

Entrance Fees: Self-funded Agencies and the Economization of Immigration

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Overview

The paper examines economic, normative and instrumental arguments used to justify user-fee in pursuit of maintaining the following thesis: The USCIS user-fee funding structure shields the executive branch from budgetary oversight thus leading to operation misalignment with congress's will and frustrating the constitutional system of checks and balances based on separation of powers principles.

Comments

- I. What metric are we using to decide whether USCIS' operation is misaligned with Congress's will or not? What's the overarching goal of immigration policy and how has it changed due to user-fee funding structure of the USCIS? There are two potential ways in which the USCIS executive independence can "frustrate" the political process:
 - a. *By defying or failing to adequately execute existing legislation.* For example, the Immigration and Nationality Act (INA) establishes a global cap on immigration to the United States at 675,000 persons, pursuant to three general principles (family unification, U.S. labor market contribution and Origin-country diversity). Has the USCIS monetary independence resulted in its failure to uphold INA? And did this failure coincide with the rise of user-fee share of USCIS funding?
 - b. *The introduction of new programs/laws that misalign with congress's agenda.* We are given two concrete albeit incomplete examples. (1) Obama's DACA and DAPA. (2) Trump's policies which increased the backlog for naturalization, disenfranchising over 300,000 potential voters. The author doesn't discuss how both of these programs are unconstitutional and/or undermine congress's power.
- II. What role does the Judicial branch (especially the Supreme Court) have in balancing the executive power of the president via the USCIS? And is it sufficient?
 - a. In 2014, when Obama attempted to introduce Deferred Action for Parents of Americans (DAPA), the Fifth Circuit Court of Appeals upheld a nationwide injunction against DAPA, which the Supreme Court allowed to stand. ([Spakovsky, 2017](#))
 - b. In 2020, the Supreme Court rejected Trump's attempts to rescind DACA citing his administration failure to give a reasonable explanation (needed by law) to terminate the program. ([Mitchell, 2020](#))
- III. We know two things about immigration at the moment, demand is inelastic (i.e. not sensitive to pricing) and exceeds supply. The author rightfully criticizes our attempt to

put monetary value on familial bonds. Since there is shortage—or at least constrained administrative capacity to process unlimited applications—, absent fees, the next best option is probably a lottery. After all, lotteries are the USCIS method of choice to address shortage in both diversity and labor market visas. Would the author view this as a fairer method than monetary arbitration?

- IV. Under the new fee structure effective on October 2, 2020, the most common application—the I-485 Application to Register Permanent Residence or Adjust Status—costs \$1,130 plus additional \$85 for biometric screening. Is this price high? Absolutely. But anti-immigrant groups often bemoan how poor immigrants’ overburden America’s social safety network. A high application fee signals that we are naturalizing applicants who are less likely to be reliant on social safety programs thus bolstering immigration support among the general public. Would that rationale justify high user-fees?
- V. The author takes a firm stand on the nature of immigration externalities, a controversial issue both in Economics and in the public sphere. He cites immigrants’ contribution to total tax revenue among other things to make his case that immigration yields positive externalities, which when internalized would mean the subsidization of immigrants’ applications. By this logic, if one was to believe research that supports right wing arguments against immigration, such as that championed by George Borjas, would the author accept the internalization of negative externalities in the form of higher user fees? How do we reconcile this conclusion with the immorality of placing monetary value on familial bonds?
- VI. Here are some quantitative exercise suggestions/questions that might qualify the thesis:
 - a. Does the degree of reliance on user-fee funds matter in terms of its role in frustrating the political process? In 1990, the INS received more than 76% of its budget from congressional appropriations, but by 2002 it received only 15%. How did the funding ratio affect immigration policy implementation? What threshold marked the turning point?
 - b. Is there a role for user-fee funding to play as a supplement to congressional funding? If so, how do we reconcile that with the authors’ argument that user-fee has “inapt” economic foundation?
 - c. Finally, I recognize the following is out of the scope of this paper, but its findings beg the question of how user-fee funding affected other agencies such as the Patent and Trademark Office and Federal Trade Commission. Economists are always interested in mechanisms, so if this effect only shows up in immigration agencies or the USCIS alone, then it would suggest that something about immigration particularly renders user-fees inefficient.