

## **Brain Mobility: Highly Skilled Migration in North America**

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### **Contemporary Immigration Policies in North America**

Historically and contemporarily, developed countries use immigration policies to balance the needs of economic development through foreign labour and to control the type and flow of immigrants in terms of who to 'keep out' and who to 'let in'. Post 9/11, the question of who can immigrate to the U.S. has grown in importance. Prior to the 9/11 terrorist attacks, the U.S. tried to implement immigration policies which balanced the need for a diverse labor force and family reunification with nativists' concerns and protectionism. Afterwards, immigration debates, and the subject of illegal/undocumented immigration, have been framed under homeland security and the prevention of terrorism. Increasingly, US immigration policies have become a heated, at times emotionally- charged, topic in academia, media, and the politics, as well as among the general public. As the American general election looms large in eight months, the paths which immigration reform may take will not only be important in the minds of Americans, but will also have great impacts on the other two North American countries.

## **Globalization and the Highly Skilled Workforce**

Globalization has accelerated in recent decades with the cross-border flow of goods, information, services, financial capital and people. One of the paradoxes of the current economic globalization process is the cross-border movement of goods and financial capital and the simultaneous restriction of human flow by nation-states. However, such restrictions are not imposed on all types of human movement. As economies have become increasingly knowledge-based, a global crusade has arisen to compete for highly-skilled immigrants and temporary migrants.

Many developed countries have shifted their immigration admission policies to actively recruit highly-skilled migrants, whereas developing countries remain largely suppliers of such immigrants. In North America, the U.S. and Canada fit such profiles of developed economies whereas Mexico is a country supplying both skilled and unskilled labor to the other two. While issues relating to Mexican undocumented/illegal immigrants dominate the current immigration debates in the U.S., what has been largely overlooked is the highly-skilled immigration within North America: the brain mobility (or brain drain) in addition to labor mobility.

### **Selective Immigration Policies in the US and Canada**

In order to tackle the challenges of global competition for economic and geopolitical power, the US and Canada have implemented increasingly selective immigration policies to facilitate the influx of international migrants possessing investment capital and/or human capital. For example, since 1967, Canada has adopted a point system by admitting immigrants primarily based on their human

capital, such as level of education, good English and/or French language capability, and prior working experiences. In addition, a business immigrants program has been installed, with entrepreneur stream introduced in 1978, and the investor stream introduced in 1986.

In the U.S., landmark 1965 immigration legislation set aside the third and sixth preferences for employment-based visas, including respectively, “members of the professions and scientists and artists of exceptional ability” and “skilled and unskilled workers in occupations for which labor is in short supply”. Both of these two preferences require U.S. Department of Labor certification ensuring that no qualified Americans are available for such positions. The 1990 Immigration Act tripled the ceiling on employment-based visas from the pre-1990 cap of 54,000 to 140,000. L-1 and H-1B non-immigrant visas were introduced to facilitate managerial personnel migration and resolve shortages of highly-skilled professionals. The H-1B visa is designated for “specialty occupations” that require the equivalent of a bachelor’s degree. Its annual quotas were increased twice by the Congress in 1998 and 2000 respectively, and peaked at 190,000/year in the early 2000s. Moreover, academic institutions and non-profit organizations are exempted from these annual caps. Two important provisions of the H-1B visa stipulation are during the two three-year terms of their stay, H-1B visa holders 1) are eligible to bring their immediate family members under H-4 visas (although H-4 visa holders cannot work in the US); and 2) can apply for permanent residency.

## **The Influence of NAFTA**

Additionally, NAFTA extends to the citizens of Mexico (with certain stipulations) and Canada the nonimmigrant class of admission exclusively for business people entering the United States to engage in activities at a "professional" level. It facilitates entry for Mexican as well as Canadian citizens seeking temporary visas as visitors for business, treaty traders and treaty investors, as well as intercompany transferees (the *Fiscal Year 2002 Yearbook of Immigration Statistics*). A new non-immigrant visa type, TN, is established which allows citizens of Canada and Mexico to work in the U.S. as NAFTA professionals. Spouses and children (unmarried and under the age of 21) accompanying or following to join TN visa holders may receive a derivative TD visa and are not subject to citizenship requirements, although they cannot work while in the U.S. ([http://travel.state.gov/visa/temp/types/types\\_1274.html](http://travel.state.gov/visa/temp/types/types_1274.html)). In both H-4 and TD cases, there are concerns of either "brain waste", should these spouses be professionals themselves living in the U.S.; or family separation, should they decide to not accompany their spouse to come to the U.S.

## **Canadians and Mexicans in the US**

While Canada's total numbers and shares in world total of employment-based visa holders have been relatively stable from 1998 to 2006, those from Mexico have grown steadily since NAFTA. In the last four fiscal years, Mexicans not only surpassed Canadians as employment-based visa holders in the U.S., but also

counted for more than 20% of world total. Canada and Mexico rank no.3 and no.5 as origin countries for employment-based immigrants to the U.S., counting for 6.9% and 6.4% respectively in the 2005 fiscal year. In the H-1B non-immigrant categories, both Canada and Mexico have increased, jumping from approximately 20,000 in 2003 to over 24,000 afterward, and from approximately 16,000 to over 17,000, respectively. For the NAFTA TN visas, Canadians have dominated the category whereas Mexicans are quickly increasing in recent years. Counting H-1B and TN visas alone (data includes only principal applicants), about 90,000 skilled Canadians and 27,000 skilled Mexicans entered the U.S. in the 2006 fiscal. Looking at the data for TD visas further reveals Canadian TN visa holders are more likely to bring their immediate family members with them than their Mexican counterparts.

### **The Asymmetry of North American Brain Mobility**

The scope of brain mobility across the three countries is growing fast but primarily in one direction: from Canada and Mexico to the U.S. Issues arising from this asymmetry include:

- The selectivity of “brain drain” from Canada to the U.S. in certain sectors; for instance, *Toronto Star* reported in 2007 that 12,040 Canadian-educated physicians live in the U.S., and one in nine Canadian-trained medical doctors are treating Americans.
- More so, the brain drain from Mexico as a developing country to the U.S. would result in greater impacts on the nation’s economic development than the typical global South to North unidirectional brain drain. It is difficult to

examine to what extent Mexican highly-skilled return migration has occurred, and hence, the positive impacts of brain circulation has been, if any.

- The issue of split- or transnational families among Mexican TN visas holders also needs further exploration for its impact on Mexican family stability and social structure. Unlike the transnational families among Asian immigrants or undocumented Mexican families, the issues faced by legal Mexican professional families have yet to draw adequate attention.

Therefore, it remains to be seen whether the incoming US Administration will take into account the brain drain or brain circulation issue among the three North American countries in its continuous debates for comprehensive immigration reform. It also remains to be seen whether the new U.S Government will attempt to achieve more multilateral consensus in the population flow arena beyond the issues of free trade and border control.