migration is an area receiving attention from IR scholars since 9/11. *See infra* notes 21 & 22. However, it still remains marginal in the discipline (for example, many introductory IR textbooks devote limited, if any, attention to it) considering that it constitutes one of the most direct and frequent ways that state and non-state actors make contact in the global community. Regarding the historiography of the field, Mark J. Miller made a comment about immigration in the 1990s that still has some relevance today when he noted that many IR scholars treat “immigration as a peripheral concern because only phenomena affecting questions of war and peace are important to the analysis of international relations. What is most troubling about the long indifference of students of international security to international migration is that the international movement of people clearly had importantly affected questions of peace and war long before 1990.” Mark J. Miller, *International Migration and Global Security*, in 15 *REDEFINING SECURITY: POPULATION MOVEMENT AND NATIONAL SECURITY* 24 (Nana K. Poku & David T. Graham eds., 1998).

16. Keith Krause and Michael C. Williams explain this debate within IR and Security Studies disciplines: “The field of security studies has been the subject of considerable debate in recent years. Attempts to broaden and deepen the scope of the field beyond its traditional focus on states and military conflict have raised fundamental theoretical and practical issues Debates over the nature and meaning of ‘security’ and the future of security studies have become a staple of the field’s post-Cold War agenda These debates have three roots: a discontent among some scholars with the neorealist foundations [neorealism is a popular IR theory; see *infra* note 26] that have characterized the field, a need to respond to the challenges posed by the emergence of a post-Cold War security order, and a continuing desire to make the discipline relevant to contemporary concerns.” Keith Krause & Michael C. Williams, *Broadening the Agenda of Security Studies: Politics and Methods*, 40 *MERSON INT’L STUD. REV.* 229, 229-30 (1996). The authors note that there have been “attempts to *broaden* the neorealist conception of security [that is, a focus on military conflict and war] to include a wider range of potential threats, ranging from economic and environmental issues to human rights and migration.” *Id.* at 230 (emphasis in the original). For other works related to this debate see, e.g., BARRY BUZAN, OLE WAEVER & JAAP DE WILDE, *SECURITY: A NEW FRAMEWORK FOR ANALYSIS* (1998); Veronica Kate Coates, *A Critical Analysis of Walt’s Concept of Security*, E-INTERNATIONAL RELATIONS STUDENTS (Oct. 9, 2014), <http://www.e-ir.info/2014/10/09/a-critical-analysis-of-walts-concept-of-security/>; Stephen M. Walt, *The Renaissance of Security Studies*, 35 *INT’L STUD. Q.* 211 (1991). Although relevant to all nontraditional or transnational security issues including migration, this debate remains perhaps most lively in regard to the environment. *See, e.g.*, Maria Julia Trombetta, *Environmental Security and Climate Change: Analysing the Discourse*, 21 *CAMBRIDGE REV. OF INT’L AFF.* 585 (2008).

17. Consider, for example, that 53.7% (\$598.5 billion) of the fy2015 federal discretionary budget was allocated for the military. As a comparison, note that 6.3% (\$70.0 billion) and 5.9% (\$66.0 billion) of the fy2015 federal discretionary budget was allocated on education and Medicare/health, respectively. *See Federal Spending: Where Does the Money Go*, NAT’L PRIORITIES PROJECT, <https://www.nationalpriorities.org/budget-basics/federal-budget-101/spending/> (last visited June 26, 2015).

showing that U.S. leaders have used immigration as a security tool for over three centuries, which provides evidence that despite academic disagreement on this topic, policy-makers treat migration—a transnational area—as a national security instrument.

Second, and related to this issue, this article speaks to a debate on the “securitization” of migration, with some analysts arguing that narrowing in on security and immigration can result in hysteria, xenophobia, and poor policy choices,¹⁸ while other scholars, such as Weiner, advocate that the topic warrants attention because “fears often do have a basis in reality, and whether they do or do not, fears shape the way peoples and their governments behave.”¹⁹ This article adds to this discussion by exploring how and why leaders perceive connections between geopolitical interests and migration.²⁰

Third, this article illustrates the value of using security factors to understand U.S. immigration policy and legal development. Popular explanations and models of the policy area have historically used cultural and national identity, economic, social, and interest groups, and institutional frameworks to explain the policy area, but all of these approaches have limits for describing aspects of U.S. immigration policy.²¹ This article shows how and why material and military considerations have factored into American policy choices since the colonial era, thereby providing evidence of the utility of using security variables to better understand U.S. immigration policy.²²

18. For example, Maggie Ibrahim associates linking security and immigration as racism: “As we enter the informational economy, freedom of human mobility has nearly disappeared. Instead, powerful words are travelling the globe unhindered: risk and security. They are being strung together with the present “migration phenomena,” leaving migrants bound by the chain of the new security discourse: the securitization of migration. This discourse is racism’s most modern form.” Maggie Ibrahim, *The Securitization of Migration: A Racial Discourse*, 43 INT’L MIGRATION 143 (2005).

19. See *Preface to INTERNATIONAL MIGRATION AND SECURITY*, at ix (Myron Weiner ed., 1993). For other studies uncovering issues with using security as a basis for immigration policy see, for example, MIKHAIL A. ALEXSEEV, *IMMIGRATION PHOBIA AND THE SECURITY DILEMMA: RUSSIA, EUROPE, AND THE UNITED STATES* (2006); Didier Bigo, *Security and Immigration: Toward a Critique of the Governmentality of Unease*, 27 ALTERNATIVES 63 (2002); Jennifer M. Chacón, *Unsecured Borders: Immigration Restrictions, Crime Control, and National Security*, 39 CONN. L. REV. 1827 (2007); Ayse Ceyhan & Anastassia Tsoukala, *The Securitization of Migration in Western Societies: Ambivalent Discourses and Policies*, 27 ALTERNATIVES 21 (2002); Jef Huysmans, *The European Union and the Securitization of Migration*, 38 J. OF COMMON MARKET STUD. 751 (2000).

20. The hope is that by bringing transparency to these sorts of issues leaders will be more equipped to form humane policies for the security of citizens and immigrants.

21. For overviews and limitations of these approaches, see TICHENOR, *supra* note 11, at 18-28; RUDOLPH, NAT’L SEC. & IMMIGRATION, *supra* note 10, at 15-23; Robbie J. Totten, *Security and United States Immigration Policy 18-30* (2012) (unpublished Ph.D. dissertation, UCLA). For more general overviews of the migration literature, see, for example, Erik Bleich, *Immigration and Integration Studies in Western Europe and the United States: The Road Less Traveled and a Path Ahead*, 60 WORLD POL. 509 (2008); MIGRATION THEORY: TALKING ACROSS DISCIPLINES (Caroline B. Brettel & James F. Hollifield eds., 2d ed. 2008); Wayne A. Cornelius & Marc R. Rosenblum, *Immigration and Politics*, 8 ANN. REV. POL. SCI. 99 (2005); Eytan Meyers, *Theories of International Immigration Policy—A Comparative Analysis*, 43 INT’L MIGRATION REV. 1245 (2000).

22. The geopolitical and security dimension of U.S. immigration policy has received attention since 9/11, but it has tended to focus on select security issues (notably, terrorism and immigrant enforcement) and events since the terrorist attacks and to a lesser extent WWII. This article examines the material and military dimension of American immigration policy since the colonial period. Excellent studies on security and post-9/11 U.S. immigration policy include EDWARD ALDEN, *THE*

Fourth, this article explores the nexus between domestic politics and international relations as well as how forces in the global system factor into U.S. political and legal development. Immigration is thought of by some Americans as a domestic issue, one in which leaders should develop policies based upon internal factors, but this article details how geopolitical forces have played a role in U.S. immigration policy through time. This historical role emphasizes the importance of considering international forces in state domestic politics and it illuminates a policy area to test “second-image reversed” arguments.²³

Fifth, this article speaks to general claims about immigration policy by scholars of international affairs, notably that international migration is a trans-border issue eroding U.S. sovereignty because its forces are beyond state control and that America (especially in the postwar period) has embraced international norms such as human rights that may limit it from devising immigration policies in the national interest.²⁴ This article enters

CLOSING OF THE AMERICAN BORDER: TERRORISM, IMMIGRATION, AND SECURITY SINCE 9/11 (2008); MICHELLE MITTELSTADT ET AL., THROUGH THE PRISM OF NATIONAL SECURITY (2011). A few of the many superb recent works pertaining to geopolitics/security and migration recently include Adamson, *supra* note 10, at 1; Jason Ackleson, *Constructing Security on the U.S.-Mexico Border*, 24 POL. GEOGRAPHY 165 (2005); PETER ANDREAS, BORDER GAMES: POLICING THE U.S.-MEXICO DIVIDE (2d ed. 2009); ALEXANDER BETTS & GIL LOESCHER, REFUGEES IN INTERNATIONAL RELATIONS (2011); David Cook-Martín & David FitzGerald, *Liberalism and the Limits of Inclusion: Race and Immigration Law in the Americas, 1850-2000*, 41 J. OF INTERDISC. HIST. 7 (2010); IMMIGRATION POLICY AND SECURITY: U.S., EUROPEAN, AND COMMONWEALTH PERSPECTIVES (Gary P. Freeman, Terri E. Givens & David L. Leal eds., 2009); KELLY M. GREENHILL, WEAPONS OF MASS MIGRATION: FORCED DISPLACEMENT, COERCION, AND FOREIGN POLICY (2010); James F. Hollifield, *The Emerging Migration State*, 38 INT'L MIGRATION REV. 885 (2004); REY KOSLOWSKI, MIGRANTS AND CITIZENS: DEMOGRAPHIC CHANGE IN THE EUROPEAN STATE SYSTEM (2000); TONY PAYAN, THE THREE U.S.-MEXICO BORDER WARS: DRUGS, IMMIGRATION, AND HOMELAND SECURITY (2006); MARC ROSENBLUM, THE TRANSNATIONAL POLITICS OF U.S. IMMIGRATION POLICY (2004); Christopher Rudolph, *Security and the Political Economy of International Migration*, 97 AM. POL. SCI. REV. 602 (2003).

23. The effect of the international system on the domestic policies of states is often referred to as “second-image reversed” relationships. On the domestic-international nexus see, e.g., Gabriel A. Almond, *Review Article: The International-National Connection*, 19 BRIT. J. POL. SCI. 237 (1989); Peter Gourevitch, *The Second Image Reversed: The International Sources of Domestic Politics*, 32 INT'L ORG. 881 (1978); Dirk Haubrich, *The Foreign v. the Domestic after September 11th: The Methodology of Political Analysis Revisited*, 26 POL. 84 (2006); SHAPED BY WAR AND TRADE: INTERNATIONAL INFLUENCES ON AMERICAN POLITICAL DEVELOPMENT (Ira Katzenlon & Martin Shefter eds., 2002); David R. Mayhew, *Wars and American Politics*, 3 PERSP. ON POL. 473 (2005); ARTHUR A. STEIN, THE NATION AT WAR (1980). On the domestic-international connection and migration, see INTERNATIONAL MIGRATION AND THE GLOBALIZATION OF DOMESTIC POLITICS (Rey Koslowski ed., 2005).

24. Christian Joppke frames the debate as follows, “Why do the developed states of the North Atlantic region accept more immigrants than their generally restrictionist rhetoric and policies intend? The phenomenon of unwanted immigration reflects the gap between restrictionist policy goals and expansionist outcomes. Unwanted immigration is not actively solicited by states, as in the legal quota immigration of the classic settler nations. Rather, it is accepted passively by states, either for humanitarian reasons and in recognition of individual rights, as in asylum-seeking and family reunification of labor migrants, or because of the states’ sheer incapacity to keep migrants out, as in illegal immigration. The gap hypothesis can thus be reformulated as the question, Why do liberal states accept unwanted immigration? That states accept unwanted immigration contradicts one of their core prerogatives: the sovereignty over the admission and expulsion of aliens . . . Does the acceptance of unwanted immigration indicate a decline of sovereignty?” Christian Joppke, *Why Liberal States Accept Unwanted Immigration*, 50 WORLD POL. 266, 266-67 (1998) (internal citations

this debate by showing that for over three hundred years American leaders have created policies utilizing immigrants for geopolitical strength, which is an image in some ways contrary to U.S. officials constrained by norms and uncontrollable international migration flows.

The article unfolds in three main parts: the first part discusses how the international system incentivizes U.S. leaders to enhance the size and skills of their populace through immigration for geopolitical strength; the second part presents policies used by American leaders since the seventeenth century to utilize immigrants for material and military power objectives; and the third part discusses its implications for research and contemporary policy, including an appeal for leaders to use immigrants in the armed forces and to remain mindful of human rights when forming policy for the national interest.

I. BUILDING BLOCKS OF STATE MATERIAL AND MILITARY STRENGTH AND IMMIGRATION

What is the relationship between immigration and U.S. material and military interests?²⁵ The answer to this question, which sheds light on why American officials form policies to use immigrants for national strength, can be found in a basic structural realist observation within the IR discipline that leaders tend to focus on the security of their states in an anarchic international

omitted). Gary Jacobson answers this question in the affirmative by finding in case studies that “states have sought to control transnational immigration, and in the 1970s and 1980s, they failed.” DAVID JACOBSON, *RIGHTS ACROSS BORDERS: IMMIGRATION AND THE DECLINE OF CITIZENSHIP* 11 (John Hopkins Univ. Press 1996). He argues this is occurring because of “the growing accountability of the state to international human rights codes and institutions.” *Id.* at 137. Triadafilos Triadafilopoulos argues that postwar U.S. and Canadian immigration policies have been influenced by a “shift in normative context catalysed by World War II. The discrediting of scientific racism, rise of human rights, and transformation of the global system as a consequence of decolonisation and the Cold War cast older, discriminatory policies in a new light, exposing a lack of fit between Canada and the US’ postwar commitments to liberal-democratic principles, on the one hand, and their management of the migration-membership dilemma, on the other. This lack of fit impeded foreign and domestic policy objectives and this, in turn, drove the stretching and consequent unraveling of established frameworks.” Triadafilos Triadafilopoulos, *Global Norms, Domestic Institutions and the Transformation of Immigration Policy in Canada and the US*, 36 *REV. INT. STUD.* 169, 192-93 (2010). As described in the publisher’s description of her book, Debra L. DeLaet argues, “Civil rights rhetoric has been central to the debate over U.S. immigration policy since at least the 1960s. A coalition of interest groups, including churches, ethnic organizations, civil rights groups, and employer associations has played a fundamental role in advancing civil rights norms in the immigration arena.” DEBRA L. DELAET, *U.S. IMMIGRATION POLICY IN AN AGE OF RIGHTS* (Greenwood Publishing Group 2000). The arguments by Triadafilopoulos and DeLaet do not claim global norms prevent U.S. leaders from forming American immigration policies for the national interest, but they do suggest that civil and human rights values may constrain American leaders in doing so. For other works discussing themes related to these views, see James F. Hollifield, *Migration, Trade, and the Nation-State: The Myth of Globalization*, 3 *UCLA J. INT’L L. & FOREIGN AFF.* 595 (1998); James F. Hollifield, Valerie F. Hunt, & Daniel J. Tichenor, *Liberal Paradox: Immigrants, Markets and Rights in the United States*, 61 *SMU L. REV.* 67 (2008); CHALLENGE TO THE NATION-STATE: IMMIGRATION IN WESTERN EUROPE AND THE UNITED STATES (Christian Joppke ed., 1998); Christopher Rudolph, *Sovereignty and Territorial Borders in a Global Age*, 7 *INT. STUD. REV.* 1 (2005); Saskia Sassen, *Beyond Sovereignty: Immigration Policy Making Today* 23 *SOC. JUST.* 9 (1996); CHERYL L. SHANKS, *IMMIGRATION AND THE POLITICS OF AMERICAN SOVEREIGNTY, 1890-1990* (Univ. of Michigan Press 2001).

25. See *supra* note 9 for discussion on what is meant by “material and military” in this article.

system.²⁶ Absent a reliable global protector and police force, leaders are apt to seek material (such as economic) and military (such as soldiers) resources for protection.²⁷ The strength of a state is often determined by the size and skill of its populace—a large, technologically savvy population can produce great wealth and a strong military.²⁸ Leaders through history have made considerable efforts to endow their states in these areas and one way they have done this is through immigration because it can provide the manpower and expertise to build fortifications, infrastructure, secure territory, and assemble and operate technologies for economic production and weaponry.²⁹

26. Structural realism (sometimes called neorealism) is a long-standing, popular theory within the IR discipline that in simple terms purports to show that states tend to focus on security in an anarchic international system lacking an overarching sovereign or effective global policeman to provide them protection. *See, e.g.*, JOHN J. MEARSHEIMER, *THE TRAGEDY OF GREAT POWER POLITICS* 3, 29-54 (2001); KENNETH N. WALTZ, *THEORY OF INTERNATIONAL POLITICS* (1979.) On how realism is generally used to examine U.S. immigration policy in the empirical section of this article see *infra* note 70 and corresponding text.

27. Economic wealth is important for a state because it can be used to build military assets. For example, the great powers during WWII devoted up to fifty percent of their gross national product to their war efforts and the U.S. has spent over \$1 trillion on the Global War on Terrorism. Consider also that an F-22 fighter costs about \$150 million, a B-2 bomber costs roughly \$2 billion, and an aircraft carrier costs about \$5 billion. KLAUS E. KNORR, *MILITARY POWER AND POTENTIAL* 17 (1970); William C. Martel, *Technology and Military Power*, 25 *FLETCHER F. WORLD AFF.* 177 (2001). On relationships between economics and military strength, see *ECONOMICS AND WORLD POWER: AN ASSESSMENT OF AMERICAN DIPLOMACY SINCE 1789* (William H. Becker & Samuel F. Wells Jr. eds., 1984); Edward M. Earle, *Adam Smith, Alexander Hamilton, Friedrich List: The Economic Foundations of Military Power*, in *MAKERS OF MODERN STRATEGY: FROM MACHIAVELLI TO THE NUCLEAR AGE* 217-261 (Peter Paret ed., 1986); MICHAEL P. GERACE, *MILITARY POWER, CONFLICT, AND TRADE: MILITARY SPENDING, INTERNATIONAL COMMERCE, AND GREAT POWER RIVALRY* (2004); Michael Mastanduno, *Economics and Security in Statecraft and Security*, 52 *INT'L ORG.* 825 (1998); MEARSHEIMER, *supra* note 26, at 55-82; Jacob Viner, *Power Versus Plenty as Objectives of Foreign Policy in the Seventeenth and Eighteenth Centuries*, 1 *WORLD POL.* 1 (1948). Historical and statistical studies also suggest wealth and military strength are connected. For example, an analysis of international wars from 1815 to 1945 found that the victors of 79% (31 of 39) of these conflicts were the side with more material resources. Steven Rosen, *War Power and the Willingness to Suffer*, in *PEACE, WAR, AND NUMBERS* 177 (Bruce M. Russett ed., 1972). Similar results were found by James Lee Ray & Kevin Wang, *Beginners and Winners: The Fate of Initiators of Interstate Wars Involving Great Powers since 1495*, 38 *INT'L STUD. Q.* 139, 146 (1994). Paul Kennedy's survey of international history from 1500 to the end of the twentieth century also finds "the historical record suggests that there is a very clear connection in the long run between an individual Great Power's economic rise and fall and its growth and decline as an important military power (or world empire)." PAUL KENNEDY, *THE RISE AND FALL OF THE GREAT POWERS: ECONOMIC CHANGE AND MILITARY CONFLICT FROM 1500 TO 2000*, at xxiii-xxiv (Vintage Books 1987); *see also* WILLIAM H. MCNEILL, *THE PURSUIT OF POWER: TECHNOLOGY, ARMED FORCE, AND SOCIETY SINCE A.D. 1000* (Univ. of Chicago Press 1982).

28. As Samuel Huntington explains regarding a related issue, for states the "currency here . . . is men, money, and material." SAMUEL P. HUNTINGTON, *THE COMMON DEFENSE* 1 (Columbia Univ. Press 1961) (referenced in Michael N. Barnett, *High Politics is Low Politics: The Domestic and Systemic Sources of Israeli Security Policy, 1967-1977*, 42 *WORLD POL.* 529, 534-35 (1990)). Many attempts have been made to devise empirical indexes of state power. These indexes include variables such as population size, territory, technological level, military forces, organizational level, and morale. This article lays ground pertaining to the relationship between immigration and the material/military power of a country by discussing how human migration to the U.S. can affect its population size and technological ability, which are sources of state power. Geoffrey McNicoll, *Population Weights and the International Order*, 25 *POP. & DEV. REV.* 411 (1999).

29. On ways in which states seek to mobilize societal and material resources for military purposes, see, e.g., MICHAEL N. BARNETT, *CONFRONTING THE COSTS OF WAR: MILITARY POWER, STATE, AND SOCIETY IN EGYPT AND ISRAEL* 19-50 (Princeton Univ. Press 1992); Michael Barnett, *High Politics is Low Politics*, 42 *WORLD POL.* 529 (1990); Deborah Bräutigam, *Building Leviathan:*

This part of the article details these components of a state (the size and technological ability of a population) and their relationships to security to show the incentives leaders have to manipulate immigration policies for geopolitical interests, which, as is discussed in the next part of the article, can be done by using immigrants as soldiers and workers.

A. *Population Size and the Material and Military Strength of a State*

A simple analysis of states in the international system today reveals a relationship between a state's population and its strength.³⁰ For example, countries such as El Salvador, Grenada, and Ireland with populaces from about 100,000 to 7.5 million people do not wield as much influence in international politics as do states such as China, Russia, and the United States that have populations from 142 million to 1.3 billion people.³¹ This is why an older generation of scholars such as Katherine and A.F.K. Organski and Hans Morgenthau argued large populations inspire "confidence at home and fear and respect abroad" and "no country can remain or become a first-rate power which does not belong to the more populous nations of the earth."³²

Revenue, State Capacity, and Governance, 33 IDS BULL. 1, 1 (2002); Alan C. Lamborn, *Power and the Politics of Extraction*, 27 INT'L STUD. Q. 125 (1983); CHARLES TILLY, *COERCION, CAPITAL, AND EUROPEAN STATES, AD 990-1990* (1990).

30. For recent studies related to population and state strength, see *POLITICAL DEMOGRAPHY: HOW POPULATION CHANGES ARE RESHAPING INTERNATIONAL SECURITY AND NATIONAL POLITICS* (Jack A. Goldstone, Eric P. Kaufman & Monica Duffy Toft eds., 2012); RICHARD JACKSON ET AL., *THE GRAYING OF THE GREAT POWERS: DEMOGRAPHY AND GEOPOLITICS IN THE 21ST CENTURY* (Center for Strategic and International Studies 2008); JENNIFER DABBS SCIUBBA, *THE FUTURE FACES OF WAR: POPULATION AND NATIONAL SECURITY* (2011); JAY WINTER & MICHAEL TEITELBAUM, *THE GLOBAL SPREAD OF FERTILITY DECLINE: POPULATION, FEAR, AND UNCERTAINTY* (Yale Univ. 2013); SUSAN YOSHIHARA & DOUGLAS A. SYLVA, *POPULATION DECLINE AND THE REMAKING OF GREAT POWER POLITICS* (2012). The importance of population size for state security and military strength has been recognized since antiquity, though its popularity "as an increment of state power has waxed and waned over time, often in response to changes in the technology of war and the sources of military recruits." Eric P. Kaufmann & Monica Duffy Toft, *Introduction to POLITICAL DEMOGRAPHY 5* (Jack A. Goldstone, Eric P. Kaufman & Monica Duffy Toft eds., 2012). Population size has often been viewed as less essential for state strength in the postwar period than it was in previous eras because of the advent of new technologies such as nuclear weaponry, but it has in recent years returned to popularity as an increment of state power because analysts predict that demographic changes will cause some of the great powers to have smaller populations in coming decades. Neil Howe & Richard Jackson, *Demography and Geopolitics: Understanding Today's Debate in Its Historical and Intellectual Context*, in *POLITICAL DEMOGRAPHY* 31-48 (Jack A. Goldstone, Eric P. Kaufman & Monica Duffy Toft eds., 2012).

31. Population statistics may be found in *Data Finder*, POPULATION REFERENCE BUREAU, <http://www.prb.org/DataFinder.aspx> (last visited May 4, 2010).

32. KATHERINE ORGANSKI & A.F.K. ORGANSKI, *POPULATION AND WORLD POWER* 26 (Knopf 1961). They also explain that people's perceptions of population size amount to "self-fulfilling and self-defeating prophecies." *Id.* at 26-27 ("the nation sure of its future power works with a will to bring that power to pass; the nation that foresees a hopeless struggle gives up at the start, thus guaranteeing defeat. There is strength in numbers, satisfaction in the knowledge that one's small effort is multiplied by millions, consolation for private frustration in identification with a mighty nation"). Morgenthau also concluded that, "shifts in the distribution of power within Europe in recent history have been roughly duplicated by the changes in population trends." MORGENTHAU, *POLITICS AMONG NATIONS* 140-141 (6th ed. 1993); see also Ronald R. Krebs & Jack S. Levy, *Demographic Change and the Sources of International Conflict*, in *DEMOGRAPHY AND NATIONAL SECURITY* 64 (Myron Weiner & Sharon Stanton Russell eds., 2001).

Contemporary analysts cite China with its large populace as a formidable country the United States may have to confront.³³ This type of thinking derives from the fact that a large population can contribute to state strength through providing manpower for its military and economy.³⁴

1. *Population and State Military Strength*

In regard to military power, manpower has historically been thought vital in war because it is primarily humans who make the decisions in combat, operate the equipment of war, control territory, and represent the “ultimate manifestation of national commitment.”³⁵ Prior to the arrival of advanced twentieth century war technologies, “for centuries,” one scholar explains, the “population size” of a state was “directly equated” with its “military power,” and large standing armies were viewed as a foundation of military strength.³⁶ For example, Carl Von Clausewitz, the eminent military strategist of the nineteenth century, concluded in *On War* that “Superiority of Numbers” “is in tactics, as well as in Strategy, the most general principle of victory” and a popular adage of his era was that “God is always on the side of the bigger battalions.”³⁷

33. See, e.g., DAVID LAI, *THE UNITED STATES AND CHINA IN POWER TRANSITION* (Strategic Studies Institute 2011), available at <http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB1093.pdf>. Lai discusses the potential for U.S.-China conflict over the next thirty years and explains that, “China’s population may have been a major factor in making its big power base.” *Id.* at 16.

34. ORGANSKI & ORGANSKI, *supra* note 32, at 246-47. Stated another way, Organski and Organski explain, “A large population provides the manpower for a mighty armed force, provides the labor to produce great national wealth . . . provides the taxpayers who underwrite the enormous cost of playing world politics at present stakes, and provides the confidence to run the necessary risks of such a game. It is hard to escape the conclusion that great populations make great nations.” *Id.*

35. Gregory D. Foster, *Manpower as an Element of Military Power*, in *THE STRATEGIC DIMENSION OF MILITARY MANPOWER* 14-15 (Gregory D. Foster et al., eds., 1987). A reason that having a robust population size remains important for a great power even with the advanced technologies available in the modern era is because even today “nothing else can be entirely substituted” for human numbers. Kingsley Davis, *The Demographic Foundations of National Power*, in *FREEDOM AND CONTROL IN MODERN SOCIETY* 210 (Morroe Berger et al., eds., 1954). “Machines can be used in industry and weapons in warfare, but behind these there must be human beings.” *Id.*

36. RUDOLPH, *NAT’L SEC. & IMMIGRATION*, *supra* note 10, at 24. For example, the Confederacy, even with the brilliant military leadership of Robert E. Lee, could not overcome the population advantage of the Union during the Civil War, which many scholars argue is a reason for northern victory. HERMAN HATTAWAY & ARCHER JONES, *HOW THE NORTH WON: A MILITARY HISTORY OF THE CIVIL WAR* 17 (Univ. of Illinois 1991). Abraham Lincoln had over twenty-two million people within Union territory, whereas Jefferson Davis had only nine million people within Confederacy territory. *Id.*

37. CARL VON CLAUSEWITZ, *1 ON WAR* 192 (1918); Krebs & Levy, *supra* note 32, at 66, 92 (Finding that the popular saying is believed to have come from Voltaire). Clausewitz also commented that, “It is but natural that the subsistence [of armies] should be more easily carried out in rich and well-peopled countries than in the midst of a poor and scanty population . . . there is infinitely less difficulty in supporting an Army in Flanders than in Poland.” CARL VON CLAUSEWITZ, *2 ON WAR* 103 (1918). See also John Saunders, *Introduction: Population and Security*, in *POPULATION CHANGE AND EUROPEAN SECURITY* 1 (Lawrence Freedman & John Saunders, eds., 1991) (notice the discussion); John Keegan, *Role of Manpower in Traditional Strategic Thought*, in *THE STRATEGIC DIMENSION OF MILITARY MANPOWER* 37 (Gregory D. Foster et al., eds., 1987).

Military manpower remains important for states today even though modern weaponry has changed war and made large standing armies less essential for victory. For one, advanced weapons often lack value, absent men to control them, and although states require fewer infantrymen in modern war, militaries now need large numbers of scientists and technicians to carry out combat objectives.³⁸ Second, some studies indicate, “[w]henver the level of technological development between adversaries was comparable, the strength of an army has been in direct relationship with the number of soldiers” that it has in its ranks.³⁹ And third, the diversity and unpredictability of modern war advantages states that have large numbers of soldiers for combat—for example, states may have to transport troops over large distances and across diverse terrains such as oceans and mountains, as the United States has done with its wars in Afghanistan, Iraq, North Korea, and Vietnam over the past sixty years.⁴⁰

Statistical studies confirm the historical value of a large population for state success in war. One study found that seventy percent (28 of 40) of international wars between 1815 and 1945 were won by the state or coalition of states with the larger population.⁴¹ Similarly, this study also found that the sides that lost a smaller percentage of their populations were victorious in seventy-five percent of the wars (30 of 40), which also indicates an advantage for states with large populations because they can “afford” to lose more soldiers in battle than those states with fewer human numbers.⁴² A study of eighty-three developing nations also found that population size was correlated with military power (correlation of .94), as measured by the total number of military personnel that these states had on duty, even when controlling for the level of economic development within these states.⁴³

2. *Population and State Material Strength*

Part of the reason for these types of findings regarding population and military power is because large populaces can generate great amounts of wealth for states to build armed forces. Economists debate the relationship between wealth and population growth, and whether more human numbers neatly translate into increased economic growth for states over the long-term,

38. A military professor, for example, worries that, “Far more attention is given to new technologies and even new operational concepts than to the human resources necessary to make them work.” Lawrence Freedman, *Demographic Change and Strategic Studies*, in POPULATION CHANGE AND EUROPEAN SECURITY 15 (Lawrence Freedman & John Saunders eds., 1992). “In the United States, concern has been expressed that strategic potential has been driven far too much by what technology can offer rather than by what the available manpower makes possible.” *Id.*

39. MARCEL LEROY, POPULATION AND WORLD POLITICS: THE INTERRELATIONSHIPS BETWEEN DEMOGRAPHIC FACTORS AND INTERNATIONAL RELATIONS 22 (N.I.D.I. 1978).

40. See Davis, *supra* note 35, at 211.

41. See Rosen, *supra* note 27, at 177.

42. See *id.* at 176-77.

43. Gerry E. Hendershot, *Population Size, Military Power, and Antinatal Policy*, 10 DEMOGRAPHY 517, 519-21 (1973).

but it is clear that leaders of states with large populations have greater financial resources available to them than leaders of states with smaller populations with similar per capita income.⁴⁴ For example, applying a line of reasoning developed by Michael Teitelbaum and Myron Weiner to the present-day, only two of the ten (Japan and the United States) most populous states in the world as of 2014 can be classified as wealthy developed countries, but the governments of these other states (China, India, Indonesia, Brazil, Pakistan, Bangladesh, Nigeria, and Russia) “by virtue of sheer size . . . can command larger national budgets than would be available if they had the same per capita income but smaller populations.”⁴⁵ These states have more finances to develop war instruments than those states with smaller-sized populations and similar low per capita income.⁴⁶

States with larger populations may also possess other strategic economic benefits. For one, these states often have more foreign trade independence compared to states with fewer human numbers because they are capable of producing a greater variety of products domestically, thereby limiting reliance on foreign suppliers and markets, which can be particularly advantageous during war.⁴⁷ Second, a large population is likely to increase the “supply of creative intelligences” in a polity and the likelihood of technological innovation within the state, including perhaps weaponry inventions.⁴⁸ Third, more populated states are more likely to have larger internal markets that allow for greater economies of scale and “a wider variety of industries.”⁴⁹ And fourth, some studies indicate that governments with large populations develop greater organizational skills than ones with small populations.⁵⁰

As the discussion in this section indicates, leaders have incentives to manipulate the size of their state’s population to enhance geopolitical strength, and as shown in the next part of the article, U.S. leaders have at

44. Krebs & Levy, *supra* note 32, at 69-70; see MYRON WEINER & MICHAEL S. TEITELBAUM, *POLITICAL DEMOGRAPHY, DEMOGRAPHIC ENGINEERING* 15 (Berghahn Books 2001).

45. WEINER & TEITELBAUM, *supra* note 44, at 15.

46. *Id.*

47. LEROY, *supra* note 39, at 23.

48. Krebs & Levy, *supra* note 32, at 71.

49. LEROY, *supra* note 39, at 23; see also Myron Weiner, *Political Demography: An Inquiry into the Political Consequences of Population Change*, in *RAPID POPULATION GROWTH: CONSEQUENCES AND POLICY IMPLICATIONS* 593-95 (National Academy of Sciences, Office of the Foreign Secretary ed., 1971).

50. LEROY, *supra* note 39, at 23. The total number of people in a state (as well as the skill level/technological knowledge of the population, which will be discussed shortly), however, is not the only feature of a population that is important for the power of a state, notably because the age and gender of the members of a polity can have a significant effect on its economic and military potential. This is the case because humans between the ages of fifteen and sixty-five typically constitute the economically productive portion of a society and soldiers are typically males and between the ages of eighteen and thirty-five. These considerations could affect state migration policies. See Jack A. Goldstone, *A Theory of Political Demography: Human and Institutional Reproduction*, in *POLITICAL DEMOGRAPHY: HOW POPULATIONS CHANGES ARE RESHAPING INTERNATIONAL SECURITY AND NATIONAL POLITICS* 14-15 (Goldstone et al. eds., 2012) (speaking about different cohorts and need for women of child-bearing age); ORGANSKI & ORGANSKI, *supra* note 32, at 154.

times attempted to do this by inviting large numbers of immigrants to the country.

B. *Technology and Material and Military Strength of a State*

Similar to population size, technological ability serves as a source of power for a state in the international community and analysts and leaders frequently make this connection.⁵¹ For example, a Naval War College analyst stated that because of “its significant resources in technology as well as the breadth and depth of its technologies, other states cannot compete militarily with the United States and are likely to fail when they try.”⁵² The National Defense Panel, assembled by Congress to assess twenty-first century security imperatives concluded that the United States must “lead the technological revolution” to remain secure.⁵³ And IR scholars such as Mearsheimer have stated: “only states with the most advanced industries are capable of producing large quantities of sophisticated weaponry that militaries need to survive in combat.”⁵⁴ The historical record provides support for these claims and according to one scholar indicates states on the “technological ascent generally experience a corresponding and dramatic change in their global stature and influence, such as Britain during the first industrial revolution, the United States and Germany during the second industrial revolution, Japan during the twentieth century,” and perhaps China and India during this

51. See Stefan Hohlfeld, *International Migration of High-Skilled and National Systems of Innovation: obsolescence of ‘national’ 1* (Potsdam University, Working Paper, 2012), available at <http://www2.druid.dk/conferences/viewpaper.php?id=1989&cf=28>. This is exemplified by the respect the U.S. had for the Soviet Union after it launched Sputnik and became the first state to place an Earth-orbiting satellite in space. What constitutes “technology” is subject to debate, but this article uses a wide-scoping definition of it because U.S. officials have over time viewed a variety of technical skills important for enhancing American power when forming immigration policy. This article defines “technology as craftsmen, mechanics, inventors, designers, and scientists using tools, machines, and knowledge to create and control a human-built world consisting of artifacts and systems associated mostly with the traditional fields of civil, mechanical, electrical, mining, materials, and chemical engineering. In the twentieth and twentieth-first centuries, however, the artifacts and systems also became associated with newer fields of engineering, such as aeronautical, industrial, computer, and environmental engineering, as well as bioengineering.” THOMAS P. HUGHES, *HUMAN-BUILT WORLD: HOW TO THINK ABOUT TECHNOLOGY AND CULTURE* 4 (Univ. of Chicago Press 2004).

52. Martel, *supra* note 27, at 179. The Naval War College analyst also argues that the primary reason for U.S. military superiority is that “the span of technologies being developed by private firms, defense contractors, universities, and government laboratories in the United States exceeds that which is being developed by other states,” and “the depth of technological knowledge existing in the public and private sectors of the United States is without precedent.” *Id.*

53. *Id.* (quoting NAT’L DEF. PANEL, *TRANSFORMING DEFENSE: NATIONAL SECURITY IN THE 21ST CENTURY* 8 (1997), available at http://www.dod.gov/pubs/foi/Reading_Room/Other/902.pdf). A Senate Armed Services Committee Report similarly declared that one of its most important priorities is “to maintain a strong, stable investment in science and technology in order to develop superior technology that will permit the United States to maintain its current military advantages.” *Id.* (quoting S. Rep. No. 106-292, at 9 (2000)).

54. MEARSHEIMER, *supra* note 26, at 63; see also ROBERT GILPIN, *WAR AND CHANGE IN WORLD POLITICS* 182 (Cambridge Univ. Press 1981); QUINCY WRIGHT, *THE STUDY OF INTERNATIONAL RELATIONS* 381-82 (Appleton-Century-Crofts 1955).

century.⁵⁵ These types of findings and thinking derive from the fact that technology can boost state power—a relationship reviewed here to show leaders have incentive to invite skilled immigrants for geopolitical strength.

1. *Technology and State Military Strength*

A large number of historical examples illustrate the importance of technology for the military strength of states.⁵⁶ Ancient Egyptian warriors, wielding bronze weapons, were defeated by foes using iron arms.⁵⁷ The ancient Greeks beat larger Persian armies because body armor allowed them to fight safely at close range.⁵⁸ In medieval Europe, armored knights lost their long competitive advantage with the advent of weapons such as the crossbow and the longbow and the once impenetrable walled castles of kings and queens were flattened with the arrival of cannons.⁵⁹ And during the sixteenth through eighteenth centuries, gunpowder and advanced navies gave European states an advantage in the global community.⁶⁰

The military importance of technology for states has perhaps grown more critical over the past two centuries as the pace of innovation has accelerated.⁶¹ Remarkable changes have occurred in all facets of warfare throughout

55. Mark Zachary Taylor, *The Politics of Technological Change: International Relations versus Domestic Institutions 1* (Massachusetts Institute of Technology Department of Political Science, Work in Progress Colloquia 2004). On the other hand, great powers that do not keep up with technology “generally drift and fade from influence on the international scene,” as exemplified by once powerful states such as France, the Netherlands, Russia, and Sweden, which concurrently lost their leadership status in science and technology and in the global community. *Id.* at 1 n.6. More broadly, studies indicate the effect of technology on international relations is wide-ranging and potent with its capability of rapidly changing the structure of the global system through affecting the relative capabilities of states and other international actors, altering the processes underlying international relations (such as diplomacy, finance, trade, and war), generating new issues areas (such as global warming and stem cell research), and affecting the ideas and information through which the international system is constructed and perceived (through, for example, media and communication systems). Charles Weiss, *Science, Technology and International Relations*, 27 *TECH. IN SOC’Y* 295 (2005). For recent works on relationships between technology and international relations, see, for example, Stefan Fritsch, *Technology and Global Affairs*, 12 *INT’L STUD. PERSP.* 27 (2011); ELIZABETH C. HANSON, *THE INFORMATION REVOLUTION AND WORLD POLITICS* (Rowman & Littlefield Publishers, Inc. 2008); GEOFFREY L. HERRERA, *TECHNOLOGY AND INTERNATIONAL TRANSFORMATION: THE RAILROAD, THE ATOM BOMB, AND THE POLITICS OF TECHNOLOGICAL CHANGE* (State Univ. of New York Press 2006); *INFORMATION TECHNOLOGIES AND GLOBAL POLITICS: THE CHANGING SCOPE OF POWER AND GOVERNANCE* (James N. Rosenau & J.P. Singh, eds. 2002); RICHARD J. SAMUELS, “RICH NATION, STRONG ARMY”: NATIONAL SECURITY AND THE TECHNOLOGICAL TRANSFORMATION OF JAPAN (Cornell Univ. 1994).

56. BARRY BUZAN, *AN INTRODUCTION TO STRATEGIC STUDIES: MILITARY TECHNOLOGY AND INTERNATIONAL RELATIONS* 17-26 (Macmillian 1987).

57. *Id.* at 17.

58. *Id.*

59. *Id.* at 17-18.

60. See VICTOR BASIUK, *TECHNOLOGY, WORLD POLITICS, & AMERICAN POLICY* 12 (Columbia Univ. Press 1977); BUZAN, *supra* note 56, at 17-18; Warner R. Schilling, *Science, Technology and Foreign Policy*, 13 *J. OF INT’L AFF.* 8 (1959).

61. See BUZAN, *supra* note 56, at 18. Buzan explains that “[t]he historical norm has reflected a pace of technological innovation so slow that the continuity of weapons systems has been more conspicuous than their transformation. The military technology of the Roman legions changed little in the six centuries between the conquest of Greece and the fall of Rome. The galleys used by the

the period, such as in regard to: firepower (from muskets to machine guns to nuclear weapons); mobility (from horses, to airplanes, submarines, tanks, and trains); communications (from the mail system to the telegraph, radio, telephones, cell phones, and internet); and intelligence (from human-gathering to radar and sonar and satellite spying).⁶² Rapid technological change can have swift consequences—for example, Britain lost its millennium-long advantage as an island difficult to invade with the invention of the airplane, while its arrival advantaged states with large territories, such as China, Russia, and the United States, more capable of sustaining aerial bombardment.⁶³ Perhaps more than ever, states are required to keep pace with technological advances to remain safe.

Technology is essential for a state in all areas of its security. For one, Martin Van Crevald, the noted military historian, explains that war is “permeated by technology to the point that *every* single element is either governed by or at least linked to it,” such as “the causes that lead to wars, and the goals for which they are fought; the blows with which campaigns open . . . the relationship between the armed forces and the societies that they serve; planning, preparation, execution, and evaluation; operations and intelligence and organization and supply; objectives and methods and capabilities and missions; command and leadership and strategy and tactics.”⁶⁴ Second, technology is important for a state’s foreign policy because its choices are dictated by the technologies that it has available to carry out its objectives. And third, leaders utilize technologies to assist with the policing of their state as well as for extracting resources from their territory and constituents for military production.⁶⁵

Ottomans and the Christians during their Mediterranean wars as late as the sixteenth century were quite similar to those used by the Greeks against Xerxes in 480 BC. The ships of the line that fought at Trafalgar in 1805, and even as late as the Crimean War (1854-56), were easily recognizable as the same class of ship pioneered by Henry VIII in the first half of the sixteenth century By the middle of the nineteenth century, however, a fundamental transformation in military technology was underway. The industrial revolution, with its ever expanding use of energy and machinery in the process of production had by that time developed such momentum that major changes in technology began to occur frequently. From around the middle of the nineteenth century, long periods of technological continuity virtually disappeared, and a new norm of continuous change asserted itself. That norm still prevails, and it shows little sign of weakening.” *See id.*

62. *See id.* at 19-26.

63. WRIGHT, *supra* note 54, at 381.

64. MARTIN VAN CREVELD, TECHNOLOGY AND WAR: FROM 2000 B.C. TO THE PRESENT 1, 311 (1989) (emphasis in original). Buzan similarly explains that, “Technology is a major factor in determining the scope of military options, the character of military threats, and the consequences of resorting to the use of force. Technology, in other words, is a major variable affecting the instruments of force available to political actors.” BUZAN, *supra* note 56, at 6-7.

65. Technology can also serve as an issue in diplomatic relations among states, exemplified by the high-stakes international politics over the spread of nuclear weapons. JOHN V. GRANGER, TECHNOLOGY AND INTERNATIONAL RELATIONS 31-32 (1979).

2. *Technology and State Material Strength*

Technology is also important for a state to build wealth to fund its military and other resources for international security.⁶⁶ For example, studies find that “innovation” is the most important component of economic growth for states because it results in productivity gains and the creation of new products, services, and systems.⁶⁷ Another study estimates that technology advances accounted for about forty-nine percent of U.S. economic growth during the latter half of the twentieth century, and even more so for other states, with it underlying fifty-five to seventy-eight percent of British, French, German, and Japanese economic growth during the period.⁶⁸ Still other studies suggest that a significant percentage of the variations in GDP growth rates amongst states can be accounted for by differences in their “innovative performances” and that government efforts to increase the supply of high-skilled workers within their states results in increased technical progress, thus suggesting that skilled immigrants could provide states an economic boost.⁶⁹

Leaders, as the discussion in this section indicates, have incentive to enhance the skill set of their populace because technology can improve security, and as the next part of the article shows, U.S. officials have sought to do this through policies designed to attract skilled foreigners.

II. MATERIAL AND MILITARY OBJECTIVES AND AMERICAN IMMIGRATION POLICIES

American officials have at times since the colonial period sought to manipulate the size and skills of the populace for geopolitical strength by designing immigration policies to reach three primary objectives, which are: (1) directly recruiting foreigners as laborers or soldiers for military assistance during conflict; and more generally (2) boosting population, and (3) enhancing the skill set of the members of the polity for national strength during war and peace. This part of the article presents policy instruments and examples

66. For example, the rise of U.S. economic and military power in the postwar period is often associated with its extraordinary spending on research and development (R&D), which totaled \$100 million in 1940, but rose to \$13.7 billion by 1960, \$63.2 billion by 1980, and \$347.9 billion by 2005. NATIONAL SCIENCE FOUNDATION, U.S. RESEARCH AND DEVELOPMENT EXPENDITURES, BY PERFORMING SECTOR AND SOURCE OF FUNDS: 1953-2007, available at <http://www.nsf.gov/statistics/nsf08318/pdf/tab1.pdf>. Scholars have also mapped the pace of technological progress and some conclude that it is rapidly accelerating, thus increasing likelihood of its importance to international relations, with the time lag between the discovery of a new technology and its widespread exploitation by states shrinking progressively. KNORR, *supra* note 27, at 74; RAY KURZWEIL, *THE SINGULARITY IS NEAR: WHEN HUMANS TRANSCEND BIOLOGY* (Viking 2005).

67. Graham R. Mitchell, *Global Technology Policies for Economic Growth*, 60 *TECH. FORECASTING & SOC. CHANGE* 207 (1999).

68. Michael J. Boskin & Lawrence J. Lau, *Capital, Technology, and Economic Growth, in TECHNOLOGY AND THE WEALTH OF NATIONS* 47 (Nathan Rosenberg, Ralph Landau & David C. Mowery eds., 1992).

69. MARKUS BALZAT, *AN ECONOMIC ANALYSIS OF INNOVATION: EXTENDING THE CONCEPT OF NATIONAL INNOVATION SYSTEMS* 1 (Edward Elgar 2006); Hohlfeld, *supra* note 51, at 2.

used by leaders for these purposes to show the extent to which material and military considerations have factored into American immigration policy. It is organized along these three policy objectives to capture the meta-historical narrative in this area: first, U.S. officials have taken measures during combat since the Revolutionary War to use immigrants for military assistance; second, American leaders have used immigration to increase population for security from the colonial era through the nineteenth century, which was a period in which the country expanded and large-standing armies were important for militaries; and third, American officials have also sought skilled immigrants since the colonial period to provide technical workers for geopolitical strength, especially over the past one hundred years as specialized labor arguably became crucial for national security.⁷⁰ This part of the article describes U.S. policies designed to use foreigners for these purposes in order to unpack this aspect of the policy area, but note it is not arguing that these were the only reasons for the measures.⁷¹

70. This type of study constitutes a form of what Alexander L. George and Andrew Bennett label an “analytic explanation” and Stephen Van Evera calls a “historical explanatory study” in that it is using an IR theoretical observation (notably, per the structural realism paradigm that international anarchy can encourage states to seek security) to illuminate basic causal patterns within over two hundred years of American immigration policy (notably, it shows U.S. leaders have used immigration policy to assist with enhancing material and military power to remain secure in the global community.). ALEXANDER L. GEORGE & ANDREW BENNETT, *CASE STUDIES AND THEORY DEVELOPMENT IN THE SOCIAL SCIENCES* 211 (MIT PRESS 2005); STEPHEN VAN EVERA, *GUIDE TO METHODS FOR STUDENTS OF POLITICAL SCIENCE* 91-92 (Cornell Univ. Press 1997). This study is also an example of the type of work described by international historian Marc Trachtenberg on using IR concepts to illuminate areas of political history (in this case, this section shows per the realism paradigm that geopolitical considerations have factored into U.S. immigration policy more than commonly recognized.). MARC TRACHTENBERG, *THE CRAFT OF INTERNATIONAL HISTORY: A GUIDE TO METHOD* 30-50 (Princeton Univ. Press 2006). While Waltz explains that structural realism is not a theory of the external policies of states and cannot explain or predict the actions of a specific state in the international arena during a particular era, structural realism does generally point to possible tendencies of state behavior that are investigated within this article to see if they apply to U.S. immigration policy: have security imperatives within the anarchic international system led U.S. leaders to form immigration policies to enhance American material and military strength? This section is not testing the explanatory value of structural realism, but generally applying the forces the paradigm describes as potentially influencing states to illuminate aspects of U.S. immigration policy. As has been asked many times, what good are our IR paradigms if we do not use them for practical historical and policy-oriented inquiry? For discussions on these issues, see Colin Elman, *Horses for Courses: Why Not Neorealist Theories of Foreign Policy*, 6 *SECURITY STUD.* 7 (1996); Shibley Telhami, *Kenneth Waltz, Neorealism, and Foreign Policy*, 11 *SECURITY STUD.* 158 (2002); Kenneth N. Waltz, *International Politics is not Foreign Policy*, 6 *SECURITY STUD.* 54-57 (1996).

71. A few comments about this part of the article: It will present several examples of U.S. immigration policies used to reach material/military objectives, but it is not an exhaustive list of them. Primary and secondary source evidence is used to reveal that material/military considerations factored in the policy examples more than commonly recognized, but it is not purporting to show that these were the only reasons for the cases. The purpose of this article is to describe the main ways the U.S. uses its immigration policy for material and military strength. A couple of terminological and historical comments may also be helpful before proceeding: U.S. immigration policy is a diverse area that entails many elements, including measures related to border security, immigrant enforcement, legal immigration, refugees, and unauthorized immigration. On conceptual issues in migration research, see *THEORETICAL AND METHODOLOGICAL ISSUES IN MIGRATION RESEARCH: INTERDISCIPLINARY, INTERGENERATIONAL, AND INTERNATIONAL PERSPECTIVES* (Biko Agozino ed., 2000). U.S. immigration policy history is also nuanced and varied, but it can be very broadly broken into three eras based on a general “open” or “closed” policy orientation, which are adumbrated here to give context to the

A. *Material and Military Objective #1: Use Immigrants for War*

Since the country's founding U.S. leaders created policies during combat periods to use foreigners for military support. For example, during the Revolutionary War, Congress and state militias offered citizenship to troops who left British forces and enlisted in their armies, and George Washington used expert foreign engineers and officers to build fortifications and command soldiers, including the Count Kazimierz Michał Władysław Wiktor Pułaski (Poland), Marie Joseph Paul Yves Roch Gilbert Du Motier de La Fayette (France), Andrzej Tadeusz Bonawentura Kościuszko (Poland), and Friedrich Wilhelm August Heinrich Ferdinand von Steuben (Prussia).⁷² Congress again utilized and offered citizenship to foreign soldiers in the War of 1812 (roughly thirteen percent of enlisted U.S. soldiers consisted of immigrants) and the American military during the 1840s drew nearly half of its recruits from the foreign-born (primarily Germans and Irish), which resulted in large numbers of immigrants fighting in the Mexican-American War.⁷³ This section describes these types of policies during major conflicts—the Civil War, WWI, WWII, and the Cold War—to illustrate ways U.S. leaders have used immigrants for military assistance and show that efforts to enlist noncitizens in the Global War on Terrorism is not a new American military tactic.⁷⁴

1. *Civil War Immigration Policies*

Union and Confederate officials sought immigrants for war assistance by devising incentives for them to come to America, sending agents to Europe to attract them, and arranging to have recruitment literature disseminated

cases discussed—the “open door” era (1776-1921) in which the federal government did little to restrict the overall numbers of immigrants coming to the country, the “restrictive era” (1921-1965) in which entrance to America was severely limited and immigration from the eastern hemisphere was reduced to a trickle, and the “cautiously open era” (1965-present) in which since its onset roughly 500,000-1,000,000 immigrants have come to the U.S. each year, but entrance is by no means as unrestricted as the first era. On this classification scheme, see Robbie J. Totten, *Security and Immigration Policy: An Analytical Framework for Reform*, in UNDECIDED NATION: POLITICAL GRIDLOCK AND THE IMMIGRATION CRISIS 253-70 (Tony Payan & Erika de la Garza eds., 2014). On U.S. immigration policy history from the eighteenth through twentieth centuries, see MARTIN, *supra* note 11; TICHENOR, *supra* note 11; ZOLBERG, *supra* note 11.

72. NANCY GENTILE FORD, AMERICANS ALL! FOREIGN-BORN SOLDIERS IN WORLD WAR I, at 46 (2001); Eric Spall, *Foreigners in the Highest Trust: American Perceptions of European Mercenary Officers in the Continental Army*, 12 EARLY AM. STUD.: AN INTERDISC. J. 338, 351-52, 359 (2014).

73. MARILYN C. BASELER, “ASYLUM FOR MANKIND”: AMERICA, 1607-1800, at 142, 145 (Cornell Univ. Press 1998); FORD, *supra* note 72, at 48; J.C.A. Stagg, *Soldiers in Peace and War: Comparative Perspectives on the Recruitment of the United States Army, 1802-1815*, 57 WM. & MARY Q. 87 (2000); RUSSELL F. WEIGLEY, HISTORY OF THE UNITED STATES ARMY 168 (enlarged ed., Bloomington, Ind. Univ. Press 1985). U.S. army recruits between 1802 and 1811 consisted of nineteen percent immigrants (primarily from Ireland, England, Scotland, France, Germany, and Canada). Stagg, *supra* note 73, at 89.

74. For more broad-ranging discussions on how the U.S. has used the foreign-born for its military (not only during major conflicts) see Goring, *supra* note 6; Jacobs & Hayes, *supra* note 6; O'Neil & Senturk, *supra* note 12.

abroad.⁷⁵ For example, as war deepened and quick victory seemed unlikely, Lincoln signed the Homestead Act in May 1862 that offered 160 acres of free land to foreigners (assuming upon acceptance they filed a declaration for U.S. citizenry) who worked it for five years.⁷⁶ Shortly after its passage, Lincoln sought to further induce immigration and urged legislators to devise a direct “system for the encouragement of immigration” to attract Europeans because they constituted a “source of national wealth and strength” required as war intensified.⁷⁷ Congress passed the 1864 Act to Encourage Immigration, which created a Commissioner of Immigration and a Bureau of Immigration to oversee distributing information in Europe to attract foreigners.⁷⁸ The legislation also provided a \$20,000 per annum allotment for recruitment literature and authorized contracts that permitted European immigrants to formally bind their labor with an American business interest for one year to receive free transport to the country.⁷⁹ This legislation in turn motivated private immigrant recruitment agencies to form such as the Foreign Emigrant Aid Society to facilitate these contracts and immigration to the north.⁸⁰ U.S. consular officials spread thousands of pamphlets advertising the benefits of the immigration legislation throughout Europe.⁸¹

European state laws, however, prohibited the U.S. federal government from recruiting immigrants for military service.⁸² Lincoln and Secretary of State William Henry Seward, fearing that antagonizing British and French leaders over the issue might cause them to aid the Confederacy, publicly claimed foreigners received no special incentives to enlist in the army.⁸³ But

75. The best studies on immigrants in the Civil War remain, ELLA LONN, *FOREIGNERS IN THE CONFEDERACY* (UNC Press 1940) [hereinafter LONN, *FOREIGNERS IN THE CONFEDERACY*]; ELLA LONN, *FOREIGNERS IN THE UNION ARMY AND NAVY* (Greenwood Press 1952) [hereinafter LONN, *FOREIGNERS IN THE UNION ARMY & NAVY*].

76. The land was also offered to American citizens. PAUL W. GATES WITH ROBERT W. SWENSON, *HISTORY OF PUBLIC LAND LAW DEVELOPMENT 390-99* (1968).

77. Abraham Lincoln, Message to Congress on December 8, 1863, in E.P. HUTCHINSON, *LEGISLATIVE HISTORY OF AMERICAN IMMIGRATION POLICY, 1798-1965*, at 48 (1981). The 1864 and 1868 Republican Party Platforms similarly noted, “That foreign immigration, which in the past has added so much to the wealth, development of resources, and increase of power to the nation . . . should be fostered and encouraged by a liberal and just policy.” THOMAS H. MCKEE, *THE NATIONAL CONVENTIONS AND PLATFORMS OF ALL POLITICAL PARTIES, 1789 TO 1905*, at 126, 139 (6th ed., 1906).

78. TICHENOR, *supra* note 11, at 66; *see also supra* note 1.

79. TICHENOR, *supra* note 11, at 66.

80. CHARLOTTE ERICKSON, *AMERICAN INDUSTRY AND THE EUROPEAN IMMIGRANT, 1860-1885* (Russell & Russell 1957); TICHENOR, *supra* note 11, at 66-67; ZOLBERG, *supra* note 11, at 168-75. These policy actions mark the only time that the U.S. federal government has actively recruited foreigners on a large-scale, since for most of history immigrants have desired to come to America absent inducements.

81. *See* ERICKSON, *supra* note 80, at 8; MICHAEL LEMAY, *FROM OPEN DOOR TO DUTCH DOOR: AN ANALYSIS OF U.S. IMMIGRATION POLICY SINCE 1820*, at 24, 35 (Praeger 1987); LONN, *FOREIGNERS IN THE UNION ARMY AND NAVY*, *supra* note 75, at 420; TICHENOR, *supra* note 11, at 66. It is estimated that the number of European immigrants who came to the U.S. doubled in the “season” after the enactment of the Homestead Act. ZOLBERG, *supra* note 11, at 169.

82. O’Neil & Senturk, *supra* note 12, at 8.

83. LONN, *FOREIGNERS IN THE UNION ARMY AND NAVY*, *supra* note 75, at 406; O’Neil & Senturk, *supra* note 12, at 8; TICHENOR, *supra* note 11, at 66.

while they denied recruitment schemes, northern state government officials, not beholden to similar restrictions under European decree, sought the continent's citizens for military service.⁸⁴ The push to procure immigrants was intense and some recruiters resorted to deception, such as luring foreigners with the false promise of high-wage work, and forcibly enlisting "foreign residents, sailors, and visitors in America through kidnapping and drugging," including instances in which Canadians "were taken from their homeland against their will and forced to enlist."⁸⁵

Confederate leaders also sought European immigrants to assist with war, such as by having emissaries in Poland recruit foreigners by promising them work, even though travel to their states was difficult because of the Union naval blockade.⁸⁶ Both Confederate and Union officials throughout the war lured foreigners into their armies by devising generous citizenship terms for service.⁸⁷ As a result of the recruiting efforts, scholars have estimated that roughly twenty to twenty-five percent of the 2.5 million soldiers in the Civil War were immigrants, with about ninety percent of them having fought for the north.⁸⁸ The south, and especially the north, had regiments consisting almost entirely of immigrants, such as the Swiss Wisconsin Sharpshooters Regiment, the Irish New York Highlanders (who battled in kilts and sporrans), the German and Mexican 3rd Texas Cavalry, and the famed 39th New York Volunteers that "was truly cosmopolitan, being made up of Zouaves from Algeria, French Foreign Legionnaires, Russian Cossacks, Turkish and Mohammedan Zephirs, Italian Garibaldi Freedom Fighters, English deserters, Indian sepoy, Croats, Swiss, Bavarian, and North Germans called *Plattdeutsch*," as well as "even a few Chinese, Eskimos and detachments from the army of the Grand Duchess of Gerolstein, who wore red shirts and bersaglieri plumes."⁸⁹ During an era in which large-standing armies were important in combat, the estimated 500,000 foreigners who fought for the north likely contributed to Union victory.⁹⁰

84. O'Neil & Senturk, *supra* note 12, at 8.

85. LONN, FOREIGNERS IN THE UNION ARMY AND NAVY, *supra* note 75, at 452-63; O'Neil & Senturk, *supra* note 12, at 8.

86. Merle Curti & Kendall Birr, *The Immigrant and the American Image in Europe, 1860-1914*, 37 THE MISS. VALLEY HIST. REV. 203, 205 n.2 (1950). See also LONN, FOREIGNERS IN THE CONFEDERACY, *supra* note 75, at 220-28.

87. For example, the federal government passed legislation granting "any alien . . . who has enlisted, or may enlist in the armies of the United States, either the regulars or volunteer forces, and has been, or may be hereafter, honorably discharged, shall be admitted to become a citizen of the United States, upon his petition, without any previous declaration of to become such." MICHAEL C. LEMAY, GUARDING THE GATES: IMMIGRATION AND NATIONAL SECURITY 44 (Greenwood Publishing Group 2006). O'Neil & Senturk, *supra* note 12, at 9.

88. O'Neil & Senturk, *supra* note 12, at 8-9.

89. Roma Sachs Freedman, *They May Not Have Been American-Born, But They Fought America's Civil With Fervor Nonetheless*, 10 MIL. HIST. 23, 24-25 (1993).

90. See *supra* note 36.

2. *World War I Immigration Policies*

U.S. officials also used immigrants during WWI to assist with the domestic war effort and as soldiers. Soon after entering the war in April 1917, American leaders conscripted over four million men for service, which left vacancies in several critical areas of the workforce and prompted U.S. Department of Labor and Immigration and Naturalization Service officials to authorize the temporary importation of foreign workers to address labor shortages in industries “which have a direct bearing upon the conduct of the war.”⁹¹ These leaders created a foreign guest worker program, which has been called the “first Bracero program” because of the similarities it shares with the more widely-known WWII temporary worker program of the same name, which entailed importing over 29,500 Mexican and 3,250 Bahamian nationals from June, 1917 through December, 1918 to cover labor shortages primarily in the agriculture and railroad industries as well as the building construction and coal mining sectors.⁹² The WWI guest worker program indicates the abrupt effect war can have on immigration policy, since Congress had recently enacted the Immigration Act of 1917. This act was arguably the most restrictionist piece of legislation up to that point in American history, preventing the entrance of the type of foreigners (those deemed illiterate, poor, or coming to the United States as contract laborers) who would come to the states under the wartime program.⁹³ But because American leaders feared labor shortages could negatively affect the war, they

91. U.S. DEP’T OF LAB., BUREAU OF IMMIGR., ANNUAL REPORT OF THE COMMISSIONER GENERAL OF IMMIGRATION TO THE SECRETARY OF LABOR, FISCAL YEAR ENDING JUNE 30, 1918, at 16 (1918). No large study on the WWI foreign worker program has been done, but for a short monograph, see Otey M. Scruggs, *The First Mexican Farm Labor Program*, 4 ARIZ. & THE WEST 319 (1960); S. COMM. ON THE JUDICIARY, TEMPORARY WORKER PROGRAMS: BACKGROUND AND ISSUES 6-15 (1980); see generally Maria Elena Bickerton, *Prospects for a Bilateral Immigration Agreement with Mexico: Lessons from the Bracero Program*, 79 TEX. L. REV. 898 (2001); Gilberto Cardenas, *United States Immigration Policy toward Mexico: An Historical Perspective*, 2 CHICANO/A-LATINO/A L. REV. 66 (1975); TICHENOR, *supra* note 11, at 168-170; ZOLBERG, *supra* note 11, at 241.

92. U.S. DEP’T OF LAB., BUREAU OF IMMIGR., ANNUAL REPORT OF THE COMMISSIONER GENERAL OF IMMIGRATION TO THE SECRETARY OF LABOR, FISCAL YEAR ENDING JUNE 30, 1919, at 12, 13 (1919). The agricultural component of the program was extended at the conclusion of the war through March 2, 1921 and even beyond that in certain circumstances, with an estimated 80,000 Mexican nationals participating in the program over its duration. S. COMM. ON THE JUDICIARY, *supra* note 91, at 6. The first labeling of the program as the “First Bracero Program” that the author found is in, Cardenas, *supra* note 91, at 68. The War Department also imported 13,095 Puerto Rican laborers to the mainland to assist with the war effort, all of whom were returned to the island at the conclusion of WWI. This program did not require an exemption from the 1917 immigration legislation because Puerto Ricans had recently become U.S. citizens under the Jones-Shafroth Act of March 2, 1917. ANNUAL REPORT OF THE COMMISSIONER GENERAL OF IMMIGRATION TO THE SECRETARY OF LABOR, FISCAL YEAR ENDING JUNE 30, 1919, *supra* note 92, at 13. See also U.S. EMP’t Serv. of the Dep’t of Labor, *To increase common labor supply with Porto Ricans*, 1 U.S. EMP. SERVICE BULL., May 21, 1918, at 1. In addition, Congress received resolutions to explore permitting the temporary importation of Chinese farmers during WWI because of “wartime labor shortages” and the U.S. Secretary of Labor indicated that he was receiving requests for the importation of Filipino and Hawaiian laborers. HUTCHINSON, *supra* note 77, at 169; S. COMM. ON THE JUDICIARY, *supra* note 91, at 9.

93. TICHENOR, *supra* note 11, at 21. “[T]he Immigration Act of 1917 [was] a crucial breakthrough for nativists that ushered in a series of severely restrictive immigration laws; its passage was a decisive turning point in the early-twentieth-century struggle over national immigration policy.” *Id.*

reversed their stance taken months prior, with Secretary of Labor William B. Wilson invoking an obscure clause of the 1917 legislation (the ninth proviso of section 3) that waived provisions within the law that otherwise would have excluded the foreign laborers.⁹⁴

American officials also widely used foreigners in the armed forces during WWI and drafted into the military close to 500,000 immigrants of more than forty-five different nationalities as well as “thousands of second-generation immigrants.”⁹⁵ This amounted to almost one in five army draftees being foreign-born and a military with a composition of nearly 20 percent immigrants, including some foreigners who the War Department utilized as intelligence agents because of their cultural and language skills.⁹⁶ Officials created a Foreign-speaking Soldier Subsection (FSS) to ensure optimal combat performance of foreign-born soldiers and worked with American ethnic and social welfare leaders to create, according to one scholar, “a systematic and efficient manner of organizing and training foreign-born soldiers and an active campaign to both socialize and Americanize these immigrant groups.”⁹⁷ These efforts included “English-language classes and foreign-language translations of war propaganda,” as well as rousing talks by minority leaders and immigrant combatants medaled for valor.⁹⁸ In May 1918, Congress passed legislation to reward immigrant enlistment by allowing foreign-born military members who had served for at least three years an opportunity for citizenship.⁹⁹

3. *World War II Immigration Policies*

Leaders again looked to immigrants during WWII to support the domestic war effort and armed forces. On a much larger scale than during WWI, officials set up a foreign worker program to ensure that the U.S. economy and

94. As explained by the 1918 Annual Report of the Bureau of Immigration, “Hardly had war been declared when representatives commenced to reach the bureau from numerous sources to the effect that, with the calling of men to military service and with the simultaneous going into operation of the new immigration act [the Immigration Act of 1917] containing the illiteracy test, the supply of common labor for the farms of the Southwest would be reduced and cut off, the farmers of that section having been in the habit of relying to a considerable extent upon labor coming seasonally from Mexico. This matter was given careful thought and investigation. The conclusion reached was that . . . there was considerable basis for the alarm. Accordingly, taking advantage of an exception to section 3 of the immigration act permitting the department to admit temporarily otherwise inadmissible aliens, a plan was devised under which laborers might enter from Canada and Mexico to work in agricultural pursuits. A large number of laborers from Mexico entered under these regulations . . . and large acreages were planted and record crops harvested throughout the Southwest during the last agricultural season.” U.S. DEP’T OF LABOR, BUREAU OF IMMIGRATION, ANNUAL REPORT, 1918, *supra* note 91, at 15-16.

95. FORD, *supra* note 72, at 3.

96. *Id.* at 3, 82-83, 137-40.

97. *Id.* at 138.

98. *Id.*

99. Over 120,000 soldiers received citizenship for WWI service. O’Neil & Senturk, *supra* note 12, at 12.

military had sufficient labor.¹⁰⁰ Soon after Pearl Harbor, leaders became concerned over the possibility of “severe wartime labor shortages,” especially in the farming sector, due to labor studies showing that 1 million rural workers had moved to higher paying war industry jobs, millions of men between the ages of eighteen and thirty-five having been screened for service, and the unemployment rate having rapidly fallen from a Depression level of 17.2% in 1939 to a war level of 1.9% in 1943.¹⁰¹ For example, memorandums between officials at the Department of Agriculture and the War Manpower Commission and reports by State Agricultural Planning Committees recognized a “labor situation unparalleled since the last war” and recommended steps for its resolution;¹⁰² President Roosevelt privately wrote Sidney Hillman, head of his Office of Production Management, that he was “disturbed about the number of defense industries that are claiming they cannot get enough skilled workers or supervisors to work full complements of labor on second and third shifts.”¹⁰³

Due to these concerns, American officials implemented emergency guest worker programs and imported over 400,000 foreigners from neighboring countries to cover labor shortages on farms and railroads as well as in industrial sectors during the war.¹⁰⁴ The main program, coordinated primarily by the U.S. Department of Agriculture, entailed bringing 309,538 foreign workers to the United States from nearby countries starting in September 1942 and going through December 1947. With a congressional appropriation of over \$118 million, the program brought approximately seventy percent of the laborers from Mexico, with the remaining arriving from the Bahamas, Barbados, Canada, Jamaica, and Newfoundland (the Mexican component of

100. See, e.g., Roger Daniels, *Immigration Policy in a Time of War: The United States, 1939-1945*, 25 J. OF AM. ETHNIC HIST. 107 (2006).

101. The following are the unemployment rates in the U.S. during WWII: 1939: 17.2%; 1940: 14.6%; 1941: 9.9%; 1942: 4.7%; 1943: 1.9%; 1944: 1.2%; 1945: 1.9%. Bickerton, *supra* note 91, at 901-02. U.S. officials feared “the 1942 crop would go unharvested without the addition of foreign labor.” RICHARD CRAIG, *THE BRACERO PROGRAM: INTEREST GROUPS AND FOREIGN POLICY* 39 (1971).

102. The quote is from a memorandum, submitted by state agriculture committees to the Agricultural Program Board, on July 15, 1941, cited in WAYNE D. RASMUSSEN, *A HISTORY OF THE EMERGENCY FARM LABOR SUPPLY PROGRAM, 1943-47*, at 15 (1951) (citing U.S. DEP’T OF AGRIC., *AGRICULTURE’S PLANS TO AID IN DEFENSE AND MEET THE IMPACTS OF WAR: A SUMMARY OF REPORTS OF STATE AGRICULTURAL PLANNING COMMITTEES* (1941)). See also the discussion in *id.* at 13-15. Similarly, Governor Culbert Olson of California sent a telegram to the secretaries of agriculture, state, and labor explaining that “[w]ithout a substantial number of Mexicans the situation is certain to be disastrous to the entire victory program, despite our united efforts in the mobilization of youth and city dwellers for emergency farm work”; and Secretary of Agriculture Claude R. Wickard noted that, “It hardly seems possible, but the United States, to reach its goal of increased food production [for the war effort], is running out of both farm land and farm labor.” CRAIG, *supra* note 101, at 39. WWII was straining all sectors of the U.S. economy and leaders feared it could damage overseas military campaigns. *Id.*

103. GEORGE Q. FLYNN, *THE MESS IN WASHINGTON: MANPOWER MOBILIZATION IN WORLD WAR II* 8 (Greenwood Press 1979) (quoting President Franklin D. Roosevelt).

104. For concise overviews of WWII foreign labor programs, see Julia Henderson, *Foreign Labour in the United States during the War*, 52 INT’L LAB. REV. 609 (1945); Wilbert E. Moore, *America’s Migration Treaties during World War II*, 262 ANNALS OF THE AM. ACAD. OF POL. & SOC. SCI. 31 (1949).

the program is more popularly known as part of the “Bracero Program”).¹⁰⁵ The United States also recruited around 100,000 Mexican laborers from 1943-1945 to work on railways (the “railroad Bracero program”) and 6,830 Jamaicans, 7,056 Barbadians, and 1,243 British Hondurans under industrial contracts for factory work in the chemical, food, foundry, lumber, ordnance, steel, and textile sectors.¹⁰⁶ U.S. leaders viewed these temporary foreign worker programs as an important component of the war effort, as recognized in a secret policy statement prepared by the Department of State explaining that during WWII, “[m]any essential war materials were obtained in Mexico, and she permitted recruitment of several hundred thousand Mexicans for agricultural and railroad maintenance-of-way work in this country, thereby making an equal number of Americans available for military service.”¹⁰⁷

U.S. officials also directly used foreigners in the armed forces. When Japan attacked Pearl Harbor in December 1941, the U.S. military consisted of about 1.8 million personnel, a sizable number but insufficient for the combat ahead and far below the roughly 12.2 million military recruits who would be serving in 1945.¹⁰⁸ American leaders used immigrants to help with manpower needs and enlisted over 300,000 foreigners in the armed forces during the Second World War from numerous countries, including Austria, the British Isles, Canada, China, Cuba, Czechoslovakia, Denmark, France, Germany, Greece, Hungary, Ireland, Italy, Mexico, the Netherlands, Norway,

105. On the WWII foreign farm worker program, RASMUSSEN, *supra* note 102, at 80-81, 199. Under the emergency farm labor program, 15,241 workers were imported from the Bahamas, 3,995 workers were imported from Barbados, 18,423 workers were imported from Canada, 50,598 workers were imported from Jamaica, 219,546 workers were imported from Mexico, and 1,735 workers were imported from Newfoundland. *Id.* at 199. The widely studied “Bracero Program” is generally treated by scholars as consisting of the various arrangements under which temporary Mexican laborers came to the U.S. to work in the agricultural sector from 1942-1964, including the WWII importation of Mexican agricultural labor discussed above. The part of the “Bracero Program” occurring during WWII is also sometimes referred to as the “Mexican Farm Labor Program.” Compared to other temporary foreign labor programs in U.S. history, the “Bracero Program” has been the subject of a large body of research. For a list of these numerous studies see *History*, BRACERO HISTORY ARCHIVE (2015), <http://braceroarchive.org/history>. The temporary importation of laborers from the Bahamas, Barbados, Honduras, and Jamaica to work in the agricultural and industrial sectors during WWII constitutes part of what is often referred to as the British West Indies (BWI) Labor Program—a guestworker program that began during the war and continued in different forms after serving its initial purpose. See SUBCOMMITTEE ON IMMIGRATION OF THE U.S. SENATE COMMITTEE ON THE JUDICIARY, THE WEST INDIES (BWI) TEMPORARY ALIEN LABOR PROGRAM: 1943-1977 (1978).

106. BARBARA A. DRISCOLL, *THE TRACKS NORTH: THE RAILROAD BRACERO PROGRAM OF WORLD WAR II* (1999); Moore, *supra* note 104, at 36-37. In addition, 5,465 Jamaicans were transferred from the agricultural to the industrial program. *Id.* at 36. Moreover, under international contracts during the war, 250 laborers from Newfoundland were brought to the U.S. to work in copper and mica mines, 425 Chinese cooks were brought to the U.S. from Mexico, and several thousand Canadian woodsmen were brought to the U.S. to work in the timber industry. *Id.* at 37.

107. U.S. Dep’t of State, *Policy Statement Prepared in the Department of State* (Oct. 1, 1951), in 2 FOREIGN RELATIONS OF THE UNITED STATES 1489 (1951).

108. *By the Numbers: The US Military*, THE NATIONAL WORLD WAR II MUSEUM, <http://www.nationalww2museum.org/learn/education/for-students/ww2-history/ww2-by-the-numbers/us-military.html>.

Poland, Romania, Sweden, Yugoslavia, and the U.S.S.R.¹⁰⁹ While enlistment rules prevented those born in belligerent countries from serving, over 30,000 of these persons received special exemptions to become a member of the American military (the Japanese, however, were forbidden from service).¹¹⁰ The unique talents of foreigners were also utilized, exemplified by the Office of Strategic Services (OSS), the precursor of today's Special Forces, using foreign-born non-citizens for combat missions and American intelligence agencies utilizing German-Jewish exiles for assistance.¹¹¹ Congress took measures during the war to encourage immigrants to join the military by awarding them for their service by allowing any foreigner who honorably served in the armed forces an opportunity for citizenship.¹¹² As a result, of the approximately one million persons who became U.S. citizens between March 1942 and June 1945, over 110,000 were in the armed forces, including about 13,000 soldiers naturalized overseas.¹¹³

4. *Cold and Korean Wars Immigration Policies*

The U.S. again turned to foreign manpower to assist with the Cold War, including when it went hot in the Korean peninsula. President Harry S. Truman, faced with a similar labor situation to the one during WWII, characterized by a falling unemployment rate and economic reports indicating manpower shortages on American farms, signed legislation during the Korean War (Public Law 78 on July 13, 1951) that set up a foreign worker program (considered part of what is referred to today as the Bracero Program) to use Mexican laborers for agricultural jobs.¹¹⁴ A secret State Department policy statement during the period indicates the temporary worker program's purpose by noting, "Objectives in our relations with Mexico are to enlist her support in efforts to promote Inter-American and world-wide peace" and "ensure maximum cooperation in case of total war."¹¹⁵ The report explained that labor from America's neighbor had been important during WWII so "Mexico's manpower and other resources will be

109. Watson B. Miller, *Foreign-Born in the United States During World War II, With Special Reference to the Alien, Department of Justice, Immigration and Naturalization Service*, 6(4) MONTHLY REV. 48 (1948).

110. O'Neil & Senturk, *supra* note 12, at 15.

111. See Trevor O. Robichaux, *Special Forces Recruiting: The Operational Need for Targeted Recruitment of First and Second Generation Americans*, 16 (thesis, Naval Postgraduate School 2008); Guy Stern, *In the Service of American Intelligence: German-Jewish Exiles in the War against Hitler*, 37 LEO BAECK INST. YEARBOOK 461 (1992).

112. Yalcinkaya & Can, *supra* note 12, at 6 ("World War II increased the need for manpower dramatically, and immigrants including nondeclarant aliens became eligible to enlist."). On the measures see Lorenzen, *supra* note 4, at 12.

113. Miller, *supra* note 109, at 52. On naturalization abroad during WWII, see Henry B. Hazard, *Administrative Naturalization Abroad of Members of the Armed Forces of the United States*, 46 THE AM. J. OF INT'L L. 259 (1952).

114. Bickerton, *supra* note 91, at 906-08; CRAIG, *supra* note 101, at 70-71, 83; S. COMM. ON THE JUDICIARY, *supra* note 91, at 32. On what constitutes the Bracero Program see *supra* note 106.

115. See U.S. Dep't of State, *supra* note 107, at 1489-90.

essential to us in the event of another major war.”¹¹⁶

American leaders also utilized foreigners in the armed forces during the Cold War to protect against the Soviet threat.¹¹⁷ For example, Senator Henry Cabot Lodge, Jr., a Massachusetts Senator who thought the optimal way for the United States to secure Western Europe was to enlist the thousands of Eastern European refugees who had been uprooted by Soviet actions, spearheaded a movement in the foreign policy establishment in the late 1940s to use WWII refugees in the U.S. military to defend Western Europe.¹¹⁸ Congress passed the Lodge Act on June 30, 1950 and permitted the enlistment of 2,500 aliens (it was amended in 1951 to increase the number authorized to 12,500 aliens) between the ages of 18 and 35 in the U.S. Army with a promise of citizenship and eligibility for permanent U.S. residence after five years of service.¹¹⁹ The soldiers in this program took an oath in Germany and then received training in the United States before returning to Europe for service.¹²⁰ By its completion, over 1,300 foreign persons participated in the program, with about sixty percent of them obtaining U.S. citizenship.¹²¹

Lodge and other American leaders wanted to enlarge the program and urged Congress to allow the U.S. Army to enlist up to 250,000 foreigners for two years of service in a Volunteer Freedom Corps (VFC).¹²² President Eisenhower warmed to the idea and in a National Security Council (NSC) memo in 1953 advocated the VFC as a way to defend and foster integration within Western Europe.¹²³ Eisenhower ambitiously envisioned the VFC as consisting of battalions conscripted from the “stateless, single, anti-Communist young men, coming from the countries behind the Iron Curtain”

116. *Id.*

117. Since the Korean War, leaders have not devised foreign guestworker programs specifically to assist with wars, most likely for the following reasons: the country has not fought a total war since WWII, immigration legislation in place since 1952 allows for the temporary importation of foreign workers, technological advances have decreased the need for laborers in some industries, and unauthorized immigration to the U.S. in the postwar period provides employers with labor. Guestworker programs have also received criticism for their unfair treatment of foreign nationals. But similar to how it did during the Civil War, WWI, WWII, and the Korean War, the U.S. is likely to turn again to a foreign worker program in the event of labor shortages during a future war, especially one of a large magnitude because nation-states go to great lengths to mobilize resources when survival is at stake. *See* S. COMM. ON THE JUDICIARY, *supra* note 91, at 32.

118. This and the next paragraph is based primarily on James Jay Carafano, *Mobilizing Europe's Stateless America's Plan for a Cold War Army*, 1 J. OF COLD WAR STUD. 61 (1999); *see also* H.W. Brands, Jr., *A Cold War Foreign Legion? The Eisenhower Administration and the Volunteer Freedom Corps*, 52 MILITARY AFF. 7 (1988); Lorenzen, *supra* note 4, at 13-19.

119. Carafano, *supra* note 118, at 64.

120. Lorenzen, *supra* note 4, at 15.

121. Jacobs & Hayes, *supra* note 6, at 195-96; O'Neil & Senturk, *supra* note 12, at 16. Congressman Charles J. Kersten advanced a similar type of program and he helped get a bill passed in 1951 that amended the Mutual Security Act to allocate \$100 million to mobilize “iron curtain nationals in the defense of the North Atlantic area,” though the Joint Chiefs of Staff never took action on the Kersten amendment. Carafano, *supra* note 118, at 68.

122. Lorenzen, *supra* note 4, at 15.

123. *Id.* at 16-17.

who would then be “organized into units . . . equipped with distinctive uniforms, markings, ceremonies, and flags to denote the specific ethnic or national background of the soldiers.”¹²⁴ Willis D. Crittenberger, a former Lieutenant General heading a NSC-appointed VFC committee, perhaps indicated why the President and other leaders supported the program by saying he was “very much interested in any plan, in which other nationals do some of the dying instead of American boys.”¹²⁵ Although the VFC did not come to fruition, in part because Europeans saw it as undermining their states’ sovereignties, it provides an example of America flirting with using a sort of “foreign legion” (though U.S. officials were careful to not frame it as mercenary force for political reasons) to confront a security challenge.¹²⁶

Although the VFC went unrealized, the United States did use a large number of foreigners in its military during the Cold War through a special agreement made with a WWII ally. In March 1947, the United States and the Filipino government signed the Republic of the Philippines-United States Military Bases Agreement (RP-US MBA).¹²⁷ This agreement allowed the United States to maintain military bases in the country and helped solidify the Philippines as one of America’s strongest allies in the Pacific during the period.¹²⁸ As part of its strategy to prevent communism in Asia and due to Korean War manpower demands, the United States in 1952 invoked Article 27 of the RP-US MBA that permitted the recruitment of roughly 400 to 2,000 Filipinos per year for its Navy.¹²⁹ The program, from its onset to discontinuation nearly forty years later, enlisted about 35,000 Filipinos who, after receiving training in San Diego, joined the U.S. Navy in the Pacific.¹³⁰ Although the Philippine Senate in 1991 did not renew RP-US MBA and the United States withdrew its military from the country, the U.S. Congress passed legislation in the same year granting citizenry to the Filipino recruits and giving them the opportunity to immigrate to America.¹³¹

B. *Material and Military Objective #2: Use Immigrants to Increase Population for Geopolitical Strength*

While U.S. leaders have devised measures during major conflicts to directly use foreigners for military assistance, they have also set policies to

124. Carafano, *supra* note 118, at 65-66, 72.

125. Carafano, *supra* note 118, at 73-74 (quote at 74).

126. On European opposition to the VFC, Carafano, *supra* note 118, at 77-84. On Eisenhower eventually losing enthusiasm for the VFC see Lorenzen, *supra* note 4, at 18. On Lodge’s care not to frame his plans to enlist refugees as soldiers in a “foreign legion” see Carafano, *supra* note 118, at 64-65.

127. Luisito G. Maligat, Study of the U.S. Navy’s Philippines Enlistment Program, 1981-1991, at 37 (June 2000) (unpublished thesis, Naval Postgraduate School).

128. *Id.* at 37-38.

129. *Id.* at 40.

130. *Id.* at 41-42.

131. *Id.* at 42-43. Congress was seen in 1991 as remedying insensitive policies that had denied citizenship to many Filipinos who had participated in the program. *Id.* at 91-102, 106.

more diffusely and less exactly utilize immigrants to enhance geopolitical power. During the eighteenth and nineteenth centuries, mass immigration was used to provide men for populating the military, securing territory, and building fortifications and infrastructure during a period in which the country rapidly expanded, and Indian nations, France, Great Britain, and Spain had North American footholds.¹³² Early U.S. leaders accomplished this objective primarily through a “laissez-faire” policy of leaving the gates of the country open with few restrictions,¹³³ and to a lesser extent by recruiting campaigns that entailed sending agents to other countries to lure foreigners to the United States, offering inducements to immigrants such as citizenship, and posting advertisements throughout Europe.¹³⁴ Before proceeding with a description of these measures, recall the purpose of this article is to show how U.S. leaders have used immigration for national strength and it is not arguing that geopolitics was their only reason for forming these policies.

1. *Geopolitical Strength and the Federal “Open Door” Immigration Policy, 1776-1921*

The federal government from 1776 until 1921 did little to limit overall immigration to the United States.¹³⁵ The states during this period formed laws to keep out those deemed criminal, destitute, or sick and the federal government started passing qualitatively significant legislation barring specified ethnic groups and individuals in the second half of the nineteenth century (e.g., Chinese Exclusion Act of 1882), but these actions did not reduce mass migration to America.¹³⁶ This epoch has been called the “Open Door Era”

132. American leaders since WWI have not devised policies on a large-scale to boost population size, most likely because the U.S. by the interwar period had a robust population, large-standing armies perhaps became militarily less important in the twentieth century, and economic and political opportunities available in the U.S. are sufficient to attract foreigners, but they may again turn to them if a disaster depletes population or some other unforeseen demographic or geopolitical event occurs. Although the U.S. has not instituted an “open-door” policy since WWI, American officials have discussed using immigration to increase population size for military manpower purposes during periods of high geopolitical threat. For example, the 1953 Commission on Immigration and Naturalization, assembling during the uncertainty of the early Cold and Korean Wars, stated that, “If we will let it, immigration in the next few years could provide a valuable supplement to this shrinking manpower at the critical ages of prime military importance,” referring to how the U.S. lost many soldiers during WWII and that immigrants could compensate for shortages in defense personnel. U.S. GOV’T PRINTING OFFICE, *1 WHOM WE SHALL WELCOME: REPORT OF THE PRESIDENT’S COMMISSION ON IMMIGRATION AND NATURALIZATION*, at 39 (1953).

133. Robbie Totten, *National Security and US Immigration Policy, 1776-1790*, 39 *J. OF INTERDISC. HIST.* 38 (2008).

134. See *infra* notes 165 and 166.

135. The 1921, 1924, and 1929 Quota Acts significantly limited immigration to the United States and sharply reversed the “open-door” federal immigration policy that had been in place since the founding of the country. On these laws see MAE M. NGAI, *IMPOSSIBLE SUBJECTS: ILLEGAL ALIENS AND THE MAKING OF MODERN AMERICA* (Princeton Univ. Press 2004). On why U.S. leaders have likely not devised immigration policies to enhance population size since end of WWI see *supra* note 132.

136. On eighteenth and nineteenth century state regulatory policies, see HUTCHINSON, *supra* note 77, at 388-404; Benjamin J. Klebaner, *State and Local Immigration Regulation in the United States before 1882*, 3 *INT’L REV. OF SOC. HIST.* 269 (1958); Gerald L. Neuman, *The Lost Century of American Immigration Law (1776-1875)*, 93 *COLUM. L. REV.* 1833 (1993). On federal immigration policies

and from 1821-40 over 650,000 immigrants arrived in the United States, from 1841-60 over 4 million immigrants, from 1861-80 over 4.5 million immigrants, from 1881-1900 over 8 million immigrants, and from 1901-20 over 14 million immigrants, so that well over 30 million immigrants came to the United States during the period.¹³⁷ As a result, by 1850 more than thirty-three percent of the population of most large U.S. cities consisted of immigrants; by 1900, about seventy-five percent of the populations of major cities such as Boston, Buffalo, Chicago, Cleveland, Detroit, Milwaukee, New York, and San Francisco were comprised of immigrants.¹³⁸ By 1920, nearly thirty-five percent of the U.S. population (over 36 million of the 105 million people in the country) consisted of the foreign-born and their children.¹³⁹

This rapid increase in the American population occurred with the country's rise from a weak state in the eighteenth century to a great power by the early twentieth century.¹⁴⁰ The expansion of the U.S. economy during the period, especially after the Civil War, was impressive, with one economist estimating it grew at five percent per year between 1873 and 1913¹⁴¹ and another scholar explaining that, "This extraordinary rise manifested itself in almost every sector of the economy. Between 1865 and 1898, American wheat production increased 256 percent, corn 222 percent, and sugar 460 percent. In industrial sectors growth was even greater: coal production rose 800 percent, steel rails 523 percent, and railway track mileage 567 percent . . . [and] petroleum production . . . rose from three million barrels in 1865 to fifty-five million barrels in 1898."¹⁴² The United States also rapidly acquired territory during the period, so while it only consisted of thirteen thinly populated states on the Atlantic seaboard when it declared independence from Britain, by the Civil War it controlled an empire spanning to the forty-ninth parallel in the Pacific Northwest, the border of Mexico in the southwest, and the Pacific Ocean in the west.¹⁴³ The United States caught up in strength relative to other states: by 1900 it joined Austria-Hungary, Great Britain, Italy, Germany, Russia, France, and Japan as one of the world's eight major powers.¹⁴⁴

during the nineteenth and early twentieth centuries see, for example, TICHENOR, *supra* note 11, at 46-149; ZOLBERG, *supra* note 11, at 58-242.

137. These statistics consist of immigrants who gained lawful permanent residence during the 12-month fiscal years ending September 30th from 1820-1920. U.S. DEP'T OF HOMELAND SECURITY, PERSONS OBTAINING LAWFUL PERMANENT RESIDENT STATUS: FYS 1820 TO 2013, *available at* <http://www.dhs.gov/yearbook-immigration-statistics-2013-lawful-permanent-residents>.

138. Charles Hirschman & Elizabeth Mogford, *Immigration and the American Industrial Revolution from 1880 to 1920*, 38 Soc. SCI. RES. 898, 900 (2009).

139. *Id.* at 898.

140. On America's nineteenth century growth, see FAREED ZAKARIA, FROM WEALTH TO POWER: THE UNUSUAL ORIGINS OF AMERICA'S WORLD ROLE 45-46 (Princeton Univ. Press 1998).

141. *Id.* at 45 (citing D.J. Coppock, *The Causes of the Great Depression, 1873-1896*, 29 THE MANCHESTER SCH. OF ECON. & SOC. STUD. 205 (1961)).

142. *Id.*

143. DAVID S. HEIDLER & JEANNE T. HEIDLER, MANIFEST DESTINY 1 (Greenwood Press 2003).

144. ZAKARIA, *supra* note 140, at 46.

Many empirical studies indicate mass immigration played a significant role in the American rise during the period, notably because the foreigners who came to the country were primarily men, ages 18-40, so the United States gained members of a demographic group suited for the soldiery and work of the era without their child-rearing costs.¹⁴⁵ For example, many scholars provide evidence that immigrants were important in the industrial transformation of the economy. Larry Neal and Paul Uselding estimate that by 1912 immigrants contributed up to forty-two percent to U.S. gross physical capital production¹⁴⁶ and economic analysis by Timothy J. Hatton and Jeffrey G. Williamson suggests America economically gained more from migration than trade during the nineteenth century.¹⁴⁷ Similarly, Charles Hirschman and Elizabeth Mogford found that “in 1880, even before industrialization was in full swing, 1st and 2d generation immigrants comprised over one-third of the American workforce” and by 1920 “immigrants and their children consisted of over fifty percent of manufacturing workers . . . and if the third generation (the grandchildren of immigrants) are included, then more than two-thirds of workers in the manufacturing sector were of recent immigrant stock.”¹⁴⁸ Many other scholars also present data suggesting immigrants contributed to the rise of the United States,¹⁴⁹ such as a study showing foreigners were integral in laying railroad tracks (over thirty percent of railway workers in 1880 were immigrants),¹⁵⁰ another work indicating that foreigners possessed skills allowing them to accumulate wealth at a faster rate than the native-born,¹⁵¹ and a study detailing the vast creative contributions of immigrants to show they are “overrepresented in a broad range of rare achievements,” including as “Nobel Prize winners” and “leading scientists.”¹⁵² And as previously discussed, immigrants served in large numbers in the armed forces so that, for example, over half of the Pennsylvania militia troop recruits consisted of the foreign-born during the

145. Hirschman & Mogford, *supra* note 138, at 899.

146. Larry Neal & Paul Uselding, *Immigration: a Neglected Source of American Economic Growth: 1790 to 1912*, 24 OXFORD ECON. PAPERS 87 (1972).

147. TIMOTHY J. HATTON & JEFFREY G. WILLIAMSON, *THE AGE OF MASS MIGRATION: CAUSES AND ECONOMIC IMPACT* (Oxford Univ. Press 1998). On this interpretation of Hatton and Williamson’s study see Rudolph, *Globalization & Security*, *supra* note 10, at 14-15.

148. Hirschman & Mogford, *supra* note 138, at 916.

149. See, e.g., Robert E. Gallman, *Human Capital in the First 80 Years of the Republic: How Much Did America Owe the Rest of the World?*, 67 THE AM. ECON. REV. 27 (1977); BRINLEY THOMAS, *MIGRATION AND ECONOMIC GROWTH: A STUDY OF GREAT BRITAIN AND THE ATLANTIC ECONOMY* (Cambridge Univ. Press 2d ed. 1973); Andrés Rodríguez-Pose & Viola von Berlepsch, *When Migrants Rule: The Legacy of Mass Migration on Economic Development in the United States*, 104 ANNALS OF THE ASS’N OF AM. GEOGRAPHERS 628 (2014); Paul Uselding, *Conjectural Estimates of Gross Human Inflows to the American Economy: 1790-1860*, 9 EXPLORATIONS IN ECON. HIST. 49 (1971-1972).

150. Richard G. Healey, *Railroads and Immigration in the Northeast United States, 1850-1900*, 6 GEOGRAPHY COMPASS 455, 469 (2013).

151. Joseph P. Ferrie, *The Wealth Accumulation of Antebellum European Immigrants to the U.S., 1840-60*, 54 THE J. OF ECON. HIST. 1 (1994).

152. Charles Hirschman, *The Contributions of Immigrants to American Culture*, 142 DAEDALUS 26, 42 (2013).

Revolutionary War,¹⁵³ almost fifty percent of the federal army was comprised of immigrants in 1840,¹⁵⁴ and a half million foreigners fought for the United States in WWI.¹⁵⁵

Early American leaders were well aware of the geopolitical advantages accruable from mass migration and although they never directly set an “open door” policy—the gates to the country remained open because no major law was in place restricting entrance—the founders were cognizant of what one scholar has called their “non-decisions” in the area and they often discussed immigration in public and private settings.¹⁵⁶ The author has extensively reviewed this discourse to show that “contrary to romantic notions of the American founding, the founders welcomed foreigners to the United States . . . to increase wealth and military strength within a competitive international system” and “to strengthen the nation, primarily by providing soldiers and money for the military” and people to “occupy and protect the land, especially the frontier.”¹⁵⁷ John Adams, Alexander Hamilton, John Jay, James Madison, Robert Morris, George Washington, and James Wilson, to name a few prominent leaders, all linked security with immigration.¹⁵⁸ For example, while Washington publicly promoted immigration for moral reasons, he privately recommended western states to “admit such emigrations . . . not only from the several States of the Union but from Foreign Countries . . . Measures of this sort would not only obtain Peace from the Indians, but would, in my opinion, be the means of preserving it.”¹⁵⁹ Robert Morris, who, as Superintendent of Finance during the Revolutionary War understood the relationship between economics and military strength, pri-

153. Stagg, *supra* note 73, at 119.

154. WEIGLEY, *supra* note 73, at 168.

155. FORD, *supra* note 72, at 3.

156. The author explains that America’s early leaders, “perhaps because they were convinced that a nation’s power depended on the size of its population, never directly subjected the ‘open-door’ policy to national debate or officially ‘recorded’ it as a policy: The doors to the United States remained ajar because there was no federal legislation in place to close them. Nonetheless, the nation’s architects were not oblivious to what one scholar has called their ‘non-decisions’ about immigration and they discussed the policy area in private correspondence, academic and public debate over immigration, and throughout policy debate on issues related to immigration such as naturalization.” Totten, *National Security and US Immigration Policy*, *supra* note 133, at 43. On “non-decisions,” TICHENOR, *supra* note 11, at 52.

157. Totten, *National Security and US Immigration Policy*, *supra* note 133, at 38, 61. Joseph J. Spengler, *Population Prediction in Nineteenth Century America*, 1 AM. SOC. REV. 905, 905-906, 911 (1936) (regarding early U.S. leaders viewing population growth as a source of power).

158. See Totten, *supra* note 133.

159. Washington to Duane, September 7, 1783, in WRITINGS OF GEORGE WASHINGTON 480 (Lawrence B. Evans ed., 1908). Washington also encouraged Congress to create a generous naturalization law in 1790, which indicates he was serious about attracting immigrants to America. Washington, First Annual Message to Congress (Jan. 8, 1790), in WRITINGS OF GEORGE WASHINGTON 331 (Lawrence B. Evans ed., 1908). In contrast to his private comment, Washington publicly told Irish immigrants, “The bosom of America is open to receive not only the Opulent and respectable Stranger, but the oppressed and persecuted of all Nations and Religions.” Letter from George Washington to the members of the Volunteer Association and other Inhabitants of the Kingdom of Ireland who have lately arrived in the City of New York (Dec. 2, 1783), available at http://www.founding.com/founders_library/pageID.2215/default.asp.

vately wrote that, “emigrants who will come to us from Europe” would help Americans “get back on our feet” by generating wealth to pay debt and help “establish immediately a respectable navy; to avoid war we propose to stand ready to wage one well.”¹⁶⁰ John Adams noted the geopolitical value of U.S. population growth, which could be fueled by mass migration: “The Americans are, at this day, a great people, and are not to be trifled with,” he privately wrote.¹⁶¹ “Their numbers have increased fifty per cent since 1774. A people that can multiply at this rate . . . will, in twenty years more, be too respectable to want friends. They might sell their friendship, at this time, at a very high price to others, however lightly it may be esteemed here.”¹⁶² U.S. officials in all areas of government, from presidents to Supreme Court justices to bureaucrats, viewed an “open” immigration policy as a source national “strength,” “population,” and “power” during the nineteenth century.¹⁶³ During an era in which the country rapidly expanded and faced strong North American rivals, U.S. leaders turned to mass migration to assist with security.

2. *Geopolitical Strength and Immigrant Inducement and Recruitment Policies, Colonial Era—WWI*

Although the United States during the eighteenth and nineteenth centuries acted as a natural magnet for immigrants because of its economic and political opportunities, American leaders at times devised policies to attract foreigners to ensure the country had sufficient manpower for security.¹⁶⁴ The strategies used by U.S. officials to lure immigrants included sending recruitment agents abroad, distributing brochures throughout Europe, and offering

160. Robert Morris, April 10, 1783, in 7 *THE PAPERS OF ROBERT MORRIS, 1781-1784*, at 694-95 (E. James Ferguson ed., 1973-1999).

161. Letter from John Adams to Matthew Robinson (Mar. 2, 1786), in 8 *WORKS OF JOHN ADAMS, SECOND PRESIDENT OF THE UNITED STATES* 385 (Charles Francis Adam ed., 1850-1856).

162. *Id.*

163. For example, John Quincy Adams (JQA) explained that “[n]either the general government of the union, nor those of the individual states, are ignorant or unobservant of the additional strength and wealth, which accrues to the nation, by the accession of a mass of healthy, industrious, and frugal laborers.” Letter from John Quincy Adams, in 18 *NILES’ WEEKLY REGISTER* 157. See also ZOLBERG, *supra* note 11, at 106-07, 511. Robert Grier, a long-tenured Justice, stated in a Supreme Court decision that immigrants “add to the wealth, population, and power of the nation.” Quoted in *id.* at 149. The U.S. Bureau of Foreign Commerce printed a report near the turn of the twentieth century which concluded that “owing exclusively to its enormous alien population . . . the United States is at the present day in a position to take rank with the great European powers” and that immigration weakened foreign states because they lost men who could be used in “the military services.” The report is published in the U.S. BUREAU OF FOREIGN COMMERCE, *EMIGRATION AND IMMIGRATION*, 720-34 (1887), excerpted in *HISTORICAL ASPECTS OF THE IMMIGRATION PROBLEM: SELECT DOCUMENTS* 393-405 (Edith Abbott ed., 1926). This type of thinking also permeated throughout public thought, with, for example, Hezekiah Niles, editor of one of the most circulated periodicals of the era, writing that immigrants “add to the labor, and of consequence increase the wealth of our country in peace, and hold the nerve to assist in defending it in war.” 10 *NILES’ WEEKLY REGISTER* 366 (July 27, 1816). See also Totten, *supra* note 133, at 53-54.

164. U.S. leaders have not devised immigration policies to enhance total population size since end of WWI. On why this is likely the case see *supra* note 132.

foreigners incentives to come to America.¹⁶⁵ These measures for drawing immigrants were devised during the colonial era and this section presents their use during this period before discussing their utilization from the country's founding through WWI.

a. Immigration Recruitment Policies during the Colonial Period

Colonial leaders set the precedent in this area for later American officials by creating incentives to attract immigrants to their territories such as tax exemptions, free land, naturalization and other political advantages, tools, and provisions.¹⁶⁶ They did so to secure territory during a period when America was a British possession and in the words of a diplomatic historian consisted of “a loose grouping of small, disparate colonies huddled along the Atlantic coast of North America and surrounded by often hostile Indians and the possessions of unfriendly European powers.”¹⁶⁷ Erna Risch, one of the few scholars to examine colonial immigration laws, concluded that officials used them to attract immigrants to “promote settlement” and “create a protective barrier for the colonies against Spanish, French, and Indians.”¹⁶⁸ For example, the Georgia assembly passed an act to encourage immigration

165. The efforts by state and federal leaders to attract immigrants during this period were once commonly discussed, but scholars focusing on the exclusionary strain of early U.S. immigration policy have deemphasized them since the mid-twentieth century. *See, e.g.*, Livia Appel & Theodore C. Blegen, *Official Encouragement of Immigration to Minnesota during the Territorial Period*, 5 MINN. HIST. BULL. 167 (1923); Maurice G. Baxter, *Encouragement of Immigration to the Middle West During the Era of the Civil War*, 46 IND. MAG. HIST. 25 (1950); Rowland T. Berthoff, *Southern Attitudes Toward Immigration, 1865-1914*, 17 J. OF S. HIST. 328 (1951); Theodore C. Blegen, *The Competition of the Northwestern States for Immigrants*, 3 WIS. MAG. OF HIST. 3 (1919); Marcus L. Hansen, *Official Encouragement of Immigration to Iowa*, 9 IOWA J. OF HIST. & POL. 159 (1921); JOHN HIGHAM, STRANGERS IN THE LAND: PATTERNS OF AMERICAN NATIVISM, 1860-1925, 14-19 (2002); W.L. Jenks, *Michigan Immigration*, 28 MICH. HIST. MAG. 69 (1944); Erna Risch, *Encouragement and Aid to Immigrants, 1607-1830* (1931) (unpublished Ph.D. dissertation, University of Chicago); Erna Risch, *Encouragement of Immigration: As Revealed in Colonial Legislation*, 45 THE VA. OF HIST. & BIOGRAPHY 1 (1937) [hereinafter Risch, *Encouragement of Immigration*]; Erna Risch, *Joseph Crellius, Immigrant Broker*, 12 THE NEW ENG. Q. 241 (1939) [hereinafter Risch, *Joseph Crellius*]; Charles Shanabruch, *The Louisiana Immigration Movement, 1891-1907: An Analysis of Efforts, Attitudes, and Opportunities*, 18 LA HIST.: THE J. OF THE LA. HIST. ASS'N 203 (1977); Beverly Watkins, *Efforts to Encourage Immigration to Arkansas, 1865-1874*, 38 THE ARK. HIST. Q. 32 (1979); E. Russ Williams, Jr., *Louisiana's Public and Private Emigration Efforts, 1866-1893*, 15 LA. HIST. THE J. OF THE LA. HIST. ASS'N 153 (1974); Robert H. Woody, *The Labor and Immigration Problem of South Carolina during Reconstruction*, 18 THE MISS. VALLEY HIST. REV. 195 (1931).

166. For example, South Carolina leaders enacted at least ten laws to entice immigrants to their state from 1696 to 1741, including tax exemptions and bounties in the form of money and tools; colonial Georgia, Maryland, North Carolina, and Virginia passed legislation providing immigrants with exemptions from taxes or protection from suit by debtors for ten years; colonial Maryland and Virginia created special tax exemptions for immigrants who settled in the backcountry; and colonial Delaware, Georgia, Maryland, New Jersey, New York, North Carolina, and Pennsylvania offered easy terms of naturalization to immigrants. EMBERSON EDWARD PROPER, *COLONIAL IMMIGRATION LAWS: A STUDY OF THE REGULATION OF IMMIGRATION BY THE ENGLISH COLONIES IN AMERICA* 69 (1900); Risch, *Joseph Crellius*, *supra* note 165, at 245; Risch, *Encouragement of Immigration*, *supra* note 165, at 1-10.

167. GEORGE C. HERRING, *FROM COLONY TO SUPERPOWER: U.S. FOREIGN RELATIONS SINCE 1776*, at 1 (Oxford Univ. Press 2008).

168. Risch, *Encouragement of Immigration*, *supra* note 165, at 1.

because it is “of the greatest Importance to the safety of the British Empire in America that the Province of Georgia should be peopled with a Number of Inhabitants sufficient to repel any Invasion or Inroad of foreign Powers, and to prevent any Incursion of the Indians.”¹⁶⁹ The South Carolina assembly passed a similar statute because “nothing contributes more to the safety . . . of any country than the multitude of people.”¹⁷⁰ This type of sentiment was also expressed privately, noted by the Secretary of the Massachusetts Bay colony, who aware of dangers posed by neighboring Spain and Indian nations, explained that with immigration his “Government ha[s] but one point in view viz. [that is to say] by enlarging the number of inhabitants to increase the strength & general interest of the whole.”¹⁷¹ During a period of high geopolitical threat in North America, colonial leaders sought foreign numbers to secure territory.

b. Immigration Recruitment Policies from 1776 to WWI

U.S. leaders continued to devise measures to recruit immigrants after the colonies achieved independence through the first two decades of the twentieth century. The federal government took action during the Civil War to attract immigrants to assist with the war effort, such as by offering free land with the Homestead Act of 1862 and travel assistance with the Act to Encourage Immigration of 1864.¹⁷² But it was primarily state governments that sought foreign numbers during the period, with the extent of their efforts varying by location and through time based on manpower needs for securing and settling territory.¹⁷³ For example, twenty-five out of the thirty-eight states constituting America during the decade after the Civil War sought to induce immigrants to their territories to assist with rebuilding war-torn lands.¹⁷⁴ In regard to geographic location, western state leaders, requiring large numbers of men to securitize sparse lands, were particularly aggressive in their effort to procure foreign numbers, though southern state leaders at times exerted similar effort to recruit immigrants to backcountries.¹⁷⁵

Leaders took these measures in part for geopolitical reasons. President Lincoln encouraged legislators to devise a “system for the encouragement of immigration” because foreigners constituted a “source of national wealth and

169. *Id.* at 2.

170. *Id.* at 4 n.18.

171. Letter from Josiah Willard to Heinrich Ehrenfried Luther, *quoted in* Risch, *Joseph Crellius*, *supra* note 165, at 256.

172. See the discussion in LONN, *FOREIGNERS IN THE UNION ARMY & NAVY*, *supra* note 75, at 406-35. On post-Civil War recruitment schemes considered by the federal government, see GEORGE M. STEPHENSON, *A HISTORY OF AMERICAN IMMIGRATION, 1820-1924*, at 139-40 (1926).

173. Many of the states established and appointed immigration bureaus and commissioners to oversee recruitment efforts, set aside thousands of dollars per annum to recruit immigrants, had thousands of pamphlets distributed throughout Europe, and enticed foreigners to settle with cheap land, free passage, and tax exemptions. HIGHAM, *supra* note 165, at 17-18.

174. *Id.* at 18.

175. Berthoff, *supra* note 165; Blegen, *supra* note 165; HIGHAM, *supra* note 165, at 17-18.

strength.”¹⁷⁶ One congressional committee called for immigration because, “Our nation owes much of its importance in wealth and power among the nations of the earth to the people of foreign birth who have come to our shores since the foundation of the government,” whereas, another congressional committee, which met during the Civil War, concluded that, “[t]he war has depleted our workshops, and materially lessened our supply of labor in every department of industry and mechanism” and that the northern states required labor “or the material interest of the country must suffer. The immense amount of native labor occupied by the war calls for a large increase of foreign immigration to make up the deficiency at home.”¹⁷⁷ It was not only federal leaders who advocated inducements for these reasons, as exemplified by a Wisconsin Immigration Commissioner stating immigration strengthened the United States vis-à-vis foreign states and noting that “nearly all European Governments have attempted to check the constantly increasing drain of population and capital from their dominions” to America because “the growing power of the United States is regarded with dissatisfaction, and begins to excite their serious apprehensions.”¹⁷⁸ U.S. leaders, as the country expanded and faced challenges from foreign competitors, sought immigrants for national strength.¹⁷⁹

C. *Material and Military Objective #3: Use Skilled Immigrants for Geopolitical Strength*

The third main immigration policy objective that American leaders throughout history have used for material and military strength is attracting skilled foreigners. Immigrants with special skills can provide the United States with strategic benefits, including an “exogenous increase in . . . human capital,” “increased R&D and economic activity,” “knowledge flows and collaboration,” and “scarce and unique sets of skills that are needed to overcome

176. Abraham Lincoln, Message to Congress on December 8, 1863, *quoted in* HUTCHINSON, *supra* note 77, at 48; *see also* Lincoln, Message to Congress on December 6, 1864, *referenced in* HUTCHINSON, *supra* note 77, at 50. The 1864 and 1868 Republican Party Platforms similarly noted, “That foreign immigration, which in the past has added so much to the wealth, development of resources, and increase of power to the nation . . . should be fostered and encouraged by a liberal and just policy.” MCKEE, *supra* note 77, at 126, 139.

177. HUTCHINSON, *supra* note 77, at 54; Report from the Committee on Agriculture . . . on the Enactment of Suitable Laws for the Encouragement and Protection of Foreign Immigrants Arriving within Jurisdiction of the United States, February 18, 1864, *in* HISTORICAL ASPECTS OF IMMIGRATION 347 (Edith Abbott ed., 1926).

178. The Commissioner also reported that other countries were competing with the U.S. for immigrants, noting that “Among others, Brazil, which has many millions of acres of yet unoccupied lands lying within its boundaries, has just discovered the importance and profit of immigration, and has not only passed a law granting to every immigrant the necessary land for a home without price, but the Government has appropriated \$400,000 yearly to the furtherance of immigration.” Report of the Commissioner of Emigration for Wisconsin, *in* HISTORICAL ASPECTS OF IMMIGRATION, 131-32 (Edith Abbott ed., 1926).

179. This conclusion is also supported by secondary source literature. *See, for example*, HIGHAM, *supra* note 165, at 14; TICHENOR, *supra* note 11, at 66.

bottlenecks in production or research” without the expense of training domestic workers to acquire the talents.¹⁸⁰ High-skilled immigrants can help stimulate the economic and military innovation needed to keep America geopolitically secure.¹⁸¹

Their contributions to U.S. national strength are considerable and illustrated with a few statistics and examples. For one, they have enhanced American knowledge, with foreign-born U.S. scientists between 1901 and 2013 winning ninety-seven Chemistry, Medicine, and Physics Nobel Prizes, which are considered the most prestigious science prizes and serve as a good “objective measure of the contributions made by immigrants.”¹⁸² Second, immigrants add to American capital and corporate formation, exemplified in that they helped found ninety-two of the venture-capital companies that went public in 2006-2012 (such as Google, eBay, Facebook, LinkedIn, and Tesla Motors).¹⁸³ Third, and indicating immigrant skills translate into military advantage, a recent study reported that high-skilled immigrants are “heavily represented in occupations that may be considered sensitive for security purposes,” such as in aerospace, nuclear, petroleum, mining, geological, and industrial engineering fields, physical, social, and life science positions, and “military specific” jobs.¹⁸⁴

A few examples also underscore the contributions of skilled immigrants to geopolitical strength. For one, Laura Fermi’s seminal study on émigrés identifies over 1,900 “illustrious immigrants” who fled fascism in the 1930s and 1940s and led postwar America to international prominence in the arts, humanities, and sciences.¹⁸⁵ In regard to defense, work by émigré scientists such as Hans Bethe (Germany), Felix Bloch (Switzerland), Enrico Fermi (Italy), George Gamow (Russia), Edward Teller (Hungary), Victor Weisskopf

180. Mark C. Regets, *Research and Policy Issues in High-Skilled International Migration: A Perspective with Data from the United States* 4, 21 (National Science Foundation, Discussion Paper No. 366 2001).

181. On relationships between skilled immigrants and American national strength, see Marc Rosenblum, *High-Skilled Immigration and the U.S. National Interest*, in *THE INTERNATIONAL MIGRATION OF THE HIGHLY-SKILLED: DEMAND, SUPPLY, AND DEVELOPMENT CONSEQUENCES FOR SENDING AND RECEIVING COUNTRIES* 384-88 (Wayne A. Cornelius, Thomas J. Espenshade & Idean Saleyan eds., 2001).

182. Stuart Anderson, *The Increasing Importance of Immigrants to Science and Engineering in America*, in *NFAP POLICY BRIEF* (June 2014), available at <http://nfap.com/wp-content/uploads/2014/06/NFAP-Policy-Brief.Increasing-Importance-of-Immigrants-in-Science-and-Engineering.June-2014.pdf>.

183. Venture-backed publicly traded companies founded by immigrants are estimated to have a market capitalization of \$900 billion. *Id.* at 16-17.

184. Neeraj Kaushal & Michael Fix, *The Contributions of High-Skilled Immigrants*, 16 *MIGRATION POL’Y INST.* 4-6 (2006); see also *Hearing on Sources and Methods of Foreign Nationals Engaged in Economic and Military Espionage Before the H. Subcomm. on Immigr., Border Security, and Claims, Comm. on the Judiciary*, 109th Cong. (2005) (statement of William A. Wulf, President National Academy of Engineering), available at <https://www.aau.edu/WorkArea/DownloadAsset.aspx?id=6458>.

185. LAURA FERMI, *ILLUSTRIOUS IMMIGRANTS: THE INTELLECTUAL MIGRATION FROM EUROPE 1930-41* (1968). Due to European events, America gained an estimated 25,000 refugees in 1933-1944 from the “professional occupations.” *Id.* at 11.

(Austria), and Eugene Wigner (Hungary), to name but a few, helped the United States develop the atomic bomb.¹⁸⁶ As one scholar notes, “[o]ne cannot fail to be impressed by Hitler’s incredible feat of driving out virtually all intellectuals of consequence from Germany and Austria . . . One cannot help but speculate on the relative scientific (and perhaps military) standing of Germany and the United States if this exodus had not occurred.”¹⁸⁷ Second, and as a recent example of a crucial immigrant contribution to defense, Abe Kareem, born in Iraq and raised in Israel, with a company he founded in his Los Angeles garage, created the “Predator, [an] unmanned aerial vehicle that turned drones from unreliable oddities into military necessities” and “changed military aviation,” providing vital intelligence, surveillance, and reconnaissance in the Global War on Terrorism.¹⁸⁸ And third, immigrants have contributed immeasurably to U.S. diplomatic strength, with mere mention of leaders such as Henry Kissinger, Zbigniew Brzezinski, and Madeline Albright illustrating this fact.¹⁸⁹

This section presents three common policy methods American leaders have used to gain skilled immigrants from the colonial period through the twenty-first century, which are offering inducements to attract skilled foreigners (common in the eighteenth and nineteenth centuries), allocating a percentage of visas made available under immigration legislation for skilled immigrants (common beginning in the twentieth century), and importing temporary foreign skilled workers (also common in the twentieth century).¹⁹⁰ Before discussing these policies, recall this article is showing ways U.S. leaders have used immigrants for strength, but it is not arguing this was necessarily their only reason for the measures.

1. *Geopolitical Strength and Immigrant Inducement and Recruitment Policies to Attract Skilled Foreigners, 1607-1914*

The primary way early American leaders sought skilled foreign workers was through offering them incentives to come to the country, like tax breaks.¹⁹¹ The United States, as previously discussed, expanded from a weak eighteenth century state to a great power by the twentieth century, and leaders

186. Anderson, *supra* note 182, at 10.

187. Judith Fortney, *Immigrant Professionals: A Brief Historical Survey*, 6 INT’L MIGRATION REV. 50, 53 (1972).

188. Richard Whittle, *The Man Who Invented the Predator*, AIR & SPACE MAG. (April 2013), <http://www.airspacemag.com/flight-today/the-man-who-invented-the-predator-3970502/?page=1>.

189. For further discussion on this topic, see Adamson, *supra* note 10, at 189-90. On how Kissinger’s immigrant experience affected his diplomacy, see Jeremi Suri, *Henry Kissinger, the American Dream, and the Jewish Immigrant Experience in the Cold War*, 32 DIPLOMATIC HIST. 719 (2008).

190. On other U.S. policy methods to procure skilled foreign labor, see Totten, *supra* note 21, 123-39.

191. Other incentives included free land, naturalization, and other political advantages, as well as tools and other provisions. See the sources in *supra* note 165. On why U.S. leaders have likely not devised immigration policies to enhance population size since end of WWI see *supra* note 132.

sought specialized foreign labor for economic and military growth. As an example, consider that Alexander Hamilton, while serving as Treasury Secretary in 1791, argued high-skilled immigration was crucial for U.S. security in “Report on Manufactures,” a foundational early American economic document, by advocating Congress “open every possible avenue to emigration from abroad” to attract artisans for manufacturing because the “security of a Country appear[s] to be materially connected with the prosperity” of the industry and the resources it makes for national “defence.”¹⁹² He backed up his words with action, and he and many other early U.S. leaders engaged in schemes to import skilled foreigners because Hamilton “believed technological competition played a crucial role in the international balance of power” and skilled immigrants made the United States a “strong egocentric competing power.”¹⁹³ Early American leaders held these views because they were part of a global competition for high-skilled talent, as noted by Phineas Bond, a British consul in America. Bond advocated his country take measures (including the Crown paying for the return passage of British skilled immigrants) to stop the brain-drain of “artificers from Great Britain and Ireland” because it “is a constant source of population and advantage for this country . . . we suffer a severe depopulation and America derives vast benefit from it.”¹⁹⁴ During a period in which the country was weak relative to European powers, U.S. leaders looked to skilled immigrants to assist with enhancing security.

2. *Geopolitical Strength and Allocating Percentages of Immigrant Visas to Skilled Immigrants, 1924-Present*

One main way U.S. officials have sought skilled foreigners since the twentieth century is through allocating a portion of immigrant visas to foreigners with talents important for the national interest. This policy instrument was first set up on a small-scale with the 1924 Quota Act, which created a preference system that granted visas to foreigners based in part on labor considerations.¹⁹⁵ This tactic has since been commonly used in immi-

192. ALEXANDER HAMILTON, REPORT ON MANUFACTURES (Dec. 5, 1791), available at http://www.constitution.org/ah/rpt_manufactures.pdf.

193. Doron Ben-Atar, *Alexander Hamilton's Alternative: Technology Piracy and the Report on Manufactures*, 52 WM. & MARY Q. 389, 392-93 (1995). On the efforts by other leaders to attract immigrants, see DORON S. BEN-ATAR, TRADE SECRETS: INTELLECTUAL PIRACY AND THE ORIGINS OF AMERICAN INDUSTRIAL POWER (2004). On the contributions of early American immigrants with special talents, see, for example, Thomas K. McCraw, *Immigrant Entrepreneurs in U.S. Financial History, 1775-1914*, 5 CAPITALISM & SOC'Y 1 (2010).

194. Bond is quoted in Totten, *supra* note 133, at 60; see also McCraw, *supra* note 193, at 59-61. On attempts by European leaders to restrict emigration to America, see John Duncan Brite, *The Attitude of European States Toward Emigration to the American Colonies and the United States 1607-1820, 195-224* (1937) (unpublished Ph.D. dissertation, University of Chicago); ZOLBERG, *supra* note 11, at 60, 103-07.

195. The 1924 Quota Act specified that for each national quota as much as one-half of the visas were to give preference to (1) certain relatives of U.S. citizens and (2) “a quota immigrant who is

gration legislation in the postwar era as the United States has allowed in a larger number of immigrants than it did during the interwar period.¹⁹⁶ This section reviews the use of this policy in important immigration laws after WWII to provide a sense of its modern origin—refugee laws and the Immigration and Nationality Acts of 1952 and 1965.

a. The Displaced Persons Act (DPA) of 1948 and the Refugee Act of 1953

These acts, ostensibly designed to assist Europeans displaced by WWII, created employment preference categories for skilled persons within the visas they set aside for refugees.¹⁹⁷ The DPA legislation was intended to serve as a humanitarian instrument, but as the Soviets instituted a blockade of Berlin, created the German Democratic Republic, assumed greater control over Czechoslovakia and Hungary, and detonated an atomic bomb in 1948, U.S. refugee policy, to use the words of Gil Loescher and John Scanlan in their classic study in the area, became “firmly enmeshed in cold war politics.”¹⁹⁸ While U.S. leaders publicly touted American kindness in accepting refugees, they privately discussed how skilled displaced persons enhanced national security. For example, the U.S. Commission on the Displaced Persons Legislation, responsible for devising and executing the law, was sent confidential State Department material recommending it should only accept “iron curtain refugees” with “either special information or special talents.”¹⁹⁹ The DPA official report indicates these suggestions were factored into the law by noting “the displaced persons program was a success” because “it strength-

skilled in agriculture, and his wife, and his dependent children under the age of 16 years, if accompanying or following to join him,” which was a stipulation designed to attract foreigners possessing skills in an industry that experienced labor shortages during WWI. Immigration Act of May 26, 1924, 43 Stat. 153, § 6(a)(2).

196. For its use in the 1948 Displaced Persons Act, the 1952 Immigration and Nationality Act, the 1953 Refugee Relief Act, and the 1965 Immigration and Nationality Act see *infra* notes 197, 202, & 207.

197. The Displaced Persons Act of 1948 created two employment preference categories within its available visas, with one of them designated for “eligible displaced persons who have been previously engaged in agricultural pursuits and who will be employed in the United States in agricultural pursuits” and the other category designated for “eligible displaced persons who are household, construction, clothing, and garment workers, and other workers needed in the locality in the United States in which such persons propose to reside; or eligible displaced persons possessing special educational, scientific, technological or professional qualifications.” Displaced Persons Act of June 25, 1948, 62 Stat. 1009, § 6(a)(b). An amending act on June 16, 1950 (64 Stat. 219) contained similar provisos. HUTCHINSON, *supra* note 77, at 497. The Refugee Act of 1953 similarly gave priority within its visas to refugees “whose services or skills are needed in the United States.” Refugee Relief Act of Aug. 7, 1953, 67 Stat. 400, § 12.

198. GIL LOESCHER & JOHN A. SCANLAN, *CALCULATED KINDNESS: REFUGEES AND AMERICAS HALF-OPEN DOOR, 1945 - PRESENT* 22-23 (Free Press 1986).

199. The memorandum noted that “few of the defectors have been of much use to us,” but it “strongly” encouraged the U.S. to admit German expellees because many of them were craftsmen and skilled laborers who constituted “valuable manpower.” “Take as many into the U.S. as you can get Congress to approve,” it recommended. Memorandum by Commissioner Harry N. Rosenfield to the Chairman of the Displaced Persons Commission (Dec.-Jan 1951), in 1 U.S. DEPARTMENT OF STATE, *FOREIGN RELATIONS OF THE UNITED STATES, 1952-1954; GENERAL: ECONOMIC AND POLITICAL MATTERS* 1561-1562 (1983).

ened us domestically by helping to meet critical labor shortages in important defense manpower areas.”²⁰⁰ Similarly, a National Security Council memorandum stated that the 1953 Refugee Act was created to “encourage defection of all USSR nations and “key” personnel from satellite countries” to “inflict a psychological blow on communism” and a “material loss to the Soviet Union” by depriving it of skilled experts.²⁰¹ As this statement and the evidence in this paragraph indicates, U.S. leaders placed labor preferences within refugee laws to assist with the Cold War.

b. The Immigration and Nationality Act of 1952

This law, the next major piece of immigration legislation after the DPA and one that focused on all areas of the U.S. immigration system, also allocated a large percentage of the visas it made available to skilled foreigners.²⁰² Formed during the Korean War, Phil Wolgin, an immigration historian of the period, explains that this legislation was created “within the logic of Cold War exigencies” and notes that Senator Pat McCarran, coauthor of the law, stated a preference structure for skilled laborers was needed because it

200. The Displaced Persons Commission also stated that, “And as so frequently happens, an effort founded on purely humane grounds,” conveniently omitting mention that the law deliberately sought craftsmen amongst the displaced population, “resulted in gains for the United States that will continue for decades,” including refugee “men ready to bear arms in the defense of the United States.” UNITED STATES DISPLACED PERSON COMMISSION, MEMO TO AMERICA: THE DP STORY: THE FINAL REPORT OF THE UNITED STATES DISPLACED PERSONS COMMISSION vi, 331-32, 353 (1952). The report concluded by calling for “300,000 additional” refugees who were “carefully selected with a view to their qualifications and skills” because “trained factory workers, engineers, [and] scientific technicians” were required “in this period of heightened defense production,” referring to Korean War manpower needs. *Id.* President Truman similarly called for the U.S. to admit additional refugees, and he wanted to enlist them directly in the U.S. military in Europe to protect against the “Soviet terror,” but failing this action he advocated that, “the United States can and should take some of the migrants now available in Europe . . . Past immigration has helped to build our tremendous industrial power. Today, our growing economy can make effective use of additional manpower in various areas and lines of work. The rapid expansion of our industry and the enlargement of our defense forces, have increased the demands on our available manpower reserves. Our industry can readily absorb a limited number of skilled and trained personnel in the years immediately ahead. In our agriculture particularly, we have a need for additional people. Farm operators and farm workers are essential in our defense effort.” Harry S. Truman, Special Message to the Congress on Aid for Refugees and Displaced Persons (Mar. 24, 1952), *available at* <http://www.trumanlibrary.org/publicpapers/index.php?pid=947&st=&st1=> (last visited Mar. 8, 2011).

201. Quoted in ZOLBERG, *supra* note 11, at 322.

202. The Immigration and Nationality Act of 1952 largely left the restrictionist 1920s quota system intact, but instituted major changes in regard to how the visas it made available within the quotas assigned to each country were distributed amongst immigrants. The visas made available to each nation were broken into four categories and placed in order of priority, with the largest and highest priority category allocated for immigrants possessing skills viewed as important for the national interest. “(1) The first 50 per centum of the quota of each quota area for such year,” the legislation stipulated, “shall be made available for the issuance of immigrant visas (A) to qualified quota immigrants whose services are determined by the Attorney General to be needed urgently in the United States because of the high education, technical training, specialized experience, or exceptional ability of such immigrants and to be substantially beneficial prospectively to the national economy, cultural interests, or welfare of the United States, and (B) to qualified quota immigrants who are the spouse or children of any immigrant described in clause (A) if accompanying him.” Immigration and Nationality Act of June 27, 1952, 182 Stat. 66, § 203(a)(1).

“provides a more thorough screening in order to insure that the admission of aliens . . . will serve the national interest.”²⁰³ Similarly, Representative Francis E. Walter, Chairman of the Immigration and Naturalization Subcommittee of the House and coauthor of the legislation, explained that under the current immigration system, “[w]e are still operating under the formula of ‘first come, first served.’ This formula serves the intending immigrants all right, but it does not serve the needs of our hospitals, our universities, and our industrial and defense establishments.”²⁰⁴ And even opponents to the law viewed the preference structure in this manner, with Emanuel Celler, Chairman of the House Committee on the Judiciary and a major player in immigration during his forty year congressional tenure, stating that while he objected to the act, he agreed a new law was required to “provide for as much selectivity as possible” because the “quota system, operating under the formula of ‘first come, first served,’ deprives our defense and industrial establishments” of “many highly desirable skilled specialists.”²⁰⁵ As explained by key immigration players of the period as well as other leaders, the 1952 law instituted a preference for skilled laborers to help with defense.²⁰⁶

c. The Immigration and Nationality Act of 1965

This law, which abolished the national origins system and erected the framework upon which the U.S. immigration system still rests today, also instituted a skilled labor preference within its immigration visas for national defense.²⁰⁷ For example, Celler, privately wrote President Kennedy—the law’s progenitor—that a new immigration policy was needed “to serve our

203. Philip E. Wolgin, *Re-Forming the Gates: Postwar Immigration Policy in the United States Through the Hart-Celler Act of 1965*, in WANTED AND WELCOME 67 (Triadafilopoulos ed., Springer 2013).

204. *Revision of Immigration, Naturalization, and Nationality Laws: Joint Hearings on S. 716, H.R. 2379, and H.R. 2816 Before the Subcomms. H. Comm. on the Judiciary & S. Comm. on the Judiciary Congress, 82nd Cong. 4, 7 (1951)* (statement of Rep. Francis E. Walter), available at <https://bulk.resource.org/gao.gov/82-414/0000313C.pdf>.

205. *Id.* (statement of Rep. Emanuel Celler).

206. *See, e.g.*, Philip Eric Wolgin, *Beyond National Origins: The Development of Modern Immigration Policymaking, 1948-1968* (2011) (unpublished Ph.D. dissertation, University of California Berkeley). This type of reasoning is also consistent with congressional debate on the Act, exemplified by Louis Heller, a New York Representative, arguing that immigration was needed to “add to our supply of manpower so urgently needed here in order to assure continued and expanded productivity on our farms and in our factories which is so vital to our national security.” 66 CONG. REC. 4311 (1952) (statement of Rep. Heller); *see also* 66 CONG. REC. 4310-4311 (1952) (statement of Rep. Rodino); 66 CONG. REC. 4314 (1952) (statement of Rep. Celler).

207. It instituted a preference structure within the numbers of visas that it issued for eastern hemisphere countries, with ten percent of the total quota for each country designated for immigrants with special skills. It sought “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.” Immigration and Nationality Act of 1965, P.L. 89-236, available at <http://www.gpo.gov/fdsys/pkg/STATUTE-79/pdf/STATUTE-79-Pg911.pdf>. It also allocated another ten percent of the total quota for each country for “qualified immigrants who are capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.” The immigrant preference system instituted in the 1965 Immigration and Nationality

national interest and the basic objectives of our foreign policy.”²⁰⁸ As Celler indicated in the letter, the State Department was playing a notable role in the law and it had already made clear what the “national interest” entailed: “In earlier decades,” explained State’s Administrator of Security and Consular Affairs, “our rapidly expanding country desperately needed mass labor from whatever sources. Today, this is no longer true. The Soviet Sputnik has dramatically emphasized a different need. Today we need scientists and technicians . . . we need highly skilled and specialized immigrants.”²⁰⁹ Secretary of State Dean Rusk, also concerned over competing with the Soviets, reiterated this message during hearings and noted America is competing “in an international market of brains” that it must win in “a divided world.”²¹⁰ As these comments indicate, as well as secondary source studies in the area, the 1965 labor preference category was devised with geopolitics in mind.²¹¹

3. *Geopolitical Strength and the Importation of Temporary Foreign Workers with Special Skills, 1952-Present*

U.S. leaders have also formed laws allowing for temporary importation of foreign workers with skills important for the national interest. One way they have done this is through creating visa classes within general immigration legislation that permit foreigners to temporarily stay in America for work.²¹²

Act was extended to western hemisphere countries in a 1976 amending act. Austin T. Fragomen, Jr., *1976 Amendments to Immigration & Nationality Act*, 11 INT’L MIGRATION REV. 95 (1977).

208. Letter from Emanuel Celler to John F. Kennedy (June 24, 1963), available at <http://www.jfklibrary.org/Asset-Viewer/Archives/JFKPOF-016-002.aspx> (last visited Jan. 20, 2013).

209. Wolgin, *supra* note 206, at 94 (quoting Roderic O’Connor, State Dep’t Admin. of Security and Consular Affairs, Remarks before the National Council on Naturalization and Citizenship (Mar. 14, 1958)).

210. “Since the end of World War II,” Rusk explained, “the United States has been placed in the role of critical leadership in a troubled and constantly changing world. We are concerned to see that our immigration laws reflect our real character and objectives.” He continued, “The significance of immigration for the United States now depends less on the number than on the quality of immigrants. The explanation for the high professional and technical quality of present immigration lies in part in the nonquota and preference provisions of our immigration laws that favor the admission of highly qualified migrants,” referring to provisions stipulated in the 1952 Immigration and Nationality Act. He then noted that the “postwar economic and social dislocations, discriminations, and insecurities in various parts of the world . . . have disturbed social and occupational strata not normally disposed to emigrate” and America was in position to attract valuable manpower. “Under present circumstances the United States has a rare opportunity to draw migrants of high intelligence and ability from abroad; and immigration, if well administered, can be one of our greatest national resources, a source of manpower and brainpower in a divided world.” “Looking ahead for the next 20 years, this country is going to need to have access to the highest talents in all sorts of fields. We are moving into a scientific and technological sophisticated period of our national history and there is going to be plenty of room at the top.” “We are in an international market of brains.” *Hearings Before the Subcomm. No. 1 of the Comm. on the Judiciary*, 88th Cong. 386, 401 (1964) (statement by Dean Rusk).

211. On how Cold War considerations more generally factored into the 1965 law, see, for example, David S. Fitzgerald & David Cook-Martin, *The Geopolitical Origins of the U.S. Immigration Act of 1965*, MIGRATION POL’Y INST. ONLINE J. (Feb. 5, 2016), <http://www.migrationpolicy.org/article/geopolitical-origins-us-immigration-act-1965>; JOHN D. SKRENTNY, *THE MINORITY RIGHTS REVOLUTION 48-57* (President & Fellow of Harvard College 2002); Wolgin, *supra* note 206.

212. For other ways U.S. leaders have utilized temporary foreign labor such as through guest worker programs, see Totten, *supra* note 21, at 115-39.

These visas (the H-system) were first created on a large-scale with the Immigration and Nationality Act of 1952, and this section focuses on their creation but it also discusses their expansion in the 1990s to show how geopolitics continues to inform American thinking on high-skilled immigrants after the Cold War.

a. The Immigration and Nationality Act of 1952—The H-Visa System

The 1952 immigration law, for the first time in U.S. history, created a rigorous system for importing skilled guest laborers by setting up a new “non-immigrant” visa category—the H-1 visa—that is still used today.²¹³ This law was formed during the Korean War, which claimed over 35,000 American lives and “made possible full implementation of NSC-68,” an assertive U.S. strategy for confronting the Soviet threat, “including a huge military buildup, economic mobilization, and a string of global commitments.”²¹⁴ Accordingly, the Committee devising the 1952 law said it formed the H-system for the “national interest” and it was thinking about war labor, recollecting that, “[w]hen the United States entered World War II, the movement of agricultural laborers into the armed forces and into war industries seriously depleted the farm labor supply.”²¹⁵ This type of reasoning is consistent with private discourse on temporary foreign labor, exemplified by a classified State Department statement emphasizing the value of guest workers during WWII and their utility in case the Korean War expanded by noting foreign “manpower . . . will be essential to us in the event of another major war.”²¹⁶ Concerned over securing skilled labor for the Cold War, U.S. leaders formed the H-system with national defense

213. This visa class is for a temporary worker who is “an alien having a residence in a foreign country which he has no intention of abandoning” and “who is of distinguished merit and ability and who is coming temporarily to the United States to perform temporary services of an exceptional nature requiring such merit and ability.” Margaret L. Usdansky & Thomas J. Espenshade, *The Evolution of U.S. Policy toward Employment-Based Immigrants and Temporary Workers: The H-1B Debate in Historical Perspective*, in INTERNATIONAL MIGRATION OF THE HIGHLY-SKILLED 77 (Cornelius, Espenshade & Salehyan eds., 2000). The typical occupations of H-1 workers indicate that most of them possess advanced degrees, exceptional ability, or specialized training. For example, H-1 visa holders in 1989 largely worked in the computer, engineering, entertainment, health care, medical, modeling, movie, nursing, programming, science, and television fields. Similarly, though concentrated in industries booming during the era, workers holding this type of visa in 1999 were employed primarily in the systems analysis and programming industries, though also in the accountant, architecture, computer-related, electrical and electronic engineering, and higher education fields. B. Lindsay Lowell, *The Foreign Temporary Workforce and Shortages in Information Technology*, in MIGRATION OF THE HIGHLY-SKILLED 137-39 (Cornelius, Espenshade, & Salehyan, eds., 2000). On the history and technicalities of H Visas, see Robert L. Bach, *New Dilemmas of Policy-Making in Transnational Labor Markets*, in *id.*, 113-30; Lowell, *Foreign Temporary Workforce*, in *id.* at 131-62; Usdansky & Espenshade, *Evolution of U.S. Policy*, in *id.* at 23-54.

214. HERRING, *supra* note 167, at 639.

215. S. REP. NO. 1515, at 574, 588 (1950) (S. Comm. on the Judiciary).

216. This Department of State policy statement was referring to the Emergency Farm Labor Supply Program (now commonly known as part of the Bracero Program) that utilized temporary Mexican labor during WWII. Policy Statement Prepared in the Department of State (Oct. 1, 1951), in 2 U.S. DEPARTMENT OF STATE, FOREIGN RELATIONS OF THE UNITED STATES 1489 (1951).

in mind.²¹⁷

b. Amendments to the H-1 Visa System since 1952

Since its creation, American leaders have at times amended the H-1 system to attract immigrants to provide services in short supply or to prevent abuse of the visa category by foreigners lacking “distinguished merit and ability.”²¹⁸ For example, Congress amended the H-1 classification system with the Immigration Act of 1990 to stop foreigners from misusing the system by cleverly marketing pedestrian skills as consisting “of an exceptional nature.”²¹⁹ Leaders once more adjusted the H-1 system at the turn of the twenty-first century to provide labor for the expanding high-tech industry during the Internet boom, by enacting the American Competitiveness and Workforce Improvement Act of 1998, which expanded the number of H-1 spots available from 65,000 visas per year to 115,000 visas per year in 1999 and 2000.²²⁰

The U.S. Commission on Immigration Reform of 1995, created to review the 1990 law and the immigration system of the era, indicated a reason why U.S. leaders sought high-skilled labor during the period. Though pleased with the “basic framework of current immigration policy,” the Commission recommended the “immigration system must undergo major reform to ensure that admissions continue to serve our national interests,” and it emphasized adjusting policy to acquire more skilled immigrants because they “enhance our ability to compete in a global economy” and “often play important and visible roles at the highest levels of the U.S. military.”²²¹ Tichenor and Zolberg, prominent immigration scholars, similarly explain that as the U.S. entered the 1990s, officials attempted to use immigration policy as a “neomercantilist device for the acquisition of human capital” and that “international pressures on immigration policy increasingly reflected not

217. For example, congressional debate on the McCarran-Walter Act also indicates the H-1 system was created for defense reasons. Representative Peter Rodino, who served in Congress for forty years including as the Chairman of the House Judiciary Committee, explained that, “We know that immigration is good for the country in terms of national wealth, national culture, national productivity, and national defense.” 66 CONG. REC. 4310-4311 (1952) (statement of Rep. Rodino); *see also* 66 CONG. REC. 4314 (1952) (statement of Rep. Celler).

218. On the evolution of the H-1 system see the sources in *supra* note 213.

219. BRIGGS, *supra* note 13, at 266-70; Lowell, *supra* note 213, at 134-35.

220. The American Competitiveness in the Twenty-First Century Act subsequently raised the annual H-1 visa cap to 195,000 visas per year from 2001-2003. As the economy stumbled during the early 2000s, Congress allowed the H-1 cap to revert back to 65,000 in 2004. *See* BRIGGS, *supra* note 13, at 266-270; Lowell, *supra* note 213, at 135-36; Kumar, *H1B visa max cap statistics from 1990 to 2011 with reasons changes*, RED BUS 2 US, <http://redbus2us.com/h1b-visa-max-cap-statistics-from-1990-to-2011-with-reasons-changes-visa-trend-plot-until-2011/>. As another example, U.S. leaders, facing a nursing shortage, created under the Immigration Nursing Relief Act of 1989 a new classification for foreigners who worked in this profession (H-1A visas) to facilitate their entry into the country. E. Calderon, *1989 Immigration Nursing Relief Act*, 23 J. OF NURSING ADMIN. 5 (1993).

221. U.S. COMM’N ON IMMIGRATION REFORM, LEGAL IMMIGRATION: SETTING PRIORITIES preface, i, xx, 23-25 (1995).

only Cold War geopolitics and traditional foreign policy concerns, but also the perceived demands of promoting U.S. fortunes in global trade.”²²² Although private sources are not widely available on recent policy, evidence indicates U.S. officials continue to use temporary visas for geopolitical strength.

III. CONCLUSION AND RESEARCH AND POLICY IMPLICATIONS

Admiral Eric T. Olson, a United States Special Operations Command (USSOCOM) leader, recently explained to Congress that because of MAVNI and immigrants with “special language skills and abilities,” his units “made progress” in one of their “high priority initiatives” of developing soldiers with cultural and linguistic expertise for the Global War on Terrorism.²²³ Olson, focused on contemporary challenges, most likely did not realize he was praising an American tradition of using immigrants for the military that reaches back to the seventeenth century. U.S. leaders have done this for hundreds of years because the international system incentivizes them to utilize immigrants as soldiers and workers during conflict and more generally to enhance the size and skill set of the populace for strength during times of war and peace. Material and military factors, this article shows, have played a more significant and multifaceted role in U.S. immigration policy than often recognized.

A. *Research Implications*

This finding points to areas for more research. For one, this article reviewed several U.S. immigration policy methods and examples used for geopolitical purposes, but research is required to discover additional ones. Second, relationships between geopolitics and U.S. immigration policies identified in this article are likely applicable to other nation-states, since they are subject to similar forces within the international system.²²⁴ Third, models of state migration policies often use economic variables to make predictions. Scholars may find it profitable to reconsider these variables based on the relationship between economics and geopolitics presented in this article, keeping in mind that leaders at times seek wealth through immigration to enhance military and national strength (not necessarily for wealth in and of

222. TICHENOR, *supra* note 11, at 267-74 (quote at 268); ZOLBERG, *supra* note 11, at 376; *see also* MARTIN, *supra* note 11, at 219.

223. *United States Special Operations Command Before the S. Armed Services Comm.*, 112th Cong. (2009) (statement of Admiral Eric T. Olson, USN Commander), available at http://democrats.armedservices.house.gov/index.cfm/files/serve?File_id=8bd79b06-04e0-45c7-a23c-9e2ef206aa33 (last visited June 14, 2014).

224. On national security and British, French, and German immigration policy, *see* RUDOLPH, NAT'L SECURITY & IMMIGRATION, *supra* note 10.

itself).²²⁵ Fourth, this article shows how international pressures and shocks (such as war) affect U.S. domestic policy and provide insight for those examining “second-image reversed” links.²²⁶ Fifth, this article unpacked what is referred to in IR, and other academic literatures, as a transnational or nontraditional security policy area and found that U.S. leaders have gone to great lengths to use immigration as a security instrument, thereby indicating the utility of investigating these types of policy areas for these disciplines.²²⁷ Lastly, and in regard to defense mobilization, this article shows that the United States has at times made considerable efforts to utilize immigration for geopolitical strength, thus it may be revealing to consider other unconventional ways nation-states mobilize resources for security, such as through environmental or healthcare policies.

B. *Policy Implications*

Contemporary policy observations can also be drawn from this article. For one, the Global War on Terrorism requires soldiers with cultural and linguistic skills for the diverse global areas in which America carries out operations.²²⁸ Such skills are difficult for American adults to learn, but come naturally to many foreigners because of their upbringing, which is why the military, with the MAVNI program, is targeting immigrants who are native speakers of one of forty-four languages, the most desired of which include Azerbaijani, Cambodian-Khmer, Hausa and Igbo (West African dialects), Persian Dari, and Tamil.²²⁹ Many analysts argue that while MAVNI is a good start to providing the United States with needed personnel, the program is too small and the military is recruiting far too few talented immigrants and lacks soldiers with the cultural and linguistic ability to carry out missions with sensitivity and precision.²³⁰ This article shows that

225. On relationships between economics, politics, and migration, see Gary P. Freeman & Alan K. Kessler, *Political Economy and Migration Policy*, 34 J. OF ETHNIC & MIGRATION STUD. 655 (2008); James Hollifield, Valerie F. Hunt, & Daniel J. Tichenor, *Immigrants, Markets, and the American State: The Political Economy of U.S. Immigration*, in DIALOGUES ON MIGRATION POLICY 91-108 (Marco Giugni & Florence Passy eds., 2006); MIGRATION IN THE GLOBAL POLITICAL ECONOMY (Nicola Phillips ed., 2011); MARTIN RUHS, THE PRICE OF RIGHTS: REGULATING INTERNATIONAL LABOR MIGRATION (2013); ROGER WHITE, MIGRATION AND INTERNATIONAL TRADE: THE US EXPERIENCE SINCE 1945 (2010).

226. See *supra* note 23. For more on the domestic-international connection with U.S. immigration policy, see Marc Rosenblum, *The Intermestic Politics of Immigration Policy: Lessons from the Bracero Program*, 16 POL. POWER & SOC. THEORY 139 (2004); ROSENBLUM, *supra* note 22.

227. For basic overviews of non-traditional/transnational security issues, see MARK BEESON & NICK BISLEY, ISSUES IN TWENTY-FIRST CENTURY WORLD POLITICS (2d ed. 2013); RICHARD J. PAYNE, GLOBAL ISSUES (4th ed. 2013).

228. COLONEL ERIC D. HOMAN, EXPANDING U.S. ARMY LANGUAGE AND CULTURAL PROFICIENCY (2010).

229. For a list of the forty-four and the most desired languages, see *Military Accessions Vital to the National Interest*, U.S. ARMY, <http://www.goarmy.com/benefits/additional-incentives/mavni.html>.

230. See COLONEL MIKE COPENHAVER, THE INTEGRATION OF MINORITIES INTO SPECIAL OPERATIONS: HOW CULTURAL DIVERSITY ENHANCES SPECIAL OPERATIONS (2014); Eric T. Olson, *U.S. Special*

immigrants have significantly contributed to the U.S. military since the country's founding so it would be a great loss if their skills were not utilized today.

Second, the federal government in recent years has been attempting major immigration reform, and the Senate passed a 2013 comprehensive bill that would change the legal immigration system from one based largely on family reunification to one more centered on attracting skilled immigrants so the United States can compete in the international system.²³¹ This proposed measure could boost American competitiveness, though leaders need to identify what types of skills enhance American strength and not blindly assume the measure is in the national interest. In addition, while caps are needed on the number of immigrants permitted entrance per year because more people want to come to the United States than it can safely accept, it is prudent to write a bill that includes a measure to make additional visas available in case of geopolitical events (such as a humanitarian crisis or war) in which foreign workers or soldiers are needed.²³²

Third, U.S. leaders need to take note of a few other geopolitical issues when reforming immigration policy. For example, analysts predict that great powers like Britain, France, Germany, and Japan will have difficulty in coming decades maintaining their international positions due to declining populations (caused by aging populaces and low birth rates), and while most analysts do not see the United States having this issue (because of robust birth rates and immigration), leaders should consider the demographic implications of immigration policies.²³³ In addition, U.S. leaders need to remain aware that military factors are only part of the relationship between national security and immigration, and foreign relations and domestic security issues such as terrorism also factor into the policy realm.²³⁴ For example, a U.S. immigration decision made for a material or military purpose such as recruiting skilled labor may alienate a key ally if it becomes upset about

Operations: Context and Capabilities in Irregular Warfare, 56 *JOINT FORCE Q.* 68 (2010); Robichaux, *supra* note 111.

231. On the 2013-14 immigration reform efforts by the federal government, see UNDECIDED NATION: POLITICAL GRIDLOCK AND THE IMMIGRATION CRISIS (Erica de la Garza & Tony Payan eds., Springer 2014); Brad Plumer, *Senators Release Bipartisan Plan for Immigration Reform*, WASH. POST (Jan. 28, 2013), <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/01/28/read-senators-release-their-plan-for-immigration-reform/>; *Side-by-Side Comparison of 2013 Senate Immigration Bill with Individual 2013 House Bills*, MIGRATION POLICY INSTITUTE (Aug. 2013), <http://www.migrationpolicy.org/research/side-side-comparison-2013-senate-immigration-bill-individual-2013-house-bills>.

232. Totten, *supra* note 71, at 267.

233. See, e.g., Goldstone, *supra* note 30; JACKSON, *supra* note 30; SCIUBBA, *supra* note 30; YOSHIHARA & SYLVA, *supra* note 30; WINTER & TEITELBAUM, *supra* note 30.

234. Regarding the interactions between immigration and security areas (domestic security, foreign policy, and material/military) see Totten, *supra* note 71. On relationships between epidemics, national security, and immigration see Robbie J. Totten, *Epidemics, National Security, and United States Immigration Policy*, 31 *DEF. & SECURITY ANALYSIS* 199 (2015).

losing valuable manpower to America.²³⁵ And related to this theme, officials should keep in mind that immigration decisions made for a domestic reason (such as pleasing a voting block) may have military and material consequences, and vice versa, an immigration policy formed to serve a security purpose may affect a domestic interest.

Fourth, and in regard to human rights, this article has revealed geopolitics tend to incentivize and “pressure” U.S. leaders into forming policies in the national interest, which may not always be in the best interest and safety of citizens and immigrants.²³⁶ For example, U.S. officials targeted skilled refugees with the Displaced Persons Act of 1948 and the Refugee Relief Act of 1953, but were these individuals also the ones in the most need from WWII fallout?²³⁷ Leaders need to keep in mind that decisions made to enhance U.S. security can harm immigrants. Scholars have begun to explore ways to “insulate” officials from geopolitical pressures that result in policies insensitive to human rights, such as through international laws and institutions binding leaders to humanitarian conduct in the policy area, but given the importance of this issue more research and efforts in the area is required.²³⁸

Recent trends and policy events indicate immigration will remain a pressing policy area for the United States in coming years.²³⁹ The volume of

235. On foreign and U.S. immigration policies, see, for example, DONNA R. GABACCIA, *FOREIGN RELATIONS: AMERICAN IMMIGRATION IN GLOBAL PERSPECTIVE* (Princeton Univ. Press 2012); WESTERN HEMISPHERE IMMIGRATION AND UNITED STATES FOREIGN POLICY (Christopher Mitchell ed. 1992); THREATENED PEOPLES, THREATENED BORDERS: WORLD MIGRATION AND US FOREIGN POLICY (Michael S. Teitelbaum & Myron Weiner eds., 1995); IMMIGRATION AND U.S. FOREIGN POLICY (Robert W. Tucker, Charles B. Keely, & Linda Wrigley eds, Perseus 1990).

236. Using basic Security Studies terminology, U.S. officials face pressure to form immigration policy with a national security focus (the integrity of the nation-state) instead of a human security approach (the safety of all people, including citizens and immigrants). For simple primers on human vs. national security, see RUSSELL BOVA, *HOW THE WORLD WORKS: A BRIEF SURVEY OF INTERNATIONAL RELATIONS* 238-39 (2d ed. 2011); PAUL R. VIOTTI & MARK V. KAUPPI, *INTERNATIONAL RELATIONS AND WORLD POLITICS* 496-97 (5th ed. 2013); see also Roland Paris, *Human Security: Paradigm Shift or Hot Air?*, 26 *INT'L SECURITY* 87 (2001); SHAHRBANOU TADJBAKHSH & ANURADHA CHENOY, *HUMAN SECURITY: CONCEPTS AND IMPLICATIONS* (Routledge 2007).

237. Another prominent example is in regard to Cuban and Haitian refugees during the Cold War, in which the former were often granted refuge and the latter were frequently not permitted entrance in the U.S. for geopolitical reasons. See, e.g., LOESCHER & SCANLAN, *supra* note 198.

238. See, e.g., *GLOBAL MIGRATION GOVERNANCE* (Alexander Betts ed., OUP Oxford 2011); *CONTROLLING IMMIGRATION: A GLOBAL PERSPECTIVE* (Wayne Cornelius, Takeyuki Tsuda, Philip Martin, & James Hollifield eds., 2d ed. 2004); *MANAGING MIGRATION: TIME FOR A NEW INTERNATIONAL REGIME?* (Bimal Ghosh ed., Oxford Univ. Press 2000); *MIGRATION, NATION STATES, AND INTERNATIONAL COOPERATION* (Randall Hansen, Jobst Koehler & Jeannette Money eds., 2011); J. Brian Johns, *Filling the Void: Incorporating International Human Rights Protections into United States Immigration Policy*, 43 *RUTGERS L. J.* 541 (2013); *MULTILAYERED MIGRATION GOVERNANCE: THE PROMISE OF PARTNERSHIP* (Rahel Kunz, Sandra Lavenex & Marion Panizzon eds., 2011); *GLOBAL MOBILITY REGIMES* (Rey Koslowski ed., Palgrave Macmillan 2011); PHILIP L. MARTIN, SUSAN F. MARTIN, & PATRICK WEIL, *MANAGING MIGRATION: THE PROMISE OF COOPERATION* (Rowman & Littlefield Publishers, Inc. 2006); SUSAN F. MARTIN, *INTERNATIONAL MIGRATION: EVOLVING TRENDS FROM THE EARLY TWENTIETH CENTURY TO THE PRESENT* (Cambridge Univ. Press 2014) [hereinafter MARTIN, *INT'L MIGRATION*]; RUHS, *supra* note 225.

239. On global migration challenges, see, for example, Peter Andreas, *Redrawing the Line: Borders and Security in the Twenty-First Century*, 28 *INT'L SECURITY* 78 (2003); Stephen Castles,

international migration has nearly tripled since 1970 and may accelerate in coming years as technologies continue to facilitate and lower the cost of travel.²⁴⁰ The United States has been the largest recipient of immigrants in this century, with over ten million legal immigrants coming to America over the past decade and an undocumented population in the country of more than eleven million people.²⁴¹ In recent years, the federal government has been attempting to pass comprehensive reform, and state and local actors have formed hundreds of immigration laws to confront issues related to the large numbers of immigrants coming to America.²⁴² U.S. leaders will continue to face policy challenges in this realm, and this article has shed light on the material and military dimension of American immigration to help them with the task.

International Migration at the Beginning of the Twenty-First Century: Global Trends and Issues, 52 INT'L SOC. SCI. J. 269 (2000); GLOBAL MIGRATION: CHALLENGES IN THE TWENTY-FIRST CENTURY (Kavita R. Khory ed., Palgrave Macmillan 2012); MARTIN, INT'L MIGRATION, *supra* note 238; WEINER, GLOBAL MIGRATION, *supra* note 10.

240. There was an estimated 81.5 million international migrants in 1970 and approximately 232 million international migrants in 2013. See INT'L ORG. FOR MIGRATION, WORLD MIGRATION: COSTS AND BENEFITS OF INTERNATIONAL MIGRATION 396 (2006), available at http://publications.iom.int/bookstore/free/wmr_2005.pdf; *Number of international migrants Rises above 232 million*, UNITED NATIONS, DEP'T OF ECON. & SOC. AFFAIRS (Sept. 11, 2013), <http://www.un.org/en/development/desa/news/population/number-of-international-migrants-rises.html> (last viewed June 27, 2015).

241. See *supra* note 8.

242. On contemporary U.S. immigration policy, see *supra* note 7; see also *supra* note 231.