

# Debating Immigration

by Carol M. Swain

## 1 Introduction

[W]e are divided on the question of what principles should govern our efforts to control immigration. No policy set by Congress, or the Executive, or even the courts – though their interventions have affected policy deeply – now truly controls ‘whom we shall welcome.’<sup>1</sup>

Harvard University professor Nathan Glazer wrote the statement above in the mid-1980s. It is as applicable today as it was back then. For more than 25 years, our nation has struggled with its immigration policy.<sup>2</sup> Whom should we admit? What rights and benefits do we wish to confer on them? What, if anything, do immigrants owe us in return? Often our best efforts to address the immigration issue have worsened matters.<sup>3</sup> One noted example of this occurred in 1964, when Congress ended the controversial Bracero farmworker program that it had established in 1942 to allow temporary workers from Mexico and a few other countries to live and work in the United States. This bold action was followed a year later by the passage of the Immigration and Nationality Amendments, which removed racial quotas for certain nations and increased the percentage of legal immigrants the nation would take in and the weight given to family reunification. Soon after these changes, illegal migration surged.

Figure 1.1 depicts the growth of legal immigration since 1965 and lists major legislative efforts. Congress has repeatedly tried to address the immigration problem, with mixed results. In 1986, Congress passed the Immigration and Reform Control Act (IRCA),<sup>4</sup> and four years later it passed the 1990 Immigration Act.<sup>5</sup> Next came the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).<sup>6</sup> Each congressional act has brought negative unintended consequences, causing what was once a regionally confined problem to spread across the nation and create major social and economic upheavals. Much of the illegal immigration is from Mexico. According to Douglas Massey, U.S. policy since 1986 has been a policy of contradictions (see Chapter 9, this volume). Rather than reducing illegal immigration, U.S. policies have made it less likely that illegal migrants from Mexico will return home of their own accord.<sup>7</sup>

Image not available in HTML version

FIGURE 1.1. Legal immigration and congressional reform efforts. Includes July 1, 1975, to September 30, 1976, because the end date of fiscal years was changed from June 30 to September 30. *Source: 2005 Yearbook of Immigration Statistics*, available at [LPR05.htm](http://www.uscis.gov/graphics/shared/statistics/yearbook/LPR05.htm) target= blankhttp://www.uscis.gov/graphics/shared/statistics/yearbook/LPR05.htm.

The situation is dire. More than 11 million illegals live in the United States, and an estimated nearly 1,400 new illegals sneak across the border or overstay their visas each year. Illegals constitute 5 percent of the workforce. Many of the newest immigrants have entered the country with low skills and low levels of education during an era when federal resources for fighting poverty are shrinking. In many areas of the country, the sheer volume of new immigrants has created enormous drains on educational institutions, hospitals and clinics, jails and prisons, and the supply of low-income housing.

This collection presents original essays, written by some of the world's leading experts and preeminent scholars, that collectively explore the nuances of contemporary immigration and citizenship affecting the United States and Europe. Its contributors have taken widely differing approaches to the host of issues confronting policymakers and citizens on both sides of the Atlantic. This has led some of the writers to tackle issues rarely discussed in scholarly debates on immigration. The volume is organized around the following themes: philosophy and religion, law and policy, economics and demographics, race, and cosmopolitanism.

Many critical questions are addressed here: What accounts for the disconnect between public attitudes about immigration and the policies produced by elected officials? Why has the United States not developed a well-articulated public philosophy of immigration? What does the Christian Bible have to say about immigration policy? What are our moral and social obligations to our fellow citizens, and do these trump our obligations to the world's poor?

Additionally, what contending policy approaches should guide our discussions on immigrants and alienage? What accounts for the tendency to frame the immigration debate in the dichotomous terms of legal versus illegal and citizen versus noncitizen when our most pressing problems result from immigration itself and not from its legality or lack thereof? How have the terrorist attacks of September 11, 2001, affected the treatment of immigrants and the rights of American citizens? Why have our best efforts to control the border with Mexico failed?

What are the costs and benefits of mass immigration? Do immigrants take jobs from American workers? How does immigration affect projected population growth? Furthermore, what about race and ethnicity? Who, if anyone, represents the interests of African Americans in the immigration debate? Will Hispanic and Asian immigrants do more to help reshape American values and social structures than blacks ever did? What accounts for the unusual alliances that black politicians have forged that have caused some of them to turn a deaf ear to the plight of African Americans?

Finally, what is happening with citizenship and immigration issues in European nations – is there a democratic deficit around immigration policymaking in the United States as there is alleged to be in Europe? How does the European experience differ from the American situation? Given its past failures to integrate earlier waves of migrants, can Europe ensure the socioeconomic integration of new migrants? What can be done to ensure that the new migrants embrace the liberal democratic values presently institutionalized in European nations?

These are among some of the central questions addressed by contributors to this volume. These essays were written in the mid-2000s and are informed by the mass immigrant demonstrations of 2006, legislative debates in Congress, the enforcement efforts of the Department of Homeland Security, the national emphasis on border control and national security, and the war in Iraq. We include Europe because, on both sides of the Atlantic, wealthy nations share borders with poorer nations and find themselves endlessly battling illegal migration and unassimilated foreigners who reject the culture and values of the host nation. Dissatisfaction ensues. France has recently experienced violent rioting and destruction of property by angry Arab and African immigrants frustrated with their ghettos, substandard living conditions, and limited job opportunities. In Morocco,

government officials have complained about a different kind of problem: leaders have accused nearby Algeria of promoting the illegal migration of Africans south of the Sahara Desert who use their country as a shortcut to more desirable European destinations. In the United States, 2006 brought large-scale public demonstrations in cities and towns across the nation.

A major strength of this volume lies in the willingness of its contributors to tackle such controversial issues as race and religion and the diversity of viewpoints and backgrounds they bring, as well as the breadth of approaches regarding the issues involved – approaches that range from economics, to demographics, to moral and religious perspectives. Given the many anthologies on immigration, it is appropriate to explain why such a volume is needed. Race and religion have been neglected aspects of immigration debates, despite their centrality in the thoughts and policy preferences of many Americans. The impact of immigration on African Americans particularly is usually neglected in public debates and scholarly treatises. Similarly, most discussions of religion focus on the Catholic Church's more universal approach, while ignoring or belittling as racist any restrictionist viewpoints emanating from mainstream Protestants. This volume is a wholehearted effort to address these voids in public debate as well as in the scholarly literature and the popular press. It should be noted, however, that the contributors to this volume have widely differing views on a range of issues. We do not pretend to have definitive answers to the questions we raise; rather, it is our desire to stimulate an open and vigorous debate on the subject of immigration and citizenship, and we would like to see more public forums where opponents can get together and share their views as we have done here.

How did this volume come to be? My interest in the subject of immigration was piqued several years ago as I conducted research on the white nationalist movement in the United States. On the basis of that research, I published a book titled *The New White Nationalism in America: Its Challenge to Integration*. As one component of the study, I commissioned interviews with some key figures in what has variously been styled as the white nationalist, white protest, and white civil rights movement in America. I was interested in finding out about the background of these individuals, how they came to hold their views, and their positions on key race-related issues of the day. Repeatedly, the interviewees offered harsh commentary on the high level of legal and illegal immigration flowing into the United States from “third world nations” and the failure of the U.S. government to stem this tide – a development the interviewees perceived as a threat to Euro-American values and culture. Although many of the views expressed were openly racist, the respondents did not seem to care how critics might perceive them.

After listening to their arguments and watching events unfold in border states as the Minute Men and other militia groups formed, it became increasingly clear that a situation was developing in America in which the racist Right was framing the debate on serious and potent issues regarding immigration and naturalization. Although these issues are of great concern to many Americans, they have been largely ignored, and an open debate was suppressed by many people in the mainstream who feared being dismissed as racist. Accordingly, a very limited public discussion was being monopolized by a small minority on the racist Right. This was effectively silencing legitimate conversations that ought to be taking place in the public realm among more mainstream thinkers about the

changing demographics of the nation and the continued existence and embrace of public immigration policies that many Americans believed placed the needs and concerns of new immigrants above those of the native-born.

My instincts about these issues were perhaps confirmed in November 2005, when I received an e-mail from a stranger whom I will here call Martha. Martha described herself as a 65-year-old white woman who had recently joined the California Minute Men, a group of citizens organized to help stem what Martha described as an invasion of her beloved country. Martha wrote me to lament the fact that a 15-year friendship with a black neighbor ended on the day that she asked her black friend to join her at the border. With horror, disdain, and anger, the black friend exclaimed, "I don't do anything to help white people." Martha was crushed. She is not a racist, she explained to me in her e-mail. She does not hate Mexicans – her husband of 23 years is Mexican American. Rather, her e-mail expressed rage at illegal immigration and at the failure of blacks to join the fight against it. After all, she argued, it is their country, too, that is being invaded.

Martha's frustration has risen to the point that she is willing to stay up all night patrolling the border in the belief, or hope, that her lone act, multiplied by the acts of several hundred others, might actually reduce illegal immigration. Her e-mail expressed fear about not wanting her children and grandchildren to be forced to learn Spanish in order to live and work in their own country. She decries the 14th Amendment's guarantee of citizenship by birth for those who entered the country illegally, and she laments the drain on local goods and services that she claims has even led hospital emergency rooms in Los Angeles to close. She ended her e-mail with the capitalized words GOD BLESS AMERICA.

Martha's fears might appear extreme, but they are not without foundation. Immigration is a growing and increasingly public concern in the United States today. The following review of immigration trends, including the contemporary immigrant protests and proposed legislative reforms, will illustrate the heightened significance of this topic.

## THE IMMIGRANT PROTESTS OF THE 2000S

In the United States, hundreds of thousands of legal and illegal immigrants and their supporters engaged in mass protests during the spring of 2006. These organized rallies have politicized other immigrants, brought about a greater sense of solidarity, and raised the national consciousness about illegal immigration and the enormous financial burden it imposes on many cities and towns around the nation. Breathtakingly large public demonstrations first occurred in April 2006, and then again on May 1, 2006, when organizers ratcheted up the stakes by arranging a national boycott called "A Day Without Immigrants," which was intended to bring the U.S. economy to a crawl. The impact of the boycott was minimal, but the new assertiveness made the issue one that members of Congress could no longer ignore, particularly after media images of angry protesters, many waving homeland flags, reached into the homes of formerly indifferent Americans. What was seen was an image of illegals that stood in direct contradiction to an earlier portrait of them as a frightened, docile people, cowering behind locked doors, never knowing if the next knock would bring deportation.

The initial politicization of illegal immigrants came with the Freedom Rides of October 2003 that mimicked the black Freedom Rides of the 1960s. Thousands of protesters

traveled to Washington, D.C., to press their demands for better treatment. Many immigrants were upset about the perceived foot-dragging and promise-renegeing on the part of President George W. Bush in his interactions with Mexican President Vicente Fox. What was once an auspicious climate for immigration reform changed overnight in the wake of the terrorist attacks of September 11, 2001. The attacks halted the momentum for creating a new guestworker program with Mexico and caused the nation to turn its attention to border control and national security.<sup>8</sup> The Department of Homeland Security was created to absorb various units of the Immigration and Naturalization Service (INS). Since October 2003, the increased visibility and assertiveness of illegals have caused a once-sleeping public to press their elected officials for action. Greater enforcement of existing laws has been demanded by the public, and in 2005 Congress passed the Real ID Act of 2005, which created restrictions on political asylum, increased enforcement mechanisms, restricted some due process rights, and imposed federal restrictions on state driver's licenses for immigrants, making it more difficult for illegals to procure and use certain types of documents for official purposes.

The protests have led to a backlash. Instead of making Americans more sympathetic to the immigrant cause, the mass protests may have had the unfortunate and unintended consequence of directing public attention to negative economic and social spillover effects such as the displacement of American workers, drains on public services, and overcrowded housing. Within days of the April 2006 protest, the Department of Homeland Security made headlines when it announced the arrest of 1,100 illegal workers in a Texas pallet supply shop in Houston.<sup>9</sup> Since then, crackdowns, arrests, and mass deportations have garnered regular headlines.

A March 2006 national survey, taken before the mass demonstrations of April and May, showed Americans conflicted over the immigration issue.<sup>10</sup> Fifty-two percent of Americans agreed that "immigrants today are a burden on our country because they take our jobs, housing, and healthcare." A majority of the public (also 52 percent) said that illegals should be made to go home, and 40 percent of this group said they would support a program that would allow illegals to stay temporarily in a legal status. Almost half of all Americans would like to see increased border patrols and tougher penalties for employers who violate the law by hiring illegals. The least amount of enthusiasm (9 percent) was shown for building walls along the border, and the most (76 percent) was shown for a proposal to create a national database that employers could use to check for employment verification and eligibility. Perhaps in recognition of Congress's past failures to improve the situation, 56 percent of Americans have expressed more confidence in local government's ability to reform immigration than they have that President Bush (42 percent) and the major political parties will do so. The Republican and Democratic parties earn ratings of 45 percent and 53 percent, respectively, in answer to the question of who is best suited to reform immigration.

Since the mass demonstrations, Hispanics are reporting a greater frequency of ethnic discrimination. More than half of all Hispanics surveyed (54 percent) by the Pew Hispanic Center said that they have seen an increase in discrimination as a result of the policy debate. While there may have been some backlash from the public, 63 percent of Hispanics thought that the pro-immigration marches signaled the beginning of a new social movement that would politically energize Hispanics and spur higher Hispanic

voter turnout.<sup>11</sup> Although some immigrants speak of the protests with pride and believe they have helped their cause, public-opinion polls and the passage of numerous restrictive laws and ordinances in cities and states across the nation suggest otherwise. Moreover, the Southern Poverty Law Center has reported a 33 percent rise in hate groups over the past five years, citing Hispanic immigration as the single most important issue driving the growth of racial hate groups.<sup>12</sup> This hostility was evident and growing long before the protests.

It is interesting to note that as with other social movements, such as the women's and gay rights movements, the organizers of the immigrant rallies have borrowed heavily from the strategies and moral claims of the black civil rights movement and have used these in an attempt to silence critics. But the parallels are actually weak. Most illegal immigrants have willingly left their homelands to seek their fortunes in a more prosperous nation. They were not brought here in chains. They made a decision to enter another country without a formal invitation or entry visa. A significant proportion of blacks in the United States are the descendants of former slaves, whose civil rights movement was a struggle over the issue of basic human rights and human dignity, which were accorded to only a select few in the land of their birth. When illegal residents and their supporters demand more rights and privileges, in most cases they are not risking life and limb. Moreover, they benefit from lingering tensions between blacks and whites, and this enhances their status as a more favored group in the minds of mainstream, white, America.

## IMMIGRATION PROPOSALS DEBATED BY THE 109TH CONGRESS

It has been more than 10 years since any major immigration legislation has emerged from Congress. Instead, the issue has been addressed piecemeal. However, bills that could radically restructure immigration are looming. In December 2005, the House of Representatives passed a restrictionist immigration bill (H.R. 4437) that many people see as punitive, although it seems to be in harmony with public wishes. The bill would have criminalized being in the country illegally, required the deportation of illegals, and imposed new penalties on employers and service providers who offered assistance to illegals. Bill H.R. 4437 is focused primarily on border security and employer sanctions. It provides no provisions for guestworkers or guidelines on what to do about the millions of illegals already working in the country and insisting on their right to remain. A hue and cry ensued following the passage of the bill. A few months later, the Senate passed a much more immigrant-friendly bill (S. 2611) that offered a tiered path to citizenship, a guestworker program, and a provision for more legal entrants. It also included a controversial provision that would require private and public employers to pay the prevailing wage to guestworkers on all construction projects. Opponents have argued that the latter provision would guarantee higher wages for immigrants than American workers receive for doing the same job.

As of August 2006, the House and Senate had made no efforts to reconcile differences between the two versions of the bill. House members and senators who were passionate about the issue took their respective cases directly to the public in a series of public hearings and forums scattered throughout the nation. Meanwhile, as Congress was haggling over the specifics of immigration reform, the states were actively passing legislation and ordinances. By July 2006, 30 states had passed 57 laws that dealt with some aspect of immigration reform. Although a few of these laws expanded benefits for

noncitizens, the vast majority made it more difficult for illegal immigrants to receive government benefits such as unemployment, driver's licenses, employment in government-funded projects, and gun permits.<sup>13</sup> Aggressive actions by state and local governments are likely to continue until Congress offers some real leadership on the issue.

There are slight differences here in the approaches of Democrats and Republicans. Both groups would like to gain the votes of the new immigrants, but Republicans have an additional incentive: to continue to provide cheap, docile labor for big business and for middle-class families who can now afford nannies, gardeners, and cooks. Democrats would like to see a liberal bill passed that includes a guestworker program and a path to citizenship because they believe the immigrants will eventually support their political party.

Congress has not been much of a leader on this issue. In the heat of the 2006 fall elections, Congress passed and President Bush signed into law a new immigration bill authorizing the construction of a fence along parts of the Mexican border.<sup>14</sup> Of course, this new fence is a mostly symbolic gesture that will not solve the problem of illegal migration. It is a band-aid remedy consistent with the piecemeal approaches of the past. The magnitude of the problem and the changing demographics of the nation cause one to wonder when legislators and Supreme Court justices will finally get around to removing obvious sources of ethnic and racial conflict, such as race-based affirmative action, which makes little sense in a nation as diverse as the United States. It seems more appropriate to make affirmative action contingent on demonstrated need, with benefits limited to native-born Americans. Much discrimination still exists in the United States. However, one can argue that other legislative measures, including vigorous enforcement of Titles VI, VII, and IX of the civil rights legislation of the 1960s, can be used to address the ongoing discrimination related to race, alienage, and gender.

A part of our problem comes from the failure of our national leaders to articulate a clear public philosophy of immigration. Elizabeth Cohen argues in Chapter 3 of this volume that this is mainly because our understanding of citizenship has been focused inward. According to Cohen, a philosophy of citizenship for native-born minorities and immigrants is conceptually distinct. Immigration has not received the systematic scrutiny accorded to other elements of citizenship, such as race. In our focus on racial issues, we have missed forms of discrimination connected with nationality and foreignness. Moreover, policymakers have not been courageous enough to acknowledge the truth pointed out by Noah Pickus and Peter Skerry (see Chapter 7, this volume) that the major issue confronting the nation is much bigger than what to do about illegal immigration. The major issue is immigration, period. These authors decry the muted conversations taking place around the issue of immigration and the reluctance of scholars and policymakers to acknowledge both the problem and the mounting and increasingly visible public outrage.

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### **About The Author**

**Carol M. Swain** is currently Professor of Political Science and Professor of Law at Vanderbilt University. She is a member of the James Madison Society at Princeton University. In 2003, Dr. Swain founded the Veritas Institute, Inc., a non-profit organization, dedicated to promoting justice and reconciliation among people of different races, ethnicities, faith traditions, and nations.