



Humanitarian Considerations in Immigration Systems: Status Quo and Imagined Future

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The Study Group will meet five Fridays during the Fall of 2022: September 23, October 8, October 22, November 5 and November 19. In addition, I will be scheduling office hours before or after my class.

My Story:

I had the privilege of being appointed by former President Obama to serve as the director of U.S. Citizenship and Immigration Services (“USCIS”), the federal government’s immigration benefit adjudication agency. USCIS is one of four immigration-related agencies within the Department of Homeland Security, and is responsible for administering immigration benefits including naturalization, green cards, employment-based visas, asylum, refugee admission, Temporary Protected Status and Deferred Action for Childhood Arrivals (“DACA”). During my tenure, we worked to implement President Obama’s Executive Actions on Immigration, which included a vast expansion of deferred action treatment for undocumented adults, an initiative that was ultimately stopped in the federal courts. We also played a key role in screening refugee applicants from countries including Syria, Iraq and Somalia in support of President Obama’s direction to greatly increase refugee admissions. Prior to working at USCIS, I served as the Director of the Department of Health and Human Services Office for Civil Rights, and had also earlier served as a trial lawyer and later the Chief of Staff of the U.S. Department of Justice Civil Rights Division. I am now a partner in the Washington, DC office of Seyfarth Shaw, LLP, focusing primarily on immigration law and policy, and also serve as a board member of HIAS, Inc., a global refugee resettlement organization that had assisted my parents and grandparents in the early 1960s.

Objectives:

A frequently heard refrain in our national political discourse is that our immigration system is “broken.” While some argue that our system is overly generous, others believe that it is often cruel and restrictive in a manner contrary to our national interests and humanitarian values. Advocates, faith leaders, business executives, and even police chiefs often question whether our immigration system even begins to reflect our national reality and our values. Not surprisingly, our domestic debates are echoed in many countries throughout the world.

While employment-based or family-based immigration also spark debate, the greatest controversies surround immigration programs focused on those in need, such as currently

undocumented residents of the U.S., asylum seekers, applicants for refugee status, victims of war and natural disaster, and/or those seeking to escape poverty and political chaos. Recent estimates by humanitarian organizations place the number of displaced persons throughout the world at eighty million, while the refugee admission policies of those countries willing to accept refugees sit at the tiniest fractions of that number. In the meantime, global climate change promises to bring global displacement to unprecedented and unimaginable levels.

The need for fresh and imaginative solutions to address these challenges could not be more urgent. In the group's final sessions, we will work together to imagine a viable future immigration system that prioritizes universal principles of humanitarianism and equity and the plan an effective advocacy strategy to turn some of those ideas into policy. As the foundation to this exercise, the study group will explore the current state of U.S. and foreign immigration bureaucracies, focusing in particular on the political drivers of U.S. immigration policy, including the unseen forces that preserve what many across the political spectrum view as a dysfunctional status quo.

To ensure that the study groups hears a variety of perspectives, I plan to have two prominent guest speakers who I will announce as we draw closer to the start of our study sessions. Seeking to have informed and energetic discussions, several days prior to each study group session I provide brief readings, including crucial immigration policy documents from the Bush, Obama, Trump and Biden administrations, as well as factual scenarios for discussion.

Session #1: Current state of U.S. and foreign immigration system

In my view, a country's immigration system reflects some level of social consensus based on a balancing of economic, cultural, moral and security/public considerations.

In this first session, we will explore some of the underpinnings of national immigration systems, focusing naturally on the U.S., and asking critically how terms and concepts like "nation state", "national security", "family unity", "secure borders", and "nation of immigrants" shape both the policy structure and cultural understanding of migration. We will concentrate in particular on the concept of borders and the purposes they serve or fail to serve for the societies that govern them.

We will also use this session to provide study group participants with a basic understanding of the basic architecture of the U.S. immigration system, including humanitarian programs such as refugee status, asylum, Humanitarian Parole, Temporary Protected Status, and DACA.

Session #2: The Role of Humanitarian Immigration Pathways in Addressing World Crises

Working from the foundations set in Session #1, the study group will look at current displacement streams and critically assess the role that humanitarian immigration laws play, fail to play and could play in easing the suffering (and the global security risks?) that inevitably accompanies displacement. We will look at:

- 1) The current migration to the U.S. from Central America;
- 2) The U.S. withdrawal from Afghanistan;

- 3) The Ukraine-Russia war; and
- 4) The civil war in Syria.

We will examine the role that humanitarian immigration structures play in responding to those crises. We will discuss the responses to current displacement as models for future migration events, particularly those resulting from climate change.

Session #3: Who Drives U.S. Immigration Policy

Returning to the presumption that immigration systems represent a society's consensus based on the weighing of disparate factors, we explore the key stakeholders and political, social and economic factors in determining both our existing immigration policy and the distinct poles of our national debate on immigration. We ask ourselves whether some stakeholders and movements carry more weight than others, and why. As part of this class, we debate:

- 1) The manner in which national security and law enforcement considerations appear to drive the national dialogue on immigration;
- 2) The role that bureaucracies and public sector unions play in driving immigration policy;
- 3) The degree to which Americans are actually mobilized – whether on the left or the right – on questions of immigration, and which immigration issues in are reality considered when making voting decisions; and
- 4) The various political coalitions that are weighing in on immigration reform efforts, including the so-called “Business, Bibles and Badges” coalition, as well as the constellation of advocacy groups and media commentators arguing for a more restrictive immigration system.

Session #4: Imagining a Greater Role for Rescue and Equity in the U.S. Immigration System?

In our penultimate session, we engage in some think-tanking to propose hypothetical elements of a humanitarian immigration framework for the U.S. in the decades to come. While participants are urged to be innovative and imaginative in the ideas they propose, realism still counts. The structure to be developed should be robustly responsive to anticipated future humanitarian needs and limit adverse impact on U.S. public safety, while at the same time being politically viable and economically feasible.

Session #5: Effective Advocacy in Immigration

In this session, we work together to plan an advocacy strategy to promote the adoption of an element of the humanitarian immigration framework outlined in Session #4. We discuss key techniques in effective advocacy including: 1) coalition building; 2) message development/storytelling; 3) policy formulation; 4) grassroots organizing; 5) media engagement;

6) government/legislative engagement; 7) fundraising and 8) countering opposition messaging. While the session will focus on immigration, its aim is to develop techniques that can be used in a variety of policy contexts. We may seek opportunities to share the results of Sessions #4 and #5 with relevant government policymakers.