

INTRODUCTION

. **Hysteria and Shame**

We are a nation of immigrants, but we also are a nation that loves to debate immigration policy. Except for western Europeans, virtually every new immigrant group that arrived experienced derision from nativists. But each newcomer group had its supporters as well. Thus, depending on the era and which side had the most influence, legislative and enforcement policies might be friendly or hostile toward newcomers. For example, these battles led to Asian exclusion laws from 1882 to 1917 and national origin quota systems in the 1920s that disfavored Asians and southern and eastern Europeans, but the debate resulted in more fair immigration categories in 1965 and a limited amnesty program for undocumented aliens in 1986 as well.

Sometimes, the hysteria over immigration policy can lead to cruelties that we later regret, usually implemented when anti-immigrant forces are particularly strong. These include instances of mean-spiritedness that extend beyond a decision simply to admit fewer immigrants per se or to deny admission to prospective immigrants who are criminals or suffering from infectious disease. The Asian exclusion laws and the quota provisions targeting southern and eastern Europeans are prime examples of such disgraceful enactments. Another shameful example is Operation Wetback in 1954, when more than a million undocumented Mexican workers were deported after being recruited and used by American growers for years. The turning away of destitute European Jewish refugees on the *SS St. Louis* in 1939 by the U.S. Coast Guard was another act of tragic callousness; they were murdered by the Nazis after being forced back to Europe.

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Unfortunately, the heartless side of U.S. immigration policy is on full display today; anti-immigrant fervor has been quite effective of late. The cold, antiseptic version of U.S. immigration policy requires the deportation of a young Cambodian refugee who has lived here since the age of six; growing up in a crime-ridden inner-city ghetto where we resettled his family, he turned to gang violence as a means of self-protection. These policies lead to the criminal prosecution of a humanitarian worker for driving a dying illegal border-crosser to an emergency room. Reminiscent of the *SS St. Louis*, they require the coast guard to intercept and turn back Haitian refugees before they have reached our shores, even though many of them may have valid claims for asylum. They uphold the deportation into chaos of a Somali national to a country with no formal government that can protect him from random violence once he steps off the airplane. And the anti-immigrant contempt that supports these policies would deny a public school education or medical care to a U.S. citizen child, simply because her parents are undocumented.

The anti-immigrant movement in the United States is as strong as ever. Immigrant bashing is popular among politicians, talk radio hosts, private militiamen, and xenophobic grassroots organizations. The complaints are wide-ranging, from the vitriolic – “we must protect our borders from the wave of non-English speaking, nonwhite masses who threaten our way of life” – to those who are less apprehensive about change, but who believe that more modest numbers of immigrants should be admitted to better facilitate the Americanization of those who are admitted. They include those who claim that immigrants “take away jobs from native workers” and those who recognize the need for some workers – especially the low-wage workers – but only want to extend temporary as opposed to permanent status to those workers.

Today’s nativists take full advantage of the high-tech era in which we live. At one moment we can tune in to CNN host Lou Dobbs warning of the “illegal alien invasion.” Then we might be directed to the Web site of the pseudo think tank Center on Immigration Studies citing “studies” on the effects of immigrants with little empirical basis, all reaching the same conclusion: that immigrants hurt our economy. Then there are press releases and more Web-based “reports” from the Federation for American Immigration Reform (FAIR) warning of the “country’s immigration emergency.” Certainly, politicians who are reminiscent of the race-baiters during the Chinese exclusion era also can be located today. Consider

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Representative Tom Tancredo, a Colorado Republican, who heads the Immigration Reform Caucus. C-Span brings him into living rooms where he chastises business for being “addicted to cheap [immigrant] labor” and spreads fear of a “radical multiculturalism” if immigration is not restricted.

By definition, the common thread that one finds in today’s xenophobic rhetoric is fear as a means of persuasion. Somehow, if we do not take radical steps, the idea goes, the United States is doomed to be turned into a Spanish-speaking nation or a land that is unrecognizable without a trace of the American institutions we value. Whether intended or not, the fear evolves into hate or disdain for newcomers and eventually into draconian laws and enforcement policies. Thus, in 1994, California voters overwhelmingly supported Proposition 187, excluding citizen and undocumented children from public schools if their parents were undocumented. In 1996, Congress moved to cut off food stamps and welfare benefits to lawful immigrants and refugees irrespective of how truly needy they might be. The same year, Congress wanted to impose a thirty-day filing deadline on anyone entering who might be seeking asylum, even though refugees are hard pressed to enter with the neat bundle of evidence needed to establish a claim so quickly and most need time to adjust mentally because of post-traumatic stress disorder.

The fear-based strategies can become deadly. Beginning in 1994, the Clinton administration implemented Operation Gatekeeper, a strategy of “control through deterrence” that involved constructing fences and militarizing the parts of the southern border that were the most easily traversed. Instead of deterring migrants, their entry choices were shifted to treacherous terrain – the deserts and mountains. The number of entries and apprehensions were not at all decreased, and the number of deaths because of dehydration and sunstroke in the summer or freezing in the winter dramatically surged. In 1994, fewer than 30 migrants died along the border; by 1998, the number was 147; in 2001, 387 deaths were counted; and by 2005, 451 died. The pattern continued in 2006. Given the risks, why do migrants continue the harrowing trek? The attraction of the United States is obvious. The strong economy pays Mexican workers, for example, eight to nine times more than what they can earn in Mexico. For many, it’s a matter of economic desperation, and some observers think that migrants would continue to come even if we mined the border. In a sense, they do not have a choice. Besides, jobs are plentiful here, because a variety of industries rely on low-wage migrant workers. They may know the risks but

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figure that the risks are outweighed by the benefits of crossing. Motivations for continued migration call into question the likely effectiveness of the expansion of Operation Gatekeeper if the goal is to discourage border-crossers. Beyond the economic situation in Mexico, a socioeconomic phenomenon is at play. The phenomenon is the long, historical travel patterns between Mexico and the United States, coupled with the interdependency of the two regions. Migration from Mexico is the manifestation of these economic problems and social phenomena. The militarization of the border does nothing to address these phenomena. Instead, it is killing individuals who are caught up in the phenomena. And yet we condone this enforcement strategy knowing that needless deaths will continue.

Our deportation policies also provide little flexibility because of our fears. Consider the case of Kim Ho Ma. At first blush, his deportation may not be surprising. He was the member of a tough gang from the streets of Seattle. In 1995, at age seventeen, Kim Ho and two friends ambushed a member of a rival gang. He was convicted of first degree manslaughter and sentenced to thirty-eight months' imprisonment. After serving more than two years, Kim Ho was released into the custody of immigration officials and eventually was deported because of this conviction.

Did Kim Ho Ma deserve a second chance? Consider more of his story. Kim Ho was born in Cambodia in 1977, in the midst of the Khmer Rouge regime's sinister oppression and genocide. His mother, eight months' pregnant, was sentenced to dig holes in one of Pol Pot's work camps. The idea was to teach her humility, and when she collapsed from exhaustion, she expected to be killed. Instead, the guards walked away. She was among the lucky ones who were not victims of Pol Pot's "killing fields" genocide from 1975 to 1978. U.S. involvement in Cambodia delayed the influence of the Khmer Rouge until 1975. U.S. forces bombed Cambodia in the early 1970s, dropping more than a hundred thousand tons of bombs on the Cambodian countryside. Between 1971 and 1973, the U.S. bombings targeted populated areas, displacing many Cambodian citizens. Led by Pol Pot, the Khmer Rouge ousted the U.S.-installed Lon Nol in 1975, and the Communist Party of Kampuchia (CPK) ruled Cambodia until 1979. The Khmer Rouge's main goal was to eradicate all things Western in Cambodia. During its reign in Cambodia, the Khmer Rouge regime committed unspeakable acts of horror, namely genocide, against the people of Cambodia – all in the name of socialism. An estimated two million people, 30 percent of the population, perished.

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Kim Ho’s matriculation into a Seattle street gang essentially represents the natural progression of his unique American life story as structured by the U.S. refugee resettlement program. After his infancy, Kim Ho’s story is not even remotely connected with growing up in Cambodia. When Kim Ho was two, his mother carried him through minefields, fleeing the oppression of the Khmer Rouge, taking him first to refugee camps in Thailand and the Philippines and eventually to the United States when he was seven. Kim Ho’s first home in America was a housing project in Seattle, where he and other Cambodian refugees had the misfortune of being resettled in the middle of a new war – one between black and Latino gangs. Both sides taunted Kim Ho and his friends, beating them up for fun. Still affected by the trauma she experienced in Cambodia and preoccupied with two minimum-wage jobs, his mother did not understand what was happening to her son. Determined that they would not be pushed around, Kim Ho and his friends formed their own gang.

When Kim Ho was turned over to immigration authorities, the United States did not have a repatriation agreement with Cambodia, so after a series of court appeals he was released from custody. Unfortunately, things changed in March 2002, when the United States reached an agreement with Cambodia, and Kim Ho was among the first to be deported to Cambodia in fall 2002. His shooting conviction was classified as an “aggravated felony,” and under 1996 legislation, an aggravated felon was deportable without any opportunity to introduce evidence of remorse, rehabilitation, family hardship, or other sympathetic factors before an immigration court. Shortly after Kim Ho’s deportation, his federal public defender Jay Stansell wrote:

Kimho Ma was deported to Cambodia with 9 others, landing in Phnom Penh on October 2, 2002.

I cannot write this in “reporter” mode, so I must take a breath and speak from my heart. The situation requires that I comment on the courage and example of this young man, who bore the weight of “The Ma Decision” and the hopes of “lifers” across the country through his three years of release; who sat there in the Supreme Court hearing his precious freedom dismissed as expendable in the face of the government’s “plenary power”; and who, ironically, held throughout the utmost confidence that a cause as just as the lifers’ would surely turn out in their favor. It did turn out that way, and it was a momentous victory for all of us who worked for the rights of

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all human beings, regardless of which side of which border they are born on.

And still, throughout this, Kim knew that he would someday be deported, and now he has been.

Over the course of his three years of freedom, Kimho spent a lot of time with me and my family. Beginning in the Spring of this year when rumors were swirling that a repatriation agreement had been signed, Kim and his family became even more of a fixture at our house. We would come home to find him dropped in for a visit, or bags of odd fruit from the Cambodian market at our doorstep with no note. Instead of languishing in detention, as the INS so aggressively sought, Kimho was “allowed back into the community” where, (“oh my!!”), he spent three years celebrating the beauty and wisdom of his parents; where he became closer to all of his siblings and extended family; where he worked, laughed, wrote, and breathed the Seattle air free from iron bars. He became a son and a brother to me and my wife. A big brother to our now 10 and 6 year old boys. A fan at Adam’s baseball games, a wrestling partner for Toby. A gentle friend and kind soul. And he knew that he most certainly was on the top of the Ashcroft wish-list for travel documents.

Turns out that he was. On September 19, 2002, I received a call that the INS was sending Kim a “bag and baggage letter.” I am thinking of getting that ugly document framed. Many of us have seen dozens if not hundreds of these form letters but it is the first time after all these years caring about the lives of non-citizens that I felt what family members for decades must have felt when receiving that letter. A loved [one] is banished from the United States and will no longer be here in my home. I will frame it as a monument to 130 years of cruelty to immigrants in the United States, and as a reminder of the courage of Kimho and all immigrants who step forward in the struggle for justice.

...

Ultimately, Kimho and his family, my wife and I, and colleagues at the [federal public defender’s office] took Kim to the same [Immigration and Naturalization Service] building from which we had won his release. Mr. Danger-to-the-Community and Mr. Flight-Risk walked right into that building with me. October 2, he was detained, and then deported.¹

Kim Ho deserved a second chance. The United States had a hand in creating the political nightmare in Cambodia from which his mother had

¹ E-mail from Jay Stansell, Assistant Federal Public Defender, Seattle, Washington, Oct. 18, 2002, 4:02 p.m. (on file with author).

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to flee. The U.S. resettlement program failed to provide his family a safe environment or resources to integrate into this society. Kim Ho’s life essentially began on the streets of Seattle, and like it or not, he is a product of our society. You may not agree that Kim Ho automatically deserved a second chance, but I hope you agree that our deportation process should have afforded Kim Ho and his mother a chance for a fair hearing to present evidence on whether he deserved a second chance.

The age of hysteria over immigration in which we live leads to tragic policies that challenge us as a moral society. Policies that are unnecessarily harsh – that show a dehumanizing side of our character – are senseless. They bring shame to us as a civil society. When I meet and speak with immigrants – documented and undocumented – I find decent, hard-working folks who have traveled to join relatives or to work, or, in the case of refugees, fled here seeking freedom. I find individuals who want to be Americans and who definitely want their children to be Americans. If we were in their shoes (in fact, many of our parents or grandparents *were* in their shoes), then I am confident that we would want to be treated with simple, human respect.

In the chapters that follow, I set forth some of the major immigration issues that are up for debate and that likely will be debated for years to come. These are the issues related to undocumented immigration, the deportation of long-time residents, kinship versus employment-based immigration, national security, and how and why we should be integrating new immigrants. In the process, my hope is that the venom toward immigrants be put aside while the issues are considered. The debate over these issues provides our nation an opportunity to shed the cold side of our character and demonstrate the human values of which we are proud. I believe that the vast majority of Americans not only understand the value that immigrants bring to our shores but also believe that our energy is better spent following reasonable approaches that will not shame and embarrass us later. We will be better for doing so, and, with the right approach, we can invite newcomers to step forward and take on their American responsibilities as well.

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978-0-521-86492-3 - *Deporting Our Souls: Values, Morality, and Immigration Policy*

Bill Ong Hing

Excerpt

[More information](#)

1 **Illegal Immigration: Give Them a Parade**

The furor over illegal immigration is palpable. Things are out of control. We are being overrun. They have broken the law. They take jobs away from native workers. They use our resources. They don't share our values. They don't speak English. Simply put, this is a crisis!

My solution is simple. Calm down. Welcome undocumented workers. We have recruited and relied upon them for generations. They have contributed to the economic greatness of our country. Welcome their families. Their children have become part of the social fabric of the nation. Like newcomers of the past, they are here to seek a better life through hard work and dedication to their families. To welcome them is to do the right thing. In fact, let's give them a parade.¹

As we have seen recently, segments of the U.S. media, policy leaders, and populace continue to be obsessed with the issue of undocumented immigration to the United States. Turn on CNN and you may find Lou Dobbs chastising President Bush for failing "to enforce immigration laws that would slow the invasion of illegal aliens."² Open up the *Los Angeles Times*, and you can read about California Governor Arnold Schwarzenegger singing praises for the Minutemen Project, the volunteer group of

¹ The parade idea comes from former executive editor and op-ed columnist of the *N.Y. Times*, A. M. Rosenthal, who urged us to give a parade for Chinese who paid smugglers to bring them to the United States illegally, and welcome them as heroes after fleeing China for a better life aboard the *Golden Venture*. A. M. Rosenthal, *Give Them a Parade*, *NY TIMES*, June 8, 1993, at A25.

² Lou Dobbs, *Broken Borders*, Apr. 14, 2005, at <http://www.apfn.net/messageboard/04-14-05/discussion.cgi.10.html>.

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vigilantes formed to patrol the U.S.–Mexico border.³ Check out the Web, and read about Colorado Republican Congressman Tom Tancredo, who has launched a political career animated by his obsession to stem the tide of immigration from Mexico and Central America. Open a paper in Las Cruces, New Mexico, and you can read about Mexican workers in Chihuahua, Mexico, waiting for the right time to cross the border illegally to find work as ranch hands in New Mexico or in construction in Chicago.⁴ In Boise, Idaho, a letter to the editor complains about “illegal immigrants [and contractors] willing to pay cheap wages under the table . . . in lieu of hiring American citizens.”⁵ In a Washington, D.C., debate over immigration policy involving the Christian Right, the Family Research Council that sponsored the event polled its members and reported that nine out of ten believe undocumented immigrants should be “detected, arrested and returned to their country of origin.”⁶ In response, hundreds of thousands who support immigrants – documented and undocumented – have taken to the streets for peaceful rallies – more than a million on May 1, 2006, alone. Catholic and other religious leaders have denounced draconian enforcement proposals aimed at the undocumented, and pro-immigrant politicians have reminded us that we are a nation of immigrants.

With an estimated eleven to twelve million undocumented aliens in the United States, advocates for immigration reform have become louder and more visible. The issue hit the front burner for Congress in 2006 after being pushed aside for more than four years by the events of 9/11. If anti-immigrant legislators have their way, illegal immigration would be a crime punishable by death, being undocumented would be a felony, and raids of restaurants, hotels, and construction sites would be common daily occurrences.

What to do about millions of undocumented immigrants is not a new question for U.S. policymakers. When the Immigration Reform and Control Act of 1986 (IRCA) was passed, Congress chose a narrow legalization

³ Anna Gorman, *Volunteers to Patrol Border near San Diego*, LA TIMES, May 5, 2005, at B1.
⁴ Diana M. Alba, *Jobs Lure Migrants North*, LAS CRUCES SUN-NEWS, June 19, 2005, at A1.
⁵ Letters to the Editor: Robert Vasquez, IDAHO STATESMAN, June 16, 2005, at 6.
⁶ Carolyn Lockhead, *Immigration Debate Splits Christian Right*, SF CHRONICLE, Apr. 28, 2006, at A1.

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(or amnesty) as the answer, coupled with employer sanctions in theory to dissuade future undocumented migration by making it unlawful for employers to hire the undocumented. At the time, members of Congress perceived only a handful of alternatives: first, to legalize many of the immigrants; second, to find and deport them; or third, to do nothing. The third option was not an option given mounting pressure to do something, and the second option (which is touted by many today) was considered unworkable, given the expense and effort that would be necessary to round up and deport millions of individuals, while possibly violating the civil rights of many during the process.⁷ Today a fourth choice – a large-scale guestworker program – is being advocated by President Bush.

In the first post-9/11 volley on immigration reform, the House of Representatives passed H.R. 4437 in late 2005. Sponsored by Republican Congressman James Sensenbrenner, the law would increase enforcement against employers who hire undocumented workers, make it a felony to be undocumented, and promote immigration enforcement cooperation between federal and local officials. The legislation also includes the construction of a 700-mile fence along the U.S.–Mexico border. These ideas were incorporated in Senate legislation introduced by Republican Senate Majority Leader Bill Frist, another Republican, a few months later. One of Sensenbrenner’s earlier brainchilds, the REAL ID Act,⁸ actually was enacted by being attached to an emergency \$82 billion appropriations bill to fund America’s military involvement in Iraq and Afghanistan in May 2005. REAL ID bars states from providing driver’s licenses to undocumented aliens; one provision that eventually was eliminated would have established centers to encourage bounty hunters to help round up alien absconders.

In an environment where the debate over undocumented migration is one of the hottest political issues, proposals to do the right thing receive limited political traction. To his credit, President Bush reignited a discussion beyond a let’s-round-up-and-deport-them approach with a proposal for a large-scale guestworker plan. In many respects, his plan reflects

⁷ Bill Ong Hing, *DEFINING AMERICA THROUGH IMMIGRATION POLICY* 161 (2004).
⁸ REAL ID is discussed more fully in Chapter 4.