

35.3 million in 2000), making them the nation's largest minority group and 16.3 percent of the total population. At 37.7 million, blacks accounted for 12.2 percent and Asians for 4.7 percent (14.5 million) of the total population.⁵

The Immigration and Nationality Act and its basic principles have continued to guide U.S. immigration policy to the present day. However, spurred by a variety of conditions and interests, the Act has also been amended numerous times since its passage in 1965. Notable changes include the Refugee Act of 1980, which was passed in the aftermath of the U.S. war in Southeast Asia and the subsequent outflow of refugees from the region. The Act raised the cap on annual refugee admissions. It also adopted a definition of "refugee" based on the one created by the U.N. Convention and Protocol on the Status of Refugees, thus bringing U.S. refugee law to international standards. More generally, the 1980 Act attempted to regularize refugee policy by establishing the Office of the U.S. Coordinator for Refugee Affairs and specifying a uniform refugee resettlement and absorption policy.

In what follows we discuss some of the other developments of U.S. immigration laws during the late twentieth and early twenty-first century. The changes in the immigration system have been informed by a variety of conditions and often-conflicting interests. There is one particular issue, however—illegal immigration—that has been especially prominent in the increasingly shrill calls for stricter immigration controls that we see today.

"Secure our borders": The Era of Enforcement

The late 1970s saw the start of a rising tide of public anxiety about the flow of unauthorized immigration into the United States. Nevins (2002: 62–4) has written of the growing perception during this time, stoked by sensationalist media reports and political statements, of a crisis of unauthorized immigration. Reflecting this sense of crisis, IRCA (Immigration Reform and Control Act) was passed in 1986 after a long and arduous journey through Congress. IRCA's provisions were complex because they were

reflective of compromise between divergent interest groups, from agribusiness to immigrant advocates. The Act penalized employers for knowingly hiring undocumented workers, and established a new requirement that citizenship or work eligibility be proven before the hire of a new worker. It also included what came to be known as "amnesty"—a five-year program whereby unauthorized immigrants who had been continuously present in the United States since January 1, 1982, were allowed to apply for temporary, and eventually permanent, legal status if they met certain conditions. A separate program allowed workers who had performed seasonal agricultural work (SAW) during the twelve-month period ending May 1, 1986, to legalize their status. Last but not least, IRCA mandated "enhanced border security," authorizing funds for an expansion of the apparatus of border control.

In terms of its long-term impacts, IRCA has come under fire for its inability to deter continued flows of irregular immigration into the United States, flows that actually surged in the 1990s and early 2000s. Ironically, among the reasons for the surge were the stricter U.S.-Mexico border controls that were mandated by IRCA. These controls made multiple migratory trips back and forth increasingly costly and dangerous. As a result, the once-circulating migration flows from Mexico were transformed into settlement as unauthorized immigrants remained in the United States and brought their families with them. Also of significance were the gaps in IRCA's employer deterrence system. This included the fact that employers could avoid sanctions by claims of being unaware of the irregular status of their employee (Kerwin 2010; Chishti, Meissner, and Bergeron 2011). And given the advantages of hiring undocumented workers, in terms of pay and working conditions, employers then had little incentive to stop doing so.

Indeed, as evidenced by the IRCA loopholes, the U.S. immigration regime has consistently had a Janus-faced character with respect to undocumented movements from Mexico. There has been tolerance and tacit acceptance of these movements and their presence in agriculture and other low-skilled sectors of the economy. At the same time, the regime has been driven by a sense of crisis, of the need to deter undocumented flows through

punitive border control policies. Under these conditions, the punitive border control policies that arise serve only to enhance the vulnerability of immigrants.

Despite its various problems as a policy measure, IRCA was clearly successful in one respect: it achieved the regularization of millions of immigrants, giving them the opportunity to become full participants and members of U.S. society. Following the passage of IRCA, approximately 1.6 million individuals legalized their status through the general amnesty provisions, and an additional 1.1 million did so through the provisions for special agricultural workers (SAW). Those who regularized their status through IRCA were then able to sponsor qualifying relatives through regular immigration channels. The program had particular significance for Mexican immigrants who constituted an estimated 70 percent of IRCA beneficiaries (Chishti, Meissner, and Bergeron 2011). As seen below in Figure 2.0, Mexican immigration to the United States rose sharply during the closing decades of the twentieth

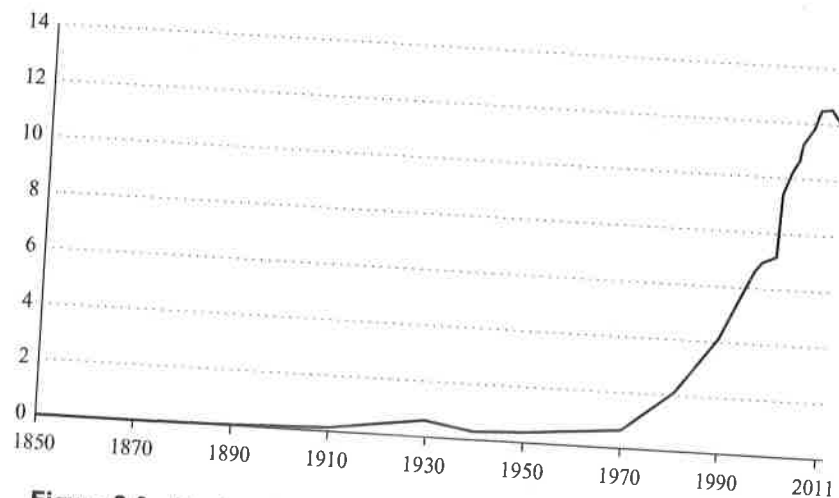


Figure 2.0 Mexican-Born Population in the U.S., 1850–2011 (in millions)

Source: 2012 Pew Research Center. "Net Migration from Mexico Falls to Zero—and Perhaps Less." <http://www.pewhispanic.org/2012/04/23/net-migration-from-mexico-falls-to-zero-and-perhaps-less/>. Reprinted with permission.

century. We see this trend reversing, however, in the early 2000s. In an analysis of this decline, Passel, Cohn, and Barrera (2012) suggest several underlying factors, including a weakened U.S. job market, heightened border enforcement, and the growing Mexican economy with increasing job opportunities for its citizens.

The 1990 Immigration Act and the Immigration Preference System

The next set of major changes to U.S. immigration law occurred in 1990. As with previous laws, this set also embodied the contradiction of the expansion of opportunities for immigrant entry, particularly for highly skilled labor, alongside strictly defined categories and pushback from those who saw immigrants as taking jobs from Americans. At this time Congress raised the cap on annual immigration to the United States from 500,000 to 700,000. It also introduced the category of "Temporary Protected Status," which enabled the Attorney General to exempt from deportation those irregular immigrants who were nationals of countries suffering from armed conflict or natural disasters. A program of Diversity visas (also known as the Green Card Lottery) was introduced to provide immigration opportunities to persons from countries with low rates of immigration to the United States. Diversity visas were limited to eligible applicants from nations that did not have a cumulative total of 50,000 immigrants in the previous five years. No more than 55,000 Diversity visas were made available each fiscal year.

But perhaps the most important feature of the 1990 laws was a commitment to enhancing employment-based immigration. The Act more than doubled the number of employment-based preference visas, from 54,000 to 140,000 annually. In addition, the 1990 laws authorized an expansion of temporary employment visas, including the H-1B visa that allows U.S. employers to temporarily employ foreign workers in specialty occupations. The H-1B visa encompasses people in specialty occupations such as scientific research and information technology. Many eventually apply for permanent residence through the employment-based

channels of the immigration system (Jachimowicz and Meyers 2002). In 1990, the annual number of H-1B visas was capped at 65,000. During the high-tech boom of the late 1990s, the cap was raised, from 115,000 in 1999 and 2000 and then to 195,000 during 2001–2003. Corporate leaders had lobbied for the increases, countering the efforts of H-1B restrictionists who claimed that the visas took away jobs from U.S. workers. In his 2002 testimony before the House Science and Technology Committee in March, Microsoft Chairman Bill Gates stated that the shortage of H-1B visas was leaving high-tech jobs in the United States unfilled, forcing companies to move their operations abroad and thus ultimately resulting in job losses for U.S. workers. More generally, the pro-H-1B business lobby argued for the importance of attracting highly skilled immigrants as a strategy for the United States to remain competitive in the global economy. Since 2004, however, the H-1B visa cap has reverted back to the original limit of 115,000.

Table 2.0 provides percentage breakdowns by class of admission, of those granted permanent residence in the United States from 1990 to 2010. We see that those coming in as immediate relatives of U.S. citizens have consistently formed a major portion of admissions, especially since the mid-1990s. The data also suggest that the 1990 Act had a positive impact on employment-based admissions. In 1991, 3.3 percent of those gaining legal permanent residence came in under employment-based preferences, a percentage that rose to 11.9 percent in 1992. At the same time, we also see that with the exception of the year 2005, the percentage of those coming under family-sponsored preferences has consistently outstripped that of employment-based preferences.

The principle of family reunification, established in 1965, has thus remained a primary feature of the U.S. immigration system. The 1990 Immigration Act, however, with its focus on increasing employment as a basis of admission to the United States, reflects growing concerns about the ability of a system that is based on humanitarian concerns to attract “the best and the brightest.” Informed by a global neoliberal regime, the contemporary era has been one driven less by family values and more by notions of a

Table 2.0: Legal Permanent Residence by Class of Admission, 1990–2010

Year	% Immediate Relatives of U.S. Citizens	% Family- Sponsored Preferences	% Employ- ment-based preferences	% Refugees/ Asylees	Other Immi- grants
1990	15.1%	14.0%	3.8%	6.3%	60.8%
1991	13.0%	11.8%	3.3%	7.6%	64.3%
1992	24.2%	21.9%	11.9%	12.0%	30.0%
1993	28.2%	25.1%	16.2%	14.1%	16.4%
1994	31.1%	26.3%	15.3%	15.1%	12.2%
1995	30.6%	33.1%	11.8%	15.9%	8.6%
1996	32.9%	32.1%	12.8%	14.0%	8.2%
1997	40.2%	26.7%	11.4%	14.0%	7.7%
1998	43.3%	29.3%	11.8%	8.0%	7.6%
1999	40.0%	33.6%	8.8%	6.6%	11.0%
2000	41.2%	28.0%	12.7%	7.4%	10.7%
2001	41.6%	21.9%	16.9%	10.2%	9.4%
2002	45.7%	17.6%	16.4%	11.9%	8.4%
2003	47.0%	22.6%	11.6%	6.4%	12.4%
2004	43.6%	22.4%	16.2%	7.4%	10.4%
2005	38.9%	19.0%	22.0%	12.7%	7.4%
2006	45.8%	17.5%	12.6%	17.1%	7.0%
2007	47.0%	18.6%	15.4%	12.9%	6.1%
2008	44.1%	20.7%	15.0%	15.0%	5.2%
2009	47.4%	18.7%	12.7%	15.7%	5.5%
2010	45.7%	20.6%	14.2%	13.1%	6.4%

Source: U.S. Department of Homeland Security, Office of Immigration Statistics, *Yearbook of Immigration Statistics* (various years). <http://www.dhs.gov/ximigtn/statistics/publications/yearbook.shtm>

“global professional immigrant market” in which nations compete for the most favorable contenders, in terms of their human capital.

IIRIRA (Illegal Immigration Reform and Immigrant Responsibility Act) and the USA Patriot Act

The 1990 Act was followed by rising anti-immigrant sentiment and the passage of a series of measures that aimed for stricter immigration enforcement. Fueling these trends was the economic recession of the early 1990s along with a widespread perception of the failure of past immigration policies, specifically IRCA's

inadequacy as a deterrence program. These grievances became especially apparent in California, which passed Proposition 187 with 59 percent of the popular vote in 1994. Prop 187 was a state law that would have denied virtually all public services to irregular immigrants and their children. It was, however, never actually implemented and was eventually struck down as unconstitutional. Between 1993 and 1996 the Immigration and Naturalization Service (INS) budget, especially that directed toward border control, rose by 68 percent (DeSipio and de la Garza 1998). Additionally, 1994 saw the launch of Operation Gatekeeper, an intensive border control program in San Diego, California that aimed to stop unauthorized movements across the U.S.-Mexico border. In his study of Operation Gatekeeper, Nevins (2002) writes of how such government programs did not just reflect a public perception of an illegal immigration crisis, but also helped to create it:

The state did not simply respond to public concern with the supposed crisis of "illegal" immigration. Rather, it has helped to create the "illegal" through the construction of the boundary and the expansion of the INS's enforcement capacity. The state also played a significant role in creating the putative crisis posed by "illegals" through the rhetoric it employed to justify its efforts to bring order to the U.S.-Mexico boundary and to rid U.S. territory of those without state sanction to be within its boundaries . . . the category of "illegal" proved extremely useful in mobilizing public support for enhanced boundary and immigration enforcement. (11)

The campaign to "secure our borders" moved ahead in 1996 with the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). In conjunction with the 1996 Personal Responsibility and Work Opportunity Reconciliation Act, IIRIRA reduced immigrant access to social safety-net programs. It increased border personnel, authorized construction of further barriers on the Mexican border and stiffened penalties for various immigration offenses. It also toughened deportation procedures and tightened the rules for the sponsorship (for U.S. permanent residence) of family members by citizens of the

United States. The Antiterrorism and Effective Death Penalty Act (AEDPA) of 1996 further increased the enforcement authority of the federal government by limiting judicial review for most categories of immigrants subject to deportation. In short, the last decade of the twentieth century saw the growing criminalization of irregular migration through increasingly punitive enforcement measures.

These trends were only magnified in the aftermath of the terrorist attacks of September 11, 2001. The 9/11 attacks were followed by intense popular backlash toward those assumed to be from religious and national backgrounds similar to those of the terrorists (Cainkar 2004; Peek 2005). In the aftermath of the attacks, those who looked Middle Eastern or who had Arabic or Islamic-sounding names experienced hate crimes and bias incidents. Muslim Americans reported increased hostility as well as discrimination in the workplace on the basis of their religion (Council on American-Islamic Relations 2008).

Popular antipathy toward Muslims was bolstered by many of the post 9/11 policy initiatives taken by the U.S. government. Even if inadvertently, these policies strengthened popular stereotypes and images that associated terrorism with Muslims. A month after the 9/11 attacks, George W. Bush approved the USA Patriot Act, which gave expanded legal powers to government agencies to implement special measures to address terrorism, both domestically and abroad. These measures included a special registration program in 2002 for noncitizen men aged sixteen to sixty-four from selected countries—Eritrea, North Korea, and twenty-three Muslim-majority states. The program required these persons to register with the U.S. immigration authorities and to undergo interviews with them.

The special registration program was phased out in 2003, but the U.S. government's use of "extraordinary measures" to monitor and in some cases to remove noncitizen immigrants deemed possible threats to national security continued throughout the decade. The Patriot Act allowed for immigrants who were not citizens to be arrested on alleged suspicion, to be secretly and indefinitely detained, and also to be forcibly deported. For the purposes of protecting national security interests, the Act also authorized

government agencies to use surveillance and wiretapping without showing probable cause, and to secretly obtain and search private records and property. These developments did not, however, go without protest. Especially affected by these measures, Middle Eastern and Muslim American organizations mobilized court challenges and public demonstrations against them (Bakalian and Bozorgmehr 2009).

The U.S. government's War on Terror was accompanied by the reorganization and expansion of government agencies responsible for immigration control. The fact that the attacks were carried out by foreign nationals who had come to the United States on student and visitor visas placed a spotlight on the efficiency of immigration and border control agencies. In 2003, the newly created Department of Homeland Security (DHS) streamlined the previous immigration and border control responsibilities of the Immigration and Naturalization Service, elevating government capacity and authority to carry out federal policies and programs. DHS, in turn, created the Bureau of Immigration and Customs Enforcement (ICE), a new agency dedicated to apprehending, detaining, and deporting "criminal and fugitive" noncitizens (Kanstroom 2007). ICE launched a series of programs in collaboration with state and local agencies. These included the Criminal Alien Program (CAP), which placed ICE officials at state prisons to conduct immigrant screening, and the Secure Communities Program, which relied on police to enter prints of arrestees into a joint FBI and ICE database.

The opening decades of the twenty-first century thus saw a vast expansion of the state apparatus of immigration control. This trend, which had been evident in the 1990s, grew further in the aftermath of 9/11 when immigration control became a major security issue. But even with these changes, those in favor of stricter immigration controls remained unsatisfied and pushed for more enforcement procedures. Many of these additional laws, even when approved by legislative bodies, faced legal challenges and so remained stalled at the implementation stage. Nonetheless, we would argue that as a call to further action, they had enormous significance for the political discourse of immigration in the United

States. In conjunction with the expansion of the government apparatus of immigration control, they legitimized public resentment and hostility toward unauthorized immigrants, positioning them as "bad immigrants" in the good immigrant-bad immigrant dichotomy.

In 2005 Congress passed the REAL ID Act, which required states to verify U.S. citizenship or permanent residence before issuing drivers' licenses and identification cards. Implementation of the Act was delayed, as many states resisted it on both cost and privacy grounds. At the same time, several states passed their own "get tough on illegal immigration" bills. These included Arizona's infamous Senate Bill 1070. Passed in 2010, the bill expanded the powers of state police officers to ask about the immigration status of anyone they stopped, and to hold in police custody those suspected of being illegal immigrants. The legislation required police officers, "when practicable," to detain people whom they reasonably suspected to be in the country without papers and to verify their status with federal officials. SB 1070 also made it a state crime—a misdemeanor—to not carry immigration papers. In addition, it allowed people to sue local government or agencies if they believed that these institutions were not enforcing federal or state immigration laws. After its passage, SB 1070 was challenged and the federal courts suspended many of its provisions.

The Deportation Regime and Immigrant Rights Movement

In the lives of U.S. immigrants, especially those who are undocumented, the era of enforcement has produced a climate of fear and vulnerability. Nicholas de Genova (2005) has argued that these experiences emerge in relation to a deportation regime. These are conditions in which the state uses policing and surveillance, along with the constant threat of deportation, to discipline undocumented immigrants such as to ensure their compliance and passivity. The powerful experience of deportability that results for the immigrant is also complicated by its many layers. Even as the undocumented immigrant is officially illegal, she is also accepted and perhaps even welcomed at certain times and situations, such as

at her workplace (Coutin 2005; Menjivar 2006). The fluidity and contradictions of legal and illegal status are vividly highlighted by Roberto Gonzalez's (2011) study of undocumented youth who came to the United States as children. For them, the transition into adulthood was accompanied by a transition into illegality. As children, they were able to attend school, protected from the direct arm of the deportation regime by the Family Educational Rights and Privacy Act, which prevents schools from releasing student records to immigration authorities. But after finishing high school they found themselves in a very different legal space, one in which their deportability loomed large and they were prohibited from legal employment.

If the deportation regime is an especially powerful structure in the lives of the undocumented, its impacts extend well beyond them. The surveillance and policing that have been part of the era of enforcement also come to shadow the lives of those who are under suspicion of being undocumented. Since being undocumented does not carry an immediately visible marker, what the authorities turn to instead are proxies. "Racial Profiling" refers to the discriminatory practice by law enforcement officials of targeting individuals for suspicion of crime based on the individual's race, ethnicity, religion, or national origin. Latino/as have been especially likely to be under suspicion of being undocumented. Figure 2.1 reveals the gradual increase in deportations over the past ten years in the United States.

The deportation regime has not, however, gone without protest. The era of immigration enforcement has generated a climate of fear and anxiety for immigrants, but it has also spurred some to political action. Immigrants have mobilized to challenge and protest various features of the U.S. immigration regime. The growth of an immigrant rights movement that is particularly focused on the plight of unauthorized immigrants became visible in 2006. In the spring of that year, massive political demonstrations took place across the country in what organizers described as a "national day of action for immigration justice." The protests had first developed in response to the Sensenbrenner Bill, which would have made the mere status of being an undocumented

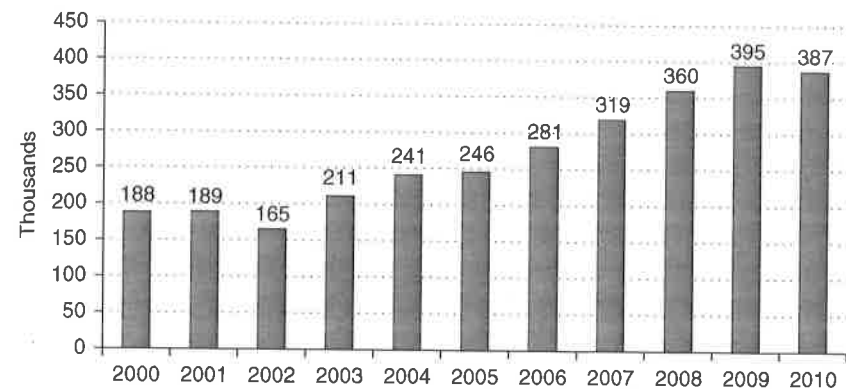


Figure 2.1 Removals of Undocumented Immigrants, 2000–2010⁶

Source: 2011 Pew Research Center. As Deportations Rise to Record Levels, Most Latinos Oppose Obama's Policy. <http://www.pewhispanic.org/2011/12/28/as-deportations-rise-to-record-levels-most-latino-oppose-obamas-policy/>. Reprinted with permission.

immigrant a felony subject to imprisonment as well as deportation from the United States. The protests continued after the bill was successfully blocked. Calling themselves the "new civil rights movement," protest leaders articulated broader goals of justice and humane treatment for undocumented immigrants. They successfully mobilized a broad coalition of support, drawing on churches, labor unions, student organizations, and a variety of other progressive groups. In their analysis of the "Spring Marches of 2006," Pantoja, Menjivar, and Magaña (2009) note how these protests gave visibility and voice to undocumented immigrants, bringing them "out of the shadows" and into the political spotlight. Holding placards that said, "I am not illegal, I am human" or "No human being is illegal," participants of the marches protested the dehumanizing images of illegal immigrants in popular culture and discourse (Summers Sandoval 2008). In August of 2012, about thirty-six undocumented immigrants embarked on a six-week bus ride across the Southern states to the 2012 Democratic National Convention in North Carolina. The "UndocuBus" participants aimed to confront the fear and humiliation surrounding

their experience. The words on the side of the bus “No Papers, No Fear” openly identified the protestors as they drove. They took their issue directly to the Democratic National Convention in order to bring attention to the lack of political action, and to emphasize the urgency of this issue to President Obama.⁷ Without the right to vote, these immigrants have been determined to find other avenues of political participation. Despite the culture of fear resulting from the deportation regime, these restrictive laws have ignited many to fight for immigrant rights and justice.

Comprehensive Immigration Reform: “Good” and “Bad” Immigrants in Key Debates

The early twenty-first century was thus a time of important advancement for the immigrant rights movement in the United States. However, as of 2012, a central goal of the movement—to achieve a far-reaching overhaul of the U.S. immigration regime—had not been achieved. In 2006 and 2007 Congress took up “comprehensive immigration reform” bills that combined strategies of immigration enforcement, legalization, and changes to the visa system, but no agreement was reached. With Comprehensive Immigration Reform on the agenda for President Obama’s second term in office, the goal will be to overcome the past and current deadlock between divergent interests to develop a unified plan to fix the system.

Calls for Comprehensive Immigration Reform (CIR) come from businesses, policymakers, and organizations representing a variety of distinct interests, including labor organizations, business owners, and immigrant rights advocates. The pro-CIR movement can be divided into two distinct political camps that use “good” and “bad” immigrant tropes to frame calls for reform: Immigration Pragmatists (IP) and Immigration Advocates (IA). While Immigration Pragmatists manipulate “good” and “bad” images to discern which immigrants are necessary for America’s growth as a superpower and which are expendable or prohibited, advocates tend to highlight “good” images of immigrants’ contri-

butions to American society and their capabilities of assimilating to American values. The lack of solidarity in the pro-CIR movement is evident in recent prominent and controversial policy debates over issues such as the STEM Jobs Act and E-Verify Exemptions. Although both IP and IA groups desire immigration reform (in contrast to Immigration Restrictionists (IR) who oppose reform), their goals are so sharply different that they often come up short in developing a comprehensive plan.

We define Immigration Pragmatists as groups, organizations, and policymakers who emphasize neoliberal ideals in order to find a middle ground between valorizing and vilifying immigrants. Among those of the pro-CIR platform, Pragmatists most often juxtapose “good” and “bad” images of immigrants in political debates in order to justify why some groups of immigrants have more value than others. Often, IP groups argue for immigration reform and legislation that benefit special interest groups, corporations, and U.S. consumers. While typically on the Republican Right, Pragmatists tend to avoid the hard-line cuts to immigration numbers across the board proposed by Immigration Restrictionists who lead the anti-CIR lobby. Instead, IP groups use “good” and “bad” immigrant tropes to pick and choose which groups will contribute to America’s continued status as a global economic superpower. By manipulating these images, Pragmatists attempt to avoid criticism for continuing to employ foreign workers despite high rates of U.S. unemployment. In the course of U.S. history, IP groups have been influential in supporting guest worker initiatives such as the Bracero Program, as well as policies to increase the distribution of visas to high-skilled immigrants. Rather than a blanket endorsement of all immigrants, Pragmatists often advocate specifically for those who appear to meet business interests (Dietrich 2012: 738).

The issue of increasing high-skilled immigrant visas and specifically, the proposed STEM Jobs Act (Science, Technology, Engineering, and Math), offers an example of a political debate in which the rhetoric of “good” and “bad” immigrants has been quite visible. Answering the call to retain and attract high-skilled immigrants in the STEM fields, the STEM Jobs Act (H.R. 6429) of 2012 was proposed by Judiciary Committee Chairman Lamar

Smith (R). The proposal was to reallocate the 55,000 green cards available through the Diversity Visa Lottery to foreign graduates from U.S. universities with advanced STEM degrees (Smith 2012). Anti-CIR Restrictionists oppose the bill, arguing that it would generate more competition for highly skilled American workers, and also allow sponsorship for the low-skilled family members of these immigrants to come to the United States. Immigration Pragmatists and Advocates have had a different response to the STEM Jobs Act. Immigration Pragmatists support this bill as they see it as beneficial for the economy, but caution against the migration of family members beyond the high-skilled visa recipients. Organizations and think tanks taking the IP stance praise the removal of the Diversity Visa Lottery and warn against the STEM Jobs Act clause allowing spouses and children of legal permanent residents admission to the United States during green card processing. One of their fears is that the family recruits will add to the less-desirable population who will rely on government resources. While there is no explicit racism detectable in this argument, the targeting of the low-skilled as undesirable immigrants reflects an ordering of humans that basically states those who are less educated are less worthy. Again, this suggests that the Immigration Pragmatist standpoint is not to do away with immigration, but rather to bring “good immigrants only” to strengthen the United States as a global superpower.

While Immigrant Advocates support the Pro-CIR proposal to provide visas to high-skilled immigrants, they disagree that the STEM visas should replace the existing Diversity Visa Lottery. The calls of Immigration Pragmatists to limit the potential for chain migration produced by STEM visas has also been a source of disagreement among those potential supporters of a comprehensive reform bill. Citing a 2012 report by the Information Technology Industry Council, the Partnership for a New American Economy, and the U.S. Chamber of Commerce, the Massachusetts Immigrant and Refugee Advocacy Coalition explains:

Immigrant STEM workers, in short, don’t “take American jobs”—they help build them. . . . We endorse these calls, with one critical caveat:

expansion of visas for skilled immigrants should not come at the expense of diversity visas or the traditional emphasis on family reunification, a feature of some of the proposed bills. This is not just a matter of equity: some of the same research cited above testifies to the economic contributions of immigrants at all levels of the U.S. workforce—not least in high-growth health care occupations. (Gross 2012)

Immigration Advocates challenge the IR rhetoric by counteracting the idea that immigrants take jobs by putting forth a narrative of “good” immigrants that create jobs. In a departure from IP claims that high-skilled visas should replace diversity lotteries and that there should be measures to curb the migration of low-skilled persons, IA groups highlight the work ethic of immigrants as well as the importance of family reunification as an American cultural principle in their calls for immigration reform. Ultimately, President Obama expressed opposition to the proposed STEM Jobs Act, citing his disagreement with the narrowness of the proposed reform, particularly the limits on visas for family members and the removal of the Diversity Visa program.⁸

In addition to debates about visas for the highly skilled, another hot topic in Comprehensive Immigration Reform has been the continued employment of undocumented immigrants by U.S. business owners. For Immigration Restrictionists, the depiction of illegal aliens as “bad” immigrants stealing jobs from deserving Americans has been particularly effective for organizing enforcement efforts to punish employers and the undocumented immigrants who work for them. In the early twenty-first century, a federal program called E-Verify has been proposed to stem the hiring of undocumented immigrants. Before the establishment of an electronic verification system for confirming the authorization of workers, companies were able to feign ignorance of the status of employees. IR proponents of E-Verify support the use of the program to not only reduce numbers of “bad immigrants” but to also chastise their employers. Neglecting the many contributions of immigrants to the United States, IR rhetoric emphasizes immigrants as dangerous criminals who hurt rather than help the United States:

The groups who oppose E-Verify do so because it works. Agriculture groups wish to continue employing illegal workers at a lower cost than U.S. citizens. However, they refuse to understand they are leaving Americans out of work in a time of high unemployment and providing cover and financing to transnational criminals and potential terrorists. (FAIR 2013)

While many hard-line Immigration Restrictionists applaud mandatory E-Verify implementation for businesses, Pro-CIR groups tend to react differently to the program. In their opposition to the E-Verify legislation, both Immigrants Advocates and Immigration Pragmatists emphasize its potential negative impacts on "good" legal immigrants, U.S. citizens and businesses. They identify potential problems of identity fraud as well as the costs for businesses and employers to implement the system and to replace workers who may be fired as a result of nonconfirmation through the E-Verify system. Also cited is the possible loss of the revenues generated by payroll taxes from undocumented workers who may begin to work "off the books" as a result of E-Verify (Fuller 2011; Rosenblum & Hoyt 2011; Wolgin 2011).

The political response to mandatory E-Verify has included demands that certain industries, specifically agriculture and domestic work, remain exempt from its requirements. While for Immigration Pragmatists these demands may be legitimized on instrumental grounds, for Immigration Restrictionists there can be no exceptions to the rule that employers be held accountable for the hiring of undocumented immigrant labor. Immigrant Advocates have focused on the issue of what the exemption implies for the continued exploitation of domestic and agricultural workers and their families. Groups supporting domestic workers' rights have cited the E-verify exemption to domestic work in their efforts to push for recognition of domestic work in fair labor laws. In doing so they have drawn on the imagery of "good immigrant workers" who are doing the crucial work of keeping American families afloat.

There is little doubt that the single most controversial feature of Comprehensive Immigration Reform proposals has been that

of legalization. In an era in which the illegal immigrant has been a particular target of nativist rhetoric, the idea of legalization has been an extremely controversial one. Under these conditions, immigrant rights advocates have focused their activism on a segment of the undocumented population that evokes the least controversy. These are unauthorized persons who came to the United States as children. Their circumstances disrupt the nativist imagery of the illegal immigrant as a self-conscious criminal. Rather, cultural notions of childhood innocence reinforce the idea that these persons are legitimate beneficiaries of legalization since they are unauthorized through no fault of their own.

The Development, Relief, and Education for Alien Minors (DREAM) Act was proposed in 2010 to grant legal status to certain unauthorized immigrants who entered the United States as children and had completed specified higher education or military service requirements (Chishti and Hipsman 2012). The Republican-controlled Senate ultimately blocked the bill. The issues of the DREAM Act received political attention once again in June 2012, however, when President Obama issued a directive to grant deferred legal action to certain unauthorized immigrants who were brought to the United States as children. While the directive did not guarantee citizenship or provide "amnesty," eligible individuals were able to request temporary relief from deportation proceedings and to apply for work authorization and drivers' licenses. To be decided on a case-by-case basis, the directive was also only to apply to those who met certain conditions, such as entering the United States before the age of sixteen, being enrolled in school, and having no criminal record.⁹ The Migration Policy Institute (MPI)¹⁰ estimated that up to 1.4 million people would qualify for relief under the terms of the directive, which was strongly supported by Latino/as.¹¹ With President Obama's re-election in 2012, many speculate that the DREAM Act will be included in the agenda for comprehensive immigration reform. Additionally, public opinion about undocumented immigrants appears to be shifting. In an exit poll from the 2012 presidential election, when asked about immigration, "Less than 3 in 10 voters said that most illegal immigrants working in the United States

should be deported, while nearly two-thirds said such people should be offered a chance to apply for legal status."¹²

Nativism and Race in the Era of Enforcement

The late twentieth and early twenty-first century era of immigration enforcement has been closely accompanied by the rise of a powerful nativist movement. The nativism of today draws on longstanding themes of protecting the American nation from infiltration by undesirable, unassimilable, and indeed violent foreign elements. But in accordance with color-blind racial ideology, contemporary nativism does not explicitly invoke race as a basis for exclusion from the United States. Instead, contemporary nativism has focused on the production of images of threat, specifically that of the illegal alien and the terrorist alien.

Historian Mae Ngai (2004) has famously described the illegal alien as an "impossible subject" . . . a person who cannot be and a problem that cannot be solved" (4–5). The dehumanizing effects of the illegal alien label stem in part from its ability to reduce those who fall into it to a single dimension. Thus those who are unauthorized are assumed to be criminals in general, engaged in a wide range of illegal activities. They have a natural inclination to criminality, one that is moreover not simply an individual failing, but a reflection of their origins and culture. Illegality then becomes a mechanism of racialization, as it is used to condemn entire groups, imputing natural difference and inferiority to them.

In the United States, it is Latino/as and especially Mexican Americans who have been the target of the illegal alien label. With Mexico often being treated as a "special case" in U.S. immigration policies, as noted earlier, Mexican immigrants have encountered "an especially adverse context of reception in comparison to other immigrant groups" (Telles and Ortiz 2008: 286). As Mary Romero writes, "Concern over immigration to the U.S. is inseparable from stereotyping Mexicans as illegal aliens and as criminal, foreign and the other" (2008: 28). Illegality becomes a singular lens by which to look at Mexican Americans and to see them as naturally different and inferior from other Americans. Under its

distorted gaze, a variety of conditions and circumstances can be taken as evidence of illegality. In *Entitled to Nothing*, Lisa Park analyzes the late 1990s California campaign against prenatal care services for immigrant mothers. She noted how a generalized notion of illegality informed the campaign, which portrayed immigrant women as having a propensity for fraud and unethically "'working' the system by having children and therefore undeserving of social services for themselves or their children" (2011:15).

Along with the "illegal alien" focus of immigration control, the notion of a "terrorist alien" has also developed. In reality, the boundaries between the two are not clear, as each may be evoked in concert with the other during processes of stigmatization. As we have described, in the aftermath of 9/11, Middle Eastern and Muslim Americans have been especially vulnerable to the charge of "terrorist alien," a particular target of immigration control efforts that are focused on terrorism threats. The label has served as a mechanism of their racialization—of a widespread attribution to them of naturalized inferiority. That is, reflecting their origins and culture, they have a natural inclination toward violence and terrorism.

The images of the "illegal alien" and "terrorist alien" have also been part of contemporary constructions of the "bad immigrant." Again, we argue that the bad immigrant's counterpoint of the good immigrant is emblematic of the values of the neoliberal global regime. The image is of professionals or highly skilled workers who represent a net gain for the United States in terms of human capital in the competitive global economy. He or she is entrepreneurial and self-sufficient—unlikely to make demands on a declining system of government safety nets and supports. The good immigrant then stands as an effective counterpoint to the bad immigrant. The condemnation of illegal aliens draws legitimacy from it. Those who portray unauthorized immigrants in dehumanizing ways and advocate punitive measures against them can simultaneously proclaim that they are not anti-immigrant or racist. It is just those immigrants who are unauthorized—defined by their illegality—who are the focus of their ire.

Conclusions: Immigration Policy and Racial Formation

Immigration policy and its developments are nation-building processes. It is a sphere in which questions of national culture, interests, and membership are negotiated and institutionalized. As we have seen in the course of this chapter, the debates and resulting policy outcomes are highly contested, reflecting deep divisions of society around these questions.

By their very nature, these issues are enmeshed in, and indeed inseparable from, the dynamics of the racial order. Thus, as we have seen, prevailing ideologies of scientific racism informed the passage of the 1924 National Origins Act, which attempted to restrict immigration to those coming from northern and western Europe. 1965 brought a shift away from these policies as the United States began to embrace the ideals of a "color-blind" society. Today we see the trace of race in immigration policy in more subtle and less clearly visible ways, intertwined as it is with notions of criminality and threats to national security.

But immigration policy has not just reflected the racial order; it has also shaped it. One way it does this is in how it influences the demographics of the country, which then change the context in which racial identities and boundaries are formulated and negotiated. For example, as analysts often mention, the 1965 Act opened the doors to a wide range of people from Africa, Asia, and Latin America, thereby changing the terrain on which race is negotiated. The black-white division, historically the central axis of race in the United States, has been called into question with these new groups who do not neatly fit into pre-existing categories. Also, the political debates of immigration have shaped racial discourse and ideologies. Among the most powerful consequences of the 1924 Act was how it brought scientific racism's vocabulary and concepts into popular culture. In the contemporary era, an increasingly punitive and visible immigration regime has served to racialize targeted groups. The institutional structure and practices of immigration, including those related to surveillance and control, also have consequences for the racial order.

As we have seen throughout this chapter, the history of U.S. immigration policy reveals an ongoing dialectic of labor market demands and nativism. We see an ongoing cycle in which these intersecting forces shape the development of immigration policy, which in turn informs the racialization of immigrant groups. Telles and Ortiz have described this cycle in their analysis of the Mexican American experience: "American capitalists' desire to quench its persistent thirst for cheap Mexican labor for a century, which is supported by the American state and enabled by Mexico's proximity and its large labor supply, can largely account for the persistent low status and ethnic retention of Mexican Americans" (2008: 285).

The active recruitment of labor from abroad is an integral part of U.S. history. In the next chapter we will explore immigrant experiences in the labor market, focusing on the relationship of these experiences to the race-immigration nexus.

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