

## Fences and Xenophobes

*Participants of a recent poll conducted on the issue of illegal immigrants in America wanted “tougher enforcement” of the law to keep them out. But the unprecedented gathering and marches of immigrants and their supporters across the country show unequivocally that there exist competing interests on the issue.*

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Among the many characterisations of America that have prevailed over a long period of time, one that is unlikely to be contested is of America as the quintessential land of immigrants. Every ethnic group, barring the native Americans who were decimated by conquest, disease, and outright extermination, has arrived in America from somewhere else, often from distant shores. The earliest to arrive were white Europeans, especially Anglo-Saxons, and the African slaves in whom they began to trade; and for very long a number of fictions were perpetuated, notably the idea that true-blood Americans were somehow white Americans, and that America was built on their labour. As Roland Barthes might have said, white Americans live in the realm of ex-nomination: they do not have to be named, much less, unlike Chinese-Americans, Japanese-Americans, or Italian-Americans, hyphenated. Identity politics is for everyone else, not for them; they do not have to prove their entitlement to America, it is merely theirs to profess and parade. Whatever the limitations of minority histories, they have at least admirably succeeded in establishing the fact that the labour of Africans, Chinese, and Mexicans, among many others, contributed immeasurably to the prosperity of America. White America, moreover, is shrinking: in California, a state which is critical to the US economy as it is to the shape of immigration reform, Latinos account for a third of the state's 36 million people, and they are projected to be the largest group by 2020. Even though the percentage of American-born Hispanics and Asians has grown rapidly, and the immigrant population of 11.5 per cent has not reached the peak of 15 per cent from 1900-2010, immigration continues to be the defining force in American society.

A widespread debate on immigration, being conducted in the US Congress,

schools, churches, community organisations, labour unions, and various media outlets is now roiling America, and many Americans are encountering, for the first time in over a generation, mass politics and the power of street theatre. Nearly every 20 years, some major immigration reform is put into place. In 1924, the entry of Asians into the US was prohibited; in 1942, the Bracero agreement, which lasted until 1964, was brokered between the Mexican and American governments, and 4.5 million Mexicans were brought into the US as temporary agricultural workers. The most sweeping reforms took place in 1965, when the Immigration and Nationality Services (INS) Act, which in its essence still governs American immigration policy, once again made it possible for Asians, including Indians, to emigrate to the US and introduced a quota for each country as well as preferential categories for classes of immigrants. The 1986 INS Act introduced an amnesty for illegal aliens; however, if it was intended to stem the tide of illegal immigrants, the legislation appears not to have succeeded. The 'bipartisan' Pew Hispanic Centre today estimates that there are 11 to 12 million illegal, or undocumented, immigrants in the US, or 5 per cent of the American workforce. Nearly a quarter of the American workforce in farming and agriculture is comprised of undocumented workers, who also occupy 17, 14 and 12 per cent of the workforce in cleaning, construction, and food preparation industries, respectively.

What, then, it is being asked, is to be done with these illegal immigrants? Should they be apprehended, fined, and then allowed to stay, and if so, in what capacity? If they are to be permitted to stay as permanent residents, who in due course might apply for citizenship, would it be an encouragement to others to risk illegal entry into the US? Or should they be repatriated to Mexico, Guatemala, and El Salvador, and indeed even to the

innumerable other countries from which they have, albeit in smaller numbers, arrived or been smuggled into the US? Should all undocumented workers be treated the same, as violators of the law, or are some, who have established social networks and inserted themselves into the fabric of neighbourhoods and communities, be entitled to special consideration? Would the legalisation of illegal immigrants constitute a diminishment of the regal sovereignty of law itself, or would it constitute an acknowledgement that law must be malleable to yet higher ends? On the one hand, American immigration law remains firmly committed to the idea of family reunification; on the other hand, the deportation of illegals, many of whom have family members who are now citizens or lawful residents of the US, would certainly tear apart many families.

### Operational Control of Borders

American lawmakers started weighing in on the question of immigration when the House of Representatives in December 2005 passed a bill (HR 4437), introduced by James Sensenbrenner (Republican, Wisconsin), that would make it a felony to enter the US illegally, and would even make it a felony to offer any assistance, such as food, clothing, shelter, medical assistance, and schooling, to an illegal immigrant. Known as the "Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005", its very name suggests what it shares in common with the various xenophobic measures, beginning with the Chinese Exclusion Act of 1882, that have marred the legal history of American immigration. The act calls for reinforced fencing along portions of the US-Mexico border and systematic surveillance so that the US can take "operational control" of the entire "land and maritime border" of the country.<sup>1</sup> In the present era of nations-state, the inviolability and sacredness of borders is all but taken for granted, and this legislation might appear to be quite unexceptionable. However, it is remarkable that in nearly four years, since the events of 9/11, border enforcement agents have not caught any terrorists illegally sneaking into the US, and it is now commonplace knowledge that virtually anyone who is now languishing in an American jail or overseas detention facility on charges of terrorism, entered the US legally.

What many American legislators would like to do, though they scarcely have the daring to state as much, is to “secure” the borders from all those who are viewed as critical of “the American way of life”, American foreign policy, the national security-state, or what Samuel Huntington, another jewel in Harvard’s crown of authoritarian didacts, has described as America’s “core culture” bequeathed by the 17th and 18th century settlers who “founded our nation.” “It was, after all”, Huntington writes unabashedly, “Anglo-Protestant culture, values, institutions, and the opportunities they created that attracted more immigrants to America than to all the rest of the world”.<sup>2</sup> Hispanics or Latinos cannot, in Huntington’s view, be assimilated into this “core culture”. His argument suggests, of course, that by ‘border’ a great deal more is meant than the physical lines that demarcate America from its neighbours and the rest of the world, and that though borders, especially outside the US, should not be allowed to impede the flow of goods or American multinational corporations, the desire of people to move without restrictions should never be accorded a status even remotely close to political reality. One of the Sensenbrenner Act’s most vociferous supporters, Representative Tom Tancredo, doubtless finding a hospitable venue for the expression of his sentiments on the “O’Reilly Factor”, an immensely popular television show that takes us into the pulse of Republican America, said: “We are seeing an invasion on our borders. It’s not immoral to secure our own borders”. His colleague and fellow traveller, Dana Rohrabacher (Republican, California), who is dismissive of the immigrants whose labour sustains California’s immense agricultural output, underscored the political nexus of jails (which constitute another kind of fencing, transforming a significant portion of the American population into outsiders in their own nation) and borders when he said, “Let the prisoners pick the fruits. We can do it without bringing in millions of foreigners” (*New York Times*, March 31, 2006, p A12). Once terrorists, illegal immigrants, and other transgressors, including those dissenters who have not been intimidated into self-censorship, are all viewed as part of a continuum, the descent into extreme authoritarianism may not be far away.

### Compromise Legislation

American lawmakers represent one perspective on the immigration debate, and the recent compromise legislation of April 6, which remains stalled in the Senate, suggests that there are some apparently

genuine differences between legislators. Derided by conservatives as a blanket amnesty for illegals, this legislation creates a guest-worker programme that would allow 3,25,000 workers into the country every year; undocumented workers who have been in the US for less than two years would be deported, while those who have lived in the US for two to five years would apply for a visa at a border crossing, and would eventually, over the course of several years, be able to file papers for permanent residency and, after an interval of another five years, citizenship. This compromise legislation, it has been argued, reflects more accurately the feeling of the American people. Perhaps nowhere among modern democratic systems do polls mean as much as they do in the US, and the most recent polls appear to reveal the popular sentiments captured alike in legislation and in a recent *New York Times* headline: “Illegal Immigrants Are Called Burden” (April 14, 2006, p A16). Nearly all Americans polled subscribed to the view that “tougher enforcement” was required to keep out illegal immigrants, though 63 per cent expressed their approval for a guest worker programme that would allow undocumented workers to work in the US legally on temporary visas. A similar number of people, 75 per cent, stated both that the government was not doing enough to deter illegal immigration into the country, and that illegal immigrants who had been in the US for at least five years, and had demonstrably met other conditions – a spoken knowledge of English, lack of a criminal record, and the payment of fines and taxes – should be given legal status.

If polls are the voice of the much-vaunted American “public”, the unprecedented gatherings of immigrants and their supporters suggest unequivocally that there are many publics, representing competing interests, in the American republic. A few million people, largely immigrants, took to the streets across American cities in March to voice their anger at the Sensenbrenner legislation which would have criminalised all undocumented workers. At least half a million gathered in Los Angeles on March 25, and 3,00,000 in Chicago two weeks earlier. Some politicians considered it an affront to the law of the land that illegal immigrants had openly massed together in public places and demanded rights; but all politicians, however shrill their anti-immigrant rhetoric, are alive to the fact that Hispanics constitute an increasingly significant electoral block. Not since the civil rights era has such street politics been witnessed in America, and anti-war demonstrations in 1991 and 2003 alike have been pale in

comparison. Not less impressively, 40,000 high school students, nearly all Hispanics, walked out of schools in an uncommon display of political awareness, reminiscent of the massive protests organised by the Mexican American Youth Organisation in 1968 that eventually led to the removal of the ban on the speaking of Spanish in schools (*Los Angeles Times*, March 28, 2006, p A1).

Whatever the differences between legislators, and however divided the American public might appear to be, an overwhelming consensus informs the so-called debate on immigration. Many supposed liberals, such as the economist and columnist Paul Krugman, have felt compelled to admit to the “uncomfortable facts about immigration” usually trumpeted by conservatives and call for more high-skilled immigration and substantially reduced low-skilled immigration (*New York Times*, March 27, p A23 and March 31, p A21). Nowhere in the press has the very distinction between “legal” and “illegal” been questioned at all. So long as European immigrants flooded America, everything was hunky-dory; but once they began to arrive from less “desirable” lands, the category of “illegal” was quick to follow.

Those people whose ancestors cheated native Americans of their land, when they had not simply exterminated them, should scarcely be in the position of determining who might enter the US and under what circumstances. Meanwhile, the “illegal immigrants” who have come out in huge numbers on American streets have performed an unusual and exemplary service which demands recognition from the entire country. At a time when the US is engaged, with very little opposition from the citizens of this enormously affluent country, in wars of occupation, operating illegal detention centres, and subjecting its own citizens to surveillance, the “illegal immigrants” have shown that political protest is not completely moribund. In having exercised the ultimate right of citizenship, they have shown that they are more deserving to be called citizens than those who would like to arrogate this privilege only to themselves. **EW**

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### Notes

- 1 For complete text, see [http://www.nilc.org/immlawpolicy/CIR/cir002.htm#Title\\_III](http://www.nilc.org/immlawpolicy/CIR/cir002.htm#Title_III)
- 2 See his article, ‘One Nation, Out of Many’, *One America* (September 2004), online at: [http://www.taemag.com/issues/articleid.18144/article\\_detail.asp](http://www.taemag.com/issues/articleid.18144/article_detail.asp). The arguments are elaborated in *Who Are We: The Challenges to America’s National Identity* (Simon and Schuster 2004).