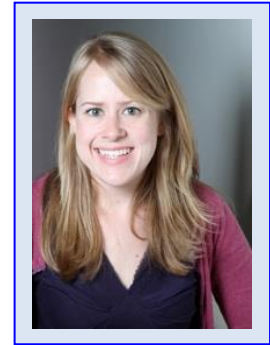


## The Challenges of Comparing Immigration Policies Across Three Centuries

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While there has been an explosion in the international political economy literature on migration recently, most scholars have focused on single country or small-n case studies in the post-World War II era.<sup>1</sup> In contrast, most economic historians have focused on the pre-World War II era.<sup>2</sup> Few studies examine both periods together.<sup>3</sup> One of the reasons for the lack of long longitudinal studies has been a lack of data with which to compare periods.

This lack of data is not trivial. Most importantly, scholars have argued about basic descriptive statistics about these eras and how to compare them. For example, Freeman (1995) stated that current immigration policy is very open while Hatton and Williamson (2007) have argued that policy is restricted today in comparison to the 19<sup>th</sup> century. How do we reconcile these viewpoints if we do not have a measure that can compare pre- and post-World War II policies? And how do we judge our arguments about what causes variation in or the effects of immigration policy without understanding how states' policies have changed over time?

To address this lacuna, I created a new measure of immigration policy for low-skill immigrants from the 19<sup>th</sup> through the 21<sup>st</sup> century for 19 states, including many of the settler states, European powers and states in East Asia and the Persian Gulf (Peters 2011; Peters 2013).<sup>4</sup> From this data, I show that Hatton and Williamson (2007) are correct that states had more open immigration policies in the 19<sup>th</sup> century, but also that Freeman (1995) is correct that liberal democracies tend to have more open policies than autocracies.

In this note, I discuss some of the problems I encountered when creating this measure and explain how I address them.<sup>5</sup> There are two major problems with creating a measure of immigration policy across three centuries. First, the language and norms around acceptable regulations have changed over the last three centuries. Given these changes, how do we compare modern regulations against past regulations? Here I will focus on two major regulations, nationality and skill entry criteria, and discuss how they can be aggregated in a single measure. Second, how do we deal with "new" groups of migrants? While there have been refugees, asylum seekers and family migrants throughout history, policies addressing these classes of migrants only came into existence in the Interwar Period and were not widely adopted until after World War II. How should we code policies towards these groups prior to the adoption of ones specifically meant to address them?

<sup>1</sup> See for example (see for example Hainmueller and Hangartner 2013; Hainmueller and Hiscox 2010; Hanson, Scheve, and Slaughter 2007; Malhotra, Margalit, and Mo 2013; Peters 2012)

<sup>2</sup> See for example (Goldin 1994; Hatton and Williamson 1998; Timmer and Williamson 1998)

<sup>3</sup> Peters (2011, 2013) are exceptions.

<sup>4</sup> I begin the data set after 1800 for most states because there is little data on their immigration policy prior to the late 1700s. States included are the US, Australia, Canada, New Zealand, South Africa, Argentina, Brazil, the UK, France, Germany, the Netherlands, Switzerland, Saudi Arabia, Kuwait, Japan, South Korea, Taiwan, Hong Kong, and Singapore.

<sup>5</sup> For a more complete description of the coding, see Appendix B of Peters (2012; 2013), available on my website: <http://users.polisci.wisc.edu/mepeters/>

**The changing norms and language of immigration regulations**

As with the creation of any measure, there is first the question of what, exactly, is the concept that we want to measure. Because most migrants or potential migrants, those who would move if legally able to, are low-skill (Hatton and Williamson 2005; United Nations Development Program 2009) and low-skill migration is more politicized than high-skill immigration (Goldstein and Peters 2012; Hainmueller and Hiscox 2010), the measure I created examines openness to low-skill immigration.

To operationalize this concept, I examined how other scholars who study openness to trade and capital measure these concepts as well as how scholars have previously coded migration policies (Mayda 2004; Money 1999; Timmer and Williamson 1998). In the trade literature, scholars often use both de facto measures, such as trade flows, and de jure measures such as the tariff policy (Clemens and Williamson 2004) and/or non-tariff barriers (Sachs and Warner 1995). Similarly, scholars who study capital policy use capital flows (Obstfeld and Taylor 2004) or measures that capture de jure barriers to capital (Chinn and Ito 2008; Quinn and Toyoda 2008).

Unfortunately, unlike trade or capital flow data, we simply do not have the same quantity or quality of data to use flow data as a measure over a long time period. Few states collect comparable statistics on migration today, let alone in the past.<sup>6</sup> Additionally, unlike trade where states have often used tariffs, there has been no single measure that a majority of states have used the majority of the time. Therefore in my research, I examine a range of de jure policies across several dimensions including who is allowed entry to the state, what rights immigrants have once they have entered and how the law is enforced.

One of the major changes in the implementation of immigration policy over the last 200 years has been the change from restrictions based on nationality to restrictions based on skill. If we are interested in low-skill migration, how do nationality regulations map onto a skill dimension? Below I will argue that nationality regulations and skill regulations are often interchangeable.

Restrictions based on nationality were the norm in many countries throughout 19<sup>th</sup> and into the mid-20<sup>th</sup> century. For example, nationality restrictions were the major means of controlling immigration by the United States starting with the infamous Chinese Exclusion Act and culminating in the 1921 and 1924 Quota Acts. These laws were aimed at those with (perceived) low levels of skill (Higham 1963). In this way, nationality restrictions were used in the same manner as skill restrictions.

Australia, Canada, New Zealand and South Africa tried to follow the U.S.'s lead with their own prohibitions against Asian migrants. However, due to protests from the Indian government, the British Colonial office did not agree to these blanket prohibitions (Brawley 1993; Jupp 2002; Kelley and Trebilcock 1998). Instead, the British Dominions were allowed to pass literacy exams. The language the exam was given in, however, was up to the discretion of the border control agent. The agent generally gave an easy passage in English to Western European immigrants while given a

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<sup>6</sup> Even (Willcox et al. 1969) does not have the longitudinal data that we would need to use flows over this time period.

hard passage in some third language to non-Western immigrants. In this way, a skill restriction was used in the same way as the explicit nationality restrictions.

After World War II, nationality restrictions were delegitimized in liberal democracies, as were other policies that allowed discrimination based on race or ethnicity, such as Jim Crow Laws.<sup>7</sup> In their place, many countries adopted skill restrictions, including points systems that heavily favored the entry of high-skill migrants. In Australia, Canada and New Zealand these points systems were created explicitly to restrict non-Western Europeans, especially Asians, as nationality restrictions had done (Brawley 1993; Jupp 2002; Kelley and Trebilcock 1998).

Skill restrictions were supposed to restrict the same groups as nationality restrictions because skill level and nationality are highly correlated - immigrants from less developed states often have lower levels of education and training<sup>8</sup> - and it was assumed by policymakers that these groups would remain relatively low-skill.<sup>9</sup>

Thus, if we are interested in immigration policy openness, especially towards low-skill migrants, we can aggregate these two policy areas into a single measure of restrictiveness. Nevertheless, given that many states use both skill and nationality policies, for ease of coding I coded these two policies separately and then aggregated them into a single measure.

Other policy innovations for economic migrants can be examined in the same light. For example, many states have recently created quotas for how many immigrant workers can work in a given industry or firm. These restrictions act in a manner similar to non-tariff barriers, such as health standards. They do not restrict immigration per se, but restrict the ability to earn a living and, thus, decrease the desire to move. If we are interested in low-skill (high-skill) immigration, we should code these by how much they are likely to restrict low-skill (high-skill) immigration.

### **“New” immigrant groups**

More difficult policy areas to code over this lengthy period are policies towards non-economic migrants, including refugees, asylum seekers and family migrants.<sup>10</sup> I include refugees, asylum seekers and family migrants in my measure because these migrants often come from developing nations with relatively few skills - thus most of these migrants are also relatively low-skill - and

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<sup>7</sup> Autocracies have continued to use nationality-based restrictions; for example, Singapore has often restricted migration to its “traditional source countries” of Malaysia, India and China.

<sup>8</sup> See Feliciano (2005) and Hainmueller and Hiscox (2007) for data on the correlation of skill level and nationality.

<sup>9</sup> While the policies of Canada, Australia and New Zealand were unsuccessful at restricting Asian immigration, they did succeed in restricting low-skill immigration (Brawley 1993; Jupp 2002; Kelley and Trebilcock 1998). Further, as migrants from the formerly restricted countries increased in skill level so did their stature. Recent survey data shows that, at least in the US, there is much greater support for Asian immigrants due to their perceived skill level than for the more culturally similar, but lower-skilled, Mexican immigrants (Goldstein and Peters 2012).

<sup>10</sup> As in Peters (2013), I define a refugee as a person fleeing from his/her country of origin and who is outside the country they are trying to enter. An asylum seeker (or *asylee*) is someone who is at or inside the receiving state's borders who wants to claim refugee status. Family migrants are the family members of citizens and permanent residents.

many of them end up in the workforce. Firms often see refugee and asylum seekers as a way to increase the labor supply if they cannot obtain immigrant labor through other channels. For example, after World War II, Congressional Lobbying Reports show that the American Farm Bureau lobbied for the Displaced Persons Act in hopes of receiving agricultural labor. Further, many opponents of open immigration have argued that these migrants are economic migrants in disguise (Kay and Miles 1988; Kaye 1994), making policies towards non-economic migrants a focus of anti-immigrant sentiment and further restrictions.

Policies toward non-economic migrants are difficult to code across time because, for the most part, the category of non-economic migrant did not exist prior to World War I. Many migrants fled persecution or hoped to join family members; yet, they were usually able to enter most receiving countries under the same laws as economic migrants. There were, however, a few exceptions. When the US Federal government began to regulate immigration in 1875, those fleeing political persecution were exempted from most regulations. Similarly, in the 19<sup>th</sup> and early 20<sup>th</sup> centuries, the Netherlands and Switzerland also gave asylum to those who were persecuted for political offenses, allowing them to circumvent the existing rules such as income requirements for entry.

The advent of modern refugee policies was the aftermath of World War II when the Allies created United Nations Relief and Rehabilitation Administration (UNRRA), which eventually became the UN High Commission for Refugees.<sup>11</sup> While many New World states took in European (but not Asian) refugees after World War II, it was not until the Vietnamese refugee crisis that some states created formal refugee programs

In the aftermath of World War II, many states also created asylum policies. These asylum policies became contentious after many of these states restricted employment-based immigration in the 1960s and 1970s. At this point, the political discourse on immigration shifted to asylum seekers who were seen as economic migrants in disguise (Kay and Miles 1988; Kaye 1994). Many states began enacting safe-third country restrictions, quicker determination of asylum cases, and safe country of origin determinations.<sup>12</sup> They also started restricting asylees' access to the social welfare system.

Similar to refugees and asylees, family immigration was not separated from other forms of immigration in most states until the 20th century. Since then, most states have allowed at least some family reunification, usually allowing spouses fiancés and children of citizens and immigrants entrance to the state. Many autocracies including Saudi Arabia, Kuwait and Singapore, however, only allow the families of wealthy immigrants entrance.

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<sup>11</sup> The League of National also had a High Commission for Refugees, but this organization was relatively powerless.

<sup>12</sup> Safe third country restrictions allow the asylum claim to be automatically classified as manifestly unfounded if the asylee travelled through a country that the receiving state has deemed as "safe." Safe countries of origin are states that are deemed by the government to be safe and therefore, asylum claims are found to be unfounded without a hearing.

Given that states did not exclude or regulate these non-economic migrants prior to at least the early 20<sup>th</sup> century, how should we code changes in policies towards them? On the one hand, most non-economic migrants could enter the settler states and other European countries as economic migrants prior to draconian restrictions of the Interwar and Great Depression period. Does it make sense to code the state as not having a refugee, asylee or family migration policy if migrants can enter legally through other channels? On the other hand, less draconian restrictions began to impede refugee and asylum seekers and, potentially, family migrants to some extent before World War I. For example, many states required landing money or assurances against becoming a public charge, which refugees were unlikely to possess. If we code states as having an open refugee policy prior to an enactment of laws that would restrict non-economic migrants, how do we know when to code the policy as changing from open to restrictive?

I chose to code these policies both ways. First, I coded all years before a policy was enacted - regardless of whether non-economic migrants could enter under another category - as if the state had a very restrictive policy towards this group. Once a policy towards the group was enacted, I coded it according to my coding rules. I then aggregated these policies with the other migration policies I was studying.<sup>13</sup> Second, I coded all years when non-economic migrants could enter a state as an economic migrant as a very open policy. Once there was a policy in place that would restrict these groups - such as landing money or prohibitions against public charges - I coded those years as very restrictive policy. Again, once a policy towards that group was enacted, I coded it according to my coding rules. I then aggregated this new measure with my other measures of immigration policy. The two overall immigration measure correlated quite highly (at 0.9), in part because my measure places relatively less weight on policies towards non-economic migrants than on policies on economic migrants.

In the end, I decided to use the first measure - where refugee, asylum and family migration policies are treated as a restrictive until a formal policy is in place - as my main measure mostly because it relies less on making judgment calls about which laws would impede the entry of non-economic migrants, which reduces the subjectivity and chance for coding errors. Researchers interested in non-economic migrants may prefer the second coding depending on their question. For example, if a researcher is interested in why certain countries adopted formal refugee or asylum policies, the first measure would be appropriate. However, if a researcher is interested in how difficult it has been for refugees to flee their homeland, the second measure would be more appropriate.

### **Conclusion**

Policymakers have used many different tools to open or restrict immigration: sometimes explicitly restricting certain nationalities or skill levels; sometimes restricting what occupations immigrants can work in; sometimes increasing or decreasing enforcement and sometimes making asylum seeking or family migration easier or harder. When aggregating these different tools into one measure, the researcher must have a clear understanding of the concept s/he wishes to measure.

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<sup>13</sup> Following Chinn and Ito (2008), I used principal components analysis to combine these different dimensions of immigration policy. See Peters (2013) for more details.

My coding measures how open or restrictive immigration policy is towards low-skill immigrants. As such, it can help scholars test existing theories in the literature as well as new hypotheses about both the sources of variation in and the effects of immigration policy. For example, many scholars have posited that there is a path dependent effect of prior immigration policies - especially the policies of the 19<sup>th</sup> and early 20<sup>th</sup> century - on today's immigration policies (see for example Freeman 1995). To test these theories we need a measure that encompasses this time period, which this measure provides. Similarly, another set of scholars have argued that increase in the franchise (Hatton and Williamson 2005), the rise of the welfare state (Hanson, Scheve, and Slaughter 2007) or the rise of unions has led to immigration restrictions (Briggs 2001; Goldin 1994). Most authors have tested these theories on pre-World War II or post-World War II data. Examining only pre-World War II data leaves open the question of whether these theories still hold today. Examining only post-World War II data leaves open the question of reverse causality: immigration policy may have affected democratization, the rise of the welfare state and the rise of unions before World War II. Therefore, to gain a better understanding of the politics of immigration policy, we should examine both periods together.

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