

Which branch of government should be making the decisions on immigration

[History](#)



Which branch of Government Should Be Making Decisions on Immigration?

Immigrants in the United States of America have various reasons for going to the country. One of the main reasons people from different parts of the world migrate to the U. S. is to find a better life for themselves and their families. While several migrants find their way into the country legally, many others use illegal means to get into the country each year. For a long time the nation has come to be known as the melting pot as immigrants contribute to the culture and participate in governance. One major reason why people move to America is to enjoy the freedom.

Since September 11th the debate on immigration has heated up with the congress discussing how to amend the policy that is to allow foreigners to reside in the US. According to Reuters it is estimated that 11 million immigrants are in the US illegally. Based on this fact, some feel that politicians in Washington are at a slower pace on the issue and whatever measures they are proposing are not effective enough. Due to this some states such as Alabama Arizona, Georgia, Indiana and Utah have gone ahead to enact their own laws in regards to immigration. This has sparked an intense debate on who should make policy decisions on immigration whether it should be the affair of the states or the federal government (Vettese).

The federal immigration policy of the United States is based on the plenary power doctrine. As a fundamental characteristic of sovereignty, the legislative and the executive (political branches) enjoy great power and authority, in relation to immigration issues¹. The courts in several occasions have affirmed the plenary power doctrine from the 19th century to-date, despite this, there are attempts to reduce control by the other branches of

government on immigration and uphold a judicial administration system founded on the premise that foreigners have a right to migrate. The constitution does not give directions to any government branch in regards to immigration but it does put power of neutralization on the congress².

Immigration policies being a national affair as immigrants do not only go to one state but to every state, must be uniform and to make policy decisions on the subject takes a national body. This body must be able to make the laws, enforces them in a national and uniform scale. This body must also be in a position to counter check if the laws made are in line with the constitution. There is no better side of the government that can fulfill this uniformity at a national scale than the federal government. The federal government through its executive branch has the ability to make laws, through its executive branch enforces the laws and through its judicial branch counters checks if the laws are in line with the constitution. Under Article 1, section 8 of the US constitution a uniform rule of neutralization can be established only by the federal government and it is the only place where immigration is mention in the constitution. This simply means that the immigration policy must be uniform in on a national scale (Ciano).

Another constitutional provision in regards to immigration is Article 1, section 9 that says " The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight ..." to put this in simple terms, after the year 1908 only the congress has power over the immigrants, and it does not give powers to individual states. The states cannot amend national immigration policy as they do not have the right to

act so (quillen). The other reason is control; only the federal government has the ability to control all 50 states as no single state can control the other let alone 50 states. Base on functionality, the constitution and control the federal government wields the powers to handle policies in regards to immigration and such should not be left in the hands of the states.

One key reason that leads immigrants into United States of America is freedom; unfortunately not all of them come in legally. There are an estimated 11 million illegal immigrants in the US. The federal government is seen as taking too long to deal with the issue and its measures are also seen as ineffective. This has lead to some states enacting their own immigration policies. This has lead to serious debates on who should control immigration policies. The federal government is well poised to handle the issue of immigration, as seen in its functions. The constitution also mandates it to do so, besides it is more able to control all the 50 states.

Bibliography

Batalova Davy and Meyers Deborah & Batalova, Jeanne. "Who Does What in U. S. Immigration", 2005 <http://www.migrationpolicy.org/article/who-does-what-us-immigration> (accessed May 13, 2014)

Chin, Gabriel J. "Is There a Plenary Power Doctrine? A Tentative Apology and Prediction for Our Strange but Unexceptional Constitutional Immigration Law". *Georgetown Immigration Law Review*, 14, no. 2, (2000): 232-286.

Ciano Catherine, Federalism, immigration and deciding who can practice law, 14 oct. 2013, <http://www.rstreet.org/2013/10/14/federalism-immigration-and-deciding-who-can-practice-law/> (Accessed 13 May 2014)

Ed Quillen, Whos in charge of immigration? Its a federal responsibility -- not

<https://assignbuster.com/which-branch-of-government-should-be-making-the-decisions-on-immigration/>

that of state or local government, 29 June 2010, <https://www.hcn.org/articles/whos-in-charge-of-immigration> (Accessed 13 May 2014)

Vitesse John, Illegal immigration: Is it a state or federal issue? 2014,

[http://www.annenbergclassroom.org/speakouts.aspx?name=illegal-](http://www.annenbergclassroom.org/speakouts.aspx?name=illegal-immigration-is-it-a-state-or-federal-issue&AspxAutoDetectCookieSupport=1)

[immigration-is-it-a-state-or-federal-issue&AspxAutoDetectCookieSupport= 1](http://www.annenbergclassroom.org/speakouts.aspx?name=illegal-immigration-is-it-a-state-or-federal-issue&AspxAutoDetectCookieSupport=1)

(Accessed 13 May 2014)

(Accessed 13 May 2014)