Disaggregating Immigration Policy: The Politics of Skilled Labor Recruitment in the U.S.

Gary P. Freeman and David K. Hill

Gary P. Freeman and David K. Hill argue that the U.S. system of multiple visa categories and the often distorting business interests behind these, point to a far from rational economic construction of policy. They indicate the difficulties of reform, even in the absence of strongly organized public opposition, and the degree to which path-dependence seems to determine overall outcomes in the policy process. Curiously, the authors suggest that highly skilled migration policy in the U.S. is a wholly self-contained national affair. National politics, rather than global economic pressures, drive the twists and turns of U.S. immigration policies, with key roles being played by high tech employers, professional associations, pro and anti-immigrant organizations, and even associations of immigration lawyers. There appears to be little space in their accounts for the kind of global legal/institutional influences signaled by WTO reforms or by the importance of global multinationals. Freeman and Hill offer useful analytical frameworks to differentiate between distinct forms of migration by technical workers, and the often contradictory state policies and the politics linked to them.

Generalizations about the politics of immigration policy writ large are suspect. Migration flows are multi-faceted. Different sorts of migrants create distinct migratory flows and produce diverse consequences. The migration control and recruitment programs of the leading democratic societies are, in turn, highly complex, reflecting the underlying heterogeneity of migrants and migration processes. Diverse migratory processes and the migration policies that seek to organize and control them produce diverse modes of politics.

We seek to contribute to building the theoretical and empirical base necessary to test the above propositions through a close examination of the politics of skilled labor migration programs in the United States. We focus on the recruitment of temporary, non-immigrant skilled workers in the H-1B and L-1 visa categories as

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Gary P. Freeman is professor of government, University of Texas, Austin.

David K. Hill is a Ph.D. candidate in government at Cornell University.

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well as employment-based visas available under the immigrant settlement program. Workers in both of the non-immigrant categories tend to be concentrated in the information technology sector; following that sector's rapid growth in the 1990s, temporary migration programs became sources of contention leading to the formation of novel political coalitions. The work-based categories within the immigrant settlement program, on the other hand, did not generate controversy with the same interest group configurations. We begin with an overview of the features of the main visa programs for skilled workers and show how these programs were modified in response to broad concerns over the role of skilled labor in contemporary capitalism. Next, we elaborate a theoretical framework for delineating peculiar features of different kinds of migration flows and the policies designed to manage them. Finally, we employ the framework to help account for the political processes attached to each of the three skilled migration programs.

Skilled Migration Programs in the United States

Millions of persons have migrated to the United States since the colonial period. Although their hands provided the work needed to settle a continent and build a modern economy, most were not deliberately recruited on the basis of their occupational talents or skills. However, American immigration policy has gradually shifted to emphasize the labor market qualifications of potential migrants. It currently provides for the annual admission of skilled migrants in two classifications: (a) the immigrant settlement program for individuals and their families admitted as permanent residents and (b) non-immigrant visas for temporary work in stipulated positions.

Permanent Residence Visas

The focus of American permanent residence policy has changed dramatically in the last half-century. The Immigration and Nationality Act of 1952, the first serious attempt to select immigrants on the basis of skill, introduced two innovations into U.S. policy: the preference system and the labor certification process. The preference system consists of a series of categories of immigrants, ranked according to priority and allocated different annual quotas. The first preference in the 1952 legislation reserved half of all visas annually for those with the education, technical training, special experience or exceptional abilities that were designated by the Attorney General to be beneficial to the United States. The law also authorized the Secretary of Labor to certify that the admission of non-family-related immigrants would not adversely affect the wages and working conditions of native workers who were similarly employed, although implementation of this feature was erratic (Briggs, 1996: 103).

Emphasis on employment-based visas was reduced when the immigration amendments of 1965 reordered the preference system to favor family reunification. The previous employment-based first preference was split into two parts and downgraded to the third and sixth preferences. By the time the Immigration Act of 1990 (IMMACT) was under consideration however, there was growing concern over the consequences of the family-dominated admissions program. Worries over

potential labor shortages emerged as unemployment fell, birth rates dropped below replacement and the 1986 Immigration Reform and Control Act (IRCA) threatened to shut off easy access to illegal workers. Employers complained of the 18-month wait for workers receiving permanent residency visas under the work-based third preference for professional and highly skilled workers. They also objected to the two and one-half year wait for those entering under the sixth preference for other skilled and unskilled workers (Usdansky and Espenshade, 2001: 46). Proponents also argued that immigration reform was necessary to redress the fall in average skill level of immigrants following the 1965 legislation. They called for the recruitment of immigrants with the scientific and technical knowledge essential to the health of a modern post-industrial economy (Hudson Institute, 1987; National Center on Education and the Economy, 1990; Commission on Workforce Quality and Labor Market Efficiency, 1989). The IMMACT increased employment-based visas for permanent residence nearly three-fold to 140,000 annually plus the unused family-sponsored preference visas in the previous year. Under the IMMACT, visas are distributed across five employment categories, increasing the share going to highly skilled immigrants and their spouses and children.[1] Most immigrants in the second and third employment-based preference categories require certification from the Secretary of Labor that their arrival will not adversely affect wages and conditions of U.S. workers in the same jobs.

Employment-based entries as a share of all admissions quadrupled from 1991 to 1992 and increased again in 1993 to 16 percent. The number of employment-based visas fluctuated during 1994 to 1999, never exceeding the peak year of 1993 but still accounting for nearly 17 percent of total admissions in both 2001 and 2002. In 2003, these visas plummeted to just 82,137, or 11.6 percent of all admissions. Because dependents are counted in the skill category however, active skilled migrants made up only about half of the total of employment-based entries. (http://www.uscis.gov/graphics/shared/aboutus/statistics/Immigs.htm).

H-lB Non-immigrant Visas

The most important category of non-immigrant skilled migration, the H-1B visa, took its contemporary form after IMMACT altered the preexisting H-1 program.[2] The H-1B visa pertains solely to "specialty workers" who must have at least a bachelor's degree or equivalent experience. This visa is issued initially for a maximum of three years and can be renewed once. As originally conceived, H-1 visa holders could work only in positions that were themselves designated as temporary and were required to possess a domicile in their country of origin. In 1970, Congress removed the word "temporary" before services, thus permitting H-1 workers to temporarily take up work in permanent positions (Lowell, 2001a: 137). Currently, employers may hire H-1B workers by filing a labor condition application with the Department of Labor (DOL) specifying the type of work to be done and attesting they will pay the prevailing wage.

Critics charge that many of the protections for American workers are illusory because they only apply to "H-1B dependent" firms` in which H-1B holders make up at least 15 percent of the workforce. Because these stipulations are based on the proportion rather than the number of H-1B workers employed by a given company,

very large firms escape the regulations. Similarly, in the eyes of critics, this permits the majority of firms to lawfully hire H-1Bs without properly searching for U.S. workers in order to avoid paying temporary workers the prevailing wage and to lay off U.S. workers and replace them with H-1B temporary workers (Matloff, 2003: 5; 2004). Because H-1B visas are tied to the specific firms for which they are granted, if H-1B workers wish to change jobs, they must apply for new visas. This all but pre-empts H-1B workers from bargaining with employers over wages, hours or working conditions. Although H-1B visa holders may apply for permanent residence status during their term and may use their temporary work experience to qualify for permanent residency, H-1B holders must go through the same adjustment process as other applicants for legal permanent residence. As the number of H-1Bs increases, so does the processing time; and because the H-1B visa must expire after six years, time sometimes runs out. Approved applications for legal permanent residence remain subject to the 140,000 annual limit on employment-based visas.

Many H-1B recipients work in so-called "job shops" or "body shops" that recruit foreign workers in order to contract them out to other American firms. Because H-1Bs constitute over 15 percent of the workforce of such enterprises, employers must certify that they did not lay off U.S. workers to open jobs for the H-1Bs they are requesting and that they are paying the prevailing wage. DOL is charged with investigating firms that bring H-1Bs into the US without jobs and then fail to pay them when they have no work. Congress outlawed this practice (known as "benching") in 1998 but DOL did not issue regulations implementing the provision until January 2001 (*Migration News,* September 2002).

IMMACT imposed a 65,000 per annum cap on new H-1Bs that was not met until 1997.[3] In 1998, Senator Spencer Abraham (R-MI), the chair of the Immigration Sub-Committee of the Judiciary Committee, sparked serious opposition in the House and Senate when he introduced legislation to raise the cap. Meanwhile, the Clinton administration proposed an employer tax of $3,000 on H-1B visas with the proceeds going into worker education programs. Ultimately, Abraham managed to attach provisions to an omnibus spending bill, the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA) that successfully raised the annual number of new H-1B visas from 65,000 to 115,000 in 1999 and 2000, and 107,000 in 2001, after which it was to revert to 65,000. ACWIA also instituted a $500 per visa fee to be paid by employers with the proceeds designated to support training of American workers.

The new quota was quickly filled, a backlog of petitions developed and within the year Congress heard renewed calls for expansion. Initially, there was little enthusiasm on Capitol Hill for another fight on the issue; for instance, Rep. Lamar Smith (R-TX), chair of the House Immigration Subcommittee, argued that the H-1B program was "plagued by growing fraud and that America should concentrate on producing 'more well-educated workers'" (Branigin, 1999). Yet as the 2000 election approached and support for expansion gathered, the lines of dispute shifted from whether to raise the caps, to what U.S. worker protections should be attached to the new round of visas. The White House proposed that the cap be set at 200,000 for three years, with 10,000 of that total designated for research and higher education institutions; the fee per visa would be raised to $2,000 for most companies and $3,000 for H-1B dependent firms. The proceeds would be split between worker

training and education and beefing up enforcement activities of the Immigration and Naturalization Service (*Wall Street Journal*, May 12, 2000).

Representatives Zoe Lofgren (D-CA) and David Dreier (R-CA), both of whom represented IT-heavy districts, co-sponsored a bi-partisan bill in the House that would raise the cap to 200,000 for three years and set the visa fee at $1,000 to fund science scholarships and worker training programs (*Wall Street Journal*, June 30, 2000). Smith, still chair of the Immigration Subcommittee, offered a less expansive alternative bill. Meanwhile, the Senate passed another Abraham authored industry-friendly bill by a wide margin. In a series of bizarre moves, the Conference Committee and the House adopted the Senate bill in its entirety, and in the process effectively chose the Lofgren-Dreier proposals over those of the Immigration Subcommittee chair. The resulting legislation, the American Competitiveness in the Twenty-first Century Act, lifted the ceiling for new H-1Bs from 115,000 to 195,000 for three years.

Due to the contraction of high technology industries in 2000, the additional visas under the new cap were not fully utilized. Between October 1999 and March 2000 about 100,000 applications were lodged, but the same period in 2001 saw only 72,000 applications. In addition, many large technology firms announced they would make substantial cuts in both permanent and temporary positions in the next year (Johnson, 2001). Similarly, although numbers rose slightly between FY 2000 and 2001, by 2003 both applications and approvals had declined by 40 percent (USDHS, 2003a: 3-4). Numbers rebounded slightly in 2003; 231,030 petitions were filed and 217,340 were approved. However, the 195,000 cap was not reached because almost all those approved for continuing employment (112,026) were not counted toward the limit (USDHS, 2003b). In October 2003, the expanded caps expired and reverted to 65,000; fees fell to $130 per visa as well. Political activity on the H-1B front declined temporarily along with the number of new applications. Harris Miller, president of the Information Technology Association of America (ITAA), a trade group representing employers, said "we don't think this is a good time for members [of Congress] to be voting on immigration matters. We hope the economy will be a lot stronger in the spring.... It's much easier to have a rational, fact-based conversation when the economy is stronger and unemployment is going down" (McCarthy, 2003). Instead of asking the ceiling be lifted, many high-tech firms sought wider exemptions from the ceiling. For example, it was suggested only H1-B dependent firms be subject to the annual ceiling (*Migration News*, January 2003).

In February 2004, the Department of Homeland Security (DHS) announced it had received enough H-1B petitions to fill the 65,000 cap for new workers for FY 2004 (USDHS, 2004). In an unprecedented development, the cap for FY 2005 was filled on the first day of the fiscal year (leaving small companies and start-ups in the lurch). The Omnibus Appropriations Act for FY 2005, signed by President Bush in December 2004, reinstituted the ACWIA fee and raised it to $1500, although firms hiring fewer than twenty-five employees could submit a reduced fee. Additionally, the law attached a $500 Fraud Prevention and Detection Fee to every new H-1B application or change in a beneficiary's classification. The law also exempted from the annual cap the first 20,000 H-1B beneficiaries who had earned a master's degree or higher from a U.S. institution (USCIS, 2004a).

L-1 Visas

The L-1 visa also plays prominently in discussions of temporary skilled workers. Originally established in 1970 as a means by which foreign companies with affiliates in the United States could temporarily transfer their executives to the USA, the L-1 visa was never subject to an annual cap. Generally, L-1 recipients must have been employed outside the US for at least one of the prior three years in an executive, managerial or specialized knowledge position for a qualifying related business entity. They may only seek temporary work in a similar capacity. Prior to 1990, L-visa holders were required to establish continuing non-immigrant intent; relaxation of this policy eased the path to converting their temporary status into permanent residency. The L-1 visa is good for five years if the individual is an employee with specialized knowledge, or seven years if he or she is an executive or a manager. Employers of L-1 visa holders do not have to pay the same fees required for H-1B visa holders; nor do they have to promise to pay the prevailing wage.

As demand for skilled workers put pressure on the H-1B program, companies began to resort to the L-1 category to obtain foreign skilled labor. The number of new L-1 visas increased by 50 percent from 1998 to 2002. In 2001 there were nearly as many L-1 visa holders in the US (329,000) as H-1Bs (384,000). Some critics argued that the L-1 had become "the work visa of choice" for American businesses (Endelman, 2003: 1; Esposito, 1999). The INS launched a number of investigations into firms suspected of misusing the L-1 visa (*Migration News,* July 2003). At the end of 2004, the Omnibus Appropriations Act for FY 2005 generally prohibited L-1s from working primarily at a worksite other than that of their petitioning employer. The prohibition applies only if the work in question is supervised by a different employer or if the off-site arrangement is essentially to provide labor for hire (rather than services related to the specialized knowledge of the original petitioning employer). The law also imposed a new Fraud Prevention and Detection Fee of $500 for initial L visa workers or petitions for changing an L-1's status (USCIS, 2004b).

A Framework for Analyzing Immigration Politics

How can we best make sense of the evolving politics of skilled migration? Our central premise is that specific components of large and heterogeneous immigration programs are associated with different styles of politics. We, therefore, need an analytical framework that contributes to elucidating relevant types of immigration policy. In an earlier article Freeman (1995) applied a four-part typology developed by James Q. Wilson (1973, 1980) to immigration politics, arguing that immigration tends to produce concentrated benefits and diffuse costs, yielding what Wilson terms client politics. This exposition was unsatisfactory on at least two counts (cf. Brubaker, 1995; Perlmutter, 1996; Joppke, 1998 for other criticisms). First, it failed to provide a theoretically grounded account of how immigration produces particular allocations of costs and benefits. As this deficiency is addressed in part elsewhere (Freeman, 2002), here we deal with the second problem, namely the tendency to treat immigration policy as a seamless whole, neglecting the various types of migration and the distinctive policies regulating them (cf. Meyers, 2004: 10). We undertake to

remedy this problem by supplementing Wilson's framework, which already lends itself to addressing this issue, with that of Theodore Lowi (1964a).

Both Wilson and Lowi assert that different types of policy produce distinct patterns of benefit/cost allocations that, in turn, yield distinct modes of politics. The question is whether immigration policy can be meaningfully disaggregated along the lines their models suggest. Although Wilson's typology was originally intended to address only regulation, we believe its utility extends to the full range of policies explicitly described by Lowi's typology. Lowi (1964b) also deals extensively with the question of the arena in which policy decisions are made. The decision-making arena may serve to broaden or narrow the scope of conflict by affecting the interest or ability of societal interests to organize, participate and make themselves heard (Schattschneider, 1960). That various immigration policies may be formally formulated and implemented in different arenas is an idiosyncratic feature of the American case. This implies that theories stressing the importance of the political arena or "venue shopping" (Guiraudon, 2000) are likely to be particularly fruitful starting points for explaining the resultant modes of politics.

Wilson identifies four policy types based on their benefit/cost distributions that yield different modes of politics: (1) concentrated benefits and costs/*interest group politics*; (2) concentrated benefits and diffuse costs/*client politics*; (3) diffuse benefits and concentrated costs/*entrepreneurial politics*, and (4) diffuse benefits and costs/*majoritarian politics*. Lowi's tri-partite typology includes distributive, redistributive and regulatory policies. We split Lowi's distributive category into two parts, depending on whether they entail diffuse or concentrated benefits. Concentrated distributive policies yield client politics; diffuse distributive policies yield majoritarian politics. Lowi's redistributive category closely resembles Wilson's interest group rubric, and his regulatory category fits Wilson's entrepreneurial rubric. The resulting typology is given in Table 1.

Table 1
A Typology of Public Policies

Benefit/Cost Allocation	Policy Type	Mode of Politics
Diffuse Benefits and Costs	Diffuse Distributive Policy	Majoritarian Politics
Concentrated Benefits and Diffuse Costs	Concentrated Distributive Policy	Client Politics
Concentrated Benefits and Costs	Redistributive Policy	Interest Group Politics
Diffuse Benefits and Concentrated Costs	Regulatory Policy	Entrepreneurial Politics

Wilson tends to assume the more or less direct translation of particular distributions of benefits/costs into particular modes of politics. His model, once the benefit/cost pattern is determined, generates specific testable hypotheses. Lowi takes a more constructivist view; for him, the perceptions of the main actors as to the incidence of benefits/costs are as important as empirically demonstrable effects. In the framing of political issues and the use of political rhetoric, perceptions of who is winning and who is losing from a particular policy, may change over time and may depart from expert or official judgments about the actual incidence of policies (although we assume the gap between "reality" and "perception" should not be overly large nor survive in the long run). For instance, a policy that produces client politics at one point may produce interest group politics at another. Moreover, given the obstacles to collecting the kind of data necessary to assess the consequences of public policies and the inevitability of conflicting expert claims, we examine the political dynamics around the policy and reason backwards, so to speak, to the matter of who wins or loses from the policy. Discourse over public policies often frames policy in a language of contestation. Thus, by focusing precisely on the question of winners and losers, we are afforded both a window onto the perceptions of the principal actors regarding the policy consequences and an opportunity to directly deploy, rather than impute, those perceptions in our analysis.

Specific immigration policies may display characteristics of more than one policy type simultaneously or over time. In a sense, this is true of all immigration policy components. Permanent residence visa policy may be mostly a matter of distribution but it entails some regulation as well. If family- and work-based visas are pitted against one another during legislative debate, the programs take on the qualities of redistributive politics. Because the mode of politics stimulated by a policy is dependent on changeable perceptions of key actors, our framework serves more as a device for tracking and interpreting the evolution of immigration politics than as a predictive mechanism.

One reason we focus on skilled migration, a relatively small sub-set of immigration policies for a relatively small sub set of migrants, is its substantive importance in the immigration politics of capitalist societies (see Lavanex, this volume; Freeman, 1999). Another reason however, is skilled migration programs present a particularly challenging case for our thesis. Few would challenge the claim asylum seeking and family reunification immigration spark substantially different political conflicts; whether the same is true for temporary and permanent skilled migration is much more debatable. We propose skill-based immigrant visas for permanent residence will tend to produce a mode of politics distinct from the temporary labor visas under discussion. We identify four key differences between these visa classes that should affect the incidence of benefits and costs: *duration* (temporary versus permanent), *specificity* (the extent to which they are targeted at particular industrial sectors), *flexibility* (how quickly and effectively they can be modified in light of changing economic circumstances), and *size*.

Work-based immigrant visas are for permanent residence. They are targeted to particular skill categories but not to specific industries or sectors. They are relatively inflexible in the sense they are infrequently modified in character or number. This occurs only within the context of a major overhaul of national immigration

legislation. The program cannot be easily adapted to meet immediate labor market demand and is, therefore, presumably less easily manipulated to undercut industrial wages. Although the numbers allocated to work-based visas (140,000 annually) are roughly equivalent to those provided for temporary skilled migrants, many of the persons in the work-based immigrant category are non-working dependents of visa recipients.

The H-lB and L-1 visas are for fixed, renewable terms and do not automatically convert into permanent residence. Compared to work-based immigrant visas, the H-1B and L-1 visas are targeted to specific occupational sectors (information technology foremost but also the scientific, engineering, medical research and university sectors). As the legislative record since the mid-1990s suggests, these non-immigrant visas are more easily modified and are distributed in larger numbers than immigrant visas. Because dependents are not counted against caps, all visas go to actual workers and new entries each year must be added to those visa holders already in the country.

What are the implications of these differences for the benefit/cost consequences of these two sorts of skilled labor programs? These are not, to say the least, perfectly obvious. Duration is especially indeterminant, in our view. One might expect that visas for permanent settlement would be more controversial than those for temporary stays. In Western Europe, popular acquiescence to large-scale labor migration in the post-war period was purchased via assurances the migrants would not stay on permanently; comparable programs granting permanent residence visas would have been politically untenable (Messina, 1990). Since the cessation of the major guest worker programs, more limited temporary skilled recruitment programs in Europe have passed with relatively little public protest. On the other hand, if temporary workers are perceived by relevant sections of the public as more dispensable and easily manipulated than permanent workers, proposed increases in temporary work visas could well provoke opposition that would not apply to permanent programs. We assume programs narrowly targeted to particular skill groups or industries are more controversial than visa programs of a more general nature. Furthermore, the greater flexibility of temporary programs could make them more or less palatable, depending on whose interest is considered. To the extent the size of temporary inflows expanded during the period under consideration, this characteristic should lend controversy to those visa programs. In all, there seems some reason to anticipate that employment-based visas for permanent settlement will yield concentrated distributive policy and client politics, whereas non-immigrant visas for work should produce redistributive policy and interest group politics. These are weak predictions however, and we anticipate that whatever pattern emerges will be unstable.

Modes of Politics and Skilled Labor Migration

We turn now to the interpretation of the political dynamics of the skilled migration programs previously described. We begin with the specification of the arena in which policy is made. We consider, next, explicit discussions of the benefit/cost consequences of skilled migration, particularly as they are thought to reflect the supply of skilled labor. Perceptions of benefit/cost allocations are further documented

through the analysis of trends in public opinion, the mobilization of organized groups and their aggregation by the political parties.

Decision-Making Arena

American immigration policies are generally formulated in the legislative arena. Immigration policy is laid out in statutes in highly specific language. Statutes stipulate the types of migrants who can enter the country, the procedures for issuing visas and the numbers that may be admitted. Changes in the annual quotas must be made by Congress, which has jealously guarded its prerogatives, leaving the executive much less flexibility to adjust the program to changing economic circumstances than is enjoyed by the governments of most other democracies. Within the House and Senate, authority over legislative matters is delegated to specialized committees. In the case of immigration, the Judiciary Committees have jurisdiction. They, in turn, delegate responsibility for initiating new legislation to sub-committees on immigration matters. These committees exercise substantial control over the legislative agenda with respect to immigration and decisive power over whether bills will reach the floor (Gimpel and Edwards, 1999; Oleszek, 2004).

Congressional dominance over immigration policy leads to a decision-making process that gives a prominent role to individual committee and subcommittee chairs and opens legislators to intense lobbying and to campaign contributions from interested parties. Skilled migration is neither the sole, or the most important part,of the larger immigration program and is often marginalized when Congress debates complicated immigration bills. The 1990s were unusual in that Congress addressed specific pieces of legislation dealing with skilled migration rather than rolling it into omnibus immigration legislation. This anomaly works to our advantage as policy processes that deal specifically or exclusively with skilled temporary migration present a more transparent indication of the issues and interests involved.

During recent decades, as immigration has grown in size and political salience, the White House has been drawn into immigration debates more often than in the past. Both presidents Clinton and George W. Bush have become embroiled in immigration debates. President Clinton, at first, generally endorsed the recommendations of the U.S. Commission on Immigration Reform (see below) but, under Congressional pressure, backed away from many of them. On the H-1B front, Clinton generally proposed modest protections for American workers in the form of equally modest employer fees, only some of which were adopted, in return for supporting increases in the H-1B ceiling. Soon after his 2000 election, President Bush proposed major reforms on Mexican migration and temporary worker programs. These initiatives were delayed by the events of September 11, 2001, but in the run-up to the 2004 election, he laid out bold proposals for a potentially vast, industry-friendly guest worker system alongside a liberal path to legal status for many of the estimated 8 to 12 million undocumented immigrants in the United States. Even so, immigration played almost no overt role in the presidential campaigns of the two major parties.

Other executive branch departments exercise formal authority over various aspects of the immigration program but play limited roles in the initiation or formulation of policy. Chronically under-funded and under-staffed, the Immigration and Naturalization Service (INS) has long been one of the weakest agencies in Washington, DC.

Located in the Justice Department (DOJ), the agency lacked the visibility, clout and central policymaking role of the cabinet-level departments in Australia and Canada. The recent creation of the Department of Homeland Security (DHS) resulted in the duties of the INS being split between immigration control, now under the DHS, and naturalization and immigrant services which remain within DOJ. Employment-based visas begin life as petitions to the INS, which sends those it approves to the State Department for the issuance of visas. This sometimes produces intra-executive disagreement. In 1999, to give just one example, a representative of the Directorate for Visa Services in the State Department complained to the House Judiciary Committee the INS was approving unqualified candidates for L-1 and H-1B visas and the sponsoring companies existed only on paper (Esposito, 1999). As the agency that enforces labor market protection features of the law, the Department of Labor's certification office also participates in the process.

A notable feature of the immigration policy arena is the establishment of special commissions by Congress. The recommendations of the Select Committee on Immigration and Refugee Policy (SCIRP) in 1981 set the early agenda that eventually produced the 1986 Immigration Reform and Control Act (IRCA). As mandated by the 1990 IMMACT, the US Commission on Immigration Reform produced several influential reports. However, due to outside events and changes in the political mood, Congress never enacted the Commission's main recommendations calling for: reducing the number of annual legal immigrants; creating a national identity card and stepping up enforcement of employer sanctions to reduce illegal immigration; eliminating some family preference categories; imposing labor market tests for most skilled immigrants; and eliminating immigrant visas for unskilled workers (USCIR, 1994, 1995, 1997). With respect to temporary workers, the Commission proposed reorganizing visa categories to submit more non-immigrant workers to extensive and tough "specified labor market protection standards" (USCIR, 1997: 89). Some of these issues were at the center of Congressional debates over the H-1B visa program in the late-1990s.

The courts have played a contradictory role in the evolution of U.S. immigration policy. On the one hand, the Supreme Court has held that the Congress enjoys plenary powers over immigration matters and, following that principle, the courts have given Congress wide latitude to make policy. On the other hand, the detailed nature of immigration statutes limits administrative discretion and encourages litigation on behalf of individuals who believe particular policies or individual decisions are inconsistent with statutory requirements. A large, engaged immigration bar affects policy via lawsuits and also through active lobbying for reform (Schuck, 1998). The courts were not seriously involved in the skilled labor controversies we consider.

Benefit/Cost Allocation and Issue Definition

Who wins and who loses when foreigners are given permanent residency visas under the employment preference or receive non-immigrant visas under the H-1B or L-1 programs? This question is central to the Wilson/Lowi framework but not readily answered. Economists have long debated whether foreign labor is a substitute for, or a complement to, national labor (Ethier, 1996; on the impact of H-1B workers on the employment and wages of native workers, see Gurcak, et al., 2001;

Booz, Allen, and Hamilton, Inc., 1988; Borjas, 2004). Sorting out the differences between the various camps in this controversy is beyond the scope of this paper. Instead, we address the political dynamics of the debate over the supply and demand for skilled labor and the benefits, costs and consequences of skilled migration in the United States.

Whether there is a shortage of scientists and engineers in the US is a question that goes back at least to the 1950s with the launching of the Soviet satellite, Sputnik. The shock of that event led to national soul-searching and a renewed emphasis on spending on education in the sciences and engineering. Discussion of educational decline and skills shortages gathered steam again in the 1980s with the release of a study by the National Commission on Excellence in Education (1983) that identified glaring inadequacies in the training of American scientists and engineers. In addition, the National Science Foundation (NSF) began to issue forecasts of major shortfalls of scientists and engineers over the next decade. In 1992, a Congressional Subcommittee held hearings on the predictions; its Chair, Howard Wolpe (D-MI), sharply criticized the office in the NSF responsible for the studies (U.S. Congress, 1992). Teitelbaum (2003) has recently extended these critiques, charging the initial studies (e.g., NSF, 1987) were not only riddled with methodological errors but also based on faulty data. In the late-1990s, nevertheless, new studies trumpeting current or projected shortages began to appear. In 2002, an Information Technology Association of America (ITAA) study found that, notwithstanding that the economic downturn of the late 1990s resulted in IT firms losing 15 percent of their IT workers in 2001, there would be 578,711 unfilled positions in 2002 because of a lack of qualified workers (ITAA, 2002; cf. Kazmierczak, 2005; United States Department of Commerce, 1998). In contrast, a 2004 Rand Corporation survey of existing research concluded: "Despite recurring concerns about potential shortages of (scientific, technical, engineering and mathematics) personnel in the U.S. workforce, particularly in engineering and information technology, we did not find evidence that such shortages have existed at least since 1990, nor that they are on the horizon" (Butz, et al., 2004: Summary xv). A Congressionally commissioned National Research Council study reached more or less the same conclusions (National Research Council, 2000; cf. Hira, 2005).

In addition to empirical disagreements and methodological complaints, critics of labor shortage claims point to the questionable provenance of many of the studies finding acute shortages. Teitelbaum (2003) observes that "Most of the assertions of current or impending shortages, gaps or shortfalls have originated from four sources: university administrators and associations; government agencies that finance basic and applied research; corporate employers of scientists and engineers and their associations; and immigration lawyers and their associations." These groups, he notes, have a "broad commonality of interests" in keeping the supply of scientists and engineers in surplus in order to keep the costs of their payrolls down (cf. Weinstein, nd). One of the most important players is the Government-University-Industry-Research Roundtable (GUIRR), a creature of the National Academies of Science, Engineering, and Medicine, that brings together leaders in business, higher education and government (Jackson, 2003).[4]

Debates over shortages, whatever their empirical merit, are almost always won by those claiming shortfalls. A reading of the history of discussions of skill short-

ages in the U.S. leaves the impression that they are less a scientific question to be determined by demographic and economic analysis, than a political question to be resolved through rhetorical and institutional means. As Cornelius and his colleagues (2001: 8) observe: "What cannot be questioned is that, in the United States and virtually all other major labor importing countries today, the political process invariably operates to legitimize employer demand for high–skilled foreign labor..." Employers, whether in industry, government or universities, are better situated to marshal data and attract an audience.

Arrayed against these interests are influential intellectuals like Teitelbaum; professional associations representing high-tech workers; a few maverick professors (Weinstein, nd; Matloff, 2003, 2004); a handful of immigration study centers like the Center for Immigration Studies (Camarota, 2001); a few organizations critical of U.S. immigration policy such as the Federation of American Immigration Reform; and some highly engaged websites spawned by laid-off tech workers such as zazona.com.

Disagreements about potential shortages are simply prologue however, to fights over what to do about them. Most major studies finding shortages call for greater investment in national education to attract more native students to scientific and engineering careers. They stress the need to nourish the talents of women and underrepresented minorities but they also advocate drawing on the international supply of scientists and engineers through the recruitment of foreigners. Migration is perhaps the most obvious and direct remedy for a shortage of skilled labor. Migration is also a solution to skill shortages that does not require raising the pay of professionals. Whether foreign workers displace or compete with native workers, or complement them, depends on labor market dynamics and whether there is a shortage of particular skills at a given time. If shortages are real, as one scenario has it, employers will be unable to find the workers they need, production will suffer and native workers could feel the negative effects. Imported labor, therefore, may complement native workers. If shortages are real, according to another scenario, absent immigration, employers will raise the wages of skilled workers, eventually attracting more natives to acquire those skills in demand. In yet another scenario, regardless of whether shortages are real or bogus, the importation of foreign workers could have the effect of displacing native workers and/or holding down wages and working conditions and, in the process, discouraging investments in education and training. For some economists, there can be no significant long-term shortage of particular skills if the market for labor is allowed to operate; rising wages will draw persons to the fields where demand is strong. For employers, the inability to find workers as soon as they are needed constitutes de facto evidence of a shortage; for them, the supply of skilled workers is never large enough. These shifting and multi-faceted arguments formed the intellectual backdrop to Congressional debate over the IMMACT in 1990 and shaped perceptions of a potential skills crisis (Lowell, 2001a: 149).

Public Opinion and Organized Interests

Public opinion on immigration policy in the United States has been relatively stable for many years. Although data on public attitudes is thin—the questions posed are simple and there is little continuity across time in their wording—one is safe in

saying that most Americans think either that current levels of immigration are too high or about right; only small minorities support increasing migration (Lynch and Simon, 2003; Fetzer, 2000; NPR, 2004). More detailed information about attitudes on specific types of migration is generally unavailable. Gimpel and Edwards (1999) provide a good summary of American views of immigration policy choices in the 1990s. They conclude, first, that from 1992 to 1994 the country moved toward a consensus favoring reductions in the numbers of legal immigrants admitted annually (p. 37). Second, the less educated and the less skilled were more likely to fear the economic consequences of immigration than those better placed in the job market (p. 39), giving attitudes toward immigration a class dimension. Third, and for our purposes, most importantly, although Americans typically had skeptical views about immigration, it was not an issue that drove individual decisions at the ballot box (pp. 41-45). This helps account for the otherwise puzzling fact that despite an absence of public support for increased levels of immigration, Congress has repeatedly passed expansive legislation over the last forty years. In part because immigration is absent from the agendas of electoral campaigns at the national level, the public has scant opportunity to affect the policy process between elections. Generally, opinion on immigration constitutes a modestly constraining framework within which politicians operate.

Despite this general pattern, in certain circumstances popular discontent with the immigration policy decisions of elected representatives can be activated in state or local races. Several of the principal actors in the H-1B debate faced such challenges. In 2000, Senator Spencer Abraham (R-MI) was unseated in a campaign that attracted well-organized opposition, and major contributions from out of state, that targeted Abraham as a pro-immigration zealot. The campaign was led by individuals and organizations associated with Dr. John Tanton, the founder of the Federation for American Immigration Reform (Zogby, 2000). In 2004, Representative David Dreier (R-CA) was selected by a popular Los Angeles talk show to be a "Political Human Sacrifice" because of his liberal votes on immigration matters, resulting in his narrowly winning re-election (http://www.johnandkenshow.com/). On the other side, Rep. Tom Tancredo (R-CO) was targeted by a 527 committee (Coloradans for Plain Talk) because of his outspoken advocacy of tougher immigration controls which, the group claimed, "crossed the line from politics of the far right to the politics of racism" (*Denver Post*, October 20, 2004). Tancredo won re-election but with a reduced margin.

More relevant than mass attitudes are the activities of organized groups seeking to influence both public opinion and public officials. Following the Wilson/Lowi framework, there are four possible patterns of immigration politics: client, majoritarian, interest group and entrepreneurial politics. Freeman (1995) argues elsewhere that given low public salience, collective action problems and avid interest on the part of groups supporting various aspects of the U.S. program, there is a general tendency for immigration politics in the United States to follow the client pattern. Nonetheless, there was evidence in the mid-1990s of a shift toward entrepreneurial/populist politics concerning illegal migration and the attendant welfare costs intruded into the system (Freeman, 2001). How does the pattern of political contestation over employment-based visas since the late 1980s fit into these categories?

One of the most important legacies of the fight over IMMACT was the creation of a new political coalition promoting expansionist immigration policies that remained

robust throughout the 1990s and played a major role in the H-1B conflicts. The key characteristic of the coalition members was that they came from both the left and right of the political spectrum, joining Republicans and Democrats who might normally be on opposing sides of political issues. On the left, the coalition was composed of liberal-labor groups supporting family immigration, refugee advocacy organizations, civil libertarians (e.g., the ACLU) and ethnic-specific civil rights groups such as the Mexican American Legal Defense and Educational Fund (MALDEF) and La Raza Unida. On the right, it consisted of influential business organizations such as the National Association of Manufacturers (NAM), the National Chamber of Commerce, the American Business Roundtable, the American Council on International Personnel (Fragomen, 1999), the Semiconductor Industry Association (Hatano, 1998), economic libertarians such as scholars at the Cato Institute and Christian conservatives. The nation's research and educational institutions were also actively engaged in efforts to retain, expand and adapt the H-lB program. These included the American Council on Education, the Association of American Universities, the College and University Personnel Association, the Association of International Educators, the Council of Graduate Schools and the National Association of State Universities and Land-Grant Colleges (Lariviere, 1998).

That immigration politics produces strange bedfellows is hardly a novel observation (Tichenor, 2002: 8-9; Krikorian, 2004). But, while immigration politics routinely produces coalitions cutting across partisan and ideological lines, each new manifestation of this tendency involves new players and mixtures of interest, party and ideology. The battle over immigration reform in the 102nd through the 104th Congresses (1991 to 1996) and the H1-B controversies which began in earnest in 1997 were closely connected to the high-tech boom which marked the entrance of the technology sector into immigration policy advocacy. This broadened considerably the range of business interests actively engaged in immigration policy debates. At first a temporary operation launched by a few high-tech companies, the high-tech lobby is now institutionalized and appears to have become a permanent feature of the immigration policy landscape.

At the center of the new left-right coalition were Frank Sharry and Rick Swartz. Sharry was the Executive Director of the National Immigration Forum, a pro-immigration lobby Swartz had founded in 1982 and on whose board he sat. By the mid-1990s, Swartz was an influential Washington lobbyist who headed his own firm and was also president of Public Strategies, Inc. These old friends and their associates were able to mobilize high-tech industries that had previously shown little interest in Washington, DC, let alone in lobbying Congress. Their chief organizational vehicle was a newly created organization called American Business for Legal Immigration (ABLI).[5] This group was supported by such firms as Microsoft, Intel, Sun Microsystems, Motorola and Texas Instruments (Gimpel and Edwards, 1999: 243-244). Jennifer Eisen, formerly with the American Immigration Lawyers Association (AILA) moved over to spearhead this group. In 1996, the coalition was instrumental in the successful effort to split the Smith/Simpson immigration reform bill that had sought to deal with both legal and illegal immigration. This decision was critical to defeating the bill's most restrictive proposals with regard to legal immigration (Heileman, 1996).

High-tech interests were aided by the unusual influence that India and Indian-Americans exercise in the Congress though the bi-partisan Congressional Caucus

on India & Indian-Americans. In 2002 Indians made up half of all H-1Bs and 90 percent of computer-related H-1Bs (*Migration News*, November 2002) and the India Caucus, founded in the House in 1993, was the largest in Congress. The Caucus was chaired in the 108th Congress by a New York Democrat and a South Carolina Republican. In March 2004, the Senate established its own India Caucus with co-chairs Hillary Rodham Clinton (D-NY) and John Cornyn (R-TX). Transnational influence is not limited to the India Caucuses; the National Association of Software and Service Companies (NASSCOM), an Indian trade association, also lobbied Congress actively on the H-1B issue (Bagchi, 2004).

Although those in favor of expanding access to foreign labor through either permanent residence visas or temporary admission won the day, they did so only after several near defeats. The pro-immigration side enjoyed the advantages of well-heeled corporations and highly organized and effective lobbying operations with long-standing relationships on Capitol Hill.[6] Opposition was much less well situated and coordinated but benefited from the large number of conservative Republicans in the Congress, both chambers of which the party controlled after 1994. However, the Republicans were, themselves, badly split on immigration.

Traditionally, the trade union movement was at the forefront of those interests opposing more liberal immigration policies, yet, by the 1990s, this, too, had begun to change. In the face of declining membership, unions representing sectors with large numbers of undocumented immigrants began to push the leadership of the AFL-CIO toward rethinking their strategy and, in February 2000, the labor federation did just that. It announced support for the abolition of employer sanctions against employers knowingly hiring unauthorized workers and called for a blanket amnesty for the huge undocumented population. Shortly thereafter, an unprecedented meeting of business and labor union officials was convened in Washington DC to work out common positions on immigration matters. Among those groups present were the Essential Workers Immigration Coalition which, despite its name, is a business association committed to greater access to medium and low-skilled foreign workers; and several unions including the Service Employees International Union (SEIU), the United Farm Workers, the Hotel Employees and Restaurant Employees International Union and the Union of Needletrades, Textiles and Industrial Employees. These latter two federations are currently merged as UNITE (see Watts, 2002: 145). At the moment, it appears the union movement is quite open to embracing low-skilled immigrant workers.

On the question of the H-lB and L-1 programs, organized labor takes a much more traditional position. In March 2004, the Executive Council of the AFL-CIO said that such programs "are in effect transfer pipelines that enable foreign professionals to gain knowledge and come here and then take them [sic], along with American jobs, when they return home" (AFL-CIO, 2004). The Federation's Department for Professional Employees lobbied Congress against increases in H-1B ceilings throughout the last decade. The Federation's position is that employers should be prevented from laying-off U.S. workers and replacing them with H-1B workers and should be required to recruit and train U.S. workers to fill jobs (Smith, 1998).

The American labor movement is decentralized, and individual professional and trade union associations representing high-tech labor have taken the lead in opposing H-lB expansion. The most active include the Institute of Electrical and Electronics

Engineers (IEEE), Washington Alliance of Technology Workers (Washtech) and the American Engineering Association (AEA). Washtech was founded in 1998 by Microsoft contract employees and is affiliated with the Communication Workers of America. The AEA dates from 1978 and describes itself on its website as a non-profit professional association committed to the protection of high-wage American technology jobs. H-1B workers themselves are marginal to public debates about the program. However, the Immigrant Support Network is a loosely coordinated group representing H-1B workers that seeks to secure bargaining power, human rights and more direct avenues to legal permanent residence (Konrad, 2001).

The chief organization devoted to reforming American immigration policy in a restrictive direction is the Federation for American Immigration Reform (FAIR). FAIR engages in active lobbying of Congress and its representatives are fixtures in the media commenting on immigration matters. FAIR has been extremely active in contesting the validity of claims of a shortage of high tech workers and in resisting raising the cap on H-1Bs (see www.fairus.org). The Center for Immigration Studies, a Washington DC research center linked to FAIR, is the source of considerable research and commentary, mostly overtly critical, of expansive immigration policies (Vaughan, 2003).

Political Parties and Skilled Migration Politics

The explanation for the substantial opposition encountered by proponents of the expansion of employment-based visas, particularly the H-1Bs, is to be found not so much in the lobbying activities of these associations critical of immigration, but in the restrictive impulses of many Republican members of the Congress. The Republican sweep of 1994 brought into office a host of ideologically conservative lawmakers. Many favored more open immigration policies as part of their general pro-business, open markets ideology but others advocated tighter control of the borders and greater protection of American jobs (Rae, 1998). The election of George W. Bush accentuated Republican division on immigration as evidenced by the unexpected torrent of intra-party criticism unleashed by his early 2001 expansionist proposals (Edsall, 2001).

The leader of the restrictive wing of the Republican Party in Congress was Tom Tancredo (R-CO), a three-term lawmaker who was reportedly told by Bush adviser Karl Rove "do not darken the door of the White House" due to his challenge to the president on immigration and other issues (*Denver Post*, October 20, 2004). Tancredo founded the seventy-two-member Congressional Immigration Reform Caucus as well as Team America, a fund-raising vehicle dedicated to sending to Congress persons committed to "defending our borders" (www.campaigncontribution.com).

Although the Republicans in the House and Senate were split over immigration, key votes on immigration matters from 1995 to the present have, nonetheless, followed party lines. Gimpel and Edwards argue the chief characteristic of Congressional decision-making on immigration in the 1990s was increasing partisanship: "immigration policy has grown both increasingly controversial and partisan. The Congress that sat between January 1995 and January 1997 was one of the most partisan in history. Predictably, most of the floor votes on immigration policy show strong lines of party cleavage even after other variables are taken into account" (Gimpel and Edwards, 1999: 285).

Conclusion

The politics of skilled migration has intensified in the last two decades amid growing concern over the quality and quantity of scientific and engineering talent being produced by the American educational system and the burgeoning significance of a global competition for talent. This chapter has considered some of the key developments in this regard, starting with the 1990 Immigration Act and following a series of legislative battles over the importation of highly skilled non-immigrant workers. What conclusions about the modes of skilled immigration politics does this narrative support?

While there is significant overlap between the general or broad politics of immigration policy and the specific politics of skilled migration, the issues are to a considerable extent handled separately and the disaggregation of the immigration policy process seems likely to continue if not accelerate. The overlap is evident in the importance of key lawmakers and certain broadly focused immigration lobby groups involved in almost all immigration questions. But it is also clear that, even given the logrolling that was necessary to build the left-right coalition in 1990 and to hold it together thereafter, some coalition members have narrowly construed interests. Associations representing high-tech firms are not likely to expend political capital on refugee issues, for example; nor do they evince much interest in undocumented farm workers. Political convenience may suggest occasional alliances behind a more comprehensive immigration agenda but they are otherwise likely to keep their attention on issues closer to home. The trend toward the disaggregation of immigration policy making has been evident at least since SCIRP issued its findings in 1981 and IRCA passed in 1986 but the watershed event may have been the splitting of the Simpson bill in 1998. By separating the discussion of legal and illegal immigration policy, this tactic allowed restriction-minded legislators to support tough measures at the border and to later vote to open the tap for H-1Bs. The emergence of security as a key element in immigration policy since the attacks of September 2001 increases the tendency to separate consideration of border controls and undocumented immigration from other issues.

Although employment-based immigrant and non-immigrant visas raise many of the same issues, it is apparent immigrant visas are less controversial and less salient to key interest groups and the public. It has been fourteen years since the employment preference of IMMACT was last altered. In the same period, the H-1B program has been more or less continually in play in the Congress. This is not because employment-based immigrant visas are more contentious than temporary visas for work; the employment preference of IMMACT is integrated into the overall preference system and is, consequently, more difficult to change. The only way the employment category could be altered is as part of a general overhaul of the immigration act. Moreover, any change in the numbers of work visas has immediate implications for family-based immigrant visas and activates the large and powerful family lobby. Raising the number of employment-based visas may imply a trade-off with the family category. In 1990, this was finessed, to the frustration of the bill's initiators, by increasing the size of both the employment and the family categories. Because temporary work visas do not compete with family migration, the left-right coalition was able to sustain itself throughout the H-lB conflict. Although their main

interests did not always converge, business interests and the family lobby did not have mutually exclusive goals.

Critics of the H-1B program, on the other hand, emerge from radically different camps. Exclusionist groups (FAIR, for example) oppose current levels of permanent immigration and oppose the H-1B program, in part, because they believe it leads to permanent immigration. Disaffected American workers in the technology sector oppose the H-1B program because it is responsible, in their view, for their economic troubles. Various demographers and academics critique the H-1B program because they question the validity of claims of a skilled worker shortage. Humanitarian and immigrant rights groups complain the H-1B program leads to the exploitation of temporary workers. This diverse set of groups has little in common. They do not all rank H-1B reform at the top of their concerns, often disagree vehemently on what should be done and do not have common views on other immigration issues.

Work-based programs have clients, and these clients have gotten what they wanted on the whole, but this has not always produced client politics. Evidence that client groups have been largely successful in their main battles includes: (1) increasing the employment-based preference category in IMMACT; (2) persuading Congress to raise the H-lB ceiling twice since 1998; (3) defeating the imposition of most of the proposed protections for American workers affected by the recruitment of H-1Bs; and (4) preventing discussion of more extensive rights for H-1B holders from reaching the public arena. The client mode seems a relatively good fit for employment-based immigrant visas, although our reservations with respect to our initial hypothesis for this program seem to be borne out by the ambiguity of the evidence from our case study. The linkage between the employment preference and the family preference pushes the politics of employment-based immigrant visas toward the client mode but their potential redistributive consequences for native workers elicit the attention of organizations representing those likely to bear those costs.

Too much opposition developed around H-1Bs to justify fitting the politics of temporary skilled non-immigrant visas into the client category, where it certainly belonged when the H visa category was invented in 1952 and, in 1990, when the H-1B was hived off. These programs seem increasingly to be perceived by most actors as redistributive and, hence, produce a robust form of interest group politics. Organizations on both sides clearly identified themselves as winners and losers, depending on the outcomes adopted by Congress. Those groups advocating expanded recruitment of temporary workers won the day but those on the losing side were loud and made themselves heard. The outcome in Congress was often in doubt and, on both occasions when the H-1B caps were lifted, the change was temporary. The losers lacked strong allies apart from the trade union federations, which were not well-established in high-tech industries and feared alienating their newest and fastest growing constituency among undocumented immigrants. Unemployed technology workers proved difficult to organize; angry web sites were a good way to let off steam but had little political payoff. Democrats in Congress were more sympathetic to the plight of native workers than Republicans but they lost control of both chambers of Congress and the White House in the period under review. Given their weak organizational base, the anti-H-1B groups relied on entrepreneurs to organize the losers–FAIR, targeted campaigns to defeat immigration liberals and politicians like Tom Tancredo and Lamar Smith.

In sum, temporary skilled migration programs evoked significant strands of client, interest group and entrepreneurial politics, in different combinations. The resulting amalgam might best be labeled 'asymmetrical interest group politics' given the disproportionate influence of the pro-immigration forces. There were entrenched interests on both sides but the expansionists enjoyed major advantages. They were significantly aided by the booming high-tech economy of the late-1990s, but appear to have survived even the devastating technology recession since 2000. When the technology sector recovers, claims of skills shortages will be more plausible than ever and a more straightforward client politics may reassert itself.

Notes

1. The five categories were (1) priority workers including individuals with extraordinary ability, outstanding professors and researchers and certain multinational executives and managers (40,000); (2) immigrants with advanced degrees or exceptional ability (40,000); (3) professionals and skilled and unskilled workers (40,000, only 10,000 of whom may be unskilled); (4) special immigrants (10,000), and (5) investor immigrants (10,000). See Papademetriou and Yale-Loehr (1996).
2. The Immigration and Nationality Act of 1952 created the H-1 visa for a variety of professionals, from nursing to entertainment. Generally speaking, the H-1 visa, which had no cap, provided few protections for American workers against foreign competition and this was a key element in motivating Congress to reorganize the temporary visa programs in 1990.
3. The cap pertains only to new visas issued annually. Since recipients can stay up to six years if their visa is renewed, the actual number of H-1B workers in the country at anytime is far greater. The 65,000 cap is also a floor below which U.S. policy may not go in accordance with negotiations under the General Agreement on Trade in Services to which the U.S. became a signatory in 1994. Unlike the cap on employment-based visas in the permanent immigration program, the 65,000 cap does not apply to the families of the H-1B visa holders, whose numbers are not limited.
4. According to its website, GUIRR is an organization that "provides a platform for leaders in science and technology from government, academia and business to discuss and take action on scientific matters of national importance. These include issues facing partnerships between government, universities and industry, the academic research enterprise, training of the scientific workforce and the effects of globalization on U.S. research." It was created in 1984 and is sponsored by the National Academies.
5. ABLI is now known as Compete America (www.competeAmerican.org), according to whose website it is an organization of over 200 corporations, universities, research institutions and trade associations.
6. High-tech firms were generous in donating to electoral campaigns. Computer and Internet companies gave $8.8 million in political action committees, soft money and individual contributions during the 1995 to 1996 election cycle and $38 million in 2000 (Center for Responsive Politics, 2002).