GLOBAL MIGRATION

CHALLENGES IN THE TWENTY-FIRST CENTURY

EDITED BY
KAVITA R. KHORY

Global Migration

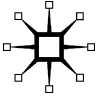*This page intentionally left blank*

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Introduction

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In country after country, the topic of immigration is provoking passionate debates over national identity, state sovereignty, and territorial integrity. We see how the unprecedented movement of people within and across national boundaries is severely testing the traditional connection between citizenship and territoriality. While capital, goods, and services now cross national borders easily, and information and ideas flow with far fewer impediments than ever before, human beings still cannot cross borders without scrutiny and, increasingly, resistance. Globalization and technology, on the one hand, enable travel and migration in extraordinary ways and offer new means and tools for mobilizing diasporas and social networks across national boundaries. Immigrants and their children, on the other hand, are being singled out as the source of new and deeper fears in declining welfare states, riven by economic crises and rising inequality. As the massacre in Norway in the summer of 2011, growing right-wing populism in Germany and Greece, and French and Italian fears of waves of refugees pouring in from the "Arab Spring" show, the elusive quest for absolute security, especially in times of great uncertainty and upheaval, invariably targets the "outsider," one who because of birth or circumstance cannot fully belong or lay claim to a state's resources. These examples of anti-immigrant sentiment and violence raise ethical questions and pose new policy dilemmas for scholars and policymakers alike.

Multidisciplinary in scope, this book brings together distinguished scholars of global migration. Drawing upon the authors' rich cross-regional knowledge and expertise, the chapters in this book introduce us to some of the most politically compelling issues related to migration and the opportunities and challenges it presents for twenty-first-century scholars, activists, and public officials. The volume is neither intended as an exhaustive survey of migration, nor is it devoted to a single facet of what, after all,

is a multidimensional topic. Rather, our aim is to offer different perspectives and insights into several contested areas in migration politics, such as climate-induced population movements, asylum policies and refugee resettlement, and the rights and responsibilities of citizenship. By mapping out the complex and shifting landscape of global migration and explaining its significance for individuals, states, and societies, the authors featured in this volume deepen our understanding of the contemporary relevance of migration and suggest possibilities for further study using a variety of methods and levels of analysis.

While each chapter reflects the author's field of inquiry and methods, together the volume makes a compelling argument for why forced and voluntary migrations are best understood in relation to broader developments in global politics, including economic crises, heightened concerns about human security, and the difficulties of immigrant settlement and integration in multicultural societies. Migration is a complexly layered process that intersects with some of the most vexing issues in international politics today, namely, human rights, development, and climate change. In order to understand and appreciate how the movement of people across boundaries affects receiving and sending countries and communities differently, the contributors situate migration—as process and experience—in specific historical, cultural, and political contexts.

Drawing from a variety of approaches and insights from political science, economics, and anthropology, the authors present a nuanced analysis of how states, societies, and individual migrants grapple with questions of identity, belonging, and citizenship in a world of growing inequality and uncertain status fueled by wars and violent conflict. Rejecting a conventional—and artificial—separation of domestic politics from international affairs, these chapters probe the power of domestic forces and interests in shaping national debates and immigration policies in local communities and regional contexts, from towns and state legislatures in the United States to the European Union, where supranational institutions are redefining state sovereignty and political authority. Political and economic forces (detailed below), challenge states, as mass migration tests European unity and models of regional governance.

Among the issues and themes explored in this volume, three in particular stand out: the political economy of migration; the nexus between migration and security; and the contested meaning of citizenship and modes of integration.

Though gender, as an analytical category, is not systematically addressed in the book, several authors analyze the experiences of women as migrants, asylum seekers, and citizens. In doing so, they alert us to the fact that aggregate data may obscure the distinct roles and experiences of women migrants, leading scholars and public officials to ignore gender bias when formulating and implementing policy and to overlook the contributions of the women themselves. Women now make up nearly half of the world's migrants. Whereas female and male migrants may share similar experiences related to national origin, ethnic identity, or class status, women often face different sorts of barriers and risks when migrating, for example, falling prey to sex trafficking or being severely abused while serving as domestic workers.

Migration is intrinsic to the functioning of labor markets, trade, foreign investment, and development. As a specific area of study, the political economy of migration covers a wide range of topics including the economic motivations for migration, the socioeconomic impact of immigration on destination countries and places of origin, the role of transnational diaspora networks in migrant settlement, integration, and entrepreneurship, and the transfer of remittances for development.

Shahrukh Khan, Karen Jacobsen, and James Hollifield explicitly analyze key issues in the political economy of migration. Khan explores the impact of emigration on developing economies, outlining strategies for minimizing the effects of a "brain drain" on lower income countries; Jacobsen analyzes why economic security is a crucial component in the process of refugee resettlement; and Hollifield assesses the need and prospects for multilateral regimes to regulate migration along the lines of those governing international trade and monetary policy.

Other contributors do not directly address problems of inequality, stratified labor markets, or austerity measures, but they too argue that the impact of economic forces—direct and indirect—on immigration politics and policies is unmistakable. For example, calls for more restrictive immigration and citizenship policies in the United States and Europe have intensified in the wake of a global economic crisis, rising unemployment, and deep cuts in public spending. Exploiting the fears of immigrants stealing American jobs and jeopardizing the welfare of citizens, right-wing politicians and officials in the United States have pushed for legislation that would give state and local law enforcement greater authority to target undocumented immigrants. The safety, security, and constitutional rights of undocumented

immigrants, as well as those of legal residents and citizens, are compromised as a result.

Shrinking public resources have compromised integration programs and citizenship policies as well. Even though governments in the Netherlands and Britain now require applicants to pass language and civic tests in order to qualify for citizenship, the British government, citing a budget shortfall, cut funding for English language classes in immigrant communities. By curtailing funding for civic training and language programs, the Cameron government closed off a path to incorporation and citizenship, while blaming immigrants for the failure of multiculturalism in Britain. At a security conference in Munich in February 2011, Prime Minister Cameron went so far as to claim that the failure of Europe's Muslims to absorb liberal values and assimilate into the cultures of host societies greatly increases the likelihood of terrorist attacks in the European Union.[1]

The nexus between migration and security is by no means a new one. In many ways, the association of migration with security—real and imagined—mirrors a broader transformation of the international system at the end of the Cold War and reflects a conceptual shift in our understanding of security and its implications for individuals, societies, and states. The myriad connections posited between migration and security, as contributors to this volume point out, range from the level of individual and human security to environmental and economic challenges that transcend state boundaries. As a rhetorical device, the migration-security nexus is deployed across the political spectrum to shape public opinion on issues, from climate change and migrant labor to multiculturalism and strategies for assimilation.

Politics, economics, and cultural forces set the context for how media and popular culture represent immigrants. But individual agency—often overlooked by political scientists and scholars of international relations—is responsible for framing public discourse and shaping attitudes toward immigrants.[2] For political elites seeking short-term electoral gains or policy advantage, the attacks on the United States on 9/11 and the bombings in Madrid and London in 2004 and 2005, for example, presented new opportunities for exploiting heightened suspicions and fear of migrants, especially those from Muslim-majority countries.

Regardless of the fact than none of the terrorists involved in 9/11 had actually immigrated to the United States, the "war on terror" turned immigration into a question of national security, leading many to believe that the "securitization" of migration is a direct outcome of 9/11.[3] But such claims do not hold up to historical scrutiny.

Examples in modern US and European history demonstrate that immigrants, depending on one's ethnic or national origin, have often been seen as threats to national security, especially during times of war. The internment during World War II of Japanese, among them many American citizens, is one such example. Depicting particular groups of migrants as threats to the national identity and social cohesion of modern states remains a familiar practice in the evolution of the international system and the formation of territorial states.

In this volume, security is conceptualized in two ways: one, as discourse, and two, as an analytical approach that guides the study of global migration.[4] In order to understand how security—a dynamic and contested concept—informs and shapes contemporary debates and immigration policies, we ask: Whose security is at stake? What are the consequences—sometimes unintended—of framing complex issues such as immigrant rights or refugee settlement as a security concern? Who benefits? How do depictions of immigrants as politically or culturally threatening affect the safety and livelihood of individuals and marginalized groups who may not have the resources to counter negative campaigns designed to sway public opinion?

Expanding the definition of security to include a wider range of actors and issues presents analytical challenges. But this does not deter the scholars featured in the volume from exploring why global problems like environmental degradation and human displacement are routinely classified as security threats.

In his chapter on "securitizing" climate-induced migration, Gregory White, for example, argues that linking climate-induced migration with state and societal security serves as a rationale for enacting harsh border control policies and restricting immigration from some areas of the developing world. Scholars and environmental activists originally linked climate change with security to mobilize public opinion and pressure policymakers to address potential humanitarian disasters related to climate change. But anti-immigration groups and public officials in Europe, for instance, deliberately conflate climate-induced migration with security, raising fears about large numbers of migrants fleeing from impoverished, drought-ridden regions of North Africa into Europe. Asserting that climate-induced migration constitutes a security threat begs the question of whose security is at risk.

In most cases, causal connections between climate change and refugee movements cannot be easily established. While recognizing the human consequences of environmental degradation, White cautions us against concluding, without sufficient evidence, that refugee flight is driven principally by climate change. In doing so, we may overlook

a broader range of socioeconomic and political factors that account for human displacement. Linking climate change and security to justify immigration control along Europe's borders, White believes, is particularly ironic, given the environmental impact over time of Europe's economic and industrial development and its high levels of energy consumption and emissions.

Jane Freedman and Karen Jacobsen offer a broader interpretation of security to include the safety and welfare of refugees and asylum seekers. Analyzing the gendered dimensions of Europe's asylum policies, Freedman calls for applying a more nuanced conception of security to women seeking asylum. While acknowledging common threats to human security, Freedman suggests that women and men will perceive and experience threats to their physical safety and well-being differently. Women's motivations for seeking asylum may, therefore, differ as well. Recognition of a more complex set of reasons for women seeking asylum also restores a sense of political agency, which can be diminished when women are forced to present themselves simply as "victims of 'barbaric' other cultures" for their claims to be taken seriously.

Freedman concludes that Europe's increasingly restrictive asylum policies since the early 1990s are driven by national security concerns and fears of migrants misusing asylum laws. As a consequence, protection for women, seeking asylum on the grounds of gender-related persecutions, is weakened. In this example, European officials, by privileging state security, are seen as threatening the fundamental rights and security of individual migrants.

Turning her attention to the challenges that forced migration poses for thinly stretched international organizations and relief agencies, Karen Jacobsen investigates the "economic vulnerability" of refugees in countries of first asylum in Africa and Asia and suggests ways in which refugees, through social networks and remittances transferred by ethnic kin, could gain a measure of economic security in situations of protracted conflict. International agencies, she believes, underutilize refugees' human and social capital when developing durable solutions for resettlement. Drawing on a number of interviews conducted with Sudanese refugees in Cairo, she documents the structural constraints and economic opportunities offered by host states and societies, the limits of humanitarian aid in situations of protracted conflict, and the livelihood strategies adopted by refugees themselves. Jacobsen concludes the chapter by looking at how innovative mobile communications technology is facilitating remittance transfers and shaping informal economic transactions in unprecedented ways.

Mitigating economic insecurity among refugees is a worthy goal, though promoting refugee self-reliance runs the risk of further reducing the aid and assistance offered by international organizations and nongovernmental agencies. Depending on the form of economic enterprise, schemes for self-reliance may heighten tensions between refugees and local populations competing over scarce resources.

Shahrukh Rafi Khan, too, is interested in the study of ethnic kin and diaspora networks, but for different reasons. His principal concern, as an economist, is how emigrant organizations, by contributing capital, technology, and professional skills to home states, might mitigate the negative effects of a "brain drain" in lower income countries. Situating his analysis in the broader migration and development literature, Khan looks at the growing salience of diasporas in the political economy of low-income countries, and proposes several mechanisms to benefit states faced with an exodus of highly educated individuals. Networks of highly skilled individuals and organizations, in Khan's view, have the capacity to mobilize and transfer resources for development.

The impact of financial remittances on growth and poverty reduction, however, remains a contentious issue, and, as Khan points out, there are trade-offs between remittance flows and the loss of highly skilled workers.[5] But Khan believes that governments of lower income countries could do a lot more to attract diaspora investment and benefit from their knowledge and technical expertise. At a time when highly skilled professionals face fewer barriers to entry and employment in developed economies and move more freely than workers with less education and fewer technical skills, Khan's proposals merit serious consideration.

Debates on integration, among the most contentious in Europe and the United States, reveal the hopes and fears of host societies and immigrants around questions of collective identities, national ideologies, and the rights and responsibilities of citizenship.[6] Frustrations over economic austerity, social pressures, and governmental ineptitude in Europe have coalesced into an anti-immigrant politics that identifies diversity and difference as the principal sources of insecurity and rejects the multicultural reality of most European societies today.

From Prime Minister David Cameron to former president Sarkozy of France and Chancellor Angela Merkel of Germany, European leaders see Islam, despite its many schisms and culturally diverse followers, as the single most prominent symbol of Muslim identity—an identity they perceive as homogeneous, transnational in scope, and deeply resistant to assimilation.

Casting immigrants as security threats is a longstanding practice among state and nonstate actors in Europe and elsewhere. What is particularly striking, however, is the fact that virulent anti-Muslim propaganda has become more acceptable in mainstream European politics since 9/11. In several instances, centrist and left-leaning politicians in France and Germany have adopted the extreme right's anti-Muslim rhetoric, branding second- and third-generation immigrants as culturally alien, threatening the fundamental values and national identities of European states. The "mainstreaming of Islamophobia," though far more complex than simply a reaction to 9/11, as some have claimed, suggests that appealing to anti-Muslim sentiments, as a strategy for mobilizing public support, extends well beyond the realm of right-wing politics.[7] By singling out Muslims specifically, and immigrants more generally, politicians cleverly mask and obscure the deeper structural problems of poverty, inequality, and systematic discrimination that impede meaningful integration into European societies. But the question of why Muslims have become the target of anti-immigrant politics across Europe remains a particularly thorny one for analysts of the EU.

Incorporating new comers into long-established societies, bound by shared values and norms, is a dynamic and interactive process based on reciprocity. But when migration and security are linked in facile ways, the onus of incorporation falls entirely on immigrants, and any notion of reciprocity, or mutual responsibility, is largely ignored.

The challenge of integrating diverse communities—as seen through the prism of European laws and institutions—is the topic of Erik Bleich's chapter on the Danish cartoon controversy. Examining the lawsuits filed by Muslim clerics claiming that the cartoons qualified as "hate speech," Bleich asks why so few Europeans supported the lawsuits. Did the lawsuits fall outside of the bounds of European legal norms and precedents? Was the outrage against *Jyllands-Posten*, the newspaper that published the cartoons, further evidence of Muslims rejecting liberal values like the freedom of speech? Though the Muslim clerics' actions conformed to the norms and laws set by European and Danish courts, the Danish cartoon controversy illustrates the tension between European societies and their heterogeneous Muslim populations. It raises questions too about how liberal democracies can best inculcate and preserve values, like the freedom of speech, while simultaneously promoting a political culture that values inclusion and respect.

Since 9/11 Muslims in the United States, too, have been treated with suspicion and subjected to a great deal of scrutiny. But anti-immigration

groups, long before 9/11, targeted Hispanic populations, especially in border-states like Arizona and Texas. Echoing earlier examples of nativist impulses in American politics, Samuel Huntington, most famously, warned in "The Hispanic Challenge" that by not assimilating into "mainstream U.S. culture," Hispanic immigrants "threaten to divide the United States into two peoples, two cultures, and two languages." Though Huntington accused Hispanics of rejecting "the Anglo-Protestant values that built the American dream," he believed the immigrants' Spanish language, not their religion, posed a more serious threat to "traditional American identity."[8]

Turning to the United States, Caroline Brettell explores civic engagement as a form of political belonging and incorporation. A sense of belonging, she argues, is much more than simply adopting formal citizenship or possessing a passport. The real work of immigrant incorporation takes place at multiple sites of civic engagement, extending from community organizations and educational institutions to the workforce, professional organizations, and labor unions. Drawing from ethnographic data, she chronicles the lives of first-generation Indian women involved in civic organizations and service volunteerism in the Dallas-Forth Worth area. A sense of belonging and the meaning of citizenship for individual immigrants, we learn from Brettell, is formed through membership in local and community organizations and informal relationships—a process that macro-level studies of integration or immigration policy do not address adequately.

Brettell's finely detailed study makes two important contributions. First, it demonstrates the power of individual agency, which is easily obscured in aggregate studies of immigrant groups; and two, it suggests that integration is very much a lived experience, affecting the day-to-day lives of immigrants and citizens. Public officials and legislators, though, often underestimate the importance of local interactions, social rituals, and civic engagement for shaping public perceptions and attitudes toward immigrants and creating opportunities and mechanisms for integration.

As several authors point out, immigration has long been a high priority issue for American and European governments and politicians. From recruiting or retrenching guest workers to border control and visa regimes, enduring concerns around questions of identity, political community, and power shape citizenship laws and immigration policies. As immigration impinges on almost every sector of society, efforts at reconciling incompatible goals and satisfying competing interests in a democratic polity, Tichenor argues, produce at best a series of compromises among policymakers and key stakeholders.

Tracing the broad contours of US immigration policy from the 1970s onward, Daniel Tichenor asks: "Why has major immigration reform proven so illusive in recent decades?" He argues that neither party lines nor conservative or liberal values fully explain the legislative battles and failed initiatives at comprehensive reform. The answer, rather, may be found in global and local economic and social conditions, leading to "strange alliances" of labor and border hawks on the one hand, and free-market advocates with "cosmopolitans," on the other. These coalitions of powerful interests and constituencies reflect both the constraints and opportunities of a global economy and the exigencies of American politics. Tackling the morass of US immigration policy today, Tichenor reminds us, is impossible without first understanding the public debates and legislative battles over immigration and citizenship that have shaped American identity and politics throughout the nation's history. Tichenor's chapter, most of all, demonstrates the influential role of substate actors in defining and shaping the immigration policies of a major international power.

Declining public confidence in the ability of both Republicans and Democrats to formulate an effective and comprehensive immigration policy that takes into account both the socioeconomic impact of immigration and the human rights and civil liberties of immigrants has prompted a variety of state and local initiatives, including some that violate the federal government's constitutional authority over citizenship laws and enforcement. For example, at least five states, bypassing the federal government, have introduced measures to deny citizenship to children born in the United States to undocumented parents.[9]

Without a common set of principles, institutions, and mechanisms for governing migration, addressing the pressures and demands of human mobility at the international level is even more daunting. Despite the obvious fact that states, no matter how powerful or technologically savvy, cannot unilaterally control migration, or refugee flows in times of conflict, governments, in most cases, are reluctant to cede authority to supranational organizations for border control and immigration laws.

For the twenty-first-century state, according to James Hollifield, the "regulation of international migration is as important as providing for the security of the state and the economic well-being of the population." From the perspective of a political economist, Hollifield asks why states are willing to cooperate on transboundary issues such as trade and financial regulation, but not on issues related to migration. States, in his view, are contending with the

"liberal paradox": economic forces are pushing for greater open-ness, while security concerns and political forces are pushing toward greater closure.

In order to overcome the obvious barriers to international coop-eration, Hollifield proposes that states consider migration as a "public good." The objective would be to encourage governments to reevaluate the costs and benefits of migration, identify common interests, and develop multilateral principles and organizations. The self-interest of states and the sovereign right to control territory, as Hollifield admits, remain the most serious obstacles to forming inter-national norms and institutions for regulating migration. He suggests that regional arrangements, along the lines of the EU, may be more feasible in the short run. The EU's functional approach, emphasizing incremental steps toward building cooperation among member states, could inform and guide policymakers working jointly to address socioeconomic pressures and opportunities created by human mobil-ity beyond Europe.[10]

Certainly, the EU offers important lessons for advancing multilat-eralism in other regions of the world. But replicating the European experience, distinguished by open borders between member states, is far more complicated among developing countries, or in regions of conflict, where most forced and voluntary migration takes place. The formal and legal categories and structures favored by Europeans today may not serve the needs of local populations in areas such as West Africa, where endemic conflicts, poverty, and demographic pressures drive migration across states and territorial boundaries that have been shaped by colonial forces and contemporary forms of globalization. The EU model, as Hollifield notes, assumes economic parity and a comparable level of political development among member states—conditions that are largely missing in many other regions. Despite intra-EU tensions over immigration and refugee policies,[11] we see that bilateral or multilateral agreements on border control, visa poli-cies, or refugee rights are more likely to succeed when governments not only share a consensus on common problems but also have the capacity and will to address them collectively.

The problem of collective action seems even more acute in the absence of a common understanding of what governance means in the context of international migration, and specifically, how it translates into policy and practice. In an effort to bring some clarity to ongo-ing policy debates, several scholars—Alexander Betts and Kathleen Newland, among them—have argued in favor of alternative frame-works and greater conceptual precision when analyzing and assessing

institutional norms and structures for governing international migration.[12] Skeptical about the short-term prospects for substantive interstate agreements, Newland, for example, proposes the alternative concept of a "global mobility regime," one that includes nonstate actors. Widening the circle of players to include nongovernmental organizations and immigrant advocacy groups opens up possibilities for cooperation and reform beyond the limits of state-centric models. Such initiatives, though important for advancing global governance, may not always lead to more progressive politics favoring migrant rights, justice, and equality.

Whether migration can—or even should be—regulated globally remains an open question for scholars and policymakers alike. For some critics, the agenda and interests of advanced industrial states and powerful constituencies, including major corporations, drive various proposals for regulatory regimes.[13] When seen through the lens of global inequality, along a North-South axis, frameworks for controlling migration may appear to be just another mechanism for exploiting labor and further impoverishing some areas of the world, while wealthier states and societies benefit from more restrictive and selective immigration policies. Reducing diverse forms and patterns of human mobility—and its control—to the level of a north-south power dynamic, however, obscures inequality within societies shaped by global capital, and ignores the marginal status and systematic exploitation of migrant labor in the so-called developing world—a widespread practice in the Persian Gulf states, for example. Equally important, Ronaldo Munck warns us, is to not fall into the trap of believing that migration, for the most part, is essentially a problem of global governance.[14] Doing so privileges the interests of states, especially powerful ones, while negating the human dimensions of migration and trivializing the risks migrants face at different stages of their journeys and settlement.

Interestingly, the sharpest distinction "between haves and have-nots," Aristide Zolberg believes, is one that divides "those who can move internationally without visas and those who cannot." In his provocatively titled chapter, "Why Not the Whole World? Ethical Dilemmas of Immigration Policy," Zolberg challenges us to imagine a world free perhaps of the stigma and constraints of one's nationality or passport. Comparing and contrasting contemporary trends in international migration with historical precedents, Zolberg calls for a normative evaluation of the immigration policies of advanced industrial states. Tracing the origins of increasingly restrictive immigration policies in Europe and the United States to the latter part of

the nineteenth century, Zolberg identifies several key factors—economic, technological, and demographic, among them—that thrust migration to the top of the political agenda on both sides of the Atlantic.

Ideas of cultural homogeneity, national identity, and racial purity, rooted in the history of the modern state and colonialism, remind us of the powerful precedents for recent debates around cultural integration and assimilation, identification documents and technologies, and border security. Historical precedents, too, alert us to the potential danger of resurgent "nativism," already visible in many parts of Europe and, to a lesser extent, in the United States. Acknowledging that "unlimited" immigration could be hazardous for host societies as well as immigrants themselves, Zolberg, nonetheless, argues that "those who would restrict immigration assume the burden of proof regarding the probable nefarious consequences" of legal admission and, ultimately, citizenship. The ethical choices Zolberg poses for liberal democracies wrestling with immigration in the twenty-first century, particularly the criteria for admission, will likely stimulate much discussion among scholars and policymakers alike.

Notes

1. "PM's Speech at Munich Security Conference," February 5, 2011. http://www.number10.gov.uk/news/speeches-and-transcripts/2011/
2. A notable exception is Guild 2009. Combining political sociology with key concepts in international relations, Guild presents an insightful analysis of the relationship of migration and security from the perspective of individual actors.
3. For a brief description of how the "war on terror" has shaped discussions on migration and security, see Castles and Miller 2009, 217–220.
4. For a summary of different disciplinary approaches to the study of migration and security, see Huysmans and Squire 2009.
5. Two noteworthy monographs examine the relationship between migration and development from different perspectives. Divesh Kapur (2010) examines in particular the cost and benefits of Indian emigration and offers a fairly positive assessment of the contributions of immigrants to home and host countries. Schiller and Faist's volume, in contrast, is more critical of the neoliberal assumptions driving the development agenda, specifically in relation to migration and the policies of international agencies and donor countries.
6. For several excellent case studies on integration policies in Europe and the United States, see de Appollonia and Reich 2008.
7. Hockenos 2011, 22–26.

8. Huntington 2004, 30. For an insightful comparison of the role of religion and language in immigration politics and national identity in the United States and Europe, see Zolberg and Litt Woon 1999, 5–38.
9. Chishti and Bergernon 2011.
10. On the EU's feasibility as an institutional model for governing migration, see Newland 2010.
11. In a recent example of disputes over immigration and border control, Italy and France called for reinstating internal border controls, among other measures, to limit the arrival of refugees and immigrants from North Africa and the Mediterranean. While opposing restrictions on free travel within the EU, Germany and Sweden also rejected Italy's demand for a more equitable distribution of immigrants among member states and to share the burden of resettlement. Strong differences of opinion about whether to revise the Schengen agreement in light of recent events, specifically the "Arab Spring" in 2011, suggests that national interests and priorities, despite a history of cooperation, take precedence over collective action and burden-sharing, especially in times of crisis. Traynor and Hooper 2011.
12. Betts 2008; Newland 2010.
13. See, for example, Glick-Schiller and Faist 2010.
14. Munck 2008.

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1

The "Securitization" of Climate-Induced Migration

Gregory White

> The consequences of climate change will be found, and are being found now around the world. New climate conditions will drive human beings to move in ever larger numbers, seeking food, water, shelter and work. No region will be immune. Climate refugees will increasingly cross our own borders. The stress of changes in the environment will further weaken marginal states. Failing states will incubate extremism. In South Asia, the melting of Himalayan glaciers jeopardizes fresh water supplies for more than one billion human beings. . . . All of this is just the foretaste of a bitter cup from which we can expect to drink should we fail to address, urgently, the threats posed by climate change to our national security.
>
> —Vice Admiral Lee Gunn (US Navy, Retired)[1]

Over the past decade, North Atlantic security officials have become increasingly preoccupied with climate change.[2] This is not surprising. After all, climate change will likely prompt significant geopolitical competition as countries secure access to oil and natural gas, prevent food insecurities, and even cope with strategic challenges presented by the opening of Arctic sea routes and rising seas.

Yet beginning in the mid-1900s, security officials began to pay increased attention to an additional dimension of climate change: the enhanced potential for migratory flows to increase because of gradual climate degradation. In a world with warmer temperatures and changing precipitation patterns, it is exceedingly likely that migration and population displacement will further accelerate because of climate change. Invaluable analyses have already examined climate-induced migration (CIM) (Adamo 2008; Warner et al. 2009; Perch-Nielsen

et al. 2008). The labels used to describe the phenomenon—climate migration, environmental migration, climate refugees, and even "climigration"—have different political and analytical effects and are fascinating to examine in their own right. Even with the methodological and terminological challenges (discussed further below), the evidence is abundant that a combination of rising sea levels, increasing temperatures, and changing precipitation patterns will quicken the pace of CIM in the decades to come.

This chapter seeks to examine critically the category of climate-induced migrants and assess its implications for borders and security.[3] It proceeds first by examining the evolution of discourses associated with environmental security, climate security, and migration security. It then turns to the contested nature of CIM and the ways in which it has emerged in recent years. Rather than resolving the disputes concerning definitions and measurements, the argument is that the uncertainty itself merits engagement because of the political uses to which CIM has been and will continue to be deployed.

In other words, CIM poses political implications. North Atlantic countries have dramatically enhanced border security efforts in the 1990s and 2000s. The rationales for such efforts have been complicated mixes of economic, social, and security-oriented imperatives. The reasons differ depending on the context and the argument, but admixing the three rationales together, one might hear: "Immigrants take our jobs, *they* are different than *we* are, and they have terrorist or criminal intentions."

As the past decade wore on, climate security was increasingly invoked as a fourth justification for robust border efforts. This took on the form of alarm about an anticipated growth in the number of climate refugees in the already existing mixed flows of migrants. The authors of alarmed analyses are not always thinking in terms of securing borders. Yet officials whose job it is to anticipate threats to security are doing so. The alarm about climate-induced migration provides an additional rationale for interdiction efforts on the part of militaries and border patrols. For example, the US National Intelligence Council issued a National Intelligence Estimate in June 2008 on the national security implications of climate change, highlighting the anticipated threat of CIM to the United States and its allies.[4] Similarly, in 2009 US Senators John Kerry (D-MA) and Barbara Boxer (D-CA) introduced S. 1733, an energy and climate change security bill entitled "Clean Energy Jobs and American Power Act." The bill directly invoked CIM as a security concern. Finally, the 2008

National Defense Authorization Act required the US Department of
Defense to include climate change in its 2010 Quadrennial Defense
Review (QDR). The QDR emphasizes CIM as a security threat to
a considerable extent. For their part, European officials regularly
express anxieties about augmented flows of migrants seeking to reach
Europe from the south and east, with climate change increasingly
invoked as a "threat multiplier." The bottom line: climate change
is increasingly joining the other logics as rationales for immigration
security.

The irony is that it is the industrialized countries that have contrib-
uted the most to climate change through energy consumption and
emissions. An additional, deeper irony is securitizing climate-induced
migration does little to actually solve the problems that will emerge
from anthropogenic climate change. Rather than devoting efforts
to mitigate emissions—or pursuing measures to adapt to the impact
of climate change on populations around the world—a securitized
response is only a short-term calculus to placate anxious elector-
ates. "Getting tough"—that is, responding in a militarized fashion
to CIM—is far easier politically than implementing policy efforts
to mitigate the emission of greenhouse gases. "Climate refugees"
is an easily invoked specter that ties into a citizenry's deepest fears
about climate change. One might ultimately become resigned to the
inevitability of warmer temperatures, harsher precipitation patterns,
floods, droughts, pests, blighted crops, and so on. Yet droves of peo-
ple invading a country? Immigrants and refugees streaming toward
"our" border? That fear is hard to bear and easily mobilized. At best,
one might have a caring, charitable view toward people seeking to
cross forbidding borders; care-oriented NGOs and religious groups
often display this impulse in the American Southwest or in Europe's
southern Mediterranean regions. Yet, more common is the view that
outsiders are a threat to security, especially "societal security." They
need to be kept out at all costs.

The injection of security imperatives into climate-induced migra-
tion is an unethical and unworkable overreaction. Not only does it
penalize people who may be prompted to move toward international
borders because of changes in the climate they did not cause, but
it also sets in motion a "*CIM security dilemma*." In other words,
with the ostensible securitization of each border, responsibility for
contending with climate-induced migration is reassigned onto adja-
cent or even far-flung borders of "transit states" (Kernerman 2008;
Lutterbeck 2009). The result is a successive *transfer of obligation*

onto another part of the border, perhaps another country, even other regions of the globe.

THE MERGER OF ENVIRONMENTAL SECURITY AND MIGRATION SECURITY

The evidence is compelling that in the years to come climate change will deepen. The impact of climate change has been and will be distinctive in different regions of the world. In regions of Sahelian and sub-Saharan Africa, it will prompt less precipitation and warmer temperatures over wider areas. These are the regions between the equator and the descending portions of the Hadley circulation cells associated with 30° latitude North and South—that is, where the world's great deserts are located. Low-lying islands and coastal communities in the Indian and Pacific Oceans will experience more frequent flooding and the salinization of groundwater. People in South Asia, especially in Bangladesh and Myanmar, will experience ever worse inundations and the disappearance of livable land.

Humans are innovative creatures who adapt to a broad spectrum of inhospitable climates, and societies often remain in place in harsh circumstances by devising methods of acclimatization. And, as this analysis eschews an alarmist perspective on CIM, it would not do to invoke hordes of migrants streaming north. Yet as movement is also a form of adaptation, it is reasonable to conclude that migratory pressures will increase.

If there is good news to be had, it is that governments are taking climate change seriously. With varying degrees of commitment, European Union member countries have done so for years, stretching back to the 1992 United Nations Conference on Environment and Development (UNCED, known as the Earth Summit or the Rio Summit). Through the last two decades, the EU has been aggressive in its support for the Kyoto Protocol, and member countries are often innovative leaders in fostering technological innovation on energy policy and mitigation efforts—as Holland, Denmark, and Germany demonstrate with respect to wind power.

As for the United States, during the 1990s environmental advocates typically viewed the Clinton-Gore administration's efforts as dismayingly insufficient. This criticism lasted until January 20, 2001, and the inauguration of the Bush-Cheney administration. In June 2001, the United States formally withdrew from the Kyoto Protocol. As discussed below, the Bush-Cheney administration's opposition to environmental causes and, specifically, climate change mitigation

began to soften somewhat later in its second term, although this is more likely associated with pressures from a Democratic-controlled Congress after the November 2006 elections. Moreover, public consciousness began to change by 2007, in part because of the release of former US vice president Al Gore's *An Inconvenient Truth*, its receipt of an Oscar Award for best documentary film, and the joint awarding of a Nobel Peace Prize to Gore and the Intergovernmental Panel on Climate Change (IPCC). The IPCC also published its *Fourth Assessment Report* in November 2007, following the UK Government's Stern Report in late 2006 (Solomon et al. 2007). As Dabelko notes, using a droll euphemism given the precipitous decline in the home delivery of newspapers, "climate change has become an above-the-fold issue in the last few years" (2009a).

"Climate skeptics" or "climate deniers" persevere, of course. Their persistence is important to examine, and their political heft is significant. At the same time, full engagement with climate skeptics is beyond the scope of this analysis. What is evident, above all, is that despite the noise made by climate skeptics or deniers, there is an enhanced effort on the part of governments and policymakers to formulate solutions concerning climate change. More than that, climate concerns are now mainstreamed within conventional political, military, and economic institutions such that there is an emphasis on "energy security" and broader notions of security challenges posed by climate change. Rush Limbaugh, Glenn Beck, and Senator James Inhoffe may think that climate change is a hoax. As demonstrated below, however, US military and intelligence officials certainly do not. As Dabelko points out, "[This] should not be a surprise. Security actors, like the insurance industry, are in the game of assessing risk, and the message coming from scientists is that climate change poses many hazards."[5] Security officials would not be doing their jobs if they were not examining prospective risks.

Security, Environmental Security, and Environmental Conflict

How does one understand the powerful notion of *security*? Invoked in so many contexts and operating on so many levels, security is certainly a master noun of political discourse. For political philosophy and theories about international relations, state security is at the heart of Thucydides' "Melian Dialogue" from the *History of the Peloponnesian Wars*, Machiavelli's *The Prince*, and Hobbes' *Leviathan*. Yet Levy's trenchant critique of the environmental security literature in 1995

remains salient. His primary criticism was that for all the preoccupation with environmental security, scholars rarely stopped to offer basic definitions.

To begin, then, security is *the condition of being protected from threat and risk and avoiding anxiety stemming from a perceived danger.* The condition of being secure, then, can operate on many levels: individual, familial, communal, national. Maintaining security also requires a vigilance that must strike a balance between complete security and a *modus vivendi* that is undesirable. If all pursue an extreme form of security, it can broach a "security dilemma" that spirals out of control and leads to greater insecurity. Most tragically, an individual pursuit of security can lead to one's own harm; a loaded gun in an upstairs drawer can lead to a tragic accident.

At the level of the state, the traditional texts in the twentieth-century field of international relations tend to offer vague and circular reasoning in proffering definitions. Prior to the end of the Cold War in the late 1980s, security was invariably crafted as military in orientation, focused on securing a national territory from the external threat of a conventional or nuclear military attack (Morgenthau 1960; Walt 1991). The resultant "security dilemma," first articulated by Herz in 1950, occurs because one state's military preparation is perceived as a threat to other states (Mersheimer 2001, 36). In a state system characterized by anarchy, it is necessary to pursue defensive preparation and the construction of a balance of power to thwart the emergence of a hegemonic power of irresponsible and coercive power. Yet this can make matters worse, as an arms race between gangs or countries illustrate.

In addition to the imprecision and inclination toward tautology and circularity—that is, security is the absence of a military threat to be secured by pursuing military preparedness—the traditional military notion was insufficient when considering environmental, epidemiological, or other potential threats to a country. For example, concerns with *economic security* became more salient in the aftermath of the oil shocks in the 1970s, the perceived decline of US hegemony, and the threat to US hegemonic stability (Kindleberger 1973). This also encompasses *societal security*, the emphasis of the Copenhagen School on the perception that a society's distinct cultural and historical identity is being threatened by outside forces (Heisler and Laton-Henry 1993). Pursuing "security" in this context is a constructed process that facilitates the reinforcement of the sense of self as distinct from the other.

What is held in common in these different dimensions is the use of security as a discourse, a speech act that is articulated by an authority

and that is heard by an audience that is, *presumably*, unaware of the risk. Articulating something as a security concern, therefore, involves convincing oneself and an audience that a threat exists and that it must be met. In its demagogic form, security is pitched as something the speaker alone understands as necessary, as well as other like-minded individuals only if they open their ears and eyes.

In subtler and less obsessive forms, security discourse is often pitched as a sober assessment of likely risks, with confident assertions that the threat will be met. "Securitization" is a process, then, the active practice of identifying a threat, specifying its character, tapping into a "social imaginary" of fear, and crafting a response that, presumably, is robust and effective in enhancing security (Dalby 2009). How authority or the responsible power responds to a threat is crucial (Elbe 2006).

What, then, to make of *environmental security*? In the aftermath of the Cold War and the turn to an anticipated New World Order, scholars and policymakers increasingly pointed to the close connection between environmental concerns and national security. Depending on a policymaker's political position or a scholar's research ambit, framing environmental issues as security concerns was sometimes cast as a means of getting attention from decision makers and mobilizing resources. After all, if it is a security concern, then it is a matter of "high politics" that requires immediate and full response.

The problem with more extreme forms of this effort is that casting the environment as a security threat is too blunt and fails to distinguish between which environmental concerns are genuine threats. Further, the state's powerful security apparatuses might be the last things that environmentalists would want to focus on environmental issues. Given the already high ecological costs of military activity—not to mention the military's penchant for secrecy and closely guarded intelligence—the security apparatuses would likely cause more trouble than good and would be ultimately unaccountable (Deudney 1990).

By the middle part of the 1990s, environmental security was treated more broadly than "mere" military force and a focus on national security. A less statist orientation emerged with the 1994 United Nations Development Program report outlining different dimensions of security such as economic, food, health, political, personal, and so on. In many ways, it was an appealing discourse because it emphasized the challenges of environmental degradation for all human beings in society. It also stressed, among other things, the importance of lessening high consumption patterns and reducing population growth. Finally, it focused on long-term optics rather than short-term fixes. It was

much less state-centric in its orientation, focused more on a societal and individual level in searching for security from societal threats.

Whether this risks making security so all-encompassing as to be meaningless is open to debate. One might argue whether everything is a security threat; if yes, it becomes useless as an analytic category. Others, however, suggest that if environmental security is coupled with a specification about the particular risk at hand, then it can be a valuable means of framing debates beyond narrow, state-centric concerns. As treated more systematically below, what is striking in recent years is the degree to which environmental concerns have become much more accepted as a security concern, in contrast to the reluctance characteristic of the 1990s.

After September 11, there has been a palpable increase in the focus on *environmental conflict*, a deeper step within the environmental security rubric. It is almost as if environmental security has become inadequate as a means of mobilizing policymakers and electorates. Environmental conflict as a discourse, by contrast, has as its "central focus the possibility that groups within society will engage in violent conflict as natural resource stocks diminish due to environmental degradation" (Detraz and Betsill 2009). In addition, environmental conflict frameworks are much more statist; they often look to the central role of the state and its security apparatus in providing a narrower conception of security. In many instances, the state's provision of security can often be a narrower security for the state, not for societal actors; the situation at hand can be exacerbated and the environment made worse.

In the twenty years since the end of the Cold War, there has been an intriguing evolution concerning climate change. Initially, the preoccupation with scarcity and environmental issues prompting conflict focused on issues such as fisheries, ozone depletion, and loss of agricultural land and forests (Homer-Dixon 1994). Climate change was present as a concern, of course. After all, it was recognized as a crucial issue in the 1970s and 1980s, and it provided the crucial backdrop to the 1992 UNCED in Rio. Still, it was less salient as an issue. By the mid-2000s, however, scholars—and, as demonstrated below, security officials—examined the connections between climate change and security (Nordas and Gleditsch 2007). Climate change became a "threat multiplier."

Still, before turning to discussing the ways in which climate-induced migration knits together environmental conflict and the securitization of immigration politics, it is important to exercise caution. As Dabelko warns policymakers, one should not oversell the

connections between climate change and violent conflict (2009a). To echo Deudney's concerns, the issues associated with climate change, poverty, development, and resource use are so complicated that ham-handed security-minded responses might only exacerbate the situation. As Hass further argues, Malthusian inclinations can be easily slotted into an environmental conflict perspective, resulting in an unwitting support for a strong state response (2002). Thus, examining the emergence of a robust, securitized approach on the part of North Atlantic countries and transit states is not to suggest that this is normatively desirable. Wearing security goggles can make one shortsighted.

The Securitization of Immigration

What is striking is that the deepening emphasis on environmental security has dovetailed with the increased securitization of immigration politics in the 1990s and 2000s. It would be conventional to use September 11 as a pivot point in terms of the policy preoccupation with security, yet it would be inappropriate to treat September 10 as unconcerned with security concerns. Indeed, on both sides of the Atlantic Ocean, the security dimension with respect to immigration emerged fully in the 1980s (Weiner 1995).

For Europe, it was tied into the deepening of European integration and the movement toward free internal movement of European citizens. On June 14, 1985, five of the six original signatories of the 1957 Treaty of Rome—Belgium, the Netherlands, West Germany, France, and, of course, the host Luxembourg—signed an agreement in Schengen on the internal movement of citizens. Generally speaking, prior to 1985, immigrants into Europe did not present security concerns per se for officials. Right-wing politicians were certainly in full force at the time and were xenophobic in their politics. Yet their electoral success was minimal, and their anti-immigration rhetoric did not reach the scale known in the post–Cold War era. Security-oriented efforts toward immigration, to the extent they existed, were small scale and largely a matter for respective Ministries of Interior.

European governments working at the supranational level further solidified efforts to facilitate the free, internal movement of citizens in the aftermath of the passage of the Single Europe Act of 1987, the deepening of Schengen in 1990, and the 1992 signing of the Maastricht Treaty to establish the EU. By extension, third country nationals—that is, non-Europeans—had to be put under control and treated ipso facto as security concerns. During the early 1990s,

European preoccupations with *societal security* tipped immigration away from an economic concern to a fuller anxiety with immigrants as a threat to the European way of life. By the 1995 Barcelona Declaration establishing the Euro-Mediterranean Partnership, immigration was fully incorporated as a concern for Europe's perceived sense of essential identity (Khader 2005).

Analogous developments occurred in the US context, although it was driven less by a deepening sense of citizenship. Throughout the 1980s, anti-immigration discourse was real, but it was usually put in terms of economic security. The signing of the 1986 Immigration Reform and Control Act (IRCA or the Simpson-Mazzoli Act) emphasized enforcement of workplace identity checks, but it was neither fully framed as a national security concern per se nor an effort to protect America's essential identity. Ironies abounded during the 2008 Republican primaries, when candidates met for a debate at the Ronald Reagan Presidential Library and claimed Reagan's mantle on immigration. Paradoxically, Reagan himself had eschewed a xenophobic anti-immigrant approach and was criticized during the 1980s by the right wing as too willing to offer amnesty to immigrants. Indeed, it was only with the movement toward the signing of the North American Free Trade Agreement (NAFTA) in December 1992, the same year as the Maastricht Treaty, that the US-Mexican border became more fully securitized. Shortly thereafter, in 1994, the Clinton administration began Operation Gatekeeper, launching the full emergence of a security discourse that deepened further with the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA).

By the late 1990s, then, North Atlantic countries viewed immigrants as a part of a basket of concerns that included other security issues. In discourses associated with immigration, most of the rhetoric was framed in term of the aforementioned societal security, but it also took on the form of national security. In Europe, perhaps more than in the United States, this was fueled in the mid- to late 1990s by terror attacks. For example, the 1995 bombing in Paris' St. Michel metro station is a notorious example, as Algerian extremists extended the raging civil war in Algeria back into the métropole. Certainly, after September 11 and subsequent attacks in Europe such as Madrid 2004 and London 2005, the connection was fully made.

Throughout the past decade, immigration policy was consistently securitized. At the policy level, in the United States, for example, the establishment of the Department of Homeland Security brought the Immigration and Naturalization Service into the body, creating

the new Immigration and Customs Enforcement (ICE). In terms of discourse, literature flourished suggesting that immigration must be stopped because, as Krikorian argued, terrorists would "come here and kill our children in their beds (Jacoby and Krikorian 2003).

The bottom line is that in recent decades there has been a striking amalgamation of security imperatives, with immigration nestled at the intersection of different dimensions. Until the recent emergence of CIM as a security concern, however, environmental security concerns operated on a different track separate from immigration security. To be sure, there were instances in which environmental discourse was used against immigrants. As the battles within the Sierra Club illustrated, anti-immigration politics were sometimes wrapped in a green hue (King 2008). The argument here, however, is that with the emergence of CIM as a perceived threat, environmental security now fully joins with immigration security perspectives to present an ostensible cause for alarm.

Climate-Induced Migration as a Contested Concept

Before turning to the "securitization" of CIM, it is important to acknowledge the term's contested nature. "Environmental refugee" is conventionally cited as appearing first in a 1985 United Nations Environmental Program paper by El-Hinnawi, who defined environmental refugees as individuals who are "forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/or seriously affected the quality of their life" (1985). Kibreab pointed out, however, that the notion appeared for the first time in a 1984 International Institute for Environment Development paper (1997). Regardless of its first appearance, Kibreab argues that by the late 1990s it had become a felicitous "catch-all term."

Objections to the argument that environmental change is causing profound population displacement quickly emerged and came from three primary orientations. The first view challenged the lack of analytic purchase of the concept. After the concept's initial emergence in the 1980s, so went this argument, climate refugees became accepted as a phenomenon, and analysts did not examine more systematically whether environmental degradation was a cause of migration or the outgrowth of other factors. Conflict within a given region might prompt population movement that, in turn, stresses land capacity and

resource management. Or government policy encouraging the growth of a certain kind of crop for export might prompt deforestation or desertification that, again, could disrupt traditional patterns. Critics of the concept of climate refugees argued that environmental factors prompted population movements, perhaps, but only as an intervening or contributing variable in more complicated causal chains.

Additional problems emerged in this regard with the tendency for circular citations, wherein one scholar might offer an analysis of CIM and estimates of flows, only to have the estimates accepted uncritically by subsequent scholars. In turn, fearing that their estimates might be too low, subsequent scholars amplified their assessments, often based on little by way of systematic evidence. In a form of the "precautionary principle"—taking preemptive steps in case the worst-case scenario proves true—it was seen as better to err on the side of an inflated number, rather than a conservative estimate. The result, however, may be a spiral of imprecise estimates.

The second objection to the use of CIM, especially in the context of refugee studies, stems from the lack of recognition in refugee jurisprudence. The heart and soul of refugee jurisprudence is the 1951 United Nations Convention Relating to the Status of Refugees, which defined a refugee as a person who is "outside the country of his nationality" because of a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion." The 1951 Refugee Convention emerged in the context of the immediate aftermath of World War II and reflected the preoccupations of the time, wherein most refugees were European in origin. Its assumptions were explicitly narrow in terms of the framing of refugees as politically persecuted individuals seeking asylum. In turn, it was expanded in a 1967 protocol to offer protection to refugees outside the European context. Yet even the 1967 protocol was ambitious, as governments were already seeking to restrict refugee protection. Certainly by the post–Cold War era, securing protection for "traditional refugees" had become challenging enough. Advocates for refugees and scholars argue that adding climate refugees to the mix would be still harder (Castles 2002; Black 2001).

The third objection to climate refugee is that it might have some ironic, even perversely unintended implications. In this line of argument, concerns about climate refugees seeking to cross international borders act in a counterproductive fashion, playing into the hands of governments seeking to secure their borders and enhance refugee controls. In the spirit of pointing to a growing phenomenon,

and having a normative inclination perhaps to contribute to efforts to solve the problems posed by climate refugees, analysts unwittingly gave fuel to security-minded officials and electorates (Kibreab 1997, 21). In a related dynamic, by attributing refugee flows to climate change, other causal factors might be left aside. Conflict, poor government policy, corruption, warfare, and nefarious international involvement in a region can prompt environmental degradation. Cold War involvement in the Horn of Africa or strategic efforts in Africa as part of the Global War on Terror (GWOT) may initiate displacement as much as, or more than, climate change. To point to the population movements as stemming from environmental change alone lets policymakers off the hook of responsibility.

The invocation of climate refugees as a justification for a security response based on *environmental conflict*—rather than a broader, more people-centric notion of *environmental security*—continues to remain salient, perhaps even more so in recent years. Throughout the 2000s, as demonstrated below, North Atlantic officials increasingly pointed to climate change as a security threat, with increasing numbers of CIM in the decades to come as catalysis for a policy response.

The Securitization of Climate-Induced Migration

As noted above, the potential for CIM to fuel a threat-fear response and contribute to a securitization imperative on the part of states received caution early on. The caution by such analysts is absolutely central to the logic and preoccupation here. One could also further argue that pointing to CIM as a real and growing phenomenon would let oppressive regimes off the hook, relieving them (and allies that support them) of responsibility for solving circumstances that prompt population movements (Salehyan 2007).

To be sure, the real world experience of migrants storming fences, invading in flotillas of boats, or being smuggled in containers—and the threat of more to come—has made the security logic appealing. Media sources in the North Atlantic often depict such images: migrants crossing bleak deserts in Arizona or Mali, breaching fences in Texas or Ceuta, lining the gunwales of intercepted boats off the coast of Tarifa or Lampedusa. The international media's attention to the "storming" of the fences in Ceuta and Melilla in 2005 shied away from analyses of the Spanish and Moroccan authorities' draconian response and focused on the migrants' sheer desperation to get into Spain.

Throughout the 1990s and at the beginning of the 2000s, even with right-wing governments seeking to amplify immigration fears and certainly keen on security discourse, CIM as a threat or a concern simply did not gain traction. The Bush administration and conservative governments in Europe did not explicitly single out CIM as a concern. Nor did center or center-left governments. An explanation requires a complex mix of the fact that while climate change had become accepted as an empirical phenomenon by the scientific community, as evidenced in the 2001 Third Assessment Report of the IPCC, its understanding and acceptance by officials and the broader public was, at best, incomplete. By the 2007 Fourth Assessment Report of the IPCC and certainly by COP15 in Copenhagen in 2009, broader acceptance of the science of climate change was in place; what had intensified was the debate about the appropriate policy response to it.

If the impulse to securitize immigration fully emerged in Schengen in 1985—and in the United States as the inevitability of NAFTA became apparent in the late 1980s—when might we say that the full securitization of CIM began? Certainly, as noted above, CIM received attention from analysts, scholars, and NGOs throughout the 1990s and into the 2000s. International organizations like the UNHCR included climate refugees as a concern, albeit with the now familiar controversies about the "refugee versus migrant" debate, contexts, and response. But when did government officials become cognizant of its political salience, its potential as a threat to security, and the need to offer a robust response or, at least, planning for the contingency?

Regional Contexts

An answer to this question might be found by first looking beyond the North Atlantic context. For example, one sees Indian and Bangladeshi officials in the 2000s expressing deep anxieties about Bangladesh's vulnerability to flooding. In 2003, India began a construction of 2,100 miles of a high-tech "separation barrier" that was scheduled for completion in early 2010 (Riaz 2010). The only place where it does not share a border with India is the 500-mile border in the southeast shared with Burma/Myanmar, which is certainly marked by conflict and controversy in its own right. Initially set in motion because of India's officially stated (and ostensibly plausible) fear of infiltration from Bangladeshi Islamists, the fence has been fraught with tragic politics on the ground as border communities

are divided, property claims are fenced, homes are lost, and informal trade is disrupted (Jones 2009). India received support for such efforts from Washington and NATO, even as Bangladesh has also been a reasonably reliable geostrategic ally. Yet, as Bangladesh's vulnerability to climate change has become evermore salient and recognized—as its prospects for even worse flooding loom large—surrounding the country with razor-wire has reified and hardened a precarious border. More to the point, Indian officials are increasingly inclined to cite "climate refugees" as a concern, in addition to the arguments concerning the Islamist threat (Friedman 2009). CIM may be an effective add-on, perhaps used in different discursive contexts depending on the audience.

Indian officials additionally express concerns that Himalayan glaciers will melt rapidly, causing initial flooding followed by drought. Melting has already started in recent decades and is anticipated to accelerate further, although the pace at which this change occurs has been a source of controversy for the IPCC. While the IPCC has receded from its more alarmist estimations concerning the pace of melting, the military establishment has used the initial assertions to heighten fears. The Himalayan glaciers—aka the "Water Tower of Asia"—feed the Indus River, the Brahmaputra, the Mekong that descends into Southeast Asia, the Irrawaddy in Myanmar, and the Yellow and Yangtze rivers of China. Retired Air Marshal A. K. Singh, a former commander in India's air force, foresees mass migrations and says:

> It will initially be people fighting for food and shelter. When the migration starts, every state would want to stop the migrations from happening. Eventually, it would have to become a military conflict. Which other means do you have to resolve your border issues? (Gjelten 2009)

India's anxieties have quickly translated into concern on the part of North Atlantic officials because of its heft as a regional hegemon and, indeed, world player, its economic might, and its geostrategic significance. Images of the August 2010 floods in Pakistan also stressed the movement of peoples in South Asia.

A second regional dynamic is evident in the South Pacific, where a significant proportion of the membership for the Association of Small Island States (AOSIS) is located. AOSIS is not new; it was established in 1990 and participated in the 1992 Rio Summit. Indeed, the Rio Summit recognized Small Island Developing States (SIDS) as a

diplomatic entity. Yet while island states often (always?) exhibit an asymmetrical interdependence with mainland economies, the scope of their precarious status became fully evident in recent years. The image of an inundated island, with its population forced into boats, is perhaps the starkest of refugee images. In 2001, it was reported that New Zealand decided to extend to the island of Tuvalu immigration quotas. The report persisted throughout the decade as evidence that at least the New Zealand government understood that climate refugees were inevitable in neighboring islands. At the time, the Tuvalu government officially cited the step as evidence of a generous spirit typical of Pacific Islands. Yet New Zealand's Ministry of Foreign Affairs and Trade released a statement clarifying that it had *not* extended quotas to Tuvalu's citizens because of climate change but as part of an ongoing program of extending quotas to Pacific Access Countries (PAC—e.g., Fiji, Samoa, Tonga, Kiribati, and Tuvalu) to live and work in New Zealand.[6] Nonetheless, scholarly treatments and media and artistic depictions of climate refugees fleeing inundated islands in the Pacific (and Caribbean) has increased.

North Atlantic "Security Community"

Karl Deutsch and his colleagues conceived of the North Atlantic as a "security community" in the aftermath of World War II, providing the intellectual rationale for the North Atlantic Treaty Organization (Deutsch 1957). And there is a significant sense from North Atlantic policymakers that CIM has and will pose a security threat. Yet, at the same time, there are distinct differences between Europe and the United States and the respective treatment of CIM. Indeed, within Europe there are striking differences between Europe's southern and northern tiers. This discussion proceeds by treating Europe and the United States separately before turning to the mutual response by NATO. Like regional responses in, for example, India, it is clear that CIM was not initially treated as a threat per se; it was only as the decade wore on that it became more salient.

In Europe, a securitized response toward mixed flows of irregular immigration was evident by the late 1990s with SIVE (Integrated System for the Surveillance of the Strait) and Operation Ulysses. SIVE is a robust system based in Algeciras, Spain, that combines radar, satellite, and motion detection systems. Begun by the Aznar government in 1999, it was expanded by 2003 to be a "fence in the water" between Algeria, Morocco, and Spain (including the Canary Islands) (Carling 2007). It continues a rather robust operation, despite

criticisms from NGOs. Evidence has also mounted that smugglers have only become more adept at bypassing the system. In a perverse form of market-based incentives, such systems often reward successful smugglers.

For its part, Operation Ulysses began in 2003 as an outgrowth of the cooperation between the Aznar, Blair, and Berlusconi governments in the aftermath of the 2002 Seville Summit; at that summit, immigration was cast as a full security concern. The UK and Spain spearheaded the effort to put in place patrol boats in the Mediterranean, but France, Portugal, and Italy also joined the endeavor. Greece, Norway, Germany, Poland, and Austria participated as observers. The effort was short-lived because of the onset of the Iraq War in March 2003, but it was resuscitated in 2006 with European boats patrolling the Atlantic waters around the Canary Islands. In addition to the ongoing support for SIVE, other patrol operations have included the French Operation Amarante in 2002–2004 (Lutterbeck 2009).

In October 2005, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States came into operation. Fortunately, it is known by a shorter name: Frontex. Tasked with integrated border management and the implementation of the Schengen Acquis, Frontex quickly became a hefty player on the scene. It has inherited responsibility for coordinating joint operations, such as Nautilus and EPN-Hermes in 2008. And it is responsible for reporting the situation at the EU's external borders. One of the striking aspects of Frontex is that, despite its militarized and robust posture, its presence is one of supranational and multilateral cooperation. Frontex does not seem to amplify the security threat from CIM; it is more about the implementation of policy and leaves the overt security discourse to policymakers.

At the diplomatic level, in 2001 the European Commission began a systematic approach to supporting third countries in their efforts to mitigate migration pressures. By 2004, the Commission put in place AENEAS, a rubric to provide financial and technical assistance to third countries. (Aeneas was the hero of Virgil's *Aeneid* and a key character in Homer's *Iliad*, skilled in fighting and devoted to duty.) There were 107 projects at the heart of AENEAS, designed to deepen international networking on immigration control, protection frameworks, and the interdiction of illegal migration. Two examples illustrate the nature of the projects. In 2005, a €1.9 million project (≈US$2.6 million at the time) was funded to support cooperation between Libya and Niger in border control, "with special reference to irregular migratory flows from Sub-Saharan Africa

transiting the two countries to reach the coasts of Southern Italy and then other European countries."[7] The implementing agency was the Department of Public Security in Italy's Ministry of Interior. The same department was central to a second project in 2006 for €1.2 million (≈US$1.4 million at the time) to work with Algeria and Libya against illegal migration. The experience of countries like Libya is instructive. Long an international pariah, Libya had been welcomed back into the international security fold after assiduous British diplomacy led to the Qaddafi regime's renunciation of WMD in 2003. Prior to the NATO intervention in February and March 2011, Italian and EU security officials had nurtured Libya's participation in migration interdiction efforts.

As the decade moved on, increased calls for treating climate change as a security threat emerged, with CIM at the core. For example, the German Advisory Council on Global Change (known by its German acronym WGBU) released a report in 2007 stating that climate change was "jeopardizing national and international security to a new degree."[8] It singled out the "conflict constellation" of "environmentally induced migration" that will emerge from climate change. The WGBU report is nuanced. It notes that most such migration occurs within countries and that much of it tends to be south-south. Yet it also argues, "Europe and North America must also expect substantially increased migratory pressure from regions most at risk from climate change." In some ways, perhaps, the WGBU report is also schizophrenic. It uses terms like "security," "threat," "risk," "conflict," and "dangerous" repeatedly, yet it seems to eschew a draconian security response. It calls, instead, for adopting efforts to establish a "cross-sectoral multilateral Convention aiming at the issue of environmental migrants."

A second, alarmed call came from a 2008 joint report, "Climate Change and International Security," prepared by EU's High Representative for the Common and Foreign Security Policy, Javier Solana, and the European Commission (2008). Invoking climate change as a "threat multiplier," the report takes the blunt tact of derogating humanitarian matters as less important than security concerns. It argues, "It is important to recognize that the risks are not just of a humanitarian nature; they also include political and security risks that directly affect European interests" (ibid.). It identifies climate change as an "amplifier" to "poor health conditions, unemployment or social exclusion" and states vaguely that there will be "millions of environmental migrants" by 2020. Like its WGBU counterpart, and as will be evident from in comparison to the US response below, the

Solana document is more adept at invoking multilateral cooperation. Yet the militarized backdrop—the border control efforts—remains the actual, on-the-ground manifestation of policy advocacy. And the calls for multilateral cooperation focus on "the security risks related to climate change in the multilateral arena; in particular within the UN Security Council, the G8" and the need to enhance "cooperation on the detection and monitoring of the security threats related to climate change."

As for the United States, CIM was not an issue throughout most of the Bush-Cheney administration, primarily because of its policy positions on the environment and climate change. It would be hard for administration officials to argue for a securitization of CIM if climate change itself was not a topic of concern. One might argue that the robust policy of securing the homeland in the aftermath of September 11 and being "tough" on illegal immigration would guard against immigrants motivated to move by environmental factors, too. Still, neither the White House nor the intelligence and military bureaucracies seemed intent on environmental security, not to mention CIM. This changed with the 2006 election of Democrats to the House of Representatives and the Senate. In the aftermath of the election, in spring 2007, the House of Representatives included in its 2008 intelligence authorization a directive for the National Intelligence Council (NIC) to produce a National Intelligence Estimate (NIE) (Pincus 2007). NIEs are compendiums of the intelligence community's assessment of a specific national-security issue. House Republicans, led by ranking minority and former chair of the House Permanent Committee on Intelligence Peter Hoekstra (R-MI), were irate that intelligence resources would be devoted to such an effort, arguing that it would take attention away from more pressing security concerns; they also protested the fact that a congressional committee would mandate action on the part of the NIC. Yet, National Intelligence Director Mike McConnell, appointed by President Bush in January 2007, defended the directive as an appropriate step for the NIC. Throughout 2007 and 2008 the presidential campaign loomed large in the US Senate, and the Lieberman-Warner Climate Security Act was ultimately withdrawn in June 2008 because it did not have sufficient votes to reach cloture. Climate security, in this context, was cast as more about economic considerations and energy self-reliance than about climate change per se, but it was part of the picture.

NIC Chairman Thomas Fingar reported the NIE findings to Congress in June 2008 as part of the consideration of the climate change bill. The NIE concluded that climate change would

challenge US national security, especially in sub-Saharan Africa, the newest military command for the Pentagon. (Secretary of Defense Robert Gates had established African Command [AFRICOM] in February 2007.) Fingar reported that the intelligence community had concluded that humanitarian disasters, economic migration, and food and water shortages would be caused by climate change and would "tax U.S. military transportation and support force structures, resulting in a strained readiness posture."[9] Fingar said Africa is most vulnerable "because of multiple environmental, economic, political and social stresses." While no country will avoid climate change, the report said, "most of the struggling and poor states that will suffer adverse impacts to their potential and economic security," are in the Middle East, central and southeast Asia, and sub-Saharan Africa. The United States must "plan for growing immigration pressures," the report said, too, in part because almost a fourth of the countries with the greatest percentage of low-level coastal zones are in the Caribbean. The report noted that many US military installations near the coast will be at "increasing risk of damage" from floods in coming years.

Similarly, and with respect to CIM, Director of National Intelligence Dennis Blair, who succeeded Mike McConnell, reported in his annual threat assessment in February 2009 that the Intelligence Community expects that "economic migrants will perceive additional reasons to migrate because of harsh climates, both within nations and from disadvantaged to richer countries."[10] In addition, an important entry in the discourse was *Global Trends 2025: A Transformed World*, the fourth installment of the NIC's recent effort to assess future scenarios.[11] It emerged in November 2008 as the Bush-Cheney administration was coming to an end. It is especially significant because it names "climate migrants"—via the 2006 Stern Report—as an explicit security concern. Fascinatingly, *Global Trends 2025* offers a provocative set of arguments. First, it argues that climate change and CIM is not so much of a security concern per se, but that it will be *invoked* as a security concern, setting in motion an unfortunate dynamic. This suggests worries about a "CIM security dilemma," wherein one country's efforts to securitize CIM will lead another to do the same.

> Over the next 20 years, worries about climate change effects may be more significant than any physical changes linked to climate change. Perceptions of a rapidly changing environment may cause nations to take unilateral actions to secure resources, territory, and other interests. Willingness to engage in greater multilateral cooperation will

depend on a number of factors, such as the behavior of other countries, the economic context, or the importance of the interests to be defended or won.[12]

This is an intriguing, metalevel of awareness on the part of the intelligence establishment. It is also a provocative point of discussion. With respect to CIM, the importance of multilateral cooperation outside a militarized mindset may be absolutely essential to avoid a "CIM security dilemma."

NATO

In geostrategic and military calculations, NATO's efforts often reveal commonality in EU and US policy. What is evident in recent years is a deepening of transatlantic cooperation on irregular immigration. US military efforts in North America are unilateral, of course, but in the Mediterranean and Eastern Europe they are multilateral and conducted under the aegis of NATO. As the military and patrol operations conducted in the early 2000s were typically European-based, by the middle of the decade, they were NATO-based; still, most of the operations do not appear to involve too much by way of US assets. Coordination with Frontex remains a constant source of new deliberations.

Operation Endeavor, for example, came into existence after September 11 and was fully operational in April 2003. Based at the Joint Forces Command in Naples, it has been a constant presence in the Mediterranean basin from the Strait of Gibraltar through the narrow body of water separating Sicily from Tunisia's Cap Bon. Beginning with the June 2004 Istanbul Summit, its remit was expanded all the way to the eastern Mediterranean. Its focus is on "antiterrorist" activities. Yet in its own description, NATO trumpeted the work that Operation Endeavor has done vis-à-vis irregular immigration. "NATO ships and helicopters have also intervened on several occasions to rescue civilians on stricken oil rigs and sinking ships. This includes...winching women and children off a sinking ship carrying some 250 refugees in January 2002 and helping to repair the damaged hull."[13] The use of the word "refugee" is striking.

The bulk of the contribution to Operation Endeavor comes from Greece, Italy, Spain, and Turkey. Germany, Denmark, and Norway have contributed as well. Intriguingly, non-NATO countries are participating; Russia and Ukraine have contributed assets since 2007,

and Israel, Morocco, and Georgia have also signed letters of intent. In October 2009, Morocco signed in Naples a "Tactical Memo of Understanding" for a Moroccan contribution.

NATO's efforts also increasingly focused on "environmental security." Throughout the 2000s, the notion of environmental security became more and more salient in strategic planning. Most of the attention seems to focus on mining, pollution mitigation, pesticide reduction, and natural disasters. In other words, the focus on CIM was only indirect. Yet, as the decade drew to a close, there was evidence that NATO is emphasizing CIM, too. At the NATO Security Science Forum in Brussels in March 2008, it received close attention as an issue. Using the *NATO Review* as an indicator for the degree of attention devoted to CIM, by 2008 and 2009 the neglect of CIM was a thing of the past. For example, Achim Steiner wrote in *NATO Review* in 2009:

> Forecasts on the number of persons that might have to migrate due to climate change and environmental degradation by 2050 vary between 50 million and 350 million. Environmental change will impact migration in three ways. First, global warming will decrease agriculture potential and undermine water availability. Second, the intensification of natural hazards such as flood, storm or drought, will affect more and more people with low adaptative capacity and generate uncontrolled large-scale human displacement. Third, densely-populated and low-lying coastal areas will be permanently flooded or damaged leading to relocation without return, recovery, and reintegration possible. A one meter sea level rise would result in the entire disappearance of the Maldives for example. Both Kiribati and the Maldives have ongoing resettlement plans.[14]

In short, NATO's role in the securitization of CIM continues to evolve and deepen. Not at all surprisingly, perhaps, its framing of CIM parallels discourse in the United States and the EU.

The regional turmoil in the spring of 2011 does not appear to have allayed this trend. To the contrary, alas, it may result in an affirmation that the entire region to Europe's south is a zone of insecurity, and that it has an even more fraught and burdened zone to its south—namely, Saharan, Sahelian, and sub-Saharan Africa. What appears to be especially troubling is the way in which the turmoil was framed in 2011 as a "contagion"—as if the instability is a disease that merits quarantine.

As for the migration piece of the events of 2011, shortly after Tunisia's Jasmine Revolution but before Libya collapsed into full civil war, where was the international media's attention drawn? Not to

analyzing Tunisia's new government, or looking at efforts to reform economic structures, or speculating at the potential impact of Ben Ali's fall on the impressive reforms Tunisia had enacted over fifty years concerning the status of women within society, or reexamining (soul searching?) how North Atlantic policies sustained Ben Ali and his family…but to reports of Tunisians fleeing their country by the boatload and trying to make landfall on the Italian island of Lampedusa. However the pressures that drive mixed migration to Europe are framed, the concern was the same: there is a turbulent zone of insecurity to Europe's south. At first glance, it may seem that European countries have differing approaches to migration from the south, but ultimately their response displays deep congruence.

Conclusion

States make choices regarding policy. Not always as they please, as options can be sharply constrained depending on historical legacy, bureaucratic politics within the state, domestic and societal pressures, and geopolitical position. Still, states make crucial policy decisions, and, in the realm of CIM, choices are being made and are likely to continue.

The fundamental argument here is the environment has been securitized and, moreover, that the securitization of CIM is a dovetailing of anti-immigration policies and environmental security. Building fences against irregular migration is politically successful. Ironically, too, a public that is skeptical about climate change or unconvinced that it is taking place and pose a future threat to their lives finds a kind of precautionary principle at work in securitizing CIM. "We're not sure that climate change is a threat," they might argue. "But just in case it is, let's stop migrants we wouldn't want anyway." At bottom, the long-term costs and/or the ultimate inefficacy of the steps are not well-considered. Mitigation of GHGs might be an expensive proposition, unless political leaders craft it as an opportunity to dynamize the world economy with innovative technologies.

Finally, the potential for a CIM security dilemma remains salient. As one country seeks to protect itself against CIM, its actions will run against the interests of another. As Arizona guards itself, New Mexico feels vulnerable. A US effort deepens Mexico's anxieties about its ability to absorb CIM from elsewhere. If Mexico securitizes CIM, what impact will it have on Belize or Guatemala? If the Spanish coast is perceived (rightly or wrongly) as less passable, what are the implications for Italian security? (Both countries are members of the

EU, so what are the implications for Frontex and other supranational cooperation efforts?)

Anthropogenic climate change is a real phenomenon, and it will undoubtedly have a profound impact on migration patterns. Yet treating it as a security concern for advanced-industrialized countries does not address the causes of climate change, nor does it advance the effort to find adaptive solutions. Instead, it reinforces dynamics within the international system that contribute to the problem itself.

NOTES

1. Gunn 2009.
2. North Atlantic as a region includes the United States, Canada, and the European Union (EU) and its constituent members.
3. I treat these issues in *Climate Change and Migration: Security and Borders in a Warming World*. Oxford University Press, 2011. This chapter is drawn from portions of that volume.
4. Permanent Select Committee on Intelligence and House Select Committee on Energy Independence and Global Warming, *Testimony by Thomas Fingar, Deputy Director for National Intelligence, on the National Security Implications of Global Climate Change to 2030,* June 2008.
5. Dabelko 2009b.
6. Text available at http://www.mfat.govt.nz/Foreign-Relations/Pacific /NZ-Tuvalu-immigration.php, accessed November 29, 2010.
7. European Commission, *Aeneas Programme: Overview of Projects Funded 2004–2006* (Brussels, Belgium: Europe Aid Programme of the European Commission, 2008).
8. German Advisory Council on Global Change. 2007. *World in Transition: Climate Change as a Security Risk*. Berlin, Germany.
9. National Intelligence Council, *Testimony by Thomas Fingar, Deputy Director for National Intelligence, on the National Security Implications of Global Climate Change to 2030.*
10. Senate Select Committee on Intelligence, *Annual Threat Assessment of the Intelligence Community,* 2009.
11. National Intelligence Council. 2008. *Global Trends 2025: A Transformed World*. Washington, DC: US Government Printing Office.
12. Ibid., 53–54.
13. See www.nato.int/cps/en/natolive/topics_7932.htm#contributing, accessed November 29, 2010.
14. Achim Steiner, "Environment as a Peace Policy," *NATO Review: How Does NATO Need to Change (Parts 1 and 2)?* Available at www.nato.int /docu/review/2009/NATO_Change/Environment_PeacePolicy/ EN/ accessed on November 29, 2010.

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2

Taking Gender Seriously in Asylum and Refugee Policies

Jane Freedman

This chapter addresses the gendered impacts of asylum and refugee policies in the European Union, and the specific obstacles that women asylum seekers face in gaining refugee status in European member states. While the issues of gender-related persecution and violence have been placed on the international agenda through the lobbying activities of transnational feminist networks, and the need to offer international protection to victims of this type of persecution has been acknowledged by both national and international political authorities, it can be argued that this protection is still not effectively available. The UNHCR has put into place various guidelines related to the protection of those fleeing gender-related persecution, but multiple barriers to the realization of this protection still exist.

In this chapter, I will focus on the asylum process within the European Union and will argue that the securitization of immigration and asylum policies has contributed to weakening protection for those seeking asylum on the basis of gender-related persecutions. The securitization of asylum policy, with asylum seekers being portrayed increasingly as a "threat" to states of the global north, has meant that women seeking asylum have been forced to present themselves as idealized "victims" of "barbaric" other cultures in order to have any chance of receiving protection under refugee regimes. I will highlight the way in which these dominant representations of asylum seekers and refugees push women in particular into stereotyped roles of "vulnerable victims," a role that reduces them to the status of passive victimhood and eliminates possibilities of political agency.

For European states, the issues of refugees and asylum seekers have become increasingly contentious in recent years. As Europe seeks to "secure" its borders and control migration, asylum seekers have been perceived as a threat to this "security." Widespread perceptions that Europe is being "flooded" with asylum seekers, many of whom are not in fact genuine asylum seekers but economic migrants (or "bogus" asylum seekers as sections of the British political establishment and media have labelled them), and beliefs concerning the supposed costs associated with the reception of asylum seekers, have mobilized support for more restrictive policies on the part of EU states (Boswell 2000). Deportation, detention, and dispersal of asylum seekers have become "normalized" policy instruments in the attempts to control asylum (Bloch and Schuster 2005), and moves had been made to "externalize" asylum control to prevent the arrival of asylum seekers within the EU (Boswell 2000; Levy 2005). In particular these efforts have concentrated on "cooperation" with the EU's neighbors to prevent the arrival of asylum seekers in Europe, a cooperation that has resulted in many would-be asylum seekers being "stuck" in countries of "transit" such as Morocco (Freedman 2012).

At the same time welfare rights of asylum seekers within EU states have been restricted, leading to a greater stratification of rights between different categories of migrants (Morris 2002). These developments have called into question the ability or willingness of European states to meet their obligations under the current international conventions on refugees and asylum seekers (principally the 1951 Convention Relating to the Status of Refugees), and have raised important challenges for refugee protection. Asylum policies and legislation have been the focus of academic analysis, but often this analysis lacks any reference to gender or to the effects of policy developments on women. This "gender-blindness" reflects a more general "dearth of gendered analysis of migration by political scientists" (Donato et al. 2006, 16), especially in the area of asylum, where there are few studies that take into account the distinctive gendered impacts of current policies.

I will argue that the overall "securitization" of immigration as an issue in the EU has resulted in a situation in which the claims to secure Europe's borders clearly take precedence over the competing security claims of women and men seeking refugee protection within Europe. The persecution and insecurities faced by women seeking asylum are often ignored because their voices remain unheard in the dominant discourses concerning immigration and asylum. Moreover, in order to have their security claims heard women have to conform

to representations of "victimhood" that ignore their agency and political activities.

This chapter is based on research carried out in Europe from 2005 to 2009. The research involved examination of scientific and political literature concerning the asylum procedures in different states, as well as an analysis of recent EU Directives concerning the harmonization of asylum policy. Interviews were carried out with key informants—both officials in immigration and refugee status determination authorities in different countries[1] and members of NGOs and associations supporting asylum seekers and refugees. Semidirective interviews were also carried out with asylum seekers and refugees to explore their experiences of the asylum system in Europe.

PUTTING GENDER ON THE MAP OF REFUGEE PROTECTION

For a long time, any consideration of gender issues was absent from discourses and debate on refugees and asylum. This absence relates in part to the specific circumstances surrounding the drafting and adopting of the 1951 Convention Relating to the Status of Refugees (Refugee Convention), which together with its 1967 protocol remains the major international convention regulating the protection of refugees.[2] The United States and its European allies were the principal negotiators of the Convention, as most of the states of the new Eastern bloc boycotted the negotiations (with the exception of Yugoslavia). As a result of US dominance, the treaty was highly limited in its application, and aimed at dealing with the cases of those arriving in the West from one of the Soviet bloc countries. As Loescher argues, "the Convention was intended to be used by the Western states in dealing with arrivals from the East, and largely reflected the international politics of the early Cold War era" (2001, 44). The refugee, as perceived by the Convention, was thus an individual persecuted by a totalitarian regime because of his political views or activism. Large groups of displaced people fleeing from international conflicts or from civil wars were not envisaged. These limitations on the definition of a refugee continue to have important applications today, thereby making it difficult for many women to gain refugee status.

It can be argued that the 1951 Refugee Convention, like other international human rights conventions, was written from a male perspective and that the situations and interests of women were ignored.

Spijkerboer notes that during the negotiations that led to the drafting of the Convention the relevance of gender was discussed only once when the Yugoslav delegate proposed that the words "or sex" should be included in article 3, which stipulates that the Convention shall be applied "without discrimination as to race, religion or country of origin." The suggestion was quickly rejected as it was considered that the equality of the sexes was a matter for national legislation, and the then UN high commissioner for refugees, Van Heuven Goedhart remarked that he doubted strongly "whether there would be any cases of persecution on account of sex" (Spijkerboer 2000, 1). These views may be seen as typical of the time at which the Convention was written, when the questions of gender equality and women's rights were far from the center stage of politics, and particularly of international politics. More seriously, the high commissioner's remark that he could not envisage persecution on the grounds of sex seems to have endured in many interpretations of the Convention, and the male model of rights on which it was based has in many cases not been challenged in its implementation. As Bunch maintains, "the dominant definition of human rights and the mechanisms to enforce them in the world today are ones that pertain primarily to the types of violations that the men who first articulated the concept most feared" (1995, 13). Thus violations and persecutions pertinent primarily to women are often left out of the spectrum of those that are considered valid as reasons for granting refugee status.

The neglect of the issue of gender in the 1951 Refugee Convention can thus be seen as an important factor leading to a failure to take into account gender-related persecution and the protection needs of women asylum seekers and refugees.

The difficulties in integrating a gendered perspective into asylum policies can be observed at the level of national asylum policies and practices within industrialized states such as the United States and Europe. Although the UNHCR has produced a range of guidelines to detail ways in which states should take gender into account in asylum and refugee policies (Freedman 2007), these have been transferred into national policymaking only in a patchy manner, and there is still resistance to the recognition of gender-related persecution as grounds for granting refugee status. As will be argued in the following section of the chapter, this resistance can be attributed both to a failure to acknowledge that gender-related persecution and women's activities are "political" and to underlying discourses that represent asylum seekers as a threat to the national security of states. In particular, research for this chapter shows that immigration officials believe

that if they grant asylum to women seeking protection on the grounds of gender-related forms of persecution this will lead to a "flood" of similar claims.

Gender-Related Persecution and Women Seeking Asylum

One of the major difficulties in assessing the situation of women refugees and asylum seekers in Europe is the lack of accurate gender disaggregated statistics. This lack of accurate statistics seems to reflect inherent gender blindness in research on these issues—the figure of the refugee is often seen as male, and the particular types of persecution, which force women to become migrants are ignored. UNHCR estimates that in most regions women constitute between 45 and 55 percent of the refugee population, although other estimates are much higher (Bhabha and Shutter 1994; Forbes Martin 2004). Despite the large number of women among the global refugee population, women make up only a minority of asylum claimants in Europe. Gender-disaggregated statistics, wherever available, indicate that women make up only about a third of the total of asylum claimants within the EU (Bloch et al. 2000; Freedman 2004; Crawley and Lester 2004), indicating that even in the processes necessary to reach Europe and make a claim for asylum, women face different obstacles and choices from men.

Women who have been the victims of persecution may face particular social and economic constraints that make it more difficult in many circumstances to leave their countries and travel to Europe to claim asylum. In particular it may be more difficult for a woman to leave her country of origin and travel as she may often have primary responsibility for the care of children. In addition, economic inequalities mean that women often may not have the necessary financial resources to undertake such a journey. And as "Fortress Europe" develops, and the European Union takes stronger measures to "secure" its borders, it is more likely that asylum seekers will need to enlist the help of traffickers or smugglers to help them enter Europe, and the high cost of this may well be beyond many women's reach. Smugglers have also been identified as one of the primary sources of violence, and in particular sexual violence, against women migrants (Freedman and Jamal 2009). It can be argued that all these obstacles mean that women leave their homes and families only when circumstances become so hostile that they cannot possibly remain (Spijkerboer 2000).

The fact that fewer women than men claim asylum in Europe should not lead to the conclusion that women are less persecuted than men. However, the forms that this persecution takes, and the causes of it, may lead to it not always being recognized as such. Women may be persecuted for being members of political organizations, being activists or organizers. However, they may also be persecuted for less overtly "political" activities, such as sheltering people, providing food or medical care. Finally, women are likely to become victims of persecution when they do not conform to religious or social norms—if they do not adhere to dress codes, if they do not agree to marry, if they have sexual relations outside of marriage, if they will not agree to practices such as female genital mutilation. All of these forms of behavior may lead to women suffering from persecution in their own countries; the difficulty is that in many European countries, these gender-related forms of persecution are not recognized by the authorities, or not deemed to conform to the international laws regarding refugees. This nonrecognition is consistent with feminist critiques of international human rights laws and conventions, which have been defined according to male norms, and have thus omitted to take into account women's experience. As Bunch maintains, "the dominant definition of human rights and the mechanisms to enforce them in the world today are ones that pertain primarily to the types of violations that the men who first articulated the concept most feared" (Bunch 1995, 13). Thus violations and persecutions pertinent primarily to women are often left out of the spectrum of those that are considered valid as reasons for claiming asylum.

The Public-Private Division and the Denial of Persecution

One of the major effects of the transposition of liberal definitions of human rights into the interpretation of the Geneva Convention has been to reinforce the division between public and private found in much of the liberal rights discourse. While demands from women's movements that the scope of rights be extended to include issues like violence against women has led to a reframing and redevelopment of the criteria for advancing women's rights across a number of spheres (Charlesworth and Chinkin 2000), this issue of the demarcation of public from private still remains. The underlying assumption of the public-private division undermines refugee law and practice by creating situations within which much of what women do and what is done to them may be seen as irrelevant to refugee and asylum law. The threat

of forced marriage, or of female genital mutilation, for example, may be considered as threats of a "private" nature as they take place within the sphere of the family or home, and, therefore, it may be considered that they do not come under the scope of the Geneva Convention. Similarly, forms of persecution related to women's private behavior—for example, their refusal to adhere to certain dress codes—or to violence that takes place within the private sphere of the family—violence committed by a husband, father, or another family member—may not be recognized as grounds for the granting of refugee status.

This public-private division might be argued to be particularly acute in cases of domestic violence—a type of violence often dismissed as "irrelevant" to asylum claims, even when the women who experience this type of violence can expect no help or protection from the police or state authorities in their country of origin. Because this type of violence takes place within the family, and is indeed perpetrated by family members, it is somehow perceived as less severe than other types of violence that are experienced in the public sphere (Copelon 1994). A woman who is severely beaten by her husband or father can thus expect less recognition from immigration officials and judges than one who is beaten by the police in her country of origin.

Similarly, sexual violence and rape may not be considered on the same level as other types of violence as they are deemed "personal" or "private," a result of "private feelings of lust or desire, and not a form of persecution or torture. Rape and sexual violence are often effectively normalized, and considered as part of the universal relations between men and women. This normalization or relegation of rape to a private affair between individuals means that it might not be taken seriously when women make claims for asylum. Although many studies have pointed to the extensive use of sexual violence against women, particularly in conflict situations (Pearce 2003), this type of violence is still not always recognized as a form of "persecution" that can justify the granting of refugee status. The true scale of this sexual violence is probably unknown, since as the UNHCR concludes, numerous incidents are never reported, often because of the embarrassment of the women involved (UNHCR 1995b); however, it is estimated that over 50 per cent of refugee women have been raped (Pearce 2003). Sexual violence may be an explicit tool of political oppression, or may be part of generalized violence in situations of civil war. Its effects on women are both physical and psychological harm. Their communities and their families may also reject women who have experienced such violence, as they are perceived to have dishonored them by engaging in sexual intercourse even if this was forced. However, despite the

prevalence of rape and sexual violence and the clear harmful effects on women, often it is not recognized as a form of "serious harm" under the terms of the Geneva Convention (Macklin 1995, 226).

In Germany, for example, women have been refused asylum on the grounds of rape during times of ethnic conflict, because "widespread rape by hostile militia has been dismissed as the common fate of women caught in a war zone and not recognized as persecution" (Ankenbrand 2002, 48). A report by the Black Women's Rape Action Project and Women Against Rape in the UK describes a similar phenomenon of the rejection of asylum claims by women who have been raped, as the political nature of this type of violence is not acknowledged and rape is not recognized as persecution. The report provides an example of a Ugandan woman who was raped by soldiers during an interrogation about her alleged support for rebels in the country. The Asylum Appeal Adjudicator rejected her claim, dismissing the rape as an act of "sexual gratification" and not persecution. This judgment was upheld in the High Court where the judges argued that the woman was not a victim of persecution but merely of "dreadful lust" (BWRAP and WAR 2006).

ARE WOMEN'S ACTIVITIES "POLITICAL"?

The underlying presence of this public-private division also has an impact on the way that what is "political" is defined, and this in turn means that women's activities may not be considered as "political" in the same way as men's and that their asylum claims will be denied for this reason. Persecution on grounds of political opinion is one of the least disputed grounds included in the Geneva Convention (Crawley 2001), and in fact, asylum is often referred to in common usage as "political asylum." However, although engaging in political activity for which one is persecuted seems clearly to enter within the terms of the Convention as a justification for granting refugee status, a gendered interpretation of what counts as "political activity" invalidates many claims by women. The gendered division of labor and gendered roles adopted within most cultures and societies mean that women's activities within any given society will often be different from those of men. They may indeed participate more "indirectly' in political activity, becoming involved in "supporting" roles such as hiding people, passing messages, or providing food or medical care. But because they have been largely absent from political elites they are often considered as nonpolitical. When considering asylum claims, often the different types of political activity undertaken by women

are overlooked or dismissed, so that their claims for asylum on the grounds of persecution based on political opinion are not accepted.

A further argument for taking women's political activity seriously, and for considering women's claims for refugee status on the basis of this political activity, relates to women who refuse to comply with discriminatory laws or norms in their countries of origins. Rather than viewing this refusal as a private matter, which has no political relevance, it might be considered that women who choose to disobey rules and laws in this way are committing a highly political act. Women who refuse, for example, to comply with laws that impose particular modes of dress, such as the veil or chador, might be seen to be undertaking a highly political act of opposition. A similar analysis could be made of Chinese women's opposition to the one-child policy imposed by their government, which exposes those who contravene the regulations to the risk of forced abortions and sterilizations. Again, however, the issues of pregnancy and childbirth involved in this type of opposition are often not constructed as "political" and so fall outside of the interpretation of who is a refugee. This type of analysis of women's activities has often been missing in the rather limited interpretations of the Geneva Convention that have been prevalent in European States.

Cultural Difference and Nonrecognition of Persecution

A further barrier to the recognition of gender-related persecution within current definitions and interpretations of the Geneva Convention is the way in which persecutory practices that may be common in Third World countries are assigned to "cultural difference" and are thus viewed as part of the order of things. This normalization of persecutions through their ascription to cultural differences, which should not be challenged by European states, feeds into the debates over the possibility of defining universal women's rights, or whether these rights should be culturally sensitive. Liberal rights discourse has been criticized for its "false universalism" and its inability to accommodate cultural diversity. In international arenas, some of the resistance to universal standards for women's rights has in fact been led by conservative states and religious NGOs (Sen and Correa 1999; Molyneux and Razavi 2002), but this universal rights discourse has also been criticized by some feminists who have argued that it does not take account of differences among women, and reproduces an ethnocentric and Western model of rights that supports the idea of Western cultural superiority (Mohanty 1991). The difficulty

is thus to determine how far any defense of "cultural difference" is actually a defense of practices that amount to an attack on women's rights and to persecution of women. As Rao points out, the arguments against universal rights based on the need to maintain cultural difference actually serve a variety of interests and may in fact be employed by regimes that are unfavorable to women's emancipation (1995). Claims to defend "traditional" cultures often involve control of areas such as family life, which lead to the subjugation of women within the domestic sphere, and as Molyneux and Razavi argue,

> The fact that the roles and symbolism associated with femininity together with patriarchal authority and masculine privilege are often made into cultural signifiers, places women's individual rights in conflict with those seeking to impose "traditional," "authentic," or "national" customs on their people. (Molyneux and Razavi 2002, 15)

These conflicts between women's individual rights and those who seek to impose "traditional" or "cultural" practices upon them can easily lead to persecutions of women, but claims for asylum based on these persecutions may not be recognized as legitimate if the imperative of recognizing cultural difference prevails. For example, in a recent decision, the British Court of Appeal rejected an asylum claim from a Sierra Leonean woman who feared forced genital mutilation if she were returned to her country. One of the judges argued that the practice of female genital mutilation was clearly accepted by the majority of the population of Sierra Leone and was not in those circumstances discriminatory (RWRP 2005a). This decision was later overturned by the House of Lords who ruled that the claimant could be considered as part of a "particular social group" of women from Sierra Leone who were at risk of FGM. Despite the positive outcome for this woman, the earlier ruling by the appeal court judges shows a worrying trend of cultural relativism that is present among many of those involved in processing and judging asylum claims. This cultural relativism goes hand in hand with the fears mentioned above of a "flood" of female asylum seekers if European states were to admit that what these women were experiencing was indeed persecution and not merely a local custom that was widely practiced and, therefore, acceptable.

SHOULD WOMEN BE CONSIDERED AS A "PARTICULAR SOCIAL GROUP"?

Much of the legal debate over the best way to ensure that gender-specific forms of persecution are brought within the remit of the terms of the Geneva Convention has revolved around the notion of a "particular

social group." One of the grounds for persecution that is included within the Convention as a basis for granting refugee status is that of membership of a particular social group. But although many cases of gender-related persecution might be thought to enter into this category, with women in a specific country being considered as members of a particular social group when gender-based persecution is widespread within the country, there has been a reluctance to admit that women can be recognized as a particular social group in this context.

The recognition of women as a particular social group is a solution favored by the European Parliament, which adopted a resolution in 1984 calling upon states to consider women who had been the victims of persecution because of their sex, as a particular social group, under the terms of the Geneva Convention. The UNHCR also supports this line of action, its *Guidelines on the Protection of Refugee Women* (1991), also calling for women who face persecution for violating social norms to be considered for refugee status as members of a particular social group. Although there have been cases where women have been offered refugee status under this stipulation of the Convention, the limits to how the particular social group is constituted are always very precise, in order to avoid setting a precedent of a wide category that could be open to many women asylum seekers. It seems unlikely that most European states will move toward a more general recognition of gender as a characteristic of a particular social group because of the perception that this recognition would lead to a "flood" of asylum claims by women. In an interview, for example, the head of the French Commission de Recours des Réfugiés (Refugee Appeal Commission), asserted that the recognition of the principle that women formed a particular social group would lead to the risk of receiving asylum claims from "half of humanity."[3]

Further, the issue of whether or not it would be beneficial for women asylum seekers to be classified as a particular social group in this general way, with the notion of particular social group being based on the idea of a shared gender, is a matter for debate, with some arguing that this would be inappropriately comprehensive (Crawley 2001; Kofman et al. 2000). As many feminists have previously argued, "women" do not constitute a cohesive social group, and within any country there will be numerous differences between the status and situation of various women. With reference to asylum claims, therefore, "the very assumption that women have common experiences which can be explained by reference to their gender alone can itself undermine the argument" (Crawley 2001, 73). Attempting to define

women as a particular social group may also fall into the trap of essentializing gender differences, and portraying refugee women as victims of "barbaric" Third World cultures (Oswin 2001). The problem with these types of representations that portray women from Third World countries as "victims" is that it fixes an opposition between "them" and "us," between "Western women" and "Other women," which might obscure the real structures of gender inequalities in different societies and the reasons for the persecutions that women suffer as a result.

The Burden of Proof and Credibility

The climate of disbelief surrounding asylum seekers means that the level of "proof" needed to substantiate their claim has risen continually. Noiriel refers to the "absence of proof" as the "leitmotif which justifies all the rejections" of asylum seekers (1991, 237), and as rejection rates have continued to rise, so too has the level of proof required to avoid rejection (Valluy 2009). Often the form of proof required is that of physical evidence of violence or torture in the form of a medical certificate certifying the scars of such violence. Again this demand for proof may be particularly difficult for women who have suffered sexual violence or rape as these types of violence may be difficult to prove and women may be reluctant to talk about them or to submit to medical examinations that will heighten their feelings of shame. Women and NGOs interviewed for this research commonly pointed to a lack of proof as the reason for which women's asylum claims had been rejected.

Ironically, some moves toward greater recognition of some forms of gender-related persecution have also resulted sometimes in greater barriers to proving these cases. This results from assumptions among immigration officials that once they have created a judicial precedent, many other asylum seekers will be tempted to "jump on the bandwagon." Thus, French NGOs report that in cases where a woman is claiming asylum on the grounds of feared female genital mutilation, the level of proof required in terms of medical certificates and expert witness statements has become very stringent, and that any claimant who does not have all of these certificates will be sure to have her claim rejected.[4]

The rising number of women who claim asylum on the grounds of rape or sexual violence has also led to a problem of credibility as some decision makers seem to assume that "all women say they've been raped."[5] As Schottes and Schuckar point out, asylum seekers coming from civil war regions quite often tell very similar stories about sexual

abuse and rape. They are then accused of making up their story in the hope of being granted asylum (cited in Binder and Tosic 2005, 616). Women's accounts may also be less likely to be believed if they fail to give details of rape or sexual violence when they first make their claim, although there are often compelling psychological or social reasons not to do so (BWRAP and WAR 2006).

Gender Guidelines

In order to respond to some of the above criticisms of the application of international laws and policies regarding female asylum seekers and refugees, a few countries have introduced so-called gender guidelines that aim to ensure that issues related to gender are taken into account in the determination of asylum claims. The adoption of such guidelines is a solution favored by the UNHCR, which has produced a range of guidelines over the years in order to encourage states to incorporate a gender-sensitive approach into their processes of determining asylum claims. However, evidence from European states suggests two things: first, there is little uniform acceptance for the need to incorporate such guidelines into their national policies or legislation, and second, even where guidelines have been adopted their implementation is inconsistent at best.

There is often still little transparency in the process for granting asylum in European countries, and the idea that any kind of logical or "scientific" process has been established to distinguish between "real" and "false" refugees is highly misleading (Valluy 2004). Decisions often rely on the personal intuitions of immigration officials or a judge. In this sense, while some decisions favorable to a more gender-sensitive asylum policy and process may be highlighted, a general trend of structural gender inequality still underlies the asylum process. In a study in Denmark among recent asylum applicants from the Middle East, for example, it was found that single mothers had the lowest probability of gaining refugee status, irrespective of whether or not they had been subject to human rights violations. The authors conclude that it is socioeconomic and cultural factors that are the greatest predictor of the granting or refusing of refugee status in Denmark (Montgomery and Foldspang 1995). These socioeconomic factors contribute to the way in which the asylum seeker is perceived by asylum officials and judges, as a threat to European security, or as a good "victim" who poses no threat and who deserves protection from Europe. For women, the need to portray themselves as "victims" in this framework pushes them to frame their claims

in a particular way, often with the complicity of NGOs and support groups who will encourage them to conform to these gendered and racialized stereotypes of the good victim who does not pose a threat to European society.

REPRESENTATIONS OF THE REFUGEE

Underlying all of the above discussions on the ways that the gender is or is not taken into account in asylum policies is the issue of dominant representations that both portray women refugees as helpless victims and reinforce the difference between "us" and "them," Western women and the racialized "other." This division can be traced back to a primary dichotomy that has been established in international politics between those states, which produce refugees and those that accept refugees (Macklin 1995). Following on from the logic of the Cold War period when the countries of the Western bloc believed that refugees all emanated from the other side of the Iron Curtain, and that political persecution could not happen in their countries, democratic Western States in the post–Cold War era have assumed that they cannot produce refugees as they have laws and policies designed to protect the human rights of their citizens. The refugee-producing countries are others, countries that do not respect human rights in the same way. The problems inherent in this type of distinction are evident from discussions of gender-related persecution and particularly of domestic violence. While domestic violence occurs in all countries, the connection is rarely established between violence against women "here" in the West, and violence against women over "there" in other countries. As a result, the persecutions that take place in those "other" countries are attributed to immutable social and cultural characteristics, and the real dynamics of gender inequality underlying all types of gender-related violence, whether "here" or "there" is not analyzed. As Macklin argues, "recent feminist scholarship from the United States on gender persecution and refugee status evinces a distressing degree of cultural myopia regarding local conditions for women. It seems that when some North American feminists want to make a pitch for granting asylum to victims of gender persecution elsewhere, they become tactically blind to the compelling evidence gathered by other North American feminists documenting local practices that might constitute gender persecution. At the very moment North American feminists turn to condemn misogyny in the 'third world,' they lose sight of the fact that our own culture hardly presents a model of gender equality" (267).

These types of ethnocentric and racializing attitudes may make it easier for feminists in the West writing about asylum and refugees to identify some kinds of practices as persecution while others are not so easily recognized. Female genital mutilation, a practice that is held up as a paradigm of "other" cultures, has been the subject of many feminist campaigns. Far fewer women have mobilized to support victims of domestic violence in other countries, or indeed have suggested that victims of domestic violence in Western states should themselves be able to seek international protection or asylum elsewhere. This "othering" of cultural practices and of women seeking asylum leads to a tendency to disconnect the experiences of Western women with those of women who seek asylum. As Macklin again argues, "what this means in the refugee context is that we suppress the commonality of gender oppression across cultures to ensure that what is done to Other women looks utterly different from (or unspeakably worse than) what is done to women here, that no one would notice a contradiction in admitting them as refugees. The logic of the dichotomy of refugee-acceptor/refugee-producer compels a parallel classification of Western woman/Other woman that serves to facilitate the admission of at least some women fleeing gender persecution, but only by adopting a method that is politically and empirically problematic" (272).

How can this problematic dichotomy be overcome without reverting to a false universalism that ignores divisions among women produced by race, class, or ethnicity? The answer must be to consider the local and international contexts carefully when examining what is persecution against women, and what can be done to "help" women seeking asylum or women refugees. In seeking to understand obstacles to the achievement of gender equality in refugee protection, it is necessary to examine critically the global norms that have been created, and the frames that are used to represent women refugees and asylum seekers. It might be argued that one of the reasons for the uneven impact of global norms in this area is that they are based on frames that represent women refugees principally as vulnerable victims, thus essentializing a particular set of gendered roles, and failing to take into account the underlying gendered relations of power. Representations of "refugee women" as helpless victims also act to depoliticize these women's experiences and activities (Baines 2004). Rajaram (2002) points to the way in which humanitarian responses to refugees amount to a generalizing and depoliticized depiction of these refugees as helpless victims. Refugees are thus rendered speechless and without agency, and as Malkki argues, they are identified not

in terms of their individual humanity but as a group whose boundaries and constituents are removed from their historical context and reduced to norms relevant to a state-centric perspective of international relations (Malkki 1996). This depoliticization can be argued to be particularly acute with regard to women refugees and asylum seekers, as women tend to embody a particular kind of "powerlessness" in the Western imagination (Malkki 1995), and are thus idealized as "victims" without agency.

This use of strategic frames of women as vulnerable victims in need of protection is prevalent among practitioners in the international policy community (Carpenter 2005), and it can be argued that the symbols and signifiers of women as vulnerable victims form a valuable part of the "cultural tool kit" (Swidler 1986) of these practitioners. Images of women and children in refugee camps have become common in fundraising campaigns by UNHCR and NGOs. In some contexts these images have been shown to be highly effective in raising public awareness of refugee issues, and of attracting donor support for particular humanitarian crises, or in drawing the attention of political leaders. In Somalia, for example, Loescher comments on the way that "widespread media coverage of starving women and children finally turned policy makers' attention to the disaster" (2001, 303).

However, although such framings might be seen as beneficial to women as they are used to mobilize support for specific protection measures, these frames are in fact essentializing of gender difference, and ignore women's agency and voice. Women refugees and asylum seekers are, for example, often symbolized as mothers, and in this framing their primary role is to protect their children. Examples of the use of such a frame can be found in asylum policies in various countries, which have sought to protect women whose children are at risk of excision. In this case, protection is offered to women purely in their function as "mothers" protecting their "innocent" children from harm. A different way to approach this problem of the essentializing nature of the frames used to describe women asylum seekers and refugees, and of the framing of particular issues of persecution in terms of preexisting and essentializing norms, is to relate these problems to the question of how gender issues become (or do not become) securitized, and the fact that asylum-seeking women themselves are often excluded from the process of "framing" their own claims, precisely because they lack a "voice."

In a critique of the Copenhagen School, Hansen uses the example of honor killings in Pakistan to argue that those who are constrained in their ability to speak about their security/insecurity are prevented

from becoming "subjects worthy of consideration and protection" (2000, 285). She concludes that "silence is a powerful political strategy that internalises and individualises threats thereby making resistance and political mobilisation difficult" (306). This critique might serve as the basis of a wider criticism of the ways in which the "voice" of women asylum seekers and refugees is ignored in the framing of issues relating to gender-specific persecution. The discursive opportunities that exist are not open to these women for reasons of political, social, and economic marginalization and exclusion. The NGOs and associations that make claims for gender-specific policies and legislation do so on behalf of refugee and asylum-seeking women, these women themselves have little or no voice in the process. Speaking for women asylum seekers and refugees leads to representations and framings of them that rely heavily on preexisting cultural norms as argued above, and contain these women in their role of "victims." Real understanding of the gendered causes of forced migration would take into account the voices and perspectives of those women who flee, and would adapt solutions for protection to specific experiences and to particular national and local contexts.

Notes

1. Including Belgium, France, Italy, Spain, UK, and officials at European Union level.
2. The 1951 Refugee Convention is the only universal treaty that provides for the protection of refugees and in those countries in which the Convention has not been ratified and adopted into national legislation as the basis of asylum law, the UNHCR uses the Convention as the basis for deciding refugee claims. The *OAU Convention on the Specific Aspects of Refugee Problems in Africa* (Addis Ababa, September 1969), and the *Cartagena Declaration on Refugees* (Cartagena 1984), provide some elements of regional refugee definition that are applicable to situations in Africa and South America respectively.
3. Interview with author September 2005.
4. Interviews 2005 and 2006.
5. Interview March 2006.

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3

The Economic Security of Refugees: Social Capital, Remittances, and Humanitarian Assistance

Karen Jacobsen

When refugees flee their homes, poverty follows close behind. In their flight from armed conflict or the threat of persecution, people have to leave behind their livelihoods and most of the productive assets—houses, livestock, tools—that constitute their economic and financial security. Those refugees who go to camps can usually find emergency humanitarian assistance and food aid, but this assistance is insufficient to meet even basic needs over the long term. Most refugees do not end up in camps; they live among—and sometimes sharing the houses of—the local population of the areas to which they flee. In these often very poor host communities, refugees must negotiate the difficult economic and legal terrain of their new locations and find new ways to provide for themselves and their families. Most of the world's 15 million refugees (and 25 million internally displaced people) live in Africa and Asia. About a quarter are in camps, but most live among the local population in both urban and rural areas, and many refugees are caught up in the urbanization flows characterizing these regions. How to support refugees who do not live in camps, and who are also part of the huge urban migrant populations in cities, is a daunting problem for aid agencies, and the topic of refugee livelihoods has gained attention recently as aid agencies seek to assist refugees by supporting their livelihoods. But for most refugees living outside camps, humanitarian aid is a relatively minor component of their economic security.

Why refugees are often more economically vulnerable than their hosts, and how they go about increasing their economic security and rebuilding their livelihoods is the topic of this chapter. I begin by outlining a theory explaining refugees' economic security, and then use the theoretical framework to explore the case of Sudanese refugees in Cairo. Urban refugees constitute a significant proportion of the world's refugees—perhaps the majority, and Cairo has a long history of hosting refugees from Sudan, Somalia and elsewhere in the region. Cairo is thus a fairly typical case, illustrating many of the problems confronting refugees who live outside of camps.

In countries of first asylum, two factors are of key importance for refugees' economic security. The first is the institutional context. National refugee and other migration laws and policies, along with the bureaucracies and authorities that implement them, are an important determinant of how easily refugees pursue economic activities. In addition, the practices of financial organizations such as banks and microfinance agencies also influence the institutional context, through their ability to extend or withhold financial services such as savings accounts, money transfers, and credit to refugees. Financial services are an important aspect of economic security, because without them people are vulnerable to theft, are unable to get credit to start businesses, and in general have to conduct financial transactions in the more risky informal sector.

The second factor influencing refugees' economic security is the extent to which refugees have access to social capital, both in the host area and through transnational links with the diaspora in other countries. Social capital takes the form of assistance and support provided by the community or by the diaspora who send help in the form of remittances. It plays an important role in sustaining refugees thorough difficult patches and helping them to get a jumpstart on new livelihoods.

Understanding refugees' economic security is important for two reasons. First, economic security plays an important part in the safety of refugees. When refugees are at an economic disadvantage to the host population, they are at risk for other more virulent forms of insecurity. Refugees are legally and socially vulnerable in host countries: at risk for deportation, exposed to xenophobic responses by the local population, and often targets for crime and abuse. Economic difficulties increase their vulnerability. Lacking ready cash, they are less able to find secure housing, and are at the mercy of unscrupulous landlords or merchants who exploit their poverty and marginal status. Like all people, impoverished and desperate refugees are more

likely to engage in high-risk coping strategies, including illegal and dangerous activities such as prostitution, smuggling, and child labor. Cutting household expenditures, a key coping strategy, can raise new problems. Sharing housing with others to reduce rent costs can bring other problems: living in close proximity with strangers can create risks for the physical well-being of women and children. Destitute people are more likely to engage in risky behaviors such as prostitution, street begging, or garbage collection from dangerous areas. Children and women are more at risk when coping strategies mean rationing food to household members, or engaging with traffickers. These problems make it important to understand the causes of economic vulnerability and the factors that enable refugees and other displaced people to become more economically secure. Such an analysis also helps policy-makers and practitioners identify entry points for programs that can support refugees and thereby address the problem.

Refugees' experience is instructive for understanding poverty and economic insecurity more broadly. Like the poor in developing countries, refugees pursue livelihoods largely in the informal sector with associated risks stemming from lack of health and safety regulations, lack of social security, low salaries, extended working hours, unstable and sometimes dangerous jobs. These problems are more risky for refugees, because they lack government-sponsored safety nets that might be available to poor citizens. How refugees cope with life in the informal sector helps us understand how the informal sector operates more widely. As Peter Loizos (2000, 125–126) argues,

> In comparison to the problems of non-refugee citizens—labour migrants for example, who may be unemployed and poor but not dislocated—refugees seem to face exceptional problems....But many observers have been impressed by the general resilience of refugees as if the central disruption had been redefined as a challenge....In understanding how refugees transcend their dislocations and destitutions, we may gain an insight into processes of social construction.

In recent years a large literature has addressed the livelihoods of refugees and internally displaced people and the structural and institutional constraints they face.[1] A subset of this scholarship focuses specifically on the economic and financial experience of displaced people both in protracted situations and during the initial emergency phase. For example, efforts have been made to model the economy of refugee camps (Werker 2007), and a study of Sri Lankan IDPs explored how IDP households finance basic needs during the initial period of

conflict-induced displacement (Amirthalingam and Lakshman 2009). This literature is beginning to map out the conceptual underpinnings of a theory of economic security for refugees that addresses the structural and institutional processes that influence refugees' economic security in host countries.

Terminology and Background

The legal category of refugees comprises people who fulfill the criteria set out in the *1951 Convention Relating to the Status of Refugees*. This includes both asylum seekers (i.e., those who have crossed an international border to seek international protection, but whose refugee status has not yet been determined), and those who have been formally recognized, usually through individual refugee status determination. According to UNHCR (United Nations High Commissioner for Refugees), at the end of 2010, there were an estimated 43.7 million people forcibly displaced by conflict or persecution worldwide, the highest number since the mid-1990s. Of these, just over a third, 15.4 million, were recognized refugees or people in refugee-like situations; more than 837,500 were asylum seekers, and more than 27.5 million were internally displaced (UNHCR 2009a, 26).[2] The number of refugees under UNHCR's mandate was 10.5 million, and another 4.8 million Palestinian refugees living in Jordan, Lebanon, and elsewhere in the Middle East came under the responsibility of the United Nations Relief and Works Agency (UNRWA). These numbers are based on reports by UNHCR country offices, which are in turn based on government sources, nongovernmental organizations, and UNHCR's registration systems (UNHCR 2010a, 4). The actual number of forcibly displaced people, especially IDPs, is likely to be larger.

Of the world's refugees, a small proportion gains asylum or is resettled in rich countries, but the vast majority remain in the regions bordering or close to their countries of origin. According to UNHCR, the major refugee generating regions hosted between 76 and 92 percent of refugees from within the same region. Only 1.7 million refugees (17 percent out of the 10.4 million under UNHCR's mandate, and 11 percent of the world's total of 15.2 million) live outside their region of origin. Most of these neighboring host countries—which we refer to as "countries of first asylum"—are in Africa, the Middle East, and Asia, and are very poor (UNHCR 2010b, 6).[3] Countries of first asylum (CFAs) are distinguished from (third) countries of resettlement where refugees are usually granted permanent residence

or citizenship and accorded economic rights. In CFAs, refugees are often granted only temporary permission to stay—usually in camps—and relatively few are granted full refugee status. This lack of status is important because only refugees with full legal status are accorded economic rights such as freedom to work, to own land, or to move about freely.

Some 5.7 million refugees, in 22 different countries, are considered to be in "protracted" refugee situations, where 25,000 or more refugees of the same nationality have been in exile for 5 years or more in a given asylum country. These refugees lack the legal status that would enable them to move on with their lives; they have not been integrated into the host country and retain their temporary status. Resettled refugees and those granted asylum (asylees) do not fall into this category. For example, in the United States resettled refugees have legal status and the right to work, they receive social services, and ultimately can have the eligibility to apply for citizenship. By contrast, refugees in protracted situations in CFAs enjoy little humanitarian assistance and must face the legacy of poverty arising from their displacement and flight, compounded by insecurity and the lack of economic and social rights.

The Economic Vulnerability and Resilience of Refugees

In trying to understand poverty and how to identify the poor, many scholars today use the more dynamic concept of vulnerability. Unlike poverty, which is usually measured with static indicators such as income or wealth, vulnerability is a dynamic concept, intended to capture households' ability to respond to future shocks such as the loss of a worker or an environmental disaster. Vulnerability (and its inverse, resilience) is defined in the literature in different ways, but most analysts agree that it has multiple dimensions and is influenced by social, economic, environmental, political, cultural, and institutional factors. Caroline Moser defines vulnerability as "insecurity and sensitivity in the well-being of individuals, households and communities in the face of a changing environment, and implicit in this, their responsiveness and resilience to risks that they face during such negative changes" (1998). This definition captures the multidimensional aspects of low-income households' ability to respond to deteriorating circumstances, shocks, or reverses, such as the loss of a worker or forced displacement.

Economic vulnerability and its inverse—resilience—reflect two sides of the same conceptual coin; they capture how a household could potentially respond to future shocks, and the ways in which a household accesses, builds, and preserves its assets and limits its liabilities. Productive assets are defined as assets that increase the income and value of (i.e., appreciate) other assets, and include land, machinery, tools, and so forth. In urban areas, housing is a particularly important productive asset, as in addition to providing shelter, housing can be used to generate income through home-based production activities, rental of a room or property, or secure storage of goods for vending or trade. Nonproductive capital includes jewelry, cash, savings; human capital (in the form of labor power, education, health); income; and claims such as loans, gifts, social contracts, and social security (Maxwell and Smith 1992, 16). Liabilities are the inverse of assets—they drain capital or prevent its accumulation and appreciation, and include debt, malnutrition, disease. A household's economic resilience is its net worth—the difference between its assets and liabilities—the "cushion" of social, human, financial, and physical assets. A household is economically resilient when it has enough of a cushion to stave off financial setbacks arising from shocks, re-establish livelihoods, and regain previous levels of net worth within a reasonable period of time. Net worth is thus a shock absorber.

Refugees arrive in their places of safe haven with a very small, often nonexistent, cushion. They have had to leave behind key household assets, including livestock or crops, jobs or businesses. Financial assets, such as savings or credit sources, are also lost. In rural villages, people often save through communal savings groups, which are dispersed when people flee. In villages people often utilize informal financial strategies, such as borrowing from a neighbor or reciprocal insurance, derived from the social capital (the trust and local knowledge) available to them in their communities. When villages are broken up after people flee, this social capital is lost and with it the ability to borrow informally.

Refugees are sometimes able to bring with them transportable forms of wealth that can be sold later, such as jewelry, gold, or cash, or if they have access to a car they can move heavy items, such as TVs or computers. But during the course of their journeys, transportable assets must often be sold or bartered for food or protection or bribes, and, of course, there is a great likelihood they will be stolen or lost en route. Anna Lindley (2007, 10) describes the journey from the Somali refugee camps on the Kenyan border to Nairobi as "costly and risky for those without proper documents. As there is the risk of ambush and attack by bandits, most refugees prefer to travel by

the main road, but are frequently subjected en route to police detention and extortion or return to the camps, incurring extra costs that sometimes trigger requests to relatives overseas for assistance." It is rare that refugees arrive after a long journey with productive assets that can be used to jumpstart their new lives. In their new places of residence refugees have only two types of capital with which to start new lives: human capital—their education, strength, and skills—and the social capital available to them—ethnic, kin, and co-national networks that provide refugees with local knowledge and often financial or housing support. Whether this capital can be harnessed and utilized to develop new livelihoods depends on the policy and institutional context in each host setting.

The Policy and Institutional Environment for Refugees

The most significant factor constraining the livelihoods of refugees is the institutional context—the legal and policy environment of the host country. For refugees, access to and utilization of their productive assets, including their human capital, depends on this regulatory environment. This environment comprises refugee policies, the state's administrative and enforcement apparatus (bureaucracy and authorities), and implementing practices regarding refugees' rights. These rights include economic and social rights such as whether refugees are allowed to work, to own and operate businesses, to utilize government health and education facilities, and to move about freely outside of camps to engage in economic activity. In addition to state institutions, commercial financial institutions such as banks are also part of the regulatory environment—usually underpinned by the state. Financial institutions are a key aspect of refugee livelihoods because they can enable or obstruct refugees' access to credit and savings facilities.

This regulatory environment can make economic activities risky for refugees.[4] According to international treaty law, countries that have signed the 1951 Refugee Convention must abide by its articles and implement them in domestic legislation. Articles 17 and 18 of the 1951 Convention pertain to wage-earning employment and self-employment, and state that "the Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances."[5] A review of 214 countries by UNHCR found that just over a third, or 80 countries, meet international standards and have

enacted and enforced the necessary legislation and issued work permits to refugees. Another 14 percent partly met this standard, that is, they do not issue work permits in a uniform and standardized manner, and 32 percent or 100 refugee-hosting countries did not meet the standards, that is, they have not ratified the 1951 Convention or any other relevant human rights instruments and do not issue work permits (UNHCR 2009b). This means that in many host countries refugees work illegally, usually in the informal sector with its attendant range of protection risks. Refugees must work with the hope that government will turn a blind eye to their activities.

The reasons why most host governments do not want refugees to work is simply because governments do not want them to stay. To this end, host governments assign refugees only temporary leave to stay, often in refugee camps, with the expectation that they will eventually return to their home countries. Humanitarian agencies are expected to provide the means for refugees to survive until they return or are resettled elsewhere. Governments see economic activities by refugees as a sign that refugees either intend to stay, or that the international community is not fulfilling its obligations. Refugees' economic activity is also a potential domestic political problem, especially in countries with high unemployment rates (Campbell and Kakusu 2006). This antiwork position means many governments do little to enable refugees to pursue livelihoods—and much to discourage them. Harassment of refugees by the state, including demands for bribes by police and immigration authorities, is widely reported. Antimigrant or antirefugee (xenophobic) attitudes in civil society are condoned and sometimes even promoted by the government. For example, in South Africa—which has signed the 1951 Convention and has one of the world's most progressive constitutions—research conducted in Johannesburg as far back as 2003 found plenty of evidence for bias against foreigners. In one study, of the 85 percent of South African respondents who thought crime had increased in recent years, more than three quarters identified immigrants as a primary reason, and 65 percent thought it would be good if most of the refugees and immigrants left the country. The research of Landau and others indicate that many South Africans speak openly of their support for drastic measures to achieve this end. This antiforeigner bias has increased over the years, culminating in 2009 with attacks and killings aimed at African refugees, particularly Zimbabweans and Somalis (Landau 2006; Misago 2009).

Harassment of this kind is found in most countries of first asylum, and makes it difficult or costly (because of the need for bribes) for

refugees to move around freely to work. Refugees often face higher living costs than other urban poor because of discrimination by landlords or other authorities—refugees are often required to pay higher rents, or are charged extra "fees." In addition, refugees are targeted by criminals because they are less likely to be protected by the law, and because refugees often have to carry cash with them as they have no safe place to keep it. Refugees with professional qualifications, such as doctors, nurses, and university professors, often find that their certification or education qualifications are not recognized. This situation leads to the paradox of qualified refugee nurses and teachers unable to practice their professions in countries with serious nursing and teaching needs. However, some host countries do take advantage of refugees with skills to offer. In Jordan, a large number of Iraqi doctors are able to practice and are generally granted annual residence permits. However, newer graduates with degrees in medicine must obtain authorization from the Jordanian Medical Board, and are not paid full salaries when employed in Jordanian hospitals, but are instead given a small per diem. In return, the hospital is responsible for securing their annual work permits. Many Jordanian universities employ Iraqi professors, and sports clubs employ trainers and physical therapists.[6] However, utilizing the skills of refugees to plug gaps in the host country's human capital is by no means a common strategy, and even in Jordan it applies only to a small fraction of the refugee community (UNHCR 2009b).

Policies that seek to prevent refugees from working or engaging in economic activities are difficult to implement fully, and, just as is the case with the United States and Europe, employers need and seek out cheap undocumented labor. Most refugees seek employment in the informal sector—farm labor or domestic work, construction, security guards, petty trade, and so forth. Subsistence ("petty") trade, including the sale of food aid and other aid commodities, is commonly practiced by men and women, both in urban areas and in camp markets.[7] However, the kinds of subsistence-level economic activities refugees engage in barely enable them to meet even basic needs of food and shelter, and many teeter on the edge of impoverishment, even destitution. Informal sector work is associated with low income, and with many risks, including lack of health and safety regulations, extended working hours, and unstable and sometimes dangerous jobs. Also, because refugees are not allowed to work, those who do face the constant threat of raids by immigration authorities and subsequent deportation—which imposes significant financial costs on refugees and their families. Construction sector jobs are widely sought, in part

because refugees can also live on the sites. For example, in Malaysia, many Burmese refugees find work on building sites, sometimes living there in makeshift shacks they build for themselves, and sometimes sleeping in the surrounding jungle, where they are less vulnerable to immigration raids. In one study that explored the challenges refugees in Malaysia face in trying to earn an income, many refugees mentioned the frequency of raids by the immigration department and RELA, the country's voluntary border control brigade, both of which paid frequent surprise visits to companies, factories, and worksites known to hire immigrants. Those arrested during raids were frequently deported after a stay in a detention center. Refugees then typically hired agents to negotiate reentry into Malaysia, at heavy cost. Deportation thus imposes heavy costs as refugees lose their wages and often their savings and acquire heavy debt. One man noted that his family in Myanmar was forced to return all the remittances he had sent them over the years that he had lived in Malaysia in order that he could afford the agent's fees (Sridharan 2010).

There are other high costs associated with living outside camps. Few of the government welfare nets that might exist for the citizen poor are available to refugees, and rising food prices and health problems all pose extra financial burdens on the already-poor refugees. In many cases financial shocks take the form of deportation and hospital bills that far exceed their monthly income and lands them in debt to the community and/or employers. Bribery and robbery erode cash savings, and refugees who used to be "better off" slip into poverty and become more vulnerable. Some refugees pursue coping strategies such as survival sex or prostitution, selling drugs or alcohol, or sending their children onto the street or into the child labor market to support the household. Poverty is a threat to the refugees themselves—creating new protection risks—and it undermines the development of host countries as well.

Supporting Refugees' Economic Security

Given the economic difficulties refugees face outside of the camps, it is difficult to understand how they survive. One answer lies in social capital, a concept that describes the assets associated with social connection, norms of reciprocity and sharing, and trust. Social capital is the social glue that holds communities together, imposing obligations and providing support to them, and is manifested in networks, levels of trust, and community mobilization. The concept of social capital has long featured in the scholarship on migration (Akcapar 2010),

often to explore how resettled refugees become integrated in their new countries (Ager and Strang 2008; Lamba 2003). Recent studies have explored its importance in countries of first asylum. For example, in Jordan a UNHCR study compared the social capital of Iraqi and Sudanese refugees (Calhoun 2010) in order to better understand how to support a community-based approach to refugee protection.

In refugee communities, the accumulation and expression of social capital is influenced by their experience of violent conflict or persecution, displacement, and the subsequent dispersion of households. These factors can contribute to low levels of trust, which in turn lead to weak networks and limited community representation and mobilization. Not all communities experience these problems—indeed in the same host country, different refugee communities can embody different levels of social capital. Some can be splintered and factionalized, with leadership struggles and high levels of mistrust; others less so. For example, in Malaysia, one study found that, unlike other Burmese refugee groups in Malaysia, the Rohingya community is highly splintered. Powerful community leaders maintain individual, conflicting agendas that impede the work needed to address the community's needs. This splintering has prevented the formation of community-based associations through which humanitarian actors can deliver aid, and which can help refugees access livelihood opportunities (Sridharan 2010; Hopkins 2006).

It is helpful to distinguish different kinds of social capital, for example, "bonding" and "bridging" social capital. Bonding social capital refers to relationships within a particular ethnic, national, or religious group that creates intragroup solidarity and facilitates collective action within the group. Bridging (or "linking") social capital builds intergroup relationships, strengthening linkages between the group and other groups or organizations, including state institutions (Grootaert and Bastelaer 2002). These different forms of social capital help explain how refugees survive economically. High levels of bonding capital are manifest in information networks, friendship, and mutual support in emergencies, help with finding employment, and trust in borrowing or lending money.

An important element of refugees' social capital is the migrant networks that link the region of origin with destination cities and countries.[8] These networks have often been in place for years, providing resources such as local information about opportunities and risks, business introductions, and even loans, both to labor migrants and refugees. One of the most important linkages tying these networks

together is remittances flows, that is, cash or in-kind goods (such as clothes, or goods that can be sold) sent to and from family or friends in different countries.

The scholarship on the implications of remittances for refugees has established that refugees who receive remittances are generally better off and less economically vulnerable than those who do not receive remittances.[9] However, the proportion of refugees who receive remittances is small. In her study of the transnational livelihoods of Somali refugees in the Dadaab camps of Kenya, Cindy Horst found that only 15 percent of refugees receive remittances on a regular basis (2006). In our own survey research on IDPs in two regions of Darfur, we found that in the Zalingei IDP camps, less than 3 percent of IDPs received remittances, and in the urban setting of Kebkabiya (North Darfur) 25 percent of respondents received remittances. Elsewhere, findings indicate that refugee remittance receivers are likely to come from families who were better off and had the resources to send family members to the West (Lindley 2007, 13), or as labor migrants to neighboring countries. However, although only a small proportion of refugees receive remittances, the knock-on effects at the community level are relatively important, given the role of social capital in sustaining refugees.

Refugee remittances are often linked to specific requests for help, usually in the form of assistance with basic needs after displacement. Our research in Cairo and elsewhere suggests that specific requests for help are made only when no other funding is available, and often to meet emergency needs such as inability to pay the rent, or when a household faces serious illness or the death of an income earner. Requests for help are also made for important and expensive occasions such as weddings or funerals. Remittances are sometimes also used to jumpstart livelihoods or to establish new businesses,[10] but for most refugees trying to survive in countries of first asylum, all income is devoted to daily survival and little goes to investment in new activities.

In refugee camps, it can be difficult for remittances to reach the intended household because remittance channels and mechanisms are blocked in various ways. In remote areas, remittances must usually be hand-carried for the final leg of the journey, after they are transferred from banks or other remittance organizations like Western Union. This last leg is the most challenging during conflict, disaster, or insecure conditions, when roads are blocked, borders are closed, and travelers carrying cash or goods are targeted by bandits and militias.[11] However, in most refugee situations, including

camps and urban areas, both formal and informal remittance channels are usually open and flowing, increasingly aided by new forms of mobile communications technology that make remittances easier to send. The growth of mobile banking and cell phone remittances mean these transnational financial flows are likely to assume greater importance for refugees. Communications technology, particularly mobile telephony, has now spread even to poor and remote areas, with significant consequences for sending remittances. For example, "scratch remittances" is the transfer of money via cell phones. In most African countries, numerous little shops in all market places serve as retail outlets for the mobile phone companies, and cell phone operators and airtime card sellers also operate as remittance agents. The cash transfer is made either by buying or selling airtime. A customer wanting to send money pays the cell phone agent for airtime, and the operator deposits the value into the cell phone of the recipient. The recipient can then go to a similar operator and sell the airtime, by transferring it to the cell phone of the operator against the cash payment—a human ATM. In most African countries, such mobile cash transfers are widely used wherever there is network coverage—which is most populated areas. For smaller remittances mobile cash transfers could become a replacement for formal providers such as banks because mobile cash is faster, cheaper, and more convenient (Hansen 2010).[12]

Humanitarian Assistance

Increasingly, UNHCR and other humanitarian and refugee agencies recognize the need to support and enable the economic security of refugees, especially in situations where prospects for repatriation or resettlement in third countries are few and traditional humanitarian assistance is insufficient. Refugees who are unable to pursue livelihoods are at risk for further impoverishment, which can lead to new protection problems if people are forced into risky income-generating activities in order to survive. In the past decade or so, aid agencies and UNHCR, recognizing the protection implications of poverty, have increased their livelihood programming efforts, usually as part of what is referred to as a "self-reliance strategy." UNHCR advocates with host governments for the right of refugees to work and engage in economic activities, particularly in urban areas where refugees have less access to traditional humanitarian assistance. Advocacy efforts include working with the government to provide identification documentation, certification, or other documents that enable refugees to access their assets.

This includes. for example, providing refugee identification that is accepted by police and other state authorities and recognizing education and skills certification such as in teaching and nursing.

New approaches to livelihoods programming face many obstacles, not least the reluctance of host governments to allow refugees to work.[13] Livelihood programs are of several types. One approach is to provide access to cash or microcredit both to take care of basic needs and to jumpstart livelihood activities. Cash programs, usually in the form of vouchers, but also through innovative use of new banking technologies such as ATMs, have been implemented for Iraqi refugees in Jordan and Cairo, but these are relatively rare as they require sustained and dedicated budgets, and few donors are willing to fund these programs. Access to microcredit, which helps entrepreneurs start or expand their businesses, can also be useful to refugees. Microfinance is a growing industry in poor countries, and a few aid agencies have sought either to link refugees to commercial microfinance institutions, or to create their own microcredit programs—with mixed success. While qualified refugees benefit from microcredit, loans are not always appropriate for all refugees, and taking out loans can sometimes do more harm than good.[14] Humanitarian agencies also support community services that include language training, computer training, and vocational training, as well as training in business development, marketing, and financial literacy.

Sudanese Refugees in Cairo

The case of Sudanese refugees in Cairo illustrates many of the problems of economic insecurity facing urban refugees today. Cairo is a transit country for both Sudanese migrants and refugees, and a key refugee host country for the region. The first wave of Sudanese refugees came to Egypt in 1955 with the start of Sudan's first civil war. Both Egypt and Sudan have long been sources of migrant labor for the Gulf states, and when the Gulf War began in 1990, many Egyptians and Sudanese returned home from Iraq (Egyptians) and Kuwait and Saudi Arabia (Sudanese). This period of return migration coincided with an influx of refugees to Egypt from the wars in Sudan, Somalia, Ethiopia, and Eritrea. These flows have continued since then, with the addition of Iraqis who began coming in 2003, and a new influx from Sudan's Darfur region in 2003. As of June 2011, UNHCR estimated that there were more than 41,000 asylum seekers and refugees in Egypt, almost all in urban centers, mainly in Cairo.[15] Of these, some 7,100 were Iraqis, about 6,600 were Somalis,

23,000 were Sudanese, and another 1,800 from Eritrea, and 1,200 from Ethiopia. In addition, some 50,000 Palestinians live in Egypt, having come after 1948 and 1967 (El Abed 2004).

Until 1989, Sudanese refugees benefited from the 1976 Wadi El Nil Treaty between Sudan and Egypt, which granted Sudanese the right to enter Egypt without a visa, and gave them residency rights including the right to education, employment, and health services. UNHCR became actively involved after March 1994 when the Egyptian government requested that UNHCR take responsibility for screening Sudanese asylum seekers. Then, in June 1995, after an assassination attempt on President Mubarak in Addis Ababa, which was attributed to Sudanese Islamists, the Wadi El Nil Treaty was revoked. The Sudanese residing in Egypt ceased to enjoy residency and other rights, and Sudanese refugees must now apply for residency in Egypt as asylum seekers through UNHCR. In 2004 Egypt signed the Four-freedoms Agreement with Sudan, which is seen as a partial return to the Wadi El Nil Treaty, but the agreement seems not to have resulted in any real rights for Sudanese.

POVERTY AND VULNERABILITY OF SUDANESE REFUGEES IN CAIRO

Like all refugee groups in Cairo, possibly with the exception of the Iraqis, the Sudanese face high levels of poverty combined with low education, high unemployment rates, and lack of activities, all of which contribute to health, family, and social problems. Research conducted by UNHCR in 2009 found that 20 percent of refugees and asylum seekers were *Ultra Poor* (defined as spending less than 200 Egyptian pounds per month) and 40 percent were considered *Poor* (less than 400 per month).[16] Sustainable livelihoods that provide sufficient household income are difficult to come by. All foreigners are required to secure a work permit in Egypt, both for contract work or self-employment.[17] But work permits are issued only if the employer can demonstrate that there is no qualified Egyptian national for the position. With close to 40 percent unemployment in the formal sectors of the Egyptian economy, it is very difficult for foreigners without high education levels and skills to secure permission to work. Few employers are able and willing to pursue work permits given the administrative barriers, and there are few vocational training and job placement opportunities for refugees.

These barriers to formal sector work mean refugees and asylum seekers are confined to the informal sector, where there are few

opportunities for safe and dignified employment, and where refugees are exposed to risks and abuses. Most refugees who work depend on unstable, irregular, or per diem earnings, and they struggle to cover their living expenses.

In our research exploring the livelihoods of Sudanese refugees in Cairo,[18] we found that most refugee households only just manage to cover their monthly rent, with very little left over for food and other necessities. Of our 487 Sudanese respondents, 86 percent said they had experienced problems paying the rent over the past year. Another significant problem, facing about half (44 percent) of those who had children with them in Cairo, was not having enough money to send their children to school. Money was needed to pay school fees, transportation to school, and for food during the day. While some were able to go to aid agencies for financial assistance, many coped by borrowing from friends or asking relatives living elsewhere to send money. Others simply asked the landlord to wait, or kept children home from school. Not having sufficient funds meant that most of our respondents were in debt, and all were worried about what would happen if someone in their household got sick. The difficulty of finding a livelihood has motivated some refugees to attempt the dangerous journey from Cairo across the Sinai to Israel. This involves paying smugglers substantial sums and taking very serious risks. Many are caught by Egyptian police before they get to the border, and are beaten and then imprisoned (Human Rights Watch 2008).

Assistance for Refugees

In Cairo UNHCR uses a "self-reliance" model of assistance, which seeks to promote refugees' financial self-sufficiency by enhancing their livelihood skills and helping them find better sources of income. UNHCR's main implementing partners are NGOs such as Caritas-Egypt and Refuge Egypt, and they provide vocational training and job placement for refugees. Individual financial assistance is reserved for the most vulnerable segments of the refugee population and the recent arrivals. Aid agencies had identified youth and female heads of household as at-risk groups and they have been targeted to receive specialized services; however, it is adult males who exhibit the highest rates of unemployment. A large part of the population is also in urgent need of literacy classes.

The services of aid agencies reach only a part of the refugee population. Of the refugees we surveyed, most (87 percent) reported that they had been in contact with UNHCR in order to be registered as asylum

seekers and receive the appropriate documentation. About two-thirds (63 percent) of our respondents had been in contact with Caritas, and had received cash assistance and health services. Other refugee agencies, such as AMERA, provide legal assistance and psychosocial services, and several small church-based organizations, including St. Andrews and All Saints, provide legal assistance, adult education (particularly English classes that are much sought after by refugees), and vocational training. About a third of our respondents had contacted AMERA, and just under half (44 percent) had been to All Saints, mainly for health care but also for food assistance. About 28 percent had been to St. Andrew, mainly for English classes. Humanitarian assistance is not a significant aspect of most Sudanese refugees' lives.

For assistance, Sudanese refugees turn to their own community. In Cairo, bonding social capital—manifest in information networks, friendship, and mutual support in emergencies—helps with finding employment, and trust in borrowing or lending money, and is the main way in which Sudanese refugees survive. Our survey respondents repeatedly mentioned how they depend on the willingness of other Sudanese refugees to help them when they run short of money for daily and monthly expenses. When asked how they managed if they did not have enough money to cover their rent, almost all respondents said they borrowed from friends or family. Remittances were important—but only about a quarter of refugees received them. Of our respondents, 72 percent were in contact with family or friends in Sudan, and about 10 percent of our respondents said they were sent help from Sudan. About 43 percent (n=209) of our respondents were in contact with friends or family in other countries, and 16 percent of respondents (n=79) said they received help from them. In total, about a quarter of our respondents (25.4 percent, 124 respondents) said they received money from friends or family outside Egypt, and another 3 percent (n=14) said they received goods. The remittances were used for daily expenses, rent, health care, and education.

Male Sudanese refugees commonly live in shared houses (usually of six or seven men) where they pool their income to pay for rent and food. Newcomers from Sudan are given a place in the house and supported until they find work and can contribute to the household income pool. At the community level, southern Sudanese (many of whom have been in Cairo for 15 years or more) are highly mobilized. One community leader informed us that refugees from all regions of Sudan (Darfur, the South, the Transitional Areas, Blue Nile, etc.) have formed over 45 different mutual help associations (*rabta* in Arabic) in which monthly "alms" are collected and dispersed to those in need.[19]

The Cairo case illustrates the importance of social capital in enabling refugees to survive in an environment where the right to work is obstructed, and where humanitarian assistance provides a relatively small degree of help. However, social capital is not limitless: people cannot depend financially on others in the community without reciprocating. In the shared refugee houses in Cairo, newcomers were allowed to stay without making monthly contributions as long as they were actively seeking work. The expectation was that they would eventually be able to pull their weight financially or they would leave. It was rare to ask someone to leave a shared house, but no one could rely on indefinite support. As transnational linkages, particularly remittances, become easier and cheaper with technological advances, it is likely that the refugee diaspora will play an increasing role in supporting their displaced families in other countries.

Refugees' economic security can be significantly improved if host governments grant refugees the right to work. UNHCR and other refugee agencies try to advocate for this step with governments, using the argument that refugees who are economically secure are in better positions to repatriate. It is clearly in host countries' interests to have refugees who are economically active and contributing to the domestic economy rather than impoverished or dependent on humanitarian assistance. In order to support refugees in their efforts to increase their financial resilience and economic security, it is important to understand their risk profile and vulnerabilities in the specific host country. In countries where host governments make it easier to pursue livelihoods, it will be easier to find ways to support financial resilience and reduce vulnerability by enabling refugees to utilize their productive assets, including their human capital. Because social capital fosters economic resilience and livelihoods, it will be useful to support community organizations that are derived from and build such capital. Humanitarian assistance can act as both an enabler in supporting refugees' livelihood activities by advocating to reduce policy constraints and helping refugees by supporting social capital.

Notes

1. See, for example, Korf 2004 and Kibreab 2003.
2. In addition, there were more than 2.2 million returned IDPs, 6.5 million stateless persons, and more than 251,000 returned refugees.
3. Four-fifths of the world's refugees (8.3 million) live in developing countries.
4. UNHCR 2009b.

5. See 1951 Geneva Convention: Chap III Gainful Employment (Art. 17: Wage-Earning Employment; Art. 18: Self-Employment; Art. 19: Liberal Professions); International Covenant on Economic, Social and Cultural Rights (Article 1, 3, 6, 7, 11).

6. UNHCR Jordan 2007 Annual Protection Report, 30, cited in UNHCR 2009b.

7. For more on refugees' financial and economic activities, see Jacobsen 2005 and 2006 and Lindley 2007.

8. Migration systems have been described by Gurak and Caces 1992. For migration systems relating to refugees, see Van Hear 2006.

9. For discussions of the humanitarian role of remittances, see Berdal 2005, Fagen and Bump 2006, and Lindley 2007.

10. Lindley found in Nairobi that "remittances were also often triggered to finance a particular livelihood-related project. The major example here was when people ask for money to establish a business ... loans or gifts from local and overseas relatives are a key part of the history of many of the businesses in Eastleigh."

11. Remittance transfer organizations, such as banks, may also be unable to process remittances during or after disasters, because infrastructure is damaged or capacity overwhelmed by the sudden influx of large amounts of cash. (e.g., Haiti in January 2010 and South Asian tsunami in 2004).

12. As reported by Lene Hansen, "Practices vary, but in Darfur usually agents do not charge for the sending of airtime but do charge for the cashing in of airtime—10–15% of the amount transferred. Sending remittances this way is not cheap, but it is fast—a main reason why cell phone agents are preferred to bank transfers, even in towns where there is a bank branch and even if bank transfers are much cheaper. Clearly, convenience and speed is more important than cost" (email exchange, February 17, 2010).

13. UNHCR 2009b.

14. For more on microfinance for refugees, see Bartsch 2005 and Nourse 2003.

15. UNHCR Fact Sheet, Egypt, June 2011. http://www.unhcr.org /cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=4e1412df 9&query=Egypt. See also UNHCR 2010a, Table 1. http://www.unhcr .org/pages/49c3646c4d6.html.

16. In-house survey by Mohagieb, for UNHCR (a sample of 376).

17. This section draws heavily on a guidance note, "Developing an Integrated Approach to Livelihoods," written in 2010 by the Working Group for Vulnerable Migrants and Refugees in Cairo, a consortium of NGO staff, now defunct.

18. Survey research conducted jointly by Tufts University (supervised by the author) and the American University of Cairo. Data collection took place (with interruptions) from November 2010 to August 2011.

19. Verbal communication with the author, Cairo, October 2010. The informant, a well-known and respected community leader who had been in Cairo more than 15 years, told us that there were presently over 47 South Sudanese associations and some 17 Darfur associations in Cairo.

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4

Mutual Security: Highly Educated Labor Flows from Low- to High-Income Countries

Shahrukh Rafi Khan

Introduction

Development scholars have written about the nexus between migration and development for decades, but lately it has begun to receive heightened attention. For example, the UN hosted its first High-Level Dialogue on International Migration and Development in 2006, noting that it has been established that "international migration can contribute to development if supported by the right policies." As stated in the informal one-day high-level thematic debate hosted in the UN on this issue in May 2011, "since 2006, governments and the international community have been pursuing a variety of policies and programs to maximize the development impacts of international migration, and to reduce its negative effects."[1] For example, in relation to this chapter, the concept paper for the thematic debate noted: "There are ongoing efforts to improve and harmonize the recognition of qualifications so that skilled migrants do not face recruitment barriers in countries of destination."[2]

In this chapter, I focus on mechanisms to convert the pain low-income and low middle-income countries (LICs/LMIC) experience from losing highly educated talent into gains.[3] The gains could be based on the flows of capital from the expatriate communities in HIC (high-income countries) to LICs. This could include a tax-transfer mechanism (tax on highly educated immigrants), remittances, and foreign direct investment or portfolio investments by

expatriate communities in their country of origin (source or home country). Alternatively, the expatriate community could base the gains on the flows of knowledge and technical assistance or the promotion of trade.

I start with a brief review of economic theory pertaining to this issue including a review of the social benefits and costs the home or source country can expect. Following that, I review the scale of the flows of highly educated emigration by country, income group, and region. The stocks that these flows lead to are presented as well. Next, I assess the impact economic globalization has on the flows of the highly educated. There are naturally variations around long-run trends, and the 2007–2009 financial crisis and "great recession may well result in fewer opportunities and reduced flows of highly skilled labor to HIC."[4] Notwithstanding these short-run fluctuations, we will continue to witness a brain drain as high-income countries' populations age and they compete for the overflow of talent from less prosperous low- and middle-income countries.

Since emigration is an individual or household decision, contingent, of course, on a welcome from the host countries, policy to block departure or reverse the flow would be a violation of individual freedom enshrined in most constitutions. The approach taken in this chapter is that there are alternatives to force mechanisms to turn social pain of emigration into social gain. The remainder of the chapter reviews the current literature to explore mechanisms for converting pain into gains from the reverse flows of capital, labor, or knowledge, including marketing information. These reverse flows could be market-based, nonprofit, state based (both source and host country) or multilateral. Within the first two categories, the agency could be individual or collective. Drawing on these mechanisms, I end with a proposal for institutionalizing such gains.

THEORY

Microeconomic theory of migration looks at the motivation for migration from the perspective of the individual engaging in maximizing the expected present value of some utility function. The most important variable in this calculus is the LIC/HIC wage differential. This is the main pull factor. Better social facilities, social and workplace freedom, and opportunities for children can similarly be viewed as pull factors. The push factors would be constraints in LICs preventing an individual from realizing their productive potential, such as social and political

chaos, violent conflict, or civil insecurity induced by inefficient polic-
ing and legal mechanisms. The costs would be the financial costs of
the move, the psychic cost of moving away from a comforting net-
work of family and friends, and adjusting to an alien culture and pos-
sible hostility and discrimination. This calculus of anticipated benefits
and costs then produces the "rational" decision of moving or staying.
Notwithstanding the critical literature on such a reductionist frame-
work of decision making, large-scale international migration is a reality
even if we cannot pin down the unobserved exact motivations. The
approach in this chapter is to focus instead on aggregate positive and
negative consequences these flows generate.

Neoclassical economic theory explains aggregate factor move-
ment, both labor and capital, based on assumptions concerning
well-functioning markets. The idea is that factors flow to where the
returns are higher until they are equalized across regions and there
is no further incentive for further flows. New growth theory would
suggest that complementary factors (capital, information, facilities,
colleagues, institutions) explain higher productivity and sustained
higher returns to the highly educated labor in high-income coun-
tries (HICs). This would explain the lack of wage equalization and
the sustained emigration of the highly educated labor from low- to
high-income countries. Even though the movement of the highly edu-
cated labor is considerably easier than that of less educated labor, the
restrictions on migration in HICs also explain the persistence of rents
or the absence of wage equalization in high- relative to low-income
countries.

If the focus is on social rather than private returns, then even with
the absence of complementary resources and the presence of institu-
tional constraints on realizing productive potential (say bureaucratic
hindrances), the scarcity of the highly educated may enable them to
have a much higher social impact in LICs due to positive externalities.
For example, an immense positive social impact can be forthcoming
from a highly educated individual who establishes a research nongov-
ernmental organization in a LIC and sets up management procedures
that respect the rule of law. Not only would the research institute
run efficiently, but also the social returns from diffusing better man-
agement practices would be high. Aside from positive externalities,
there is a loss from declining returns to complementary factors as the
highly educated migrate.[5]

While ultimately no one is irreplaceable, the loss of that one indi-
vidual if hired by a foreign university could be a great setback. There
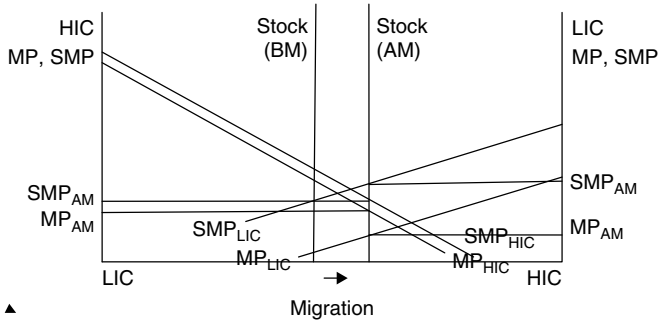
Figure 4.1   Percentage of total tertiary educated population emigrating by year, country income category, and region.

is also a loss from a world welfare perspective in that the talented individual in question may excel and perform well in the HIC; but inevitably most, barring very few exceptions, are lost in the vast sea of talent that they are absorbed into. This notion of a higher social marginal productivity of the highly skilled in low relative to high-income countries can be demonstrated as done in figure 4.1.[6]

Figure 4.1 shows both marginal and social products in HICs and LICs. If there is free flow of skilled labor, there would be wage equalization, and both country groups would operate at the same point on the MP and SMP curve. Even if that were the case, we argue below that that gap between the SMP and MP curves is higher in LICs and that, therefore, the SMP in LIC is higher than that in HIC for the same person. In fact, because even highly educated labor cannot move completely freely, wage equalization is not likely, and figure 4.1 shows restricted migration in that it does not continue to the point where the two MP curves intersect.

The gap between the two sets of marginal products is of greater interest and it is likely to be larger in LICs for several reasons. First, the scarcity of skilled personnel because of a larger flow, and the shifting of some of the stock to HICs generate more externality

potential. Second, diffusion potential is more satiated in HICs and much greater in LICs and, therefore, the magnitude of externality potential is greater and hence the larger gap. Third, the gap in MP and SMP is likely to be higher in LICs because the lack of resources and market-inefficiency means externalities are less effectively internalized. The more effective the internalization, the smaller the gap between the MP and SMP curves.

What needs to be quantified from a LIC perspective is the expected social cost, including the social marginal product foregone, relative to the social benefit from the move. This can be formalized as follows for one individual:[7]

$$SL = \int_{t=M}^{R} (ESC - ESB)e^{-rt}\,dt \tag{1}$$

where

SL = Stock of social loss at a point in time
ESC = Expected social costs
ESB = Expected social benefits
M = Date of emigration
R = Date of retirement

There are various ways in which negative outcomes—other than the loss of social marginal product due to externalities—are possible for the source country. The costs of higher education are borne by the home country in so far as higher education is public or subsidized—as is normally the case in many countries. Hence migration represents a loss of social investment since the benefits accrue to the host country. Subsequent costs include replenishing lost skills, and the "brain drain" continues until the country is able to develop and reverse the flow. The ability to bear these costs would be reduced with the loss in tax base.

First, tax revenues would be directly reduced as people in the upper tax brackets leave. Second, the loss in positive externalities that might be provided by the highly educated (see above) would reduce the economic growth rate and hence the tax base (Wong and Yip 1999). Inequalities would subsequently rise as the state's capacity to provide public goods decreases and remittances received by the wealthy increase.[8] If those who leave are the most enterprising in business, political, and social enterprise, then the setback (leadership deficit) can be immense in that poor leadership and governance can persist in LICs.

Third, the ability to deliver social services would be weakened, particularly in health and education. The phenomenon of the "brain overflow" suggests that excess supply would mean a minimal marginal impact. That is unlikely to be the case in social service delivery. Also, since the most capable are likely to find positions in HICs, a social loss is most likely.

If remittances are a large and a significant part of total foreign currency earnings, they could strengthen the currency. This may result in cheaper imports in local currency terms and hence harm the industrialization and economic diversification project, a sine qua non of successful development. The "Dutch Disease" is an example of this phenomenon, which describes the deindustrialization that took place in the Netherlands after the discovery of oil reserves. This is unlikely to be a significant issue as remittances for the highly educated may be limited.

Positive outcomes for the source country are possible through various means. There is at least the potential for tapping remittances, if forthcoming, for increased private and public investment. Another mechanism would be to cater to the needs of the expatriate community, resulting in higher exports and possibly an increase in tourism from expatriates visiting the home country. Voluntary short-term or long-term return could transfer knowledge, technology, and work habits that could contribute to a social transformation. Successful expatriates may also invest in the home country via direct or portfolio investment. Expatriates may also systematically engage in fundraising in the host country for development initiatives in the source country.

Stark (2005) argues that successful emigration of the educated raises the expected returns from education and induces a greater acquisition of human capital, a brain gain if the dynamic investment effect offsets the negative depletion effect of the stock of the highly educated. Boucher et al. (2009, chapter 6) provide evidence of this hypothesis from Mexico's villages using micro survey data and a dynamic econometric model, though the model held only for internal migration and not for the highly educated.

Research more relevant to the highly educated, Stark and Fan (2009, chapter 7), concedes that the human capital replenishment could lead to an overflow and hence educated unemployment, but these studies develop a theoretical model to show that this can be offset by a "takeoff" accruing from an increased stock of the highly educated. India and Ireland are cited as possible examples, but these are anecdotal, and Lucus (2007, 26) asserts that the evidence does

not support such a brain gain hypotheses. He suggests that it is likely that the best leave, and replenishing skills is not without cost. Faini's (2002, 7) estimates refute the brain gain hypothesis and Schiff (2006) also suggests a loss is more likely.[9]

To sum up, LICs confront three main gaps due to saving exceeding investment (resource gap), government expenditure exceeding tax revenue (fiscal gap), and imports exceeding exports (balance of trade gap). Remittances from out-migration can address these gaps. While data on remittances, disaggregated by skill level, were not available, data on the emigration flows of the highly educated are available. I turn to this next to indicate the scope of the problem that highly educated emigration from L/MICs may represent.

Flows of Highly Educated Emigrants

Although the focus in this chapter is on low- and middle-income countries, data were available from a World Bank survey for upper to middle-income countries for 1990 and 2000, and these numbers were also processed to see if any trends were evident based on county income group.

In table 4.1, numbers in each cell are weighted means of percentages with total country population size used as weights. Small island economies with population below 3 million in 2000 were excluded. Country percentages are reported if there is only one country in the cell. Also, countries are separately reported if their populations were large and, therefore, disproportionately influencing the cell weighted average. Iraq and Afghanistan were excluded because populations for one or both years were not available.

As indicated in table 4.1, LICs in sub-Saharan Africa (SSA) and East Asia and the Pacific (EAP) lost close to a fifth of their highly educated population in both 1990 and 2000. There was an increase in the emigration flows for the East Asian and Pacific region in this category, but much less so for sub-Saharan Africa. Also, in both cases, there is a decline in mean flows comparing LICs to LMICs in 1990 and also in SSA. This pattern continues as the countries move up the income range and holds when comparing LMIC in Latin America and the Caribbean (LA&C), which also lost about a fifth of their highly educated population in 2000 to UMIC (upper middle-income countries). This could suggest that more prosperous countries have greater domestic opportunities and, therefore, lower outflows.[10]

However, this is not the only pattern evident in the data reported in table 4.1. It is reversed for Europe and Central Asia (ECA), Middle

Table 4.1 Percentage of total tertiary educated population emigrating by year, country income category, and region

Year	1990			2000		
Country income	LIC	LMIC	UMIC	LIC	LMIC	UMIC
Region						
East Asia and the Pacific	17.34 (4)	6.43 (3)	26.7 (Malaysia)	19.37 (4)	5.17 (3)	10.54 (Malaysia)
Europe and Central Asia	0.26 (3)	2.80 (7)	8.89 (8)	0.80 (3)	4.44 (7)	8.44 (8)
Latin America and the Caribbean	77 (Haiti)	15.93 (6)	12.16 (12)	83 (Haiti)	17.45 (6)	13.01 (12)
Middle East and North Africa	24.05 (Yemen)	15.71 (7)	11.92 (3)	5.09 (Yemen)	10.39 (7)	11.99 (3)
South Asia	3.72 (2)	10.29 (2)	Na	3.08 (2)	14.53 (2)	na
Sub-Saharan Africa	17.59 (29)	8.33 (10)	12.73 (5)	18.00 (29)	9.81 (10)	8.47 (5)
Brazil			1.29			2.04
China		3.00			3.79	
India		2.83			4.33	
Russia			0.47			1.38

Source: Computed using *World Development Indicators, 2009*, World Bank Group.
Notes: LIC = Low-income countries (Up to $935); LMIC = Low middle-income countries ($936–$3,705); UMIC = Upper middle-income countries ($3,706–$11,456)

East and North Africa (MENA), and South Asia (SA). Thus, competing explanations are also possible. For example, more prosperous countries with better education systems may be enabling their citizens to avail of the opportunities in the HIC (high-income countries). This may be the case particularly in ECA as countries transition to market economies, leaving many highly educated in the more prosperous countries deprived of traditional occupations but with more capacity to move.

Again, while there is no consistent pattern of changes over time in mean flows across the regional groupings, except for the rise across both income groupings in LA&C, there are many more cells indicating an increase rather than a decrease for the other regional groups. The very large emerging economies normally referred to as BRICs (Brazil, Russia, China, and India) have lower mean outflows than the other country group averages but they have also increased from

Table 4.2 Migration stocks with tertiary education in the North America and Europe, 2005 ('000)

Continent	Total migration stock (1)	% with tertiary education (2)	Total stock with tertiary education (1) × (2)
North America	45,597.1	42.5	19,378.00
Europe	64.330.1	21.6	13,895.30

Source: UNDP, *Human Development Report* 2009 (146, 154).

1990 to 2000 across the board. These annual flows add to the stock of highly educated migrants in HICs.

One could think of the flows as the potential losses and the stocks that they lead to as the potential to mine for gains. Table 4.2 reports the stocks of migrants with tertiary education in 2005 in the United States and Europe.

As table 4.2 shows, the total stocks of migrants with tertiary education in North America and Europe are 19.5 and 13.9 million respectively. Even though these are stocks from all sources, given the flows from LICs reported in table 4.1, it is very likely that there is a great potential to tap large stocks for gains to LICs. Before turning to the issue of tapping the stocks for gains, I turn briefly to how economic globalization might have been impacting the flows from L/MICs.

Globalization, Migration Flows, and Asymmetries

Globalization is likely to have had offsetting effects. On the one hand, outsourcing production and improved transportation technology, including containerization, reduces the need for all kinds of labor. On the other hand, multinationals have probably facilitated highly educated labor flows. Branches located in LICs train individuals who then find mobility easier with the skillsets that they have acquired (Nayyar 2008). Technological changes have also reduced the psychic and real cost of migration. Air-travel cost, for the time being, has become cheaper in real terms, and cheaper communication has enabled migrants to stay in touch with their families.

As clusters of migrant communities develop in HICs of particular nationalities, supportive networks emerge lowering the adjustment costs to an alien culture by providing information, support, and easier

transitions. This also provides sufficient scale for the provision of cultural goods (food, supplies, and media programming), once again reducing the adjustment costs.

The flow of labor is the direct form of migration but there is also an indirect form in that products embody labor and the flow of products, therefore, represents an indirect form of labor migration. Following a neoliberal model of free movement of products to maximize world welfare, high-income countries have used the agency of international organizations like the IMF and WTO to aggressively push selective removal of trade barriers to enable the free movement of products. Selective, because they have been reluctant to remove barriers for HIC agricultural and labor-intensive manufactured products that are unable to compete with LICs. They have also pushed via the IMF for removal of all forms of capital controls in LICs, often to the detriment of LIC economies.[11] It follows logically from the same model that allowing for the free movement of labor enhances world welfare. However, in this case, HICs cite cultural absorption and social disruption problems to restrict the movement of labor; though policy is much more amenable to drawing highly educated talent from LICs than unskilled or semiskilled labor (OECD 2007) and IOM (2008).[12]

Based on a documentation of the social costs and benefits and the demonstration of higher social marginal productivity of the highly educated in the source country in the section above, I view the social costs of migration of the highly educated to exceed the social benefits. Also, while the social costs are real and certain, the social benefits are speculative and uncertain. I explore below the various ways in which pain from the social cost of migration can be turned into gain.

TURNING PAIN TO GAIN

Taxing Highly Educated Migrants

If we assume, contrary to what I have argued above, that the social benefits in the host country exceed the social costs in the source country, world welfare improves from the migration. For the highly educated, the bulk of the benefits accrue to the individual and the host country (via externalities and taxation) while the bulk of the costs accrue to the source country. Migration could be win-win rather than zero-sum if mechanisms could be devised for the winners to compensate the losers. For example, a tax Bhagwati proposed (1979) on the incomes of the highly educated in the host countries.[13]

Bhagwati suggests that such a tax flowing to LIC, either via direct taxation or via the auspices of HIC tax authorities, is justified because the restricted flow of the highly educated from LICs into HICs result in rents that can be efficiently taxed. Furthermore, many if not most citizens of LICs retain their citizenship and hence have representation in their home countries without paying any tax. Conversely, in the HICs, they pay taxes and have no representation. Granting tax authority to LICs, directly or via an international organization, would address this anomaly.

Whether most expatriate highly educated migrants retain their citizenship is an empirical question. In fact, even if they do not, there is a case to be made for extending tax authority to LICs since, as argued earlier, their education is likely to have been heavily subsidized.[14] In fact, one could argue that the entire existence of an emigrant from an upper income group was subsidized through health services and the use of infrastructure such as roads and utilities. From a Rawlsian perspective, therefore, recovering this subsidy via Bhagwati's proposed form of tax could be seen as just.[15] This case is reinforced by the negative externalities resulting from the departure of the highly educated from LICs. The notion that this departure creates opportunities for others to replace them does not hold for the most highly educated; most LICs face an acute shortage of professionals, who have earned doctoral degrees, in universities, research institutes, and other government and nongovernment institutions.

The proposal for a reverse flow of capital via taxes, though worthy, has not gained traction. At least in the United States this proposal may be up against a strong culture of individual liberty and antitax sentiment. Also, irrespective of citizenship, those availing of services should pay taxes; so the issue here is of double taxation, which would be even less palatable to legislators. Lucus (2005, 137) points out that the Bhagwati proposal met with legal obstacles. This is likely to happen to any other initiative that relies on a "force or legislative mechanism, such as compensation for social costs." There are, however, alternative mechanisms for inducing a gain for LICs from the pain caused by the loss of their highly educated. Trade and foreign investment, remittances and the transfer of knowledge and technical assistance are possible mechanisms.[16]

Trade and Investment

Diaspora networks can facilitate the flow of exports from the home to the host country. OECD (2007, 94) documented how the Korean

diaspora in the United States understood changing market conditions
and facilitated the Korean export of products like wigs and automo-
biles. Similarly, the Indian diaspora in Brussels helped India become a
powerhouse in diamond exports (96–97). The Indian diaspora in the
United States also invested in the Indian IT (information technology)
sector and facilitated the export of IT services.

One can expect market responses to profit opportunities, and
the mutually beneficial IT links between the Silicon Valley and
Bangalore, India, are a case in point. Many factors came together to
facilitate this market link, but as countries grow, and if they have for-
tuitously had the right policies in place (support for higher education
in India; industrial policy), and the timing is right (Y2K subcontract
for Indian software engineers, dot com crash in the United States
in 2000), a gain is possible (Caniels and Romijn 2003; Bhatnagar
2006).

More than any other country, China has benefited from much
more diversified gains in foreign investments from its expatriate
community's investments (although much was sourced in Taiwan).
China, moreover, developed its industrial policy to get the maximum
benefits from such investments (Gallager and Shafaeddin 2010). In
this regard, success breeds success via the engendering of a virtuous
cycle, but the two examples above suggest that a proactive state can
systematically mine the market potential represented by expatriate
communities.

Remittances

While I was unable to find secondary data on remittance flows disag-
gregated by level of education, there is evidence to suggest that these
do not represent a large component of the balance of payments for
the highly educated compared to the remittance flows generated by
unskilled, semiskilled, and skilled workers (Nayyar 1994). The expec-
tation is that the highly educated are more likely to have the means
to emigrate with their families, and, therefore, there is a lesser need
for their support to families back home. Faini (2007) estimates remit-
tances to be inversely associated with education level, while Bollard
et al. (2009) contend that the more educated remit more.

UNDP (2009, 160–162) reports that overall, remittances as a per-
centage of GDP, varies a great deal across low- and medium-developed
countries. Thus remittances range from 45 percent for Tajikistan to
less than 1 percent for 30 countries out of a total of 79 countries for
which such information was reported.

Knowledge Transfer and Technical Assistance

While trade, foreign investment, and remittances are generally market-based or individual initiatives, the transfer of technical assistance could also be nonprofit, state based—either the source or host country—or multilateral.

Private/Collective Initiatives: Nonprofit[17]

Private and collective nonprofit initiatives can be at the individual level, motivated by altruism, or a combination of altruism and personal reasons, especially when a salary is foregone for a period of time to work in the source country. The adjustment costs can be quite high and reentry into the job market in the host country can be difficult. Individuals may respond to calls for help in various ways, including reviewing books, training interns in think tanks and conducting seminars during summer vacations, and contributing to the news media. Higher education institutions in Pakistan, for example, are developing rosters of expatriates with the requisite skills to evaluate Ph.D. theses. de Hass (2006) cites the Global Commission on International Migration's proposal for a similar database to be developed for its Africa Human Resources Program. Meyer and Brown (1999) list 41 knowledge networks that have the explicit purpose of connecting expatriate scholars with their home countries for the exchange of knowledge and skills.[18] Similarly, Rauch and Trindade (2002) identify business networks that can promote trade with the home country.

There are many examples of collective initiatives taken by highly educated expatriates to help their country of origin. For example, a group of North American Pakistanis, who wished to foster human development and empowerment in poor communities in their country of origin, set up the HDFNA (Human Development Foundation North America) in 1997 as a nonprofit organization.[19] HDFNA had the advantage of both an organizational structure and a warm welcome from the government of Pakistan. Portes and Mooney (2003) document a case study of similar attempts by the El Salvadorian community in the United States in initiating community development projects in their home country. Kuznetsov and Sabel (2008) provide other examples of such initiatives taken by diaspora networks in host countries, suggesting ways to make these initiatives more effective, such as developing specific projects that can sustain diaspora interest over the long haul.

OECD identified similar initiatives undertaken by diaspora networks (Associations Villageoises de Migrants) for financing mosques,

education, health, and water projects in Mali. Mexico has an innova-
tive "three-for-one" matching fund initiative, whereby state and local
governments triple the diaspora network's contribution for social
investments (100).

State Initiatives: Source Country

As countries develop, they systematically begin tapping into the highly
educated diaspora (networks) overseas. For example, Wade (2004,
191) points out that in 1983, Taiwan launched an aggressive campaign
to induce more overseas Taiwanese students to return. This process
continues and Saxenian (2008) documents the role of US educated
engineers of Taiwanese origin contributing to the development of the
home country's Information Technology (IT) industry. Lucus (2005,
246) points to active state involvement and support, for example,
building industrial parks, strengthening the science and technology
infrastructure, and providing incentives to draw researchers back to
both Taiwan and Korea.

Saxenian (2008) also documents how Silicon Valley links helped
the Chinese IT sector. A *New York Times* article reported that China
was "determined to reverse the drain of top talent that accompanied
its opening to the outside world over the past three decades, they are
using their now ample financial resources—and a dollop of national
pride—to entice scientists and scholars home."[20] Thus active state
involvement through incentives for a diversified career, special pro-
fessorships, and improved tertiary education is playing a key role. Of
those academics and entrepreneurs who returned, according to Zweig
(2006), 47 percent "cited good government policies" as the main
reason.

Even a relatively underresourced country like Pakistan has imple-
mented schemes via its Higher Education Commission to attract
highly educated talent back on a short- and long-term basis (IDS,
n.d.). Thorn and Holm-Neilson (2008) document incentive pro-
grams put into place by the governments of Columbia, Malaysia, and
Mexico to systematically tap highly educated talent abroad, using
diaspora networks when convenient. They point out that there are
some dangers of adverse selection (drawing only the less talented
who have few options abroad) or of inducing emigration to avail of
migrant incentives. The focus, they point out, should be on develop-
ing national innovation systems in source countries to make working
conditions, and hence return, attractive. Also, countries can target
émigré talent more efficiently through competitive proposals such
as the Millennium Science Initiative, which includes Chile, Brazil,

Mexico, Venezuela, and Vietnam. Lowell and Gerova (2004, 10) note the generous reverse brain drain programs, based on research and monetary incentives, instituted by the governments of Ireland and Thailand.

Thorn and Holm-Nielsen (2008, 162) provide examples of electronically connected diaspora networks of highly educated expatriates of various origins, including South Africa, China, Columbia, India, and countries in the Middle East. States have the ability to tap such networks for acquiring technology and knowledge. They also document state schemes to promote the return of expatriate graduates and scholars.

State Initiatives: Host Country Post-conflict State Reconstruction

Post-conflict countries may experience a concerted effort at nation-building by aid agencies, some of which draw on the scientific knowledge and technical skills of expatriate communities (Lowell and Gerova 2004, 10). However, such support is limited to countries whose rebuilding is viewed as a security concern such as Iraq or Afghanistan.

Fulbright Program[21]

The US Fulbright Program, established in 1946, is an important example of a host country program that includes support for the short- and medium-term return of expatriate academics to their home countries. Its aims, including "increasing mutual understanding between the peoples of the other countries by means of education and cultural exchange," are much broader, but the program also induces a brain gain. By 2005, the Fulbright Program was providing 6,000 grants each year, and cumulatively it has funded 285,000 exchanges. Funding in 2003 was $250 million, 58 percent from US government sources. As scholars lecture and conduct research in foreign countries, the program has the potential to enrich academic institutions in developing countries through collaborations, networking, and sharing work methods. More than 40,000 foreign scholars have taught or conducted research in the United States (800 annually), creating potential opportunities for the transfer of knowledge and technical expertise in the home country.[22] The program has been deemed a resounding success relative to its mission (SRI 2005). The Fulbright-Hays Program, as it is now called, is efficiently administered, and perhaps one of its main strengths is competitive bidding for travel and subsistence grants.

Multilateral

Tokten The TOKTEN (Transfer of Knowledge Through Expatriate Nationals) Program was initiated by the UNDP in 1977, starting with Turkey, to counter the effects of the brain drain in developing countries by bringing back talented expatriate nationals to their home countries based on a spirit of volunteerism.[23] The advantages include shared language and traditions, relatively low cost, and rapid implementation. The volunteers are not paid direct salaries but are entitled to a roundtrip airline ticket, daily subsistence allowance (DSA–UN rates are generous), and health insurance. In partnership with governments, civil society organizations, and donors, the UNVP (United National Volunteer Program) is currently implementing programs in 35 countries. Since its inception, over 4,000 expatriate volunteers have returned to assist their home countries (small in comparison to the Fulbright-Hays program).

There is no systematic monitoring and evaluation report of the program, but a few reports are available online. One evaluation report of the period 1998–2004 for Sri Lanka showed some abuse of the program. Expatriates with contacts in the home country government ministries who planned to visit the home country defrayed the expenses of the visit by going as far as writing the application that should have originated in a government agency (Wanigaratne 2006). An evaluation of Rwanda's use of TOKTEN in the period 2005–2007 was much more positive. Of the 47 highly educated recruits from 7 countries who served as volunteers, 9 resettled in Rwanda (Touray 2008).[24]

Mida The International Organization of Migration (IOM) has launched similar programs for African development starting with the MIDA program (Migration for Development in Africa).[25] This was premised on Africa losing about a third of its skilled professionals in recent decades and having to replace them with consultants from the West at a cost of about US$ 4 billion a year (Mkandawire and Soludo 1999). The Return of Qualified African Nationals Program (RQAN) was a more ambitious successor program, funded by various European governments including the Netherlands, Belgium, and Italy. The underlying motivating concept of TOKTEN and MIDA/RQAN is sound, but the numbers, and hence impact, is very small even in comparison to the Fulbright-Hays Program.

A proposal[26]

I suggest a proposal for turning pain to gain based on two presumptions. First, as demonstrated in this chapter, the social returns to the highly educated in LICs are likely to be higher than in HICs. Second, the social cost of migration is likely to be greater than the social benefits from migration. The proposal below builds on the various initiatives above that are already underway to combine the best elements in them. The motivation is to reduce some of the loss in well-being experienced by LICs as specified in equation (1) and the comparison of social benefits and costs. Whereas Bhagwati's tax proposal places the tax burden on the expatriate community, the proposal here is to share the burden by having it fall on HIC governments, international organizations and employees, and the highly educated expatriate community. Of course, one needs to justify such an intervention at the scale recommended.

First, since the gain programs identified above contain an element of voluntarism, it would make them more cost effective. Second, this kind of human capital transfer is complementary with other initiatives and will enhance them. Thus, it is not being proposed as an alternative. If achieving the UN's Millennium Development Goals were the operational definition of development, a brain gain would enhance these (Reddy and Heuty 2006). Alternatively, if we define development as building endogenous technological capacity and investing in increasing return activities (Chang 2010), the brain gain would also enhance this objective. Third, because the burden is spread across different agents, it may be more acceptable politically.

The UNDP TOKTEN program could be scaled up through a collaboration of aid agencies in HICs and relevant ministries in source countries. The review of TOKTEN above suggests it has a few weaknesses, though the concept is superb. First, it is underresourced. Second, because of the lack of resources, it is disproportionately drawing on a young community of expatriates (89 percent between 25 and 35 years).[27] Third, it is not administratively as strong as the Fulbright-Hays Program so that there is a potential for collusion between government departments and expatriates.

The resource gap could be allayed if bilateral aid agencies channel part of their existing aid via a brain gain scheme. For example, the United States could have an alternative to the Fulbright-Hays program that draws on the talent of the nonacademic community. The program could be run by bilateral aid agencies like the USAID and DFID (Department of International Development, UK) in

collaboration with the UN and LIC partners (governments, civil society, businesses) for identifying needs in conjunction with their projected aid programs. If the UNVP (United Nations Volunteer Program) has the capacity to administer a larger program, it would then be a question of scaling up that program. However, the issue of transparency would need to be addressed.

One major complaint of LICs is that much of the aid flows back via the gravy train to international consultants. Aid agencies argue that this is inevitable due to the lack of capacity in the LICs. While the point can be disputed, tapping the expatriate community would be cheaper and more effective; cheaper, because of the element of volunteerism; more effective, because given linguistic and cultural advantages, they would more quickly familiarize themselves with conditions in their country of origin.[28]

Costs could be further defrayed if employers provide short-term leave or offer incentives for employees to use their leaves for voluntary service. The potential benefits for corporations could be establishing marketing contacts and happier and more productive workers. The aid agencies would need to provide airline tickets and health insurance. The ministries of overseas workers in the source countries could provide feedback on submitted expatriate proposals based on local knowledge of needs. Through a timed interactive process, now possible electronically, a final task for a specified period could be worked out. The source country ministry would also be required to serve as a troubleshooter and facilitate productive stays, and perhaps provide short-term accommodation at reasonable rates if needed. This needs to be done on a large enough scale (a human capital led Marshall Plan for development) to enable learning and social transformation to take place. This could be one mechanism for tapping into the social energy of expatriates to help their country of origin, that is, to institutionalize gain for LICs.

Growth diagnostics is becoming popular in development economics (Hausmann et al. 2005). The idea is to identify the binding constraint for the country in question and have a policy to address that constraint. These are useful exercises, but for anyone who has lived in an LIC for an extended period of time, the most binding constraints always appear to be the lack of highly educated human capacity across the board.[29] International organizations like the World Bank and the UNDP contribute to this problem because while they write and talk about local capacity building, they systematically raid the capacity of local organizations and governments with their higher salary scales.[30] The irony is that they subsequently

deskill this capacity by using highly trained personnel in routine and mundane tasks.[31] The proposal may go some way toward redressing this problem and the resentment caused in LICs because much aid stays in HICs as exorbitant consulting contracts.

NOTES

1. http://www.un.org/en/ga/president/65/initiatives/migration.shtml. The debate is intended to build on the ongoing dialogue on international migration and development, and to contribute to the process leading to the second High-level Dialogue on International Migration and Development to be held by the UN General Assembly in 2013.

2. http://www.un.org/en/ga/president/65/initiatives/Concept%20 Note%20-%20Informal%20Thematic%20Debate%20on%20 International%20Migration%20and%20Development.pdf

3. According to World Bank (2010, 375) a country is classified as low income (LIC) if its per capita GNI (Gross National Income) for 2008 was below $975 and a low middle-income country (LMIC) if the per capita income ranges between $976 and $3,855. In the rest of this chapter, LICs is used to refer to both LICs and LMICs, although L/MIC is used at times for emphasis. Highly educated refers to emigrants who have attained tertiary education including professional, technical, scientific, academic, managerial, and administrative occupations.

4. A BBC report in September 2011 covered reverse migration of Brazilian and even highly skilled US workers to Brazil.

5. The social loss may not be linearly correlated with the emigration. There might be threshold effects such that the loss of a few highly talented individuals could devastate a research center or academic department. It could also set further emigration into motion.

6. Marginal productivity theory has been criticized on many grounds. For an update of a key controversy that undergirds this critique refer to Cohen and Harcourt (2003). The author views much of the critique to have merit, and the demonstration in figure 4.1 is intended to be heuristic.

7. Aggregation of the social loss is complicated given that individual emigration is staggered and for different periods.

8. A more likely scenario is greater equality as the less educated migrants remit more given the greater need of the families that supported their emigration as an investment; Nayyar (1994) and Faini (2002, 7).

9. But as in any other topic in development economics, findings are always contested. Thus, for example, Batista et al. (2007) and Chand and Clemens (2008) contend that emigration of the highly educated produces a net brain gain in L/MICs.

10. UNDP (2009, 154) organizes country data by low, medium, and high human development country categories and reports that the emigration

rates, for those possessing tertiary education, from low and medium human development countries to be 12.8 and 5.2 percent respectively. However, these averages were computed with much missing information across the country categories and it is not clear that the averages were weighted.

11. Of late there has been some rethinking in the IMF on the issue of free capital flows. Refer to Ostray et. al. (2010).

12. IOM (chapter 2) points out that after the early 1990s, special policies have been put in place by the USA and EU to attract and absorb foreign students from L/MIC.

13. For the initial proposal refer to Bhagwati and Dellafar (1973).

14. Those with higher degrees like a doctorate may have received foreign scholarships as part of foreign assistance, but these are awarded to the country for social gain and not the person for private gain. Some scholarship schemes require signing a bond to work in the home country. The idea is that say a Ph.D working at the local versus a foreign salary represents an adequate payback. However, even serving a three- or five-year bond is still likely to represent a big private subsidy in present value terms to the scholarship recipient.

15. In theory, the tax could be calibrated and timed so that the private and social gains from the emigration pay for the social loss in the host country.

16. Gribble (2008) explores various policy options, for the home country benefiting from their nationals studying abroad, classifying them as retain, return, and engage.

17. Refer to Martin (2009) for a review of donor and NGO partnerships with diasporas to facilitate development in the home countries.

18. For an updating and assessment refer to Lowell and Gerova (2004).

19. The HFFNA website http://www.yespakistan.com/ has details about the organization and refer to Khan et al. (2007) for a review of the organization, Human Development Foundation, that was founded in Pakistan as a grassroots development initiative.

20. Sharon LaFraniere, "Fighting Trend, China Is Luring Scientists Home," *New York Times*, Business, January 6, 2010.

21. Refer to (Keesbury 2003) for an interesting report on international volunteering of technical personal (not necessarily expatriates) from the perspective of administrative costs and effectiveness.

22. This is, however, nationals and not expatriates benefiting the home country.

23. http://www.unv.org/en/news-resources/resources/fact-sheets/doc /tokten-transfer-of-knowledge.html. The UNDP and the United Nation Fund for Science and Technology (UNFST) administered the program from 1977 until 1994 and it has since come under the umbrella of United Nations Volunteers Program (UNVP). UNISTAR (United Nations International Short-term Advisory Resources) is a subprogram that enables foreign specialists to be assigned for short-term consultancies.

24. Rao (2006) presented a favorable report on the success of the TOKTEN Umbrella Project in India (1980–2001) including UNISTAR (United Nations Short Term Advisory Resource) and TCDC (Technical Cooperation Developing Countries) based on stakeholder perceptions.

25. The IOM also ran the Return of Qualified African National Program (RQAN) that ran into difficulties.

26. A similar suggestion for a brain gain has been made by members of the international scientific community (Seguin et al. 2006).

27. http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=26

28. A program of this kind will not be well received by the international consultant community who will lobby hard to scuttle it. Also, one should not underestimate tensions, resulting from envy, between expatriates with rusty knowledge of local conditions and national co-workers. However, if the program is voluntary this is less likely than if the expatriates return on international salary scales.

29. A whole session was devoted to this topic in the American Economic Association (AEA) meetings in January 2010. The papers can be downloaded from the AEA website following the conference link.

30. This subsequently provides a stepping stone for those who emigrate. Even as one wishes the individuals well, the collective outcome of such individual decisions is further capacity shortages and the loss of positive externalities.

31. This writer was shocked to discover that one of the best researchers from the leading think-tank in economics in Pakistan was being used by the country office of the World Bank to distribute air tickets to invitees to a seminar!

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Free Speech or Hate Speech? The Danish Cartoon Controversy in the European Legal Context

Erik Bleich

By now, most people know the story of the Danish Cartoon Controversy. A Danish author claimed he had trouble finding an artist to draw the prophet Muhammad for a children's book he was writing. The editors of the conservative *Jyllands-Posten* newspaper believed that Muslims had succeeded in cowing illustrators and imposing a taboo that had no rightful place in a liberal democracy. So they asked the newspaper illustrators' union for images in order to uphold the value of free speech. On September 30, 2005, they published 12 illustrations under the heading "The Face of Muhammad." The reactions over the ensuing months ranged from protests and lawsuits within Denmark and Europe to boycotts, burned flags, and ransacked embassies abroad. The political manipulation of these depictions also generated violent unrest that led to over 200 deaths across the Muslim world (Hansen and Hundevadt 2008; Klausen 2009).

A number of scholars have discussed the political motives of the *Jyllands-Posten*, of the Muslim leadership in Denmark, and of Muslim leaders abroad. There have been extensive debates about whether it was acceptable to publish the cartoons or not. In this chapter, I focus on an aspect of the controversy that has not received extensive attention: the legal question of whether any of the images that were published to uphold free speech qualify as hate speech punishable under European law.

There are three basic positions in this discussion. Many Muslim leaders think that at least some of these images were illegal hate

speech. Muslim clerics in Denmark and France brought lawsuits against the *Jyllands-Posten* and the satirical magazine *Charlie Hebdo* for publishing these images. They viewed them as blasphemous, offensive, insulting, degrading, and as likely to stir up hatred or promote discrimination. For these Muslim leaders, these images are a form of hate speech that contravenes the law.

Hard-core liberals could not disagree more. Academics like Randall Hansen and Brendan O'Leary and journalists like Christopher Hitchens and Philip Gourevitch argue that there is no right in liberal democracies not to be offended (Modood et al. 2006).[1] They also believe that anyone who insists upon this right is antiliberal and shows a fundamental misunderstanding of the importance of free speech. There is a variation on this position that encompasses scholars like Robert Post and Steven Heyman who are not hard-core Millian liberals, but who base their stance on the assumption that these cartoons were legitimate criticisms of religious doctrine rather than targeted attempts to stir up hatred against Muslims as an ethnoracial group (Heyman 2008: 181–182; Post 2007). Of course, as Geoffrey Brahm Levey and Tariq Modood rightly point out, it is possible to interpret these cartoons as attacking *both* Islam-as-doctrine *and* Muslims-as-group—these are not mutually exclusive positions (2009, 429).

The third prominent position might be called multiculturalism without teeth. Scholars like Tariq Modood, Joseph Carens, David Cesarani, and Mary Matsuda have argued that it was inappropriate to publish these cartoons, but that it was not an actionable offense (Modood et al. 2006).[2] Modood captures the spirit of this position by suggesting that these images should be censured, not censored (4). This perspective rests on the assumption that these cartoons provoked deep offense, which is morally but not legally wrong, and which should, therefore, be punished through social tactics of condemnation rather than through court proceedings.

No prominent body of scholarship has made the case that any of these images were illegal. The dividing line over whether any of these images constitutes actionable hate speech has thus been drawn between "radical Muslim clerics" and "everybody else." I argue that this line is drawn in the wrong place.

In European jurisdictions, free speech is an important value, but it has always been balanced against other values. Limiting racist speech is an important goal in most European countries, and it sometimes outweighs the right to free speech. In the European legal context, therefore, bringing suit over these cartoons was actually *in keeping*

with well-established European norms against hate speech, and it is surprising that no prominent, non-Muslim figure stood up to make this case. Whatever one thinks of these cartoons—that they are offensive or anodyne, that they should be punished or heralded—in the prevailing European legal context of the time, it was not radical to argue that some of these images constituted illegal hate speech.

Why has this perfectly reasonable statement never been made forcefully? For obvious reasons, nobody wanted to be on the side of Muslim "radicals" against free speech when the debate ballooned into the public sphere and when violence erupted. But with a little distance from the events, it is possible to assess more objectively whether these cartoons were free speech or hate speech. To do this, we need a working definition of hate speech. The next section provides one, and goes on to highlight some significant differences between the 12 cartoons in order to pinpoint the 2 that are most susceptible to charges of hate speech. The heart of this chapter is a discussion of the European legal context over the past few decades, which is detailed in the subsequent section. This illustrates the environment in which these cartoons were published, demonstrating that instances of racist and Islamophobic speech have been regularly punished in many European jurisdictions, including in Denmark. I conclude by discussing the broader implications of my argument and findings.

Most importantly, I stress that there is a very plausible case that at least *some* of these images constitute hate speech in the context of European legal developments and precedent. This context does not guarantee that an impartial observer will judge any of the cartoons hate speech, but a richer understanding of the legal context dispels the presumption that all backers of sanctions are radicals. It also opens up space for a more nuanced debate about similar incidents of hate speech in Denmark and beyond.

Hate Speech and the Twelve Cartoons

Hate speech is notoriously difficult to define. It has a wide variety of meanings that depend on the country, time period, and context of the speech. Because I am interested in the legal context, I define hate speech as communications that contravene the law because they stem from or stir up hatred against people who belong to defined categories. Which laws are contravened? Many European countries have statutes against racial incitement, abuse, defamation, insult, provocation, or harassment, where the term "racial" is defined on

the grounds of categories like race, ethnicity, religion, or national origin. Some countries also have laws against blasphemy on their books, though these have rarely been applied in recent decades (Klausen 2009, 145–146). The precise formulations and varieties of laws differ country by country, but almost all European states have legislated against hate speech.

With that definition in mind, did the cartoons constitute hate speech? *Maus* cartoonist Art Spiegelman asked this question in a *Harper's* magazine review of the 12 images. In the article, he compellingly argued that most of the illustrations were simply not high quality cartoons and jokingly assigned each a varying number of lit bombs on a scale of 1–4 to designate their level of offensiveness. But like the scholars cited above, he certainly did not think any of them constituted hate speech (Spiegelman 2006).

This example highlights the fact that there are myriad ways to analyze these cartoons. No single individual's judgment will persuade everybody, and I do not assert that my own interpretation is more persuasive than anyone else's. Instead, my goal here is to point out what is obvious to everyone who has closely analyzed these cartoons—that there are significant differences among them—and also to suggest that reasonable people may read some of them as crossing the line into the terrain of legally actionable hate speech.

In my own interpretation of key differences among the cartoons, I sort them into several main categories. Some Muslims were offended because they believe there is a prohibition against any illustration of Muhammad. While it is commonly believed that all of these cartoons portrayed the prophet, in fact, not all of them did. One crude drawing depicted five veiled Muslim women saying "Prophet! Daft and dumb, keeping women under thumb," while another showed "Muhammad" as a Danish schoolboy rather than as the prophet. At least in these two instances, the taboo against depicting the prophet was not contravened.

Other people were offended because of the mocking or degrading tone of some of the images. Many of them were indeed mocking or degrading. But not all of them were. One is completely anodyne, illustrating Muhammad as a shepherd figure in the Abrahamic tradition of Jesus or Moses. Others were also inoffensive and harmless, such as one representing the children's book author holding a stick-figure drawing—presumably of Muhammad—while wearing a turban into which an orange labeled "PR stunt" was falling. These cartoons contravene the taboo against depicting the prophet. As such, some devout Muslims may find them troublesome or even offensive, but

images like this clearly do not constitute hate speech by any European legal standard.

Of the images that many observers felt were mocking or degrading, some were attempting to be humorous, even if the humor might be edgy or offensive. One cartoon shows Muhammad on a cloud greeting a line of deceased suicide bombers with the plea "STOP STOP We have run out of virgins!" Another shows Muhammad holding his hand out to calm two followers who hold a drawn sword and a lit bomb, with the tag line "Easy my friends, when it comes to the point it is only a drawing made by a nonbelieving Dane." For some people, these images are closer to the line in insinuating that Muslims are particularly prone to violence. Because they contain a humorous or playful element, however, they are in keeping with the long tradition of political or social satire, and it would be difficult to categorize them as hate speech under European laws.

In my judgment, the most controversial images link Muhammad with violence, terrorism, and the oppression of women, in ways that involve little or no ambiguity and no attempt at humor or satire. The best-known cartoon in this vein shows Muhammad wearing a turban that constitutes a lit bomb. Although the cartoonist subsequently argued that he was simply criticizing Muslim fanatics and not all Muslims (Brinch 2006; Westergaard 2009), the depiction itself shows the bomb as the entirety of what is going on in Muhammad's head. Therefore, even if we accept the artist's (self-interested) statements about his intent, the effect of the image is likely to be quite different from the artist's stated goal.

A second image also falls into the most controversial category. It depicts a fierce-looking Muhammad standing with drawn scimitar in front of two frightened looking women clad in full head- and body-covering black garb. Where the women's niqabs reveal their eyes, a similarly sized black band covers Muhammad's eyes. As with each of the images, this one can be interpreted in different ways. But it is perfectly reasonable—and highly likely—that observers will look at this image and see Muhammad as both ready for violence and oppressive to women. I have made this point in earlier work, and I am not alone in making it (Modood et al. 2006, 21). Although Klausen and Levey and Modood differ on some of their specific interpretations, both find this image extremely problematic (Klausen 2009, 24; Levey and Modood 2009, 439).

For some, these images simply cannot constitute hate speech because they are aimed at religion or at a single religious figure, rather than at a particular racial group (Koch 2006; Modood et al.

2006, 22–33). It is true that European liberal democracies typically give wide latitude to criticism of religious doctrine and also undeniable that Muhammad was just one person. However, European hate speech laws typically forbid stirring up hatred against religious groups as well as racial groups. So legally, the crucial question is whether these cartoons constituted a criticism of doctrine, or an attack on Muslims as a group. Along with Tariq Modood, I have argued that depicting Muhammad as a violent terrorist, or as oppressive to women implicates all Muslims and is not simply a criticism of a narrow portion of Islamic doctrine. As Modood has written, "the cartoons are not just about one individual but about Muslims per se—just as a cartoon portraying Moses as a crooked financier would not be about one man but a comment on Jews" (2006, 4).

One may agree or disagree that these two images plausibly constitute hate speech. But the only way to judge whether there is a reasonable legal case against these cartoons is to examine them in the prevailing European legal context of 2005–2006.

The European Legal Context

By the time of the Danish cartoon controversy, European jurisdictions had a long history of dealing with hate speech as a political and legal issue. There are four loci of decision making that are worth examining to provide a picture of the legal context of this era: international and pan-European treaties and legislation; national legislation and enforcement in prominent European countries where developments are well-known outside their borders and, therefore, shape broader European discussions; enforcement decisions at the highest court of appeal in Europe for hate speech issues, the European Court of Human Rights (ECHR); and the context within Denmark itself.

The International and Pan-European Context

European countries have long participated in international bodies like the United Nations and the Council of Europe that have explicitly deliberated over how to balance freedom of speech against other values such as fighting racism. The process of balancing goes back to the 1948 UN Universal Declaration of Human Rights. This document emphasizes the right to freedom of opinion and expression (Article 19). But it also says we should act toward others in a spirit of brotherhood (Article 1); it forbids discrimination or incitement to discrimination (Article 7); and it grants the right to protection against attacks

upon honor or reputation (Article 12). Each of these elements implies that there can be limits to racist speech.

In the mid-1960s, UN documents called even more explicitly for restrictions on racist speech. In 1965, Article 4 of the UN International Convention on the Elimination of All Forms of Racial Discrimination required countries to "condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form." One year later, Article 20 of the International Covenant on Civil and Political Rights of that year declared: "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." So the UN institutions clearly strive to balance upholding free speech and punishing hate speech.

This balancing act at the UN level is mirrored at the pan-European level. Article 10 of the Council of Europe's 1950 Convention for the Protection of Human Rights and Fundamental Freedoms enshrines freedom of expression as a core value. But Article 10(2) also says that freedom of expression comes with "duties and responsibilities" and can be restricted when necessary for things like "the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others." Each of these reasons can justify limiting hate speech in the 47 member countries. Another pan-European body, the European Union, also recently concluded a "framework decision" that requires its 27 members to punish incitement to hatred or violence on the grounds of race, color, religion, descent, or national or ethnic origin.[3]

So there is significant justification for limiting hate speech at the UN and pan-European levels. It is worth noting that all of these international and European developments run against the grain of the US trajectory since the 1960s. Through decisions taken in the 1960s and 1970s, the Supreme Court of the United States leaned on the First Amendment of the Constitution to lift restrictions on hate speech (Walker 1994). The United States is by far the most tolerant country in the world with respect to racist speech (Hare and Weinstein 2009; Rosenfeld 2003). But it is an international outlier. While there is virtually no such thing as illegal racist speech in the United States, the rest of the international community gives more equal weight to each side when balancing the value of free speech against values such as dignity, honor, equality, tolerance, and nondiscrimination.

National Developments in Europe

Looking more closely at individual European countries, we see that not only have they signed international documents, but have also restricted hate speech through dedicated national laws. In the 1960s and early 1970s, Germany, Britain, France, and other countries passed laws against racial incitement, racial defamation, and other forms of hate speech. These laws have not been very controversial. There have not been a great deal of prosecutions under most of these laws, but they are deployed every year in European countries to counter instances of hate speech.

In the 1980s and 1990s, Germany, France, Austria, Belgium, and a few other countries passed laws against Holocaust denial (Whine 2009, 544–545). These laws have been more controversial. They forbid people from saying the Holocaust never happened; or that it happened, but it was not that bad; or that it happened and it was a good thing it happened. Anyone who says these things can be arrested, tried, and convicted. Most convictions result in a fine or a suspended jail sentence, but David Irving famously spent over a year in an Austrian jail for his hard-core and repeated Holocaust denial. A small number of jail sentences have also been handed down in Switzerland, Germany, and France.

More recently—in the 1990s and in the past decade—laws against racial incitement have been expanded, and laws against hate crimes like racial harassment have been passed and enforced. Two examples of enforcement over the past 15 years illustrate the tone of European developments. Brigitte Bardot—fabulous French actress of yesteryear and ardent animal rights activist today—has five convictions for hate speech. Bardot is not a fan of the annual Muslim Eid sacrifice. This sacrifice involves draining the blood of a sheep by slitting its throat with no measures taken to ease its pain and suffering. For Bardot, this symbolizes Muslims' brutality to animals and also the threat Muslims pose to French traditions and culture. In April 1996, Bardot wrote an opinion piece called "My Cry of Anger," which was published in the major national newspaper *Le Figaro* during the Eid festival. It included a line that read "And now my country, France, my homeland, my land, is again being invaded, with the benediction of our successive governments, by a foreign overpopulation, especially Muslim, to which we pay allegiance! To whose law we bend in submission."[4]

For some, this sounds tame. But French Muslim groups and antiracist organizations started legal proceedings against her. They argued that the tone of her article went beyond mere criticism of ritual slaughter. They believed she had contravened the 1972 French

law against hate speech, which forbids abuse, defamation, or provocation to discrimination, hatred, or violence against a person or group because of "their origin or their belonging or non-belonging to an ethnic group, a nation, a race, or a determined religion."[5] In short, they thought Bardot was provoking hatred against Muslims.

The public prosecutor agreed and supported the case against Bardot. The court handed down its decision in January 1997. The judges ruled that her statements about the invasion of France were *not* illegal. Any other conclusion, they asserted, "would contravene our democratic principles by establishing a number of taboo subjects and by practically creating an 'opinion crime,' which the legislature did not intend."[6] In other words, the initial ruling unequivocally upheld free speech.

But the state appealed the decision. The appellate court overturned the verdict in October 1997. They found that Bardot had presented Muslims in France as a menace and they sentenced her to a 10,000 Francs fine (about $2,000).[7] Bardot was subsequently convicted for anti-Muslim statements made in 1997, 1999, 2003, and 2006. Her last conviction was for publishing a 2006 letter she had written to Nicolas Sarkozy, which alluded to Muslims as "this population that is destroying us, destroying our country by imposing its acts." She was fined €15,000 (about $20,000), but the court declined to impose the two-month suspended sentence requested by the prosecutor.[8]

The second example comes from Great Britain. Shortly after 9/11, Mark Anthony Norwood, a far right party member, put up a poster in the first floor window of his apartment in a village in Shropshire where it stayed for approximately two months. The poster contained a photograph of the Twin Towers in flames, the words "Islam out of Britain—Protect the British People" and a symbol of a crescent and star in a prohibition sign. A member of the public complained, and the police removed the poster. They then charged Norwood with religiously aggravated harassment (Weinstein 2009, 44–45).[9]

In Britain, it is illegal to display "any writing, sign or other visible representation which is threatening, abusive or insulting, within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby," and it is considered racially or religiously aggravated if it is "motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of that group."[10] Norwood argued that the poster referred to Islamic extremism and was not abusive or insulting, and that to find him guilty would infringe his right to freedom of expression. The judge disagreed, convicting Norwood in December 2002 and fining him £300 (about

$500). The High Court dismissed Norwood's appeal in July 2003. Lord Justice Auld held that the poster was "a public expression of attack on all Muslims in this country, urging all who might read it that followers of the Islamic religion here should be removed from it and warning that their presence here was a threat or a danger to the British people."[11]

One may agree or disagree that Bardot and Norwood should have been convicted. But by 2005–2006, it was clear that anti-Muslim expression was legally actionable in high-profile cases in prominent European countries.

Pan-European Enforcement at the European Court of Human Rights

The cases from France and Britain provide an important context for decisions made by groups and prosecutors in other countries, but their laws are not directly applicable to cases in Denmark. Before we look at Danish laws, it is important to examine the decisions of the ECHR. This body enforces the Council of Europe's 1950 Convention on Human Rights, and it serves as the high court of human rights in Europe. The Court hears appeals from citizens who believe their freedom of expression—protected by Article 10—has been unduly infringed. It has the power to overrule national decisions, and, therefore, its findings are important for all member countries, including Denmark.

If the ECHR were extremely hostile to speech-restrictive rulings at the national level, any conviction in Denmark would be set aside and a prosecution would be pointless. But, in general, ECHR rulings have upheld the rights of member states to restrict freedom of expression in order to punish hate speech. It has done this in prominent Holocaust denial cases, such as when it let stand Roger Garaudy's French court convictions in 2003, reasoning that "disputing the existence of crimes against humanity was…one of the most severe forms of racial defamation and of incitement to hatred of Jews."[12]

It has also done this in cases of anti-Muslim expression. Norwood appealed his conviction to the European Court of Human Rights. In November 2004, the Court found the appeal inadmissible. It unanimously agreed with the findings of the British courts, stating "such a general, vehement attack against a religious group, linking the group as a whole with a grave act of terrorism, is incompatible with the values proclaimed and guaranteed by the Convention, notably tolerance, social peace and non-discrimination."[13]

So if Danish courts had found the cartoons were "severe forms of racial defamation [or] incitement to hatred" against Muslims, or if they had found them a "general, vehement attack against a religious group," or if they had found that they linked Muslims "as a whole with a grave act of terrorism," the European Court would likely have agreed they constituted unprotected hate speech. Naturally, nothing guarantees that they would have ruled in this way. There are good arguments to be made that none of these circumstances applied to any of the Danish cartoons. But there is also a strong argument that they do apply. If Danish courts had ruled the cartoons hate speech, it is likely—given the ECHR's propensity to give latitude to national courts in close cases—that the ECHR would have upheld the conviction.

The Danish Context

Denmark is well known for being one of the strongest supporters of free speech principles in Europe. But merely having a free speech tradition does not guarantee that hate speech will be protected, as proven by Norwood's conviction in the country famous for Speakers' Corner in Hyde Park. Like Great Britain, Denmark has a domestic law against hate speech. Danish Penal Code §266b—enacted in 1939 amidst a wave of Nazi-inspired anti-Semitism—makes it illegal to "issue public utterances 'threatening, insulting or degrading to a group of persons due to their race, skin color, national or ethnic origin, faith or sexual orientation.'"[14]

This law was famously applied in the Jersild case.[15] Jens Olaf Jersild was a Copenhagen-based journalist who interviewed three members of a racist group in 1985. The aired segment contained virulently racist statements. In response, the state initiated a prosecution against the three racists and against Jersild for aiding and abetting the publication of their statements. The Copenhagen City Court convicted the racists and Jersild in 1987. The East Denmark Court of Appeal and the Danish Supreme Court upheld the convictions in 1988 and 1989 respectively. The Jersild case thus demonstrates that Denmark is willing to use its statutes to prosecute and convict hate speech. As in most countries, these laws are not frequently used, but neither are they dead letters.

Jersild's next step was to appeal to the European Court of Human Rights. The Danish government strongly supported upholding the convictions. The Court unanimously agreed that the racists were rightly convicted. But, by a 12 to 7 vote, the Court overturned the

conviction of Jersild in 1994. The European Court concluded that Jersild could not be held accountable for several principal reasons. First, he disassociated himself from the racist views and rebutted some of the racist claims. Second, the racist views were themselves the subject of the story, and so the press was playing a "watch dog" function in bringing the social problem of racism to light. Finally, the purpose of the broadcast was not to perpetuate racism by insulting minorities.

In the *Jyllands-Posten* case, however, these conditions do not apply. There was no disassociation from the most contentious cartoons. The point of the project was not to serve as a watchdog exposing anti-Muslim prejudice as a social problem. In fact, the purpose of the project was precisely to insult minorities, and by appealing to the cartoonists union, it was eminently foreseeable that some of the images would fulfill this goal. The *Jyllands-Posten* editors are undoubtedly not hard-core racists. But the reasons the Jersild conviction was overturned would not protect them in this case. There were thus no external European constraints on prosecuting the *Jyllands-Posten* for publishing these cartoons. Moreover, even if Danish authorities were skittish about pursuing the newspaper, the fact that the individual racists were convicted in the Jersild case suggests that it may have been possible to prosecute the individual cartoonists for hate speech separately from the editors.

Nor was the late 1980s the last time Denmark had flexed its muscles against perpetrators of racist speech. In fact, in the months preceding the publication of the cartoons, the Danish state moved on two cases of anti-Muslim speech. It removed the broadcast license from a radio station whose announcer called for expelling Muslims from Europe or "exterminat[ing] the fanatical Muslims." It also pursued criminal charges against a politician who compared Muslims to a cancer on society that had to be "cut out" (Klausen 2009, 157). These statements are certainly more provocative and rabble-rousing than the illustrations, but they also fall well short of the United States' standard for punishable speech (Kahn 2006).

In the end, of course, Danish authorities declined to prosecute anybody in the cartoon affair. The prevailing interpretation of the Danish statute is more speech-restrictive than the American standard, but Article 266b has typically been reserved for racist speech deemed to threaten social peace.[16] At the same time, the Director of Public Prosecutions warned the *Jyllands-Posten* that there were limits to free speech in Denmark, and that the paper was wrong to assert that religious groups had to be ready to put up with "insults, mockery and ridicule."[17]

Implications

When the images were published, the *Jyllands-Posten* cultural editor Fleming Rose claimed:

> Some Muslims reject modern, secular society. They make demands for special treatment when they insist on special consideration for their religious feelings. That stance is irreconcilable with a secular democracy and freedom of expression where you have to be ready to accept insults, mockery and ridicule.[18]

This kind of argument implies that asking the government to prosecute the cartoons is simply further evidence that Muslims are demanding special consideration that is incompatible with democracy and freedom of speech.

But the contemporary historical pattern shows that prosecutions for hate speech are not uncommon in the European legal context. Some jurisdictions have outlawed Holocaust denial while others have not. Prominent states like France and Great Britain have prosecuted cases of incitement to racial or religious hatred that may seem questionable or even reprehensible to ardent liberals. Convictions are attainable, even in Denmark. And the highest national and international courts have upheld these convictions.

Recognizing the disjuncture between the rhetoric of upholding free speech and the legal precedent of curbing hate speech has several significant implications. First, it reveals that asking for prosecutions was not radical. In fact, it was perfectly consistent with the prevailing trends toward convictions for provocative anti-Muslim speech or for Holocaust denial. This suggests that Muslims who advocated prosecution for the cartoons were relatively well-integrated into the institutional framework of their liberal democracies. The Danish cartoon controversy did reveal radical elements within several Muslim communities, both inside and outside of Europe. But most Muslims either did not react, or reacted within the normal bounds of social mobilization and standard legal initiatives such as calling for prosecution of the cartoons.

Second, the overwhelming public and scholarly approval of the *right* to publish the cartoons (even if there was criticism about the *choice* to publish them), suggests a limited understanding of the prevailing legal context in Europe. At least two of these cartoons would potentially count as hate speech in many European jurisdictions. There is no irrefutable case for conviction, but there is a plausible argument that they crossed the legal line. In the hate-speech-restrictive European

context, Muslims may feel slighted or even wronged that more people did not stand up and say these cartoons may constitute actionable hate speech. The absence of prominent and numerous non-Muslim voices calling for prosecutions at the time was likely due to the intensity of the controversy and to the violence associated with radical reactions to the images. With some distance from the events, however, it is possible to recognize that there is more than one defensible position in this debate. Reasonable people may differ over whether they view the two most incendiary images as illegal hate speech, but one does not have to be a radical to argue that they were.

With the aid of hindsight, a sober assessment of the European legal context may help minimize the danger that the Danish Cartoon Controversy will continue to be misread on both sides. Free speech proponents assert that Muslims were acting out of step with prevailing liberal democratic norms, when initiating lawsuits was actually in keeping with European institutional practices. And Muslims may believe that they cannot get justice through the law, when the general European trend has actually been toward punishing anti-Muslim speech.

Yet, a discussion of the European legal context cannot overcome a different and significant problem facing Europeans. Unfortunately, there is simply no political or societal consensus over how to determine what counts as hate speech. Even though European legal decisions are increasingly punishing anti-Muslim expressions, public attitudes may be headed in the opposite direction. If law and public opinion continue to diverge, we will have to brace ourselves for similar controversies in the years to come.

Notes

1. See also the contributions to the October 18, 2006, *NPR Intelligence Squared U.S. Debate* "Weighing the Limits of Freedom of Expression." http://www.npr.org/templates/story/story.php?storyId=6249980, accessed January 3, 2011.
2. ibid.
3. See Council of the European Union, Press Release 16325/1/08 REV 1 (Presse 344), 27 and 28 November 2008, 37.
4. Letter reprinted in Bardot (1999, 693–694).
5. Law no. 72–546 of July 1, 1972.
6. Quoted in "Poursuivie pour 'provocation à la haine raciale' Brigitte Bardot relaxée," *Le Figaro,* 24 January 1997.
7. "JUSTICE; Brigitte Bardot condamnée," *Le Figaro* October 10, 1997.
8. AFP, "Deux mois avec sursis et 15 000 euros d'amende requis contre Brigitte Bardot," *Le Monde* June 4, 2008.

9. See also *Norwood* v. *United Kingdom* Appl. No. 23131/03, November 16, 2004.

10. See section 5 of the Public Order Act 1986 and sections 28 and 31 of the Crime and Disorder Act 1998, as modified in 2001.

11. Quoted in Weinstein (2009, 49).

12. See the declaration of inadmissibility, *Garaudy v. France* (no. 65831/01).

13. *Norwood* v. *United Kingdom* Appl. No. 23131/03, November 16, 2004.

14. Quoted in Lægaard (2007, 485); see also Koch (2006).

15. For a summary of the case, see *Jersild v. Denmark* (1995) 19 EHRR 1.

16. Henning Koch, personal communication with the author, February 4, 2010.

17. "Muslim Groups 'Surprised' by Danish Decision Not to Prosecute in Cartoon Case," *BBC Monitoring Europe* March 15, 2006.

18. Quoted in John Hansen and Kim Hundevadt, "The Cartoon Crisis—How It Unfolded," *Jyllands-Posten* March 8, 2008. "Insult" is in the Jyllands-Posten's own translation, but the original Danish word "hån" has also been translated as "sarcasm" (Klausen 2009, 16) and most popularly by the media and scholars as "scorn" (Lindekilde et al. 2009, 291). I thank Sune Lægaard and Jytte Klausen for discussions that helped to clarify the meaning of the word hån.

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6

Deciding to Jump: Immigration, Gender, and Civic Engagement

Caroline B. Brettell

In an interview about her novel, *If Today Be Sweet*, Thrity Umrigar, a writer who was born in Mumbai but who came to the United States at the age of 21, reflects on her central character Tehmina Sethna. Tehmina's husband has died and she must decide if she is going to live permanently in the United States with her son Sorab, his white American wife Susan, and her grandson Cavas. Umrigar observes:

> In middle age, [Tehmina] is being asked to give up everything that she once knew and called her own—home, country, neighbors, friends. Her son has gone through a similar process many years earlier, but even he cannot help her. It is a journey she has to travel alone. But while faced with the larger choice of whether to stay in America, Tehmina is confronted with another more urgent choice: whether to live in America as a stranger or as a citizen. Citizenship implies connection, participation, joining in. Destiny beckons in the form of two young, troubled children next door. It is the plight of these two boys that forces Tehmina to choose. To decide whether she will forever straddle the fence and live in a no-man's land. Or whether she will jump into the fullness of her new life in America. Tehmina jumps. And in doing so, she fulfills the long-ago promise of her forbearers, to sweeten the life of the people in her new country with her presence. The irony is that she expands the fabric of community in suburban America by stubbornly holding on to her own Indianness."[1]

In the character of Tehmina, author Umrigar captures the struggles with belonging that many immigrants in the United States confront

as well as the process by which they become participatory citizens in the public sphere. This issue is as important today as it was during previous waves of immigration, and perhaps more so in a world where global networks of transportation and communication facilitate immediate contact with homeland cultures and homeland politics and where dual citizenship is becoming increasingly common.

In this chapter, drawing on data collected as part of two sponsored research projects on immigrants in the Dallas-Fort Worth metropolitan area (henceforth DFW), I address some of the mechanisms through which first-generation Indian immigrant women have "jumped" into the civic sphere and constructed their own "sense of belonging."[2] I focus on women in particular because they are often invisible in discussions of these processes. Indeed, Herd and Meyer (2002, 665) have noted that research on the decline in civic engagement in the United States "has been largely gender blind." I emphasize the first generation because these are women who arrive as adults and who must seek out the venues in which to learn about and claim recognition as citizens and through which to become civically engaged. Citizenship, particularly in relation to the foreign-born, is often conceptualized very narrowly. Scholars stop with the issue of naturalization, using it as the primary measure of political incorporation and civic assimilation.[3] Insufficient emphasis has been placed on how immigrants themselves perceive the meaning of citizenship, including the responsibilities of being an active and engaged citizen in a host society. Further, examinations of how attitudes toward and practices of citizenship may be gendered have not been extensive.

I begin the chapter with a brief, but certainly by no means exhaustive, discussion of the literature on citizenship and civic engagement, focusing specifically on some of the theoretical ideas that have informed my own thinking on these issues.[4] Drawing on ethnographic data from the research in DFW, I then discuss how first-generation Indian women understand what it means to be a citizen. I introduce brief narratives of engagement in different venues for civic action to illustrate how three women in particular have put their understandings into practice. While some scholars have worked to identify critical variables (such as national origin, social networks, length of residence, language acquisition, religious attendance) that are linked to rates of immigrant civic participation (Verba et al. 1995; Stoll and Wong 2007), my interest here is in immigrant agency and in diverse pathways to civic engagement. In operationalizing agency, I draw on Sherry Ortner's (2006, 145) useful theoretical distinction between agency in the sense of power and agency in the sense of the

pursuit of projects. "The first," she writes, "is organized around the axis of domination and resistance, and thus defined to a great extent by the terms of the dominant party, while the second is defined by local logics of the good and the desirable and how to pursue them. With regard to the second form of agency, Ortner observes that it is about "culturally constituted projects that infuse life with meaning and purpose. People seek to accomplish valued things within a framework of their own terms, their own categories of value." While both dimensions of agency are important from a feminist perspective, it is this agency in pursuit of meaningful projects that should be considered in relation to narratives of participatory citizenship such as those that are presented later in this chapter. Further, it is essential to be mindful not to impose our own ideas of what constitute "real" or the most valid civic or political projects.[5]

From Citizenship to Civic Engagement

Legal scholar Linda Bosniak (2000) has outlined four categories of citizenship—as legal status, as rights, as political activity, and as identity and solidarity. Legal citizenship refers to "formal or nominal membership in an organized political community" (456) while citizenship as rights makes rights "the defining feature of societal membership" (463–464). Citizenship as political activity emphasizes "active engagement in the life of the political community" (470), while citizenship as identity and solidarity underscores "the affective ties of identification and solidarity that we maintain with groups and other people in the world" (479). Embedded in at least three, if not all four of these categories is an assumption of unitariness—one individual, one nation-state. Like much of citizenship theory, these categories are "caught in the strait jacket of the nation-state" (Ip et al. 1997, 382). How citizenship is differently perceived in multicultural and multiracial societies and how the widespread global movement of populations and the emergence of global citizenship influence national citizenship is, as Ip et al. observe, inadequately addressed. Citizenship can no longer be treated "as a static end state" but must instead be approached "as a process of continuous evolution and progression" (382).

This more nuanced, active, and processual approach to emergent forms of citizenship is characteristic of recent ethnographic studies of immigrant populations. Aihwa Ong, writing about Cambodian refugees, formulates a concept of flexible citizenship, which she defines as "the cultural logics of capitalist accumulation, travel, and displacement that induce subjects to respond fluidly and opportunistically to

changing political-economic conditions" (1999, 6). In research on Haitian immigrants, Michel Laguerre (1998) and Nina Glick-Schiller and Georges Fouron (2001) write respectively of diasporic citizenship and long-distance nationalism to capture individuals who have a sense of belonging and hence participate in the civic spheres of more than one state. All of these concepts of citizenship point to the continued linkages between immigrants and their homelands, to transborder citizenship practices, and to transnational identities (Reed-Danahay and Brettell 2008, 11).

But anthropologists have also been focusing on diverse modes of citizenship expression that largely occur within the boundaries of the United States. Emerging from their research among Latino immigrants in the United States, Renato Rosaldo (1994, 1997) and others (Flores and Benmayor 1997) have formulated the concept of "cultural citizenship" to address contradictions between an assimilationist model of citizenship and national identity on the one hand, and cultural diversity on the other. Cultural citizenship is defined as "the right to be different (in terms of race, ethnicity, or native language) with respect to the norms of the dominant national community, without compromising one's right to belong, in the sense of participating in the nation-state's democratic processes" (Rosaldo and Flores 1997, 57). Cultural citizenship draws attention not only to more informal ideas about membership and influence (Rosaldo 1994, 252), but also to expressions of belonging that are built on difference rather than sameness and hence upon the ideas that immigrants themselves develop and hold about what it means to be a participant in and hence part of the American public sphere.

In his approach, Rosaldo shares the view of several other social theorists who argue for a distinction between forms of legal citizenship on the one hand and participatory or substantive citizenship on the other, the first external and largely passive, the second internal and more active.[6] The concept of substantive citizenship is important because it opens the door to a closer examination of the responsibilities of citizenship (beyond voting) and hence counterbalances what I believe to be an overemphasis in the literature on the rights of citizenship. Nina Glick-Schiller and Ayse Caglar (2008) offer a useful contribution to the matter of how rights are related to responsibilities (and hence structure to agency) by defining social citizenship as the "process whereby individuals assert rights to citizenship substantively through social practice rather than formally through law" (205). That is, people claim citizenship and belonging through what they do, not through what is accorded to them.

Several scholars have drawn attention to the gendered dimensions of citizenship (Yuval-Davis 1997; Werbner and Yuval-Davis 1999; Friedman 2005b; Tastsoglou and Dobrowolsky 2006; Erel 2009). Jaggar (2005, 92) has observed that in Western societies citizenship has been "gendered masculine…The activities regarded as characteristic of citizens—fighting, governing, buying and selling property, and eventually working for wages—have all been viewed as masculine, as have been the social locations where these activities are undertaken." Jaggar discusses the feminist challenge to masculinist citizenship as one that attempts to broaden understanding of the particular activities and arenas that define citizenship practice. Marilyn Friedman (2005a, 4) argues that gender is particularly salient in "nonstate realms of citizenship practice [that] provide options for women's political agency that may circumvent the restrictions of the political sphere, for example, agency based on women's traditional role as nurturers." She goes on to emphasize that "if citizenship is about full membership in one's community, then these additional realms of culture and society are necessary contexts and conditions for its practice."

The practice of citizenship is closely associated with the concept of civic engagement. While many scholars continue to adhere to a definition of civic engagement that focuses on political indicators such as participating in party-based politics, electoral voting, and remaining informed about current events, others have adopted a broader perspective (Jensen and Flanagan 2008; Stepick et al. 2008). Useful in this regard is the distinction that Steven Brint and Charles Levy (1999, 164) have drawn between the primary and secondary meanings of the words "civic" and "engagement." The primary use of civic "has to do with the activities of citizens, particularly with their rights and duties in relation to this legal status." The secondary use points to civic spirit. With both the primary and secondary meanings of civic and engagement in mind, one can begin to interrogate how immigrants become civically engaged and hence construct, with their own agency, a sense of "belonging" in their new home that may or may not have to do with the political indicators mentioned above. One can also interrogate the gendered dimensions of immigrant civic engagement.

Scholars have long observed that civic (and we might add political) engagement, for the native- and foreign-born alike, is put into practice in the context in various spheres of associative life, such as voluntary organizations and religious institutions (Verba et al. 1995; Skocpol and Fiorina 1999; Hirschman 2004; Ecklund and

Park 2005; Levitt 2008; Stepick et al. 2009). It was the decline in participation in churches, unions, fraternal associations, the PTA, and other arenas of formal and informal sociality (such as bowling leagues) that led Robert Putnam to argue that Americans were increasingly "bowling alone."[7] While we could debate Putnam's thesis, as many have, it is more important for my purposes here to explore whether immigrant newcomers are "bowling alone" and by extension to interrogate the assumption made by some scholars that involvement in ethnic community organizations and activities on the part of immigrants may result in enhanced marginalization and the strengthening of ethnic identity rather than an American identity. Will Kymlicka and Wayne Norman (1994, 364) have argued that "joining a religious or ethnic association may be more a matter of withdrawing from the mainstream of society than of learning how to participate in it." Is this the case or are these organizations and institutions places where immigrants can be trained in forms of participatory democracy (Eck 2001, 336)?[8]

Further, what is the role of immigrant women in these organizations? Are they largely in backstage and support roles rather than in more visible leadership roles? More than a decade ago, Ebaugh and Chafetz (1999) noted the "scant" literature that interrogates the role of women in immigrant religious institutions. Since then, several scholars (George 2005; Jamal 2005; Marquardt 2005; Landolt and Goldring 2009) have addressed this lacuna, while others have explored the relationship between the political interests of immigrant women and their involvement in local community organizations (Hardy-Fanta 1993; Jones-Correa 1998; Pantoja and Gershon 2006). But in general, this remains a relatively underinvestigated topic. How precisely are first-generation immigrant women, like the fictional character Tehmina, "sweetening the life of the people in [their] new country with [their] presence"?

BECOMING AND BEING A CITIZEN: NATURALIZATION AND "GOOD CITIZENSHIP" AMONG INDIAN IMMIGRANTS

Nationwide, approximately 40 percent of Indian immigrants have naturalized (Terrazas 2008). This rate is higher than that of most Latino groups but lower than some other Asian groups. Although naturalization rates are often powerfully correlated with length of time in the United States, interviews with immigrants offer a more nuanced understanding of why people naturalize. In the DFW/NSF research population,

45 percent of the first-generation Indians interviewed (N=102) were naturalized—46 percent of the men interviewed and 44 percent of the women. When respondents were asked why they had naturalized, just over 38 percent said that they were guided by family decisions and the realization that they were going to make their life permanently in the United States. Others said that the right to sponsor relatives to immigrate (7.7 percent) or to facilitate travel (7.7 percent) were important. All these responses suggest a pragmatic and deliberative approach to the naturalization process.[9] This approach is reflected well in the comments of a female research participant who at first said that naturalization was "like giving up something. You feel like you are betraying your past." Later she realized that this was not necessarily the case. She and her husband became citizens because an estate planner told them that it would be better for their children. "It gives you advantages and you feel more secure."

While the pragmatic dimensions of naturalization should not be underestimated, it is important to observe that many research respondents said that the primary reason for their naturalization was to show commitment to or pride in the United States (13 percent)—that is, as an expression of their sense of belonging. This theme emerged more strongly when individuals talked about what citizenship meant to them. Here is how one female research participant put it:

> It took many years to decide whether or not to become a citizen, because we felt very attached to India for several years. But, then I thought, no matter which country I live in, I am capable of being a good citizen in that country. I like being a part of the community and being an involved American.

A Muslim female respondent articulated her understanding of good citizenship by suggesting that you put your country first but, she continued, that does not mean you cannot criticize. She then drew a family analogy:

> I love my kids but there are things about them that I do not like and I will tell them that. It is the same thing with your country. I love the United States, it is my home, I have been here a long time, I will do anything to protect it, but I do not agree with all the policies. I want the freedom to offer constructive criticism. There is always room for improvement.

Another powerful theme in these discussions of good citizenship was the desire to give back to the community. "This is very important,"

said one female respondent. "We must give back to the United States because it has given us so much. Now that we have time we should do something. Not everyone has a chance, but if you do you should give back." Another woman said she encouraged her children to become involved in community activities and a third, stating forthrightly that she takes her civic responsibilities seriously, said she volunteers at her children's school and in her neighborhood. A fourth summed the obligations up by saying "you take with one hand and give back with two." Several respondents, male and female, emphasized that they see this kind of work as very American, suggesting that they have learned about forms of civic participation in the United States and that by acting in the public sphere they feel American. However, it is important to note that others—across Hindu, Muslim, and Christian religious traditions—described acts of "giving back" as fundamental to their respective faiths—as *seva* in the Hindu tradition, as *zakat* in the Muslim tradition, and as charity in the Christian tradition.

How is such "giving back" linked to their ideas of good citizenship? One female respondent suggested that good citizenship means helping where you see there is a need. She went on to describe a life course trajectory for good citizenship. "When people first come," she said, "they are not involved. It is a struggle to survive. You are on an F1 or H1 visa and it is hard to get beyond all your own needs and requirements. When you are older and more settled, that is when you get involved." She then suggested that immigrants first become involved in their religious organizations, then perhaps in Indian organizations such as the India Association of North Texas or the Dallas Indian Lions Club. From there, people might move into the political sphere. During her interview, this respondent mentioned a lunch she was planning to attend where Senator Kay Bailey Hutchison would be speaking. She said she had also met Senator John Cornyn. She commented that "politicians have woken up to the importance of the Indian community and they want to come to our events. Politicians are realizing the potential of Indians and soliciting them from both parties. This is fine. This is the system." The presence of political figures at community events, most of them sponsored by Indian or pan-Asian organizations, was something that I witnessed time and again during field research and indeed at one point I attended a fundraiser for Congressman Martin Frost held at the home of an Indian Muslim family.

How precisely do these first-generation Indian immigrant women "give back"? Beyond charitable projects, into what arenas do they jump? Herd and Meyer (2002, 666) have argued that the family is a critical dimension of civil society. They focus on women's involvement

in care work as a form of civic engagement, thereby challenging the common distinction between public and private domains and opening up an exploration of family-based arenas for the practice of citizenship. In the remainder of this chapter, I present the narratives of three first-generation Indian immigrant women who have pursued distinct "culturally constituted projects" (Ortner 2006, 145) of civic participation that give their lives meaning and purpose and that are based on their own understandings of good citizenship. In different ways, these narratives illustrate how family concerns provide a springboard for civic engagement and hence how private and public spheres are bridged through dimensions of community care work. One woman has become involved in the PTA, a second in a South Asian organization to combat domestic violence, and the third in a local Lions Club. It is important to note that all three of these women have a good command of the English language, are well-educated, and, by any economic measure, are members of the middle to upper middle class of American society. This affords them the time, abilities, and opportunities to become participatory citizens in ways that may not be available to first-generation immigrant women with different skills and backgrounds. Collectively, these narratives offer a counterbalance to a more narrow understanding of civic engagement as political participation alone by emphasizing what Friedman (2005a, 4) refers to as the "nonstate realms of citizenship practice." They also underscore the importance of voluntary associations in facilitating, rather than marginalizing, immigrant participation in the broader civic sphere.

Engaging the PTA

In *Bowling Alone*, Robert Putnam (2000) examines patterns of participation in major civic organizations. One such organization is the PTA, one of the most active community organizations in the middle of the twentieth century. The percentage of parents across the nation who joined the PTA more than doubled between 1945 and 1960, but declined thereafter such that by 1980 membership had returned to the early 1940s level (55–56). This was followed by a slight increase during the 1980s and then a declining trend again in the 1990s. Putnam offers several explanations for this decline, among them the observation that Americans at present are less engaged with the education of their children than they were a half-century ago.[10] Of course, they may be participating in other ways but for Putnam this is just one measure of his bowling-alone thesis about the more general decline in civic participation. To date, no one has to my knowledge

explored the extent to which Asian immigrant parents are involved in the PTA, although there has been some discussion for the Latino population (Hero et al. 2000; Segura et al. 2003).

During fieldwork I identified several Indian mothers who were or had been members of the PTA. These women are active in this organization at a particular phase of their life course—when they have children in school—and participation in the PTA was frequently just one of their civic activities—many were also involved in a religious institution and some in an ethnic organization. One of these PTA mothers was Leela (a pseudonym). Leela was born in Madurai in South India. She came to the United States in 1991 as a young bride. Her husband had been in the United States since 1981 and was largely raised in America. Leela first settled in Las Vegas where her husband was working, but in subsequent years they lived in Cincinnati and Detroit. In Las Vegas Leela studied architecture, something that helped her, she said, to adjust to the United States and develop a community of friends. In Cincinnati she worked in the IT department of the company where her husband worked. She went from part-time work to full-time work and remained working until her eldest son (who was born in Las Vegas) was four years old and her second son was born.

Leela moved to the Dallas area in 1999 and her eldest son entered kindergarten. It was at this time that she became interested in the PTA. Leela said she was motivated to join not only because she wanted to be involved in her son's education but also because she wanted to learn about the educational system. The desire to become more knowledgeable about a system that is different from the one with which they are more familiar was a big motivator for many Indian PTA mothers and is indicative of the importance of knowledge acquisition and practice to forms of civic engagement.

My colleague Deborah Reed-Danahay and I (2008) have used the model of communities of practice, originally developed by Jean Lave and Etienne Wenger (1991), as a way to frame a discussion of how individuals acquire civic skills within religious institutions and ethnic organizations that facilitate participation in the public sphere.[11] In accordance with Lave and Wenger's emphasis on "situated learning"—that is, learning by doing and by observing—Leela first worked behind the scenes and then moved to more active participation in a second-grade fundraiser. She was part of a team and took her direction from others. "This made me more confident," she said. Her involvement increased once her second child was in school. She moved, again in accordance with the communities of practice model, from the peripheral to more complete participation. At the time that I interviewed her, Leela

indicated that she was at the school "all the time" – sometimes 4–6 hours/day. She has served as a room parent, as the Chair of the Sock Hop, and as the Arts Education Chair. She is a voting board member and a key communicator for the school—that is a liaison between the school and the district. She attends a liaison meeting once a year. She once received the volunteer award of the year from the school.

Leela said she thought that more Indian parents would become involved in the PTA because the number of Indian children in schools was increasing. She did, however, observe that some parents are apprehensive precisely because the system is different and unfamiliar. They are particularly hesitant to assume leadership roles she thought. "But I did it and broke a barrier and now others are slowly following." She thought that Chinese parents were equally apprehensive and especially uncomfortable about having an accent. "More Indian parents are involved because they do not have the language deficiencies."

Leela views her PTA work as a form of community service even as it is motivated by her desire to know about all the opportunities for her children and to prepare them for moves from one school to the next. She also sees herself as a role model for her children. "They volunteer after school too. The little one sees the older one helping and also wants to help." Leela talked about wanting to volunteer at a hospital at some time in the future. Her mother did this kind of work in India. Interestingly, at the time that I interviewed her, Leela was not a naturalized US citizen. But, she noted, this had not stopped her because "I live here and what happens here affects me so I should be involved." Leela admitted to having worked behind the scenes on a few political campaigns. Not being a naturalized citizen, she asserted, did not mean she did not "feel American"—in the sense of participating fully in the life of her community. Many research participants emphasized ideas of home and "we are here"—that is, ideas of emplacement—as important dimensions of their sense of belonging. This emphasis on "being here" (i.e., in the United States) was often linked to the decision to become a legal US citizen (without abandoning Indian identity) and/or a socially responsible citizen who participated, like Leela, in the public sphere.

Tackling Domestic Violence

In March, 2010, Minal Bhagat, a 36-year-old woman well known to the Indian community because she had worked for a decade at Taj Imports – a grocery store where many Indians in DFW shop[12]— was shot to death by her husband in her home in Plano, a suburb

immediately north of the city of Dallas. Her mother and two children were in the house at the time. Bhagat's husband, Barinder Singh, fled the scene but was arrested the next morning in Houston. Newspaper stories suggested a history of abuse and neglect, and stated that Bhagat had filed for divorce the previous June "in the interest of her 9-year-old daughter and 4-year-old son" (Meyers 2010). The couple had attended some courses in anger management; as a result, in October 2009 they halted divorce proceedings.

This incident followed another well-publicized case that occurred in January, 2008. Two Dallas area teenage girls, Amina and Sarah Said, were killed by their Egyptian Muslim father. He was reported to be a strict father who rarely allowed his daughters to spend time with their friends. Friends of Sarah were reported to have said that when Sarah met a boy at her job she told him that her father would kill her if he found out. The father did not approve of non-Muslim boyfriends, or of boyfriends in general. A cab driver, he drove his daughters to a motel in Irving, shot them, left them to die (one managed to call 911), and disappeared. There were reports of previous abuse; the girls' great aunt was quoted in the newspaper claiming that the mother had previously fled with her two daughters and that "this was an honor killing" (Eiserer 2008). Services were held in a Christian chapel as well as at the Richardson Mosque—the largest and oldest mosque in DFW.

Such incidents, some of them labeled "honor killings" (Wikan 2008), are examples of gender-based violence in immigrant families that scholars have begun to address (Abraham 2000; Akpinar 2003; Menjivar and Salcido 2003; Raj and Silverman 2003; Salcido and Adelman 2004; Bhattacharjee 1997). The issue has motivated some immigrant women to become involved in organizations that wrestle with the issue, in some cases even developing their own organizations. By the early part of the twenty-first century more than 30 organizations nationwide focused on domestic violence in the South Asian US immigrant community. Sharmila Rudrappa (2004b, 588) suggests that this figure not only "speaks to the prevalence of violence among these immigrant families, it also attests to the high levels of activism among South Asian American women in starting up and sustaining organizations working against domestic violence in their communities. It is through such an organization that Divya (a pseudonym) chose to engage the civic sphere.

Divya came to the United States in 1964 as a student. She met her husband in the United States and in 1988 they moved to the Dallas area. By that time they had become naturalized citizens. Divya worked for a big corporation in the area for a while but had always

done volunteer work, often at local hospitals, in her spare time. When I met her, I learned that she had become keenly interested in the issue of domestic violence. In the South Asian community, Divya said, abuse is not about guns, but about physical, emotional, financial, and psychological abuse. Divya explained that cultural and linguistic differences have made it hard for some South Asian women to contact mainstream domestic violence organizations. They face special circumstances, such as the vulnerability of being a dependent H4 visa holder. This deters them from calling the police because they fear the police will tell their husbands. Further, many of these women are Muslims or Hindus with particular dietary restrictions or religious obligations. They feel uncomfortable in mainstream shelters. To learn the ropes, Divya and a colleague attended a national conference and had collected material on domestic violence shelters for South Asian women in New Jersey, California, and Chicago.

In the spring of 2005, Divya and other South Asian women in DFW established an organization called Chetna and applied for 501c3 nonprofit status. The mission of Chetna is "to provide information, referrals and other services for South Asians in the DFW and surrounding area through peer support, case management, community education and outreach." The founding group for the organization consisted of eight South Asian women (Hindus and Muslims) of different backgrounds and life stages, and included one lawyer and one social worker. An older man, a CPA, was also part of the group. At the time that I first interviewed her, Divya was working with others to get information out at religious organizations, at community events, on Indian radio stations, and during Diwali celebrations. In other words, they were using the broader civic spaces of the DFW Indian community as vehicles for communication. The group was also working to secure funding to set up a South Asian domestic violence hotline in DFW. Also in the planning was a shelter, but that would take time. In the spring of 2006, Divya helped to organize an Open House to raise awareness and begin to network and organize. After showing a film about the abuse of a South Asian bride in an arranged marriage who appears to have little recourse, the audience (mostly women, and many younger women) was addressed by an Indian-born social worker and a second-generation Indian child psychiatrist affiliated with UT Southwestern.

Within a few years, Chetna had become well established, with dozens of volunteers, active training sessions held at one of the branch libraries in the suburb of Plano north of the city of Dallas, a monthly newsletter, a board structure, and several fundraisers. The website

provides general information on domestic violence, including helping individuals identify if they themselves are victims, or others who might be victims. It offers a safety plan and outlines the various services, including legal advocacy, survivor workshops, and translation that are available through the organization. Chetna offers referrals to other service providers but also stresses their recognition of "the diversity of experience in the South Asian community" and their goal to "work with each victim within her own cultural context." Like many other Indian organizations in DFW, Chetna raises money through an annual gala, often with a motivational speaker and an entertainer. The 2010 gala, for example, included a senior vice president and chief marketing officer (of Indian origin) for a major US corporation as well as a second-generation Indian stand-up comedienne from the Los Angeles area with an MTV career. The funds raised that evening went to support the help line, educational materials, the meal program, the Legal Aid program, and the transportation program.

Like Apna Ghar in Chicago (Rudrappa 2004a), Chetna is an organization that effectively politicizes DFW-area South Asian women by raising awareness and getting them involved. Domestic violence appears to be an issue around which South Asian women in the United States have become galvanized, and Chetna has been able to build bridges, not only to other community organizations such as the Texas Muslim Women's Foundation, but also to the broader DFW-area corporate community. And to support its efforts it has incorporated the very American mechanism of the charity gala banquet as a vehicle for raising funds. Finally, Chetna has also built bridges to the broader "feminist community" in the United States. In the spring of 2010, members of the Chetna board visited with Gloria Steinem, who was in the city to give a talk at the University of Texas at Dallas, and shared with her the work that they were doing.

Serving in a Lions Club

Lions Club International is a large global service organization. Membership in the Lions Club in the United States, as in the Elks, Rotary Club, and other similar organizations, has been declining. But in the DFW area there are several very active Indian Lions Clubs, including the Irving DFW Indian Lions Club, the Arlington DFW Indian Lions Club, the Dallas Indian Lions Club, and the Plano Indian Lions Club.[13] The most recent addition to this list is the Dallas Women's Lions Club. Manisha (a pseudonym) was instrumental in the founding of this club in 2006.

Manisha studied math and computer science in India and earned a masters degree. She arrived in the United States in 1983 to join her brother in the Boston area. In December of 1984, after marrying, she moved to the Dallas area. After further study at the University of Texas at Dallas she found a job with a computer firm that was owned by an Indian. She then worked for Nortel. But she also had three children and for a period of time she withdrew from the workforce. While at home she became involved first in the leather garment import/export business and later in the jewelry business. She was able to fit these activities into her family schedule. In 1989, as soon as she was eligible, she became a US citizen. Although Manisha was never active in the PTA, she was involved in coaching academic programs at her children's school.

In 2004, Manisha became a member of the Dallas Indian Lions Club. She found working with the men a bit difficult, and there were few women members—those who participated were often the wives of members. What they wanted, she said, was basically a social club but "I was interested in making a difference and in having a diverse group." She was also frustrated by the fact that they wanted to focus on the Indian community while she wanted to be more multicultural and to reach out. Out of these frustrations came her idea to found a Dallas Women's Lions Club. She left Indian out of the title because her vision was that the group would be diverse, but given that such groups develop based on social networks it has remained largely a group of Indian-born or Indian-ancestry members, the latter largely women who were born in Africa, in Zambia and Uganda, for example. Many of these charter members were self-employed women with their own small businesses. This is equally true of Manisha who by the time the Club was founded was running a real estate firm with her husband. Manisha said that she was attracted to the Lions Club organization because their main cause is vision and eyesight and her own father had lost his eyesight as a result of late-stage glaucoma. More broadly, she said, she is interested in helping senior citizens as a result of witnessing the aging of her own parents. She observed that community service interests often change over time—"you are motivated by different things as you go through life." It is important to emphasize how Manisha ties the personal to civic service and civic engagement, thereby bridging private concerns with public action.

The Dallas Women's Lions Club began to hold meetings at one of the branches of the city of Plano public library system—evidence of how immigrant newcomers are situating themselves in mainstream public spaces. During its first year it organized a banquet where all

the charter members were inducted; it held a couple of eye clinics—one at an Hispanic church and another at a short-term residential home for young adults—and it raised money through a garage sale to purchase a television for a mainstream senior citizens home (several of the members also volunteered at the home). In the spring of 2010 it raised funds for Chetna, demonstrating the links that develop between one organization and another as well as the multiple organizations with which DFW Indian women are involved—in 2010 a member of the Dallas Women's Lions Club was serving as the president of Chetna.

Manisha described her own mother as her role model for community service. Her mother was a nurse and dietician but she found time to help the underprivileged. She offered free clinics at home for those who could not get help elsewhere. Manisha herself was already active in India, particularly in youth groups, and prior to becoming involved with Lions Club activities she taught Hindi at the Chinmaya Mission and organized youth events for the India Association of North Texas. Manisha expressed her commitment to the idea that voting was not the only dimension of good citizenship. "Politics exist no matter where you are," she observed. "Politics involves the decisions of the few and you cannot really see what your impact is. Being a good citizen means doing the right things for the people of a country. It is not about placing people in leadership roles. It is rather about who is making the community the way it is…You are living in your community and you can work to make it better." Again we see the importance of emplacement or "being here" as the motivating principle behind civic activity, ideas of good citizenship, and communicating not only one's right to belong but also the responsibilities of belonging.

Conclusion

Based on research on immigrant political socialization in Toronto, Patricia Landolt and Luin Goldring (2009, 1247) argue that "a narrow focus on immigrant citizenship acquisition and electoral participation offers a biased and incomplete interpretation of immigrant politics." They further suggest that immigrants themselves have a much broader understanding of how they are politically incorporated. They also note the "resurgent interest in immigrant grassroots organizing and associational life as a mezzo-level entry point for understanding pathways of political incorporation" (1226). These scholars are as critical as I am of narrow conceptualizations of the meaning of citizenship and the process of political incorporation and

of the assumption of formal politics as the "normative end-goal for all groups" (1228), bluntly suggesting that "it is no longer so clear that immigrants gauge their political integration simply in relation to electoral participation in the host society."

In this chapter I have drawn attention to the diverse ways in which immigrant newcomers can enter the civic sphere. I have also tried to make the gendered dimensions of civic engagement more visible by focusing in particular on the citizenship projects of three first-generation Indian women. Michael Jones-Correa (1998, 346), in his work on immigrant Latinos and Latinas in the New York City area, has argued that "while men are more likely to remain involved in first-generation immigrant organizations, women more often take on the role of intermediaries between the immigrant community and the surrounding society." While I would argue that the situation is less straightforward for Indian immigrants, perhaps because of their class status, their linguistic skills, and their higher levels of education, the narratives of Leela and Manisha do illustrate how immigrant women can become active in organizations that bridge to broader American society. But even Divya is involved in an organization that, while directed to the South Asian community in particular, addresses a broader societal problem. Further, it is important to emphasize that Indian immigrant men often pursue similar activities and operate in similar arenas although perhaps fewer are involved in the PTA (mirroring a gender difference in "mainstream" American society) or in organizations concerned with domestic violence (perhaps a particularly gendered arena for social action). More Indian men than women are involved in Lions Clubs, and both men and women are active in their religious institutions and ethnic organizations, although in many of these men appear to take a more active, although by no means exclusive, leadership role.[14] The important point, however, is that both men and women participate in various organizational arenas, simultaneously or in succession, and it appears that spouses support one another in their respective activities. Certainly, members of their respective families were present when the charter members of the Dallas Women's Lions Club were originally inducted at a gala that also raised money for the club.

Each of the three women discussed here has made a choice about where to focus her civic activities, but it is important to note that the three organizations described here are but a drop in the bucket of the hundred or so different voluntary associations with which the Indian population in DFW are involved (Brettell 2005).[15] This suggests that we need to reevaluate the Putnam thesis with immigrants in mind

and with an approach that emphasizes agency and their understanding of the problems and possibilities of American society. While I offer here a focused discussion of immigrants from one immigrant population who are bowling together rather than alone, there is a growing scholarship that suggests that not only is associational life rich and extensive more generally among post-1965 immigrants to the United States, but that it offers them pathways to integration and participation rather than segregation and marginalization (Ramakrishnan and Bloemraad 2008).

Werbner and Yuval-Davis (1999, 26) have suggested that "much civic participation, especially by women, is local." They draw on the work of Ruth Lister (1997b, 33) who has argued that "involvement in community organizations can be more personally fruitful than engagement in formal politics which are often experienced as more alienating than empowering." Lister further observes that involvement in local activities cannot only enhance self-esteem and personal agency (both, she suggests, essential facets of citizenship) but also awareness of broader political issues (39). The three narratives presented in this chapter illustrate well these localized and agentic dimensions of civic engagement and citizenship. While many scholars place their emphasis on forms of resistance and political activity as "true" measures of participatory citizenship, or on what Lister (30) refers to as an "ethics of justice or rights" as opposed to an "ethics of care," I have taken my guidance from the women themselves and their sense of meaningful projects of civic engagement wherein they "enact their own (culturally constituted) intentions" (Ortner 2006, 146). These "civic projects of agency" emerge from the personal desires of the women themselves—be it becoming more involved in the education of their children, drawing attention to and finding solutions for domestic violence, or serving the broader community through various charitable activities. They are all examples, in different ways, of what Rudrappa (2004b) has labeled the "gendered nature of caring labor," but the important point is that through this gendered care work immigrant women engage the civic sphere and become active citizens.

I began this chapter by introducing the character of Tehmina in Thrity Umrigar's novel, *If Today be Sweet.* Let me conclude with the words of Tehmina herself. At one point in the novel (274), Joe Canfield, Tehmina's son's employer, asks Tehmina what her favorite thing about America is and she replies, "Making rainbows." Joe raises his eyebrows and asks, "Making rainbows, what is that?" To which Tehmina replies: "You know how in the summer when you are watering the outdoor plants with the water hose, you can sometimes create

rainbows. I love that. You see, in Bombay we all live in apartment buildings and none of us have lawns and water hoses or anything like that. So we never get to make our own rainbows. We just have to wait until Mother Nature decides to bless us with one." Joe Canfield let out his breath and said:

"Boy, what a powerful metaphor that is. Sort of sums up America, doesn't it?

The three women I have highlighted here are in some sense making their own rainbows and by extension defining their own sense of belonging as they engage with and interpret what it means to be an American, and what kind of an American, and hence citizen, they want to be. Like the fictional character Tehmina, they are expanding the fabric of community in the United States but not necessarily at the expense of their own "indianness."

Notes

1. Quotation from "Themes and Inspirations," 8 in Thrity Umrigar, *If Today Be Sweet*, Harper Perennial, 2008.
2. The first project (2001–2005), "Immigrants, Rights and Incorporation in a Suburban Metropolis," was funded by the Cultural Anthropology Program of the National Science Foundation (BCS 003938). It focused on five immigrant populations—Mexicans, Salvadorans, Vietnamese, Indians, and Nigerians. Coprincipal investigators were James F. Hollifield, Dennis Cordell, and Manuel Garcia y Griego. The second project (2005–2008), with Deborah Reed-Danahay (SUNY-Buffalo) as coinvestigator, explored aspects of political incorporation and civic engagement among Indians and Vietnamese in DFW and was funded by the Russell Sage Foundation. Any opinions, findings, and conclusions or recommendations expressed in this chapter are those of the author and do not necessarily reflect the views of the National Science Foundation, the Russell Sage Foundation, or any of the coinvestigators.
3. Measuring civic assimilation solely in relation to the rate of naturalization is a fundamental flaw of a recent study issued by the Manhattan Institute (Vigdor 2008).
4. For an overview of recent publications on citizenship see Kivisto 2010. See also Reed-Danahay and Brettell 2008.
5. Lila Abu-Lughod's 1990 observations about the romance of resistance are enlightening in this regard. She suggests that we avoid "misattributing to [women] forms of consciousness or politics that are not part of their experience—something like feminist consciousness or feminist politics—or devaluing their practice as pre-political, primitive or even misguided."
6. See, for example, Castles and Davidson 2000 and Kivisto and Faist 2007.

7. Putnam's work has been very controversial. In a more recent book, Putnam and Feldstein 2003 offer a more positive portrait of renewed civic engagement in the United States.

8. A similar either/or argument has been made in the European context by Soysal 1997, in relation to Muslims. See De Sipio 2002 for research on the impact of civic organizational activity on political attitudes and activity among Latinos in the United States and Fennema and Tillie 1999, 2001 for work among various immigrant populations in Amsterdam.

9. For further discussion see Brettell 2006, Coutin 2003, and Gilbertson and Singer 2003.

10. For additional analysis see Crawford and Levitt 1999.

11. Lave and Wenger 1991 describe a community of practice as a group with shared ways of doing things and mutual understandings of behavior (including modes of communication). They emphasize that "learners inevitably participate in communities of practitioners and that the mastery of knowledge and skill requires newcomers to move toward full participation in the sociocultural practices of a community" (29).

12. See Brettell 2008 for further discussion.

13. For discussion of the DFW Irving Indian Lions Club see Brettell and Reed-Danahay 2008.

14. Over the period that I have been following, one woman has served as president of the India Association of North Texas, the major "umbrella" organization for the DFW Indian community. But there are women serving on the committees of this organization, sometimes serving as chair. See George 2005 for a discussion of male and female roles in an Indian Christian organization.

15. In the NSF/ DFW study, 102 Indians were interviewed using a purposive sample. In this population, 86 percent said they attended a church, temple, or mosque and 54 percent said they were involved in an ethnic organization. Further, 34 percent said they were involved in a job organization. In this study, school organization meant an alumni organization of some sort and here 37 percent responded yes. In the Russell Sage-funded study, interviews with 34 parents revealed that 71 percent were involved in an ethnic association, 73 percent in a religious institution, 53 percent in a service organization, 82 percent in a school organization (they are members of the PTA, for example), 23 percent in a political organization, 18 percent in a broad Asian organization, and 44 percent in a mainstream US organization.

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The Great Divide: The Politics of Illegal Immigration in America

Daniel Tichenor

Introduction

For almost two decades, successive US presidents and Congresses have viewed porous national borders and the presence of 10–12 million undocumented immigrants in the country as a pressing problem. A majority of Americans have shared this view that remedial government action is urgently needed, and new grassroots movements have emerged favoring immigrant rights, on the one side, and tougher enforcement and border control, on the other. Against this backdrop, the White House and Congress have worked together several times to advance a comprehensive immigration reform package comprising four core elements: (1) new measures to strengthen enforcement of immigration laws and border control; (2) improved employer sanctions to penalize those who knowingly hire undocumented immigrants; (3) an earned legalization program that would allow most undocumented immigrants living in the country to gain legal status; and (4) revision of the legal immigration preference system to allow US businesses to have easier access to immigrant workers or foreign guest workers. While national policymakers largely agree on the essential building blocks of comprehensive immigration reform, each legislative effort has been derailed by disputes over which of these elements should take precedence over others. On record promising to secure sweeping immigration reform that would enhance border control while ensuring a path to citizenship for undocumented immigrants, President Barack Obama has languished nearly as much as his predecessor, George W. Bush, in efforts to find an opening for major policy change. How do we explain this? What are the chief

obstacles confronting Obama on comprehensive immigration reform? More generally, why has major immigration reform proven so elusive in recent decades?

To understand why US policymakers have struggled to address the nation's most significant immigration problems, this chapter identifies and unpacks four daunting barriers to reform. First, the rival ideas and interests inspired by this issue make basic problem definition and legislative majorities elusive. A second formidable challenge is that policymakers are well aware that major reform in this area entails difficult negotiations that produce painful compromise packages. Third, past implementation failures and policy inertia generally have expanded illegal immigration, compounding over time the problems associated with porous borders. Equally important, the federal government's failure to control the borders in either the distant or recent past also has bred widespread cynicism and mistrust about the capacity and will of the national state to enforce its immigration laws. Finally, the most prominent policy prescriptions on the table today appear inadequate to meet the problem and draw fire from all sides. To illuminate these dynamics in action, the second portion of this chapter focuses on immigration reform politics and Obama's two most immediate predecessors: Bill Clinton and George W. Bush. As we shall see, these presidents ultimately made markedly different strategic choices on this combustible issue with contrasting long-term implications. As the scope of conflict over immigration has expanded dramatically, I conclude, the Obama administration has decidedly limited room to forge a difficult compromise.

Political Cacophony: Elusive Problem Definition and Congressional Majorities

Immigration is a potent cross-cutting issue in American national politics, one that defies the standard liberal-conservative divide and often polarizes major party coalitions. This is hardly new: Americans have been arguing and taking stands on immigration since the earliest days of republic. As I have suggested in earlier work, we can point to four rather durable ideological traditions that have found expression in national debates and political struggles over immigration. Consider two dimensions. The first focuses on immigration numbers, and divides those who support expansive immigration opportunities and robust numbers from those who favor substantial restrictions on alien admissions. The second concentrates on the rights of noncitizens

residing in the United States, and distinguishes those who endorse the provision of a broad set of civil, political, and social rights (as defined by T. H. Marshall) to newcomers from those who advocate strict limitations on the rights accorded to noncitizens (Marshall 1950). These two dimensions of immigration policy reveal tensions between cosmopolitans versus economic protectionists on the Left, and between pro-business expansionists versus cultural protectionists and border hawks on the Right. Tellingly, these conflicts are especially pronounced when the agenda focuses on unauthorized immigration and those residing in the country illegally.

The rival commitments of ideology and interest unleashed by illegal immigration make basic problem definition a tall order for policymakers. Indeed, recent immigration reform efforts captured profoundly different assumptions and conceptions of what the problem is, or, for some, whether a problem even exists. Moreover, powerful organized interests and competing constituencies— from agribusinesses, service industries, and Microsoft to labor unions, ethnic and civil rights advocates, and church groups to anti-immigrant activists of the Minuteman Project and Tea Party movement—regularly mobilize and clash over immigration reform. The resulting battles not only pits interest groups and constituencies allied with the Republican Party against those allied with the Democratic Party, but they also divide organized interests within these partisan coalitions and sometimes even among those associated with the same interest or constituency, such as internal fights on this issue within the labor movement or among environmental and population control groups.

For cosmopolitans, or pro-immigration liberals, the problem is not *the presence* of millions of undocumented aliens in the United States but rather *their status* as vulnerable, second-class persons. The chief imperative for these activists is to make the estimated 12 million unauthorized migrants living in the country eligible for legal membership. "What we want…is a pathway to their legalization," Representative Luis Gutierrez (D-IL) explains, "so that they can come out of the shadows of darkness, of discrimination, of bigotry, of exploitation, and join us fully."[1] Latino immigrants such as the journalist and scholar Edward Schumacher-Matos add that Hispanics have proven their loyalty to the nation in countless ways, including joining the military at higher rates than most groups, which "means that we have earned our say over the direction of the country…and what we do on immigration" (2009). Since powerful democracies such as the United States profit from the economic exploitation of

unauthorized immigrants, progressives like Marc Rosenblum of the Migration Policy Institute argue that "all American employers, consumers, and lawmakers—all of us—share the 'blame' for undocumented migration" (2007). Legalization or "earned citizenship" initiatives draw strong support today from immigrant advocate and civil rights groups, Latino, Asian, and other organizations, religious associations, and the leading federations of organized labor.

Economic protectionists have been particularly hostile toward illegal immigration, which they view as enhancing the wealth of corporate and professional America with little concern about the consequences for blue collar workers or the unemployed. As much as Cesar Chavez complained bitterly in the late 1960s that undocumented Mexicans were being recruited to undermine his efforts to organize legal farm workers, Carol Swain recently pointed to the deleterious "impact that high levels of illegal immigration [are] having in the communities when it comes to jobs, when it comes to education, when it comes to health care" (2007, 1–16). Former CNN newsman Lou Dobbs regularly sounds similar themes, claiming that illegal immigration has "a calamitous effect on working citizens and their families" and "that the industries in which illegal aliens are employed in the greatest percentages also are suffering the largest wage declines (2007). Economic protectionists endorse employer sanctions against unscrupulous employers who knowingly hire undocumented aliens, and they vehemently oppose guest worker programs that they associate with a captive workforce subject to exploitation, abuse, and permanent marginalization. These views resonate among many rank-and-file members of labor unions and the constituencies of moderate Democrats in Congress.

For pro-immigration conservatives devoted to free markets and business growth, the chief problem is that existing federal policies fail to address "the reality," as former president Bush put it, "that there are many people on the other side of our border who will do anything to come to America to work." In short, the US economy has grown dependent on this supply of cheap, unskilled labor.[2] The solution for this camp lies in regularizing employers' access to this vital foreign labor; if the back door is to be closed, then this labor supply must be secured through temporary worker programs and an expansion of employment-based legal immigration. Powerful business groups in this camp also oppose employer sanctions as an unwelcome and unfair regulatory burden placed on American businesses large and small.

Border hawks today see the illegal immigration problem as nothing short of an unprecedented breakdown of American sovereignty, one that compromises national security, the rule of law, job opportunities

for citizens, public education, and social services (Tancredo 2006). Mobilized by conservative talk radio, columnists, and television commentators, many grassroots Republicans are outraged that the nation's fundamental interest in border control and law enforcement has been trumped by the power of immigrant labor, rights, and votes. Amnesty or legalization proposals inspire hostile resistance from this camp as unethical rewards to those who break the rules and as stimulants to new waves of undocumented immigrants anticipating similar treatment. Likewise, temporary worker programs are scorned by these activists because many guest workers historically have remained illegally and because they contest the notion that only foreign workers will do certain menial jobs. Border hawks believe enforcement must come first. They favor a strengthened Border Patrol and tougher security measures along the nation's borders, as well as crackdowns on unauthorized immigrants and their employers within US territory. They endorse a strategy of attrition in which targeted deportation efforts, workplace enforcement, and denial of social services and other public benefits would persuade many unauthorized migrants to return home.

It is hard to imagine more widely divergent definitions of a public policy problem, or, concomitantly, more disparate blueprints for reform. Building majority support for legislation involving tough choices is always challenging, but it is especially so amidst ideological disorientation and intraparty warfare. Clashing interests and ideals have meant that when policy initiatives are designed to meet the demands of one important constituency, they invariably incur the wrath of others. The diverse responses of states and localities to immigration enforcement and immigrant policy, as subnational governments enter the void when Washington fails to act, further cloud the picture (Tichenor and Filindra 2009).

The Long Way Home: Prolonged Negotiation and Unpalatable Compromise

National policymakers are well aware of the tortured path that earlier reformers traversed to secure comprehensive legislation on illegal immigration. False starts, grueling negotiations, and unappealing compromises have been par for the course over the past quarter-century. For much of the 1970s, liberal House Democrat Peter Rodino (D-NJ) waged a quixotic campaign for employer sanctions legislation to discourage unauthorized entries.[3] This effort to punish employers who knowingly hired undocumented aliens was strongly advocated by the AFL-CIO and labor unions. But organized agricultural interests

initially succeeded in stalling Rodino's legislative agenda in the Senate where conservative Democrat James Eastland (MS) refused to allow the Judiciary Committee he chaired to take action.[4] When Rodino again pressed the initiative later in the decade, new resistance emerged in both the House and Senate from liberal Democrats who warned that the measure would lead to job discrimination against Latinos, Asians, and anyone who looked or sounded foreign. Most Latino organizations and civil rights groups were now lined up in opposition to employer sanctions.[5]

During the next decade, the bipartisan team of Republican Senator Alan Simpson (R-WY) and Democratic Congressman Romano Mazzoli (D-KY) took the lead in pressing for immigration reform. Early in 1982, the pair introduced omnibus legislation on illegal and legal immigration. The measure met fierce resistance from a broad coalition of business interests (the US Chamber of Commerce, National Association of Manufacturers, agribusinesses, the Business Roundtable), ethnic and civil rights groups such as NCLR and MALDEF, the ACLU, religious lobbies, and a new immigrant rights organization, the National Immigration Forum. Left-Right opposition to the Simpson-Mazzoli initiative was reflected in the resistance of key figures in the Reagan administration, who saw employer sanctions and national identification cards working at cross-purposes with its regulatory relief agenda, and House Democrats led by the Hispanic and Black Caucuses, who raised familiar concerns about discriminatory impacts of sanctions and other provisions. Simpson and Mazzoli got nowhere for five years before eleventh-hour deal-making produced the compromise Immigration Reform and Control Act of 1986 (IRCA). Gridlock was overcome by a compromise package of watered-down employer sanctions provisions, legalization for undocumented aliens living in the country since 1982, and a new Seasonal Agricultural Worker program to appease grower interests. Final vote tallies were tight, and major components of the "grand bargain" were almost undone during bruising amendment battles on the floor. This history of painful negotiations and compromises has only intensified national policymakers' dread of the illegal immigration problem.

Implementation Failures and Inertia: Fostering Cynicism and Illegal Expansion

The capacity and will of the national state to enforce its immigration laws long has been beleaguered in the United States by a tradition of inadequate resources, erratic enforcement, and poor oversight. Nearly

all advanced industrial democracies have struggled to control their borders, and scholars like Mae Ngai remind us that the presence of undocumented immigrants is inevitable (Ngai 2005). Yet the recognition that governments cannot eliminate illegal immigration does not mean that they are incapable of exercising a measure of control over their borders. Moreover, early policy choices (and silences) by wealthy democracies are significant because they can nurture and entrench the forces that spur large-scale illegal immigration. Indeed, policy inertia often has had the effect of expanding unauthorized flows. Equally important, past implementation failures have bred deep mistrust or cynicism among ordinary citizens and enforcement-minded lawmakers that the federal government will control its borders. This skepticism is a major impediment to immigration reform today.

A contemporary illustration of lax enforcement can be seen in the implementation of the IRCA's employer sanctions provisions. As stated above, the absence of a reliable identification system for verifying employee eligibility made it relatively easy for undocumented aliens to evade detection at the workplace. Soon after the passage of the IRCA, an underground industry of fraudulent documents flourished in both Mexico and the United States, enabling unauthorized migrants to obtain work with ease. But if the legislative design of employer sanctions discouraged their efficacy, the Reagan administration was less than zealous in their enforcement. The INS tended to enforce employer sanctions with considerable forbearance toward offenders. Alan Nelson, the INS commissioner under Reagan, was urged to pursue a policy of "least employer resistance" by stressing business education over penalties.[6] The IRCA authorized a 70 percent increase in the INS budget, with an annual $100 million targeted for employer sanctions enforcement. Tellingly, $34 million was spent on enforcing sanctions in the fiscal year 1987, $59 million in 1988, and below $30 million annually in ensuing years.[7]

From his perch on the Senate immigration subcommittee, Senator Simpson pressed the Reagan and Bush administrations to take a harder line on employer sanctions. Yet despite his clout as Republican minority whip, Simpson made little headway during either Republican presidency. "Even when we direct the Administration to do such things as 'study' the employer sanctions verification system and develop a more secure system, if necessary, we get no action," he lamented.[8] Few of Simpson's congressional colleagues shared his alarm over the inefficacy or uneven enforcement of employer sanctions. In fact, the most vigorous oversight of sanctions focused on whether they should be repealed because they unfavorably burdened small businesses (led

by Orrin Hatch) or because they engendered increased job discrimination against legal aliens or citizens who look or sound foreign (led by Edward Kennedy). Few conservative politicians of the 1980s, most of whom embraced "regulatory relief" and free markets, or their liberal counterparts, dedicated to universal rights and inclusion, worried about the efficacy of employer sanctions.

IRCA's implementation failures helped fuel the dramatic expansion of illegal immigration in recent decades, yielding an undocumented population in the United States that estimates suggest is three to four times larger than it was in the early 1980s. They also have raised profound doubts among activists, policymakers, and citizens that the federal government either can or would adequately control its borders. The resulting cynicism poses substantial hurdles to reform.

Bad Options: Inadequate or Unappealing Policy Solutions

A final major constraint for political leaders tackling illegal immigration is that many of the most prominent policy prescriptions on the table today appear inadequate, too costly, unpopular, or likely to have unintended consequences. A few examples from recent immigration reform are illustrative. Amnesty or legalization programs are designed to adjust the status of undocumented immigrants living and working in the country for a given duration of time, but they may serve as a magnet for new unauthorized entries by migrants hoping for similar treatment in the future. Efforts to make past "amnesty" programs into "earned citizenship" (through payment of fines, back taxes, and "touch back" provisions requiring immigrants to return to their home countries) face potentially large numbers of undocumented immigrants refusing to participate. As a result, many of these unauthorized residents, perhaps millions, would remain "illegal." Likewise, the adoption of new guest worker programs to meet business demands and to regularize the flow of foreign workers overlooks the fact that similar programs in the past were accompanied by unauthorized flows and that many temporary workers chose to remain illegally.[9]

Enforcement proposals feature their own share of potential woes. Creating strict, militarized control over the 2,000 mile US-Mexico border will not come cheap in terms of constructing border fences, surveillance technology, or personnel. Adequate enforcement will slow the movement of tourists and commercial goods, and it will reinforce the incentives for those who entered without inspection (EWIs) to avoid returning home and thereby risk not getting back in (Durand

and Massey 2004). The notion of mass deportation campaigns or systematic internal enforcement draw little support in opinion polls, would require major new budget commitments, and could involve significant incursions upon the civil liberties of legal immigrants and citizens. Along similar lines, effective employer sanctions would entail new mechanisms for verifying employee eligibility that will produce sacrifices in privacy as well as higher costs for businesses and consumers alike. Whereas legal immigration reform recently has included something to please almost everyone mobilized on the issue, comprehensive initiatives on illegal immigration promise plenty of bitter pills to go around.

Strategic Choices: A Tale of Two Presidents and Immigration Reform

Presidents Bill Clinton as well as George W. Bush confronted demands for comprehensive immigration reform to fix a system considered "broken" by ordinary citizens, state and local officials, pressure groups, and congressional activists. Their strategies for dealing with this contentious and nettlesome issue, however, were markedly different. Their rival approaches reflected contrasting calculations about political risks and distinct levels of commitment to resolve the problem. Clinton elected *not* to propose significant immigration policy initiatives, first seeking to keep the issue in abeyance and then choosing to selectively validate or repudiate legislation shepherded by Republicans in the House and Senate. In contrast to the Clinton's cautious, reactive strategy, the Bush administration made immigration reform a centerpiece of its domestic policy agenda before the terrorist attacks of September 11, 2001, and again from 2004 to 2007. The outcomes of these strategic choices were dramatic and equally contrasting.

Ceding the Initiative: Clinton, Immigration Reform, and Cautious Opportunism

Early on, the Clinton administration demonstrated little or no interest in placing immigration reform high on its domestic agenda. Yet it could not afford to appear inattentive on an issue that was so salient to important constituencies. Clinton responded to major cross-pressures on this issue by acknowledging that porous borders were a problem and by drawing sharp distinctions between legal immigrants who "play by the rules" and undocumented ones who do not. "The solution to the problem of illegal immigration is not simply to close our

borders," he told reporters in August 2003. "The solution is to wel-
come legal immigrants and legal legitimate refugees and to turn away
those who do not obey our laws."[10] The 1990 Immigration Act cre-
ated an immigration commission to study the impact of policy inno-
vation, providing Clinton with a ready explanation for why he should
not take action until its work was complete.

The Republicans takeover of Congress in 1995 gave new impe-
tus for immigration policy change. Typical of intraparty divisions
on immigration, Republican lawmakers were not of one mind on
how to approach reform. Both new chairs of the Senate and House
immigration subcommittees, Alan Simpson (WY) and Lamar Smith
(TX), envisioned a fresh round of restrictive immigration reform to
limit legal admissions, to make immigrants ineligible for welfare ben-
efits, and to enact new curbs on illegal immigration. However, other
GOP leaders like Dick Armey (TX) embraced robust immigration as
necessary to meet the labor needs of US businesses, foster entrepre-
neurship, and promote family values.[11] Speaker Newt Gingrich (GA)
responded to these intraparty pressures by creating a special task force
on immigration reform chaired by Edward Gallegly (R-CA), which
ultimately skirted legal immigration conflicts by confining its pro-
posals to tighter controls on illegal flows and restrictions on public
benefits for immigrants. Gallegly also rallied GOP support for deny-
ing educational benefits and birthright citizenship to the children of
undocumented aliens.[12]

Around the same time, the immigration commission recom-
mended ways to make employer sections more effective and called
for modest cuts in annual visa numbers and the elimination of the
fifth preference for extended family members of US citizens.[13] Yet the
commission report was adamant that immigrants should have access
to welfare and other public benefits. Polls in 1995 indicated that the
public supported the commission's recommendations. The Clinton
administration responded by praising the nation's immigrant tradi-
tions while endorsing the commission's recommendations.[14]

As Smith and Simpson eagerly pressed their plans for restricting
immigration, opposition to reduced legal admissions mounted on
both the Left and the Right. The American Immigration Lawyers
Association and National Immigration Forum built an incongruous
coalition of business, ethnic, civil rights, labor, and religious groups to
oppose legal restrictions. Of these coalition members, Republican pol-
iticians were particularly uneasy about various businesses that relied
on skilled and unskilled immigrant labor. As Microsoft lobbyists chas-
tised restrictionists for missing "the point that to succeed in foreign

markets, you need foreign personnel," the National Association of Manufacturers warned that "this country is not producing the workers we need to be globally competitive."[15] Even the Christian Coalition mobilized against legal immigration reform because "scaling back the ability of Americans to reunited with their families will not improve national security, and could severely damage the American family."[16] In response to these shifting tides, the Clinton White House back-pedaled on its initial endorsement of the commission's call for modest reductions and flatly disavowed any restrictions on legal immigration. Not to be outflanked on illegal immigration, the Clinton adminis-tration also repeatedly denounced illegal immigration and issued an executive order early in 1996 that denied federal contracts to busi-nesses that knowingly hired undocumented aliens.[17]

At the end of the day, the Simpson and Smith plans to reduce legal immigration were defeated by cross-party majorities in both houses of Congress. However, a Gallegly amendment to deny public education to undocumented children passed on a party-line vote (Kirtschten 1996). The final version of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 enhanced the Border Patrol, expedited the deportation process, tightened asylum proce-dures, required US financial sponsors for newcomers, and established stringent provisions for criminal and undocumented aliens. Under a firm threat of presidential veto, the Gallegly plan for denying benefits to children of undocumented aliens was struck in conference. But in the heat of a national presidential campaign, legislation primarily designed to get tough on illegal immigration passed easily in both houses. Although anything but expansive, this new enforcement law disappointed restrictionists who wanted reductions in legal immigra-tion and stronger policies for curtailing illegal immigration, includ-ing employer sanctions with teeth.[18]

On the subject of immigrants and welfare, there were no bipartisan coalitions, and Democrats lost the legislative battle. Pro-business and free-market defenders of immigration of the Reagan mold celebrated newcomers who were hardworking and economically self-sufficient, not those who relied upon the government for income support. "Immigration yes, welfare no" was the slogan that caught fire among pro-immigration conservatives on Capitol Hill. The Personal Responsibility and Work Opportunity Act of 1996 (PRWOA) barred noncitizens from a broad set of federal benefits programs. Clinton told the press that he was offended by the legislation's harshness toward legal immigrants, but explained that he chose to sign the reform package because of his devotion to fundamentally restructure

the larger welfare system. Together, the immigration and welfare reform laws marked a retrenchment of the legal protections and social entitlements that legal and undocumented aliens could claim. It was a triumph for pro-business and free-market conservatives, who allied with pro-immigration liberals to sustain robust legal admissions and with anti-immigrant conservatives to trim the substantive and procedural rights of noncitizens. The outcomes of 1996 suggested that large-scale immigration would flow into the United States uninterrupted for the foreseeable future, and that those who arrived would enjoy fewer membership rights until they acquired citizenship.

In 1995, several prominent Republican congressional leaders expressed optimism behind closed doors that their get-tough approach toward immigrants would help them shore up additional working-class votes.[19] At the start of the 1996 election, Pete Wilson made immigration control a signature feature of his short-lived presidential campaign; Pat Buchanan assailed Third World immigration as a source of economic and cultural insecurity at home; and Bob Dole, the eventual Republican standard bearer, associated himself with the stringent immigration enforcement measures then working their way through Congress.[20] The 1996 Republican platform pledged support for national legislation barring children of undocumented aliens from public schools. In the later stages of the election, however, Dole and other Republican candidates took heed of new reports that immigrants and kindred ethnic groups had become energized by anti-immigration politics. But it was too late to turn back.

The results of the 1996 election left little doubt about two crucial developments: immigrants comprised the nation's fastest growing voting bloc and Democrats were the immediate beneficiaries of their emergent electoral clout. Naturalization rates soared after 1995, as record numbers of aliens became citizens. More than 1 million people naturalized in 1996 alone. Voter registrations among Latinos grew by 1.3 million, or 28.7 percent, between 1992 and 1996; the percentage of Latinos on the voter rolls rose from 59 of those eligible in 1992 to 65 in 1996. Bill Clinton's cautious opportunism paid electoral dividends in his reelection bid. He drew 72 percent of the Latino vote in 1996 (up from 60 percent in 1992). Asian voters, a smaller yet important swing bloc, increased their support for the Democratic ticket in the same years from 29 to 43 percent (Schneider 1996). Dole registered an all-time GOP low of 21 percent of the Latino vote in 1996, and he became the first Republican presidential candidate to lose Florida since Gerald Ford in 1980. Ironically, Clinton expanded his party's appeal among immigrant voters and kindred ethnic groups by

going slow on immigration reform and by opportunistically reacting to aggressive leadership on the issue by congressional Republicans. Clinton entered office as ambivalent on immigration policy and willing to preside over modest restrictions, but he left it as the perceived great defender of new immigrants from intolerant xenophobes.

Mission Impossible: Bush and Immigration Reform

Between 1990 and 2000, more immigrants arrived in the United States than during any previous period in American history. In this decade alone, the immigrant population in the United States grew by roughly 1 million persons per year, rising from 19.8 million to 31.1 million. By the 2000 election, Republican national and state organizations drew up plans to attract new Asian and Latino voters. Bush dramatically outspent Democrats in his appeal to Latino voters in 2000, devoting millions of campaign dollars to Spanish-language advertising and direct-mail appeals.[21] Bush's "compassionate conservatism" on immigration policy and his direct campaigning had clear electoral ramifications. An estimated 7.8 million Latino voters, or 6 percent of all voters (up from 4 percent in 1996), cast ballots in the 2000 election. Gore maintained the Democrats' traditional edge in Latino voting, but Bush gained an estimated 34 percent among Latinos—13 points higher than Dole's 1996 total and only 3 points off the previous GOP record of 37 percent attained by Ronald Reagan in the 1984 election (Suro et al. 2005). The Bush team clearly was focused on adding more Latinos, the fastest growing sector of the electorate and a crucial swing constituency in battleground states, to the GOP base.

Expanding its electoral coalition was certainly not the only factor that informed the Bush administration's decision to take the initiative on controversial immigration reform soon after taking office. Bush personally believed that his plan was a sound policy solution to a bedeviling problem. Indeed, the president regularly explained that as a Texan he particularly understood the need to streamline and expand the inflow of workers from abroad,[22] adding that undocumented immigrants in the country should be allowed to stay since "compassion" and "family values don't stop at the Rio Grande" (Allen 2003). Moreover, Bush's immigration initiatives clearly benefited and appealed to the business community that was squarely rooted in his coalition. Various employers of low-wage, low-skill workers readily supported the president's proposals, from Fortune 500 companies to

smaller agribusinesses, builders, restaurant owners, and other service companies. Finally, Bush's decision to pursue a contentious immigration initiative also reflected steady political demands for border control while public opinion was uneven on specific proposals (such as the legalization of undocumented immigrants) and seemingly open to presidential influence.[23]

Initially, Bush and Mexican president Vincente Fox worked together on blueprints for both a large new temporary worker program and the legalization of undocumented Mexican immigrants who worked and paid taxes in the United States. In August of 2001, new polling found that 59 percent of Americans favored reductions in legal immigration but 62 percent also endorsed legalizing a significant number of taxpaying undocumented aliens (Gorman 2002). But after the 9/11 attacks, the Bush administration determined that it had little choice but to shelve comprehensive reform. Border hawks like Rep. Tom Tancredo (R-CO) made headlines in December 2001 by underscoring how porous borders presented an appalling national security problem. Organized interests favoring immigration restriction and strict border control ran ads around the country blaming lax immigration policies for the September 11 terrorist attacks. Plans for a guest worker program and legalization fell off the agenda. Instead, large bipartisan majorities in Congress agreed in 2002 to abolish the INS in favor of a new Immigration Customs Enforcement agency (ICE) housed in the freshly created Department of Homeland Security (Gorman 2002). Comprehensive immigration reform was off the agenda.

Soon after the 2004 election, Bush met privately with a handful of pro-immigration Republicans in Congress to discuss reviving the derailed White House plan for a new guest worker program that would regularize flows and grant legal status to millions of undocumented immigrants (Sammon 2004, 1; Briscoe 2004, 10). Press Secretary McClellan underscored that immigration reform was "a high priority" and that the president "intends to work with members on to get moving again in the second term. It's something he believes very strongly in." Restrictionists were aghast. FAIR president Dan Stein doubted that Republican lawmakers would follow the administration "over a cliff" on the issue (ibid.). He was right. In late November, House Republicans blocked an intelligence overhaul bill to signal Bush that his immigration initiative would split the party and stall action in his second term (Dinan 2004, 1). Tancredo scorched the White House as abandoning conservative law and order values, proclaiming that "their amnesty plan was dead on arrival" (Sammon 2004, 1). His views were

echoed by many Republicans leaving a House Republican Conference the same month. One GOP leader anonymously observed that it was "highly unusual for the administration to use their political capital that was given by the base against the base" (Dinan 2004, 1).

Polls indeed found that most conservative Republicans disapproved of plans for granting legal status to undocumented immigrants. In truth, however, the business base of the Republican party was a zealous and unwavering supporter of the president's guest worker plans throughout his two terms in office. The most active business lobbyists favoring the Bush initiatives formed the Essential Worker Immigration Coalition (EWIC), an alliance of immigrant-dependent industry associations headed by the US Chamber of Commerce. The coalition would bring together powerful associations like the American Health Care Association, the American Hotel and Lodging Association, National Council of Chain Restaurants, the National Retail Federation, and the Associated Builders and Contractors.

Illegal immigration and insecure borders were hot-button issues for many Republicans, and their disquietude was fueled by local and national talk radio, television commentators like Lou Dobbs and Pat Buchanan, and restrictive politicians such as Tancredo and his House Immigration Reform Caucus. New citizen patrols also propped up along the US-Mexican border. In 2004, an accountant and decorated former Marine, James Gilchrist, founded the all-volunteer Minuteman Project to patrol the Arizona border armed with binoculars and cell phones. Former California schoolteacher Chris Simcox established the separate Minutemen Civil Defense Corps as an extension of this citizen patrol movement (Gilchrist and Corsi 2006). Described as "vigilantes" by Bush, surveys showed that most ordinary citizens approved of the Minuteman movement.[24]

In the winter of 2005, HB 4437, a punitive bill focused on border enforcement narrowly passed the Republican-controlled House. It proposed for the first time to make illegal presence in the United States a felony, and made it a crime for any persons or organizations to lend support to undocumented immigrants. The bill was also a direct attack on day laborer centers. From March through May 2006, demonstrations against the bill by largely Latino immigrants and their supporters, unprecedented in number and size, took place in a wide array of cities and towns across the United States.[25] These nationwide rallies, protests, and boycotts drew negative reactions from most Americans: just 24 percent offered a favorable view of people who marched and protested for immigrant rights in major cities while 52 percent were unfavorable.[26] Overall, however, public

opinion remained open to varied policy solutions: majorities favored
legal status and earned citizenship for undocumented immigrants,
stricter employer penalties, and tougher enforcement.[27] National
pollsters concluded that most Americans supported the nation's
immigrant heritage and granting legal options to undocumented
immigrants but that they also wanted better enforcement.[28] Opinion
was far from locked in either a restrictive or expansive position. If the
Bush administration hoped that the president would be able to lead
public views on the issue, they were disappointed that only 39 percent
of Americans supported the president's approach on immigration
reform (with 47 percent opposed) in the spring of 2006. Strikingly,
60 percent of Republicans backed Bush's plan, a number that would
dwindle steadily in coming months.[29]

In the spring of 2006, a Senate plan emerged that was designed to
satisfy disparate camps by including tough new language on border
and interior enforcement, employment verification, an expanded guest
worker program along with earned legalization for millions of undoc-
umented immigrants, reduction of the family immigration backlog,
and a provision extending legal status for many undocumented agri-
cultural workers. The bill passed the full Senate that spring, but died
in the more polarized House. With a majority of the House sup-
porting a law-and-order approach to the issue while the Senate favor-
ing a more liberal bill, immigration reform was tabled until after the
election. In November, Democrats gained control of the House and
Senate. Bush now spoke hopefully about a fresh "bipartisan effort"
on immigration reform in the new term.

During the spring of 2007, a bipartisan Senate coalition led by
Kennedy negotiated behind the scenes with administration officials
and eventually put forward the Border Security and Immigration Act
of 2007, a "grand bargain" that had the support of President Bush
and became the focus of all meaningful subsequent discussion (Pear
and Rutenberg 2007).

Emerging in June 2007, the grand bargain included significant
new funding for border security and other interior enforcement mea-
sures. It imposed criminal penalties for illegal entry and replaced the
current family- and employment-based admissions system with a new
visa system. The bill provided a Z visa for undocumented immigrants,
covering those who were employed and their families provided that
they pay fees and penalties. It also contained a temporary Y worker
program for 200,000 workers to be admitted for a two-year period
that could be renewed twice, as long as the worker spent a period of
one year outside of the United States between each admission.

Subject to intense media scrutiny and commentary, the public response to the compromise Senate immigration plan ranged from hostile to tepid. Many members of Congress were deluged with angry phone calls, emails, and letters from constituents and other activists. Surveys indicated that most Republicans, Democrats, and Independents opposed the measure, with only 23 percent in favor. Significantly, most Americans opposed the initiative not because they opposed "amnesty" or other proposals for legalizing millions of undocumented immigrants in the country (roughly two-thirds supported earned citizenship options over deportation), but rather because they had little faith that it would provide genuine border security. More than 80 percent in surveys said that they did not believe that the Bush-Senate compromise bill would reduce illegal immigration or enhance border control.[30]

Cynicism born of past implementation failures was a powerful theme for many lawmakers of both parties who lined up against the "grand bargain." Senator Byron Dorgan (D-ND) recalled believing the promises of the Simpson-Mazzoli Act when he was in Congress in 1986, and later discovered that "none of them were true, and three million people got amnesty. There was no border security to speak of, no employer sanctions to speak of, and there was no enforcement." Robert Byrd (D-WV) vowed "not to make the same mistake twice," while Charles Grassley said, "I was fooled once, and history has taught me a valuable lesson" (Pear 2007; Dinan 2007). Fox News polling reaffirmed that conservatives were bitterly opposed to the bill and disenchanted with Bush, while a Democratic poll conducted by Stan Greenburg showed Democratic identifiers to be split 47 percent for and 47 percent against the bill (Lochhead 2007; Reid 2007). With the measure close to death, the White House and a small bipartisan group of Senators worked behind the scenes on a last-ditch effort to save the compromise plan. Yet whereas insulated discussions saved the IRCA in 1986, private negotiations drew fire from all sides in the summer of 2007. "The process has been orchestrated by a handful of people behind closed doors," Senator Bob Corker (R-TN) observed, "and they are paying a price for that" (Chaddock 2007). In truth, closed-door negotiations may have represented the best means for an unpalatable compromise to be brokered among disparate interests. Yet the forces arrayed against this last-ditch effort were overwhelming, from the grassroots to the halls of Congress. Ultimately, the "grand bargain" developed by Bush, Kennedy, and McCain fell 14 votes short of the 60 needed to force a final vote, and 15 Democrats were among those who helped kill the bill.

Bush had pursued comprehensive immigration reform out of a strong conviction that the best solution to the bedeviling problems associated with unauthorized flows was an expansive guest worker program that matched willing employers and laborers. He also believed that stricter enforcement of employer sanctions, improved efforts at the border, and earned citizenship for undocumented immigrants were necessary features of an effective compromise package. He and his advisers also were convinced that public opinion could be swayed on the issue, that his conservative base would hold and not rebel, and that his compassionate pragmatism on immigration reform would draw unprecedented numbers of Latino voters into the Republican fold. Yet whatever GOP inroads were made in 2000 and 2004 with Latinos and other new immigrant voters were forgotten by 2008 when another immigrant-friendly Republican stood atop the ticket. Consistent with trends that began in 2005 when Latinos soured on Bush's immigration plan and on House Republicans viewed as anti-immigrant, Obama and Democrats dominated the Latino vote in 2008 with more than two-thirds support in crucial battleground states from Florida to the Southwest. Equally striking was the fact that Latino turnout increased to 11 million voters (9 percent of the total) in 2008, double the turnout in 2000.[31] Bush's gamble on immigration reform also sealed the fate of his second-term domestic agenda; he had no political capital left to expend on Capitol Hill.

Obama and the Immigration Minefield

Barack Obama ran for president promising in his first year to secure sweeping immigration reform that would enhance border control while extending legal status to roughly 12 million undocumented immigrants. In recent presidential elections, both major party candidates competed for support from immigrant and co-ethnic voters. During the 2008 campaign, however, Obama's position on immigration distinguished him from his Republican opponent, John McCain, who assumed a tough enforcement stance. McCain, once committed to comprehensive reform and guest worker programs, became an eleventh-hour border hawk during the primaries to appease a partisan base adamantly opposed to extending legal status to unauthorized immigrants no matter how long they lived in the country. When the dust settled, Obama's pro-immigration appeals helped him garner 67 percent of the Latino and 64 percent of the Asian vote in 2008. Yet neither this support nor his broader popularity upon entering office, the new president believed, was sufficient to propel major

policy innovation. Even in an era of partisan polarization, few issues rivaled illegal immigration for how great the divide was between the Democratic and Republican base—ideological distance replicated in Congress (McCarty et al. 2006). Moreover, conflicts *within* each party on how to govern immigration remained profound.

Against this backdrop, Obama officials explained soon after entering office that an immigration initiative would have to come after more looming priorities such as health care, energy, and financial regulatory reform (Thompson and Herszenhorn 2009; Farrell 2009). Considered too politically hot to handle, the White House resolved to keep the issue off its initial agenda.

During the heat of the 2010 election, illegal immigration was again center stage. In races across the country, Republican candidates railed against "illegal aliens who take our jobs" and increase taxes by placing strains on "health care, criminal justice, and the educational system."[32] During the hotly contested Nevada Senate campaign, Republican challenger Sharron Angle ran negative ads blaming incumbent Senator Harry Reid for "millions of illegal aliens, swarming across our border, joining violent gangs, forcing families to live in fear." By contrast, President Obama sought to rally Latino voter support during the waning stages of the election by renewing his pledge to secure comprehensive immigration reform. In an interview with a popular Univision radio show in October, 2010, Obama told the audience that his hopes for significant policy change were frustrated early in his term by "anti-immigrant" Republicans in Congress. Nevertheless, he promised listeners that he was "committed" to winning major reform that would include a "path to citizenship" for millions of undocumented immigrants.

In May, 2011, President Obama went to El Paso, Texas, to deliver a speech that outlined his blueprints for comprehensive immigration reform. His plan centered on four key elements of a compromise package: a "threshold responsibility" of the government to "secure our borders and enforce our laws," stronger sanctions against employers who knowingly hire undocumented immigrants, "earned" legalization for undocumented immigrants (requiring applicants to pay a fine, learn English, and pass a background check), and revision of the legal immigration system to provide US business that rely on immigrant labor "a legal way to hire workers…and a path for those workers to earn legal status."[33] The proposal was largely centrist and designed to provide a "grand bargain" that would attract the kind of bipartisan coalition that propelled reform in the past. Yet few in the White House or Congress were under any illusion that swift action

was likely. Few issues on the national agenda during the past decade have proven more challenging or contentious than illegal immigration, and the president's speech was aimed more at Latino and Asian voters than Washington insiders.

Gridlock in Washington over immigration reform has made state and local governments restive, with many protesting that inaction has significant implications for their budgets, public safety, the utilization and quality of their services, and the character of their communities. Amidst intense media scrutiny, bruising debates, and legal uncertainty, a number of state and local leaders have seized the initiative by adopting their own policy responses. Arizona gained notoriety in 2010 when it enacted legislation—SB1070—requiring state and local law enforcement officers to determine the immigration status of anyone involved in a lawful stop, detention, or arrest where "reasonable suspicion exists" that the person is unlawfully present. Critics charged that the measure would spur racial profiling by targeting people who look or sound foreign, especially anyone of Latino descent. Defenders retorted that strong action was required now, and law enforcement would be sensible and respectful in enforcing the law. Immigrant rights advocates vowed to boycott Arizona tourism and products, while their rivals promised to promote them. In polls, most Americans expressed support for Arizona lawmakers and their efforts to address illegal immigration while the federal government remained stuck in neutral (Wood 2010).

Within days of its signing, SB1070 was challenged in federal court as an unconstitutional violation of equal protection, due process, and the supremacy of the national government over immigration matters. President Obama also wasted no time in denouncing the law and its potential for discrimination, declaring that no one "should be subject to suspicion simply because of what they look like." US Justice Department lawyers were prominent among those aligned against the law in federal court, but the core of their argument was that Arizona had infringed on exclusive federal powers and thereby violated the Constitution's supremacy clause. Before SB1070 went into effect, federal judge Susan Bolton ruled that key provisions were indeed unconstitutional, including the mandate that Arizona police determine immigration status during any lawful stop. Governor Jan Brewer has pledged to appeal the court's decision, continuing to fuel a debate that reached all the way to the Supreme Court (Rough and Keifer 2011).

Undaunted by the controversy that swirled around SB1070, other states followed suit with legislation requiring police to check the

immigration status of criminal suspects, compelling businesses to check the legal status of workers using a federal system called E-verify, and forcing applicants for public benefits to verify eligibility with new documentation of lawful presence. In Alabama, for instance, a state where the undocumented immigrant population grew fivefold to roughly 120,000 in ten years, Republican Governor Robert Bentley hailed new legislation in 2011 as the "strongest" and "toughest" in the nation. Along with familiar law enforcement, employment, and public benefits provisions, the Alabama law went further than most in mandating schools to determine the legal status of students and making it a crime to knowingly rent or give a ride to an undocumented immigrant. "It is clearly unconstitutional. It's mean-spirited, racist, and we think a court will enjoin it," said Mary Bauer, legal director for the Southern Poverty Law Center, joining a variety of advocacy groups in challenging the law in federal court.[34]

While restrictive laws in states like Arizona and Alabama continue to steal most of the headlines, numerous other states have adopted very different approaches. A dozen states offer tuition breaks to undocumented immigrants to attend public colleges and universities, including a California law providing reduced university tuition to graduates of the state's high schools that withstood a challenge that found its way to the US Supreme Court. From New York to California, state lawmakers have passed bills aimed at helping legal and undocumented immigrants in housing, health, employment, education, and other areas of integration. In Utah, a bipartisan coalition of government, business, religious, and civic leaders drafted a "Compact" on immigration reform endorsing a balance of federal solutions, effective law enforcement, protection of families, recognition of immigrants as valuable workers and taxpayers, and "humane" treatment of immigrants. In the winter of 2011, Utah legislators passed a package of bills for a temporary worker program, law enforcement, public benefits, and immigrant services. Meanwhile, cities and towns across the country have joined a "new sanctuary movement" that refuses to cooperate with federal efforts to identify and remove undocumented immigrants. In response, restriction-minded members of Congress, such as Rep. Steve King (R-IA), have demanded that all federal funds be cut to sanctuary cities. The Constitution is often vague in its division of powers between the national government and states. Immigration policy is not one of them. According to the Constitution, as the federal courts clarified in the nineteenth century, the federal government is granted exclusive authority to control immigration. It is telling, then, that contemporary battle lines over immigration policy

cut across federal and state politics. Immigration reform struggles today powerfully capture the clashes and interdependence of national and state governments over policy, as well as the striking diversity of states and localities in how they respond to new challenges. It also captures a familiar conflict between Jeffersonian and Hamiltonian conceptions of federal-state relations. Like the Anti-Federalists before them, immigration restriction champions advancing tough enforcement measures from Arizona to Georgia view the federal government as too remote and insulated to understand the problems associated with porous borders. Their opponents, however, view national reform as essential for restoring coherence and respect for human rights in how the United States governs immigration.

In the end, the votes of immigrants and kindred ethnics, especially Latinos, were pivotal for Obama's presidential victory in 2008 and they will be critical both to his reelection. During his first term in office, Obama has promised a sensible overhaul of national immigration policy that would provide legal status to undocumented immigrants, clear backlogs in the current admissions system, target employers who knowingly hire unauthorized laborers, and regain control of the nation's borders. As Bush and reform-minded lawmakers of the 110th Congress learned, however, the impediments to major immigration reform have grown decidedly more daunting over time. American political leaders and ordinary citizens alike advance such deeply conflicting ideas and interests on illegal immigration that fierce battles rage both within and across the major parties and defy the usual ideological alliances. Basic problem definition and coalition-building are consequently as elusive as ever. Moreover, the failure of past reforms like the Immigration Reform and Control Act of 1986 have inspired widespread cynicism about the federal government's will or capacity to curtail illegal immigration, and in turn have intensified opposition to familiar compromise packages. To make matters worse, the leading policy proposals of warring camps contain fatal flaws that do little to dampen public cynicism and frustration. At the end of the day, the bruising politics of health care reform may seem like a welcome respite from the pitched battles ahead over immigration.

In contrast to the Clinton White House's preference for inaction or defensive reaction, the Bush administration made immigration reform a centerpiece of its domestic policy agenda during his second term. Ironically, Clinton ultimately signed two laws in 1996 with important implications for immigrant admissions and rights while Bush's determined pursuit of immigration reform ended in frustration and effectively left him without political capital for other

domestic reforms. The legacies of fractious immigration politics for Clinton and Bush also could not be more different: Whereas the Clinton administration translated its lethargy and defensive opportunism on immigration policy into electoral gains for the Democrats among Latinos and Asians, in the aftermath the president had to contend with a rebellious and unmanageable party base both within and beyond Washington and the party lost ground among new immigrant voters.

Significantly, the Obama administration today has fewer degrees of freedom on immigration than its recent predecessors. "If a fight starts, watch the crowd," E. E. Schattschneider advised us nearly 50 years ago. He was reflecting on how political conflicts are profoundly shaped by their scope, and bystanders may enter the fray and alter the power dynamics among those politically engaged on an issue (Schattschneider 1960). The scope of conflict in American politics over illegal immigration and the future of undocumented aliens is greater now than it has been for decades, if not ever. Against this backdrop, Obama has not had the luxury to be as cautious or defensively opportunistic as Clinton was. Illegal immigration has emerged as one of the nation's most formidable modern policy dilemmas and a cornerstone of contemporary political debate. Committed anew to tackling immigration reform, how Obama navigates this political minefield will have profound implications for his reelection, his broader policy aspirations, and future party politics.

NOTES

1. Luis Gutierrez interview, Democracy Now Radio and Television, May 2, 2006, transcript.
2. George W. Bush, Address to the Nation on Immigration Reform, May 15, 2006.
3. Andrew Biemiller to Peter Rodino, September 8, 1972; Biemiller to Rodino, March 23, 1973; Rodino to Biemiller, May 15, 1973, Papers of the Legislation Department of the AFL-CIO, Box 71, Folder #28, George Meany Archives.
4. See, for example, *New York Times*, December 31, 1974.
5. *Congressional Record*, September 12, 1972, 30164, 30182–30183; National Council of La Raza documents made available to the author by the national office of the NCLR.
6. Author's anonymous interviews with Reagan administration officials, 1996; see also U.S. Commission on Immigration Reform, *U.S. Immigration Policy: Restoring Credibility* (Washington, DC: GPO, 1994), 95.

7. Ibid.

8. Alan Simpson to Lawrence Fuchs, January 24, 1991, Correspondence Files of Lawrence Fuchs, made available to the author by Fuchs.

9. See, for example, Calavita, *Inside the State*.

10. William Jefferson Clinton, "Remarks and an Exchange with Reporters on Immigration Policy," *Weekly Compilation of Presidential Documents*, August 2, 1993.

11. See the comments of Chris Smith and Mark Souter, *Washington Times*, March 20, 1996.

12. Quoted in David Reimers, *Unwelcome Strangers: American Identity and the Turn Against Immigration* (New York: Columbia University Press, 1999), 134.

13. U.S. Commission on Immigration Reform, *Legal Immigration: Setting Priorities* (Washington, DC: Government Printing Office, 1995).

14. *New York Times*, May 25, 1995.

15. *Wall Street Journal*, June 9, 1995; and *Congressional Quarterly Weekly Reports*, November 25, 1995, p. 3600.

16. Quoted in Reimers, *Unwelcome Strangers*, 143.

17. Statement on Signing Executive Order on Illegal Immigration, *Weekly Compilation of Presidential Documents*, February 19, 1996.

18. See FAIR advertisement, *Washington Times*, August 25, 1996.

19. Author's interviews with congressional members; see also 1996 Republican views of immigration as a "wedge" issue in *Congressional Quarterly Weekly Reports*, May 15, 1999, 1127–1129.

20. *Congressional Quarterly Weekly Reports*, May 15, 1999, 1127.

21. See *Hispanic Magazine*, January–February 2001; on earlier Republican adjustments, see Dick Kirschten, "Trying a Little Tenderness," *National Journal*, January 10, 1998, 54.

22. For example, see Dan Balz, "Incumbent Reaches Beyond His Base," *Washington Post*, January 8, 2004, p. 1.

23. On the unsettled character of public opinion on how to deal with illegal immigration during the Bush years, see, for instance, Rasmussen Reports, "Immigration Issue Remains Divisive," March 30, 2006.

24. "Immigration Issue Remains Divisive," *Rasmussen Reports*, March 30, 2006.

25. See "The 2006 Immigrant Uprising: Origins and Future," Victor Narro, Kent Wong, and Janna Sahdduck-Hernandez, New Labor Forum 16:1, December 2007, 49–56 and "The Immigrant Rights Marches of 2006 and the Prospects of a New Civil Rights Movement," Bill Ong Hing and Kevin R. Johnson, *Harvard Civil Rights-Civil Liberties Law Review* 42, 2007.

26. "24% Have Favorable Opinion of Protestors," *Rasmussen Reports*, May 1, 2006.

27. "Immigration Rallies Fail to Move Public Opinion," *Rasmussen Reports*, May 3, 2006.

28. "Politicians Missed Key Point on Immigration Debate," *Rasmussen Reports*, May 7, 2006.

29. "39% Agree with President on Immigration," *Rasmussen Reports,* May 17, 2006.
30. "Support for Senate Immigration Bill Falls," *Rasmussen Reports*, June 6, 2007; and "Why the Senate Immigration Bill Failed," *Rasmussen Reports*, June 8, 2007.
31. "Latino Vote Fueling Introspection for Republicans," *America's Voice*, November 11, 2008.
32. See James Coburn, "Candidates Sound Off on Illegal Immigration," *Edmund Sun*, July 12, 2010; and Josh Kraushaar, "Tennesee Republicans Feud over Immigration," *Politico*, May 25, 2010.
33. "Remarks by the President on Comprehensive Immigration Reform," El Paso, Texas, May 10, 2011.
34. "Alabama's Immigration Law: Radical or Within Reason?" PBS Newshour, August 24, 2011.

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8

Governing Migration

James F. Hollifield

Introduction

To understand the impact of international migration on world politics we must know how states shape and control migration for strategic gains. Since 1945 immigration in the advanced industrial democracies has been increasing, although it has fallen off slightly in the wake of the 2008–2009 financial crisis and ensuing recession. Immigration into member states of the Organization for Economic Cooperation and Development (OECD) is down about 7 percent since 2009. Nevertheless, the overall rise in immigration in the last half of the twentieth century is a function of market forces (demand-pull and supply-push) and kinship networks, which reduce the transactions costs of moving from one society to another. These economic and sociological forces are the necessary conditions for migration to occur, but the sufficient conditions are legal and political. The OECD states, with highly developed industrial and service-based economies, reap enormous economic gains from migration—new sources of human capital and manpower, more flexible labor markets, lower levels of inflation in periods of high growth. But to get the benefits of migration, these states must be willing to accept certain costs—principally the short-term social and political instability and the fiscal burden of concentrated immigrant populations in regions and localities. Liberal states also must confront the issue of rights (legal status) for migrants. Economic needs for openness are pitted against powerful political and legal pressures for closure—what I have called elsewhere the "liberal paradox."

It is not enough to look just at the receiving (OECD) countries of the industrialized north. Migration also has important costs (brain drain)

and benefits (remittances and brain gain) for less developed countries (LDCs) in the south. International trade is a well-established determinant for income and growth. In addition to the classic gains from trade for all trading partners, international economic relations often provide access to technological know-how and thus give developing countries a chance to reduce the development gap at a faster pace. The impact of international migration on the welfare of both source and recipient countries is less well understood. Recipient countries benefit, inter alia, from the availability of the immigrant workers, both skilled and unskilled. Source countries benefit, inter alia, from the remittances sent back home by migrant workers, an important source of foreign exchange in many LDCs. While international trade and migration are often looked at in isolation in terms of their impact on development, it is critical to understand the relationship between trade, foreign direct investment (FDI), and migration to get a complete picture of globalization.

Alongside trade and FDI, migration is a defining feature of the international political economy, and states struggle to govern and regulate migration and mobility. In this chapter, I argue that rights are essential to migration governance, as modern states strive to fulfill three key functions: maintaining security, building trade and investment regimes, and regulating migration. Migration and mobility raise a host of security concerns for states in the north and the south. The garrison state was linked with the trading state in the eighteenth and nineteenth centuries. The twentieth and twenty-first centuries have seen the emergence of the migration state, where regulation of international migration is as important as providing for the security of the state and the economic well-being of the population.

A Global Migration Crisis?

International migration has been steadily increasing in every region of the globe since the end of World War II. At the beginning of the twenty-first century well over 200 million people reside outside of their country of birth and over the past half century individual mobility has increased exponentially. Tens of millions of people cross borders on a daily basis, which adds up to roughly 2 billion annually. International mobility is part of a broader trend of globalization, which includes trade in goods and services, investments and capital flows, greater ease of travel, and a veritable explosion of information.

While trade and capital flows are seen as the twin pillars of global-ization, migration often is overlooked, especially among scholars of international relations (Hollifield 2008, 2010).

Yet migration is a defining feature of the global era in which we live; and, although it is connected in many ways to trade and invest-ment, it is profoundly different. Some clever person once observed that "people are not shirts," which is another way of saying that labor is not a pure commodity. Unlike goods and capital, individuals can become actors on the international stage, whether through peace-ful transnational communities or violent terrorist/criminal networks. Migration and mobility can be a threat to the security of states, as we have been reminded daily since the terrorist attacks of September 11, 2001. Immigrants bring new ideas and cultures to their host societ-ies and they often come with a basic package of (human) rights that enables them to become members of society, if not citizens, of their adoptive countries. Conversely, they may return to their countries of origin where they can have a dramatic effect on economic and politi-cal development (Hollifield et al. 2007). And lest we forget, not all migration is voluntary—in any given year, millions of people move to escape political violence, hunger, and deprivation, becoming refu-gees, asylum seekers, or internally displaced persons. In 2007 UN estimates put the global refugee population at 11.4 million—down considerably from the turbulent decade of the 1990s but trending upward. The total population of concern to UN High Commission for Refugees, including Internally Displaced Persons, stood at almost 33 million. Because it is so complex and multifaceted, migration poses an enormous regulatory challenge for states and the interna-tional community (Martin and Widgren 1996; Gibney 2004; Martin et al. 2006).

Migration, like globalization, is *not* a new phenomenon (Hatton and Williamson 1998; Williamson 2006). Throughout history, the movement of populations has been the norm. Only with the advent of the nation-state in sixteenth- and seventeenth-century Europe did the notion of legally tying populations to territorial units (states) and to specific forms of government become commonplace (Moch 1992). State-building in Europe entailed consolidating territory, centralizing authority, controlling the nobility, imposing taxes, and waging warfare (Tilly 1975; Sassen 2006; Castles and Miller 2009). The institutions of nationality and citizenship, which would become the hallmarks of the modern nation-state, did not develop fully until the nineteenth and twen-tieth centuries (Koslowski 2000). The reason for these developments in

Europe was closely related to warfare, conscription, and taxation. In the nineteenth century warfare pitted one people against another and political leaders cultivated among their populations a sense of nationalism (Kohn 1962; Brubaker 1992). The expansion of the European system of nation-states through conquest, colonization, and decolonization spread the ideals of sovereignty and nationality to the four corners of the globe (Krasner 1999).

In the twentieth century passport and visa systems developed and borders were increasingly closed to non-nationals (Torpey 2000). Almost every dimension of human existence—social, psychological, demographic, economic and political—was reshaped to conform to the dictates of the nation-state (Kohn 1962; Hobsbawm 1990). The migration "crises" of the late twentieth century pale by comparison with the upheavals associated with the industrial revolution, the two world wars, and decolonization, which resulted in genocide, irredentism, the displacement of massive numbers of people and the radical redrawing of national boundaries, not only in Europe, but also around the globe. This process was repeated with the end of the Cold War and the breakup of the Soviet Empire (Brubaker 1996).

Myron Weiner (1995) argued that the increase in international migration in the postwar period posed a threat to international stability and security, especially in those areas of the globe where nation-states are most fragile—the Balkans, Transcaucasia, the Middle East, the great lakes region of Africa, or Southern Africa. Weiner extended his argument to the Western democracies, pointing out that the rise in xenophobic and nationalist politics in Western Europe showed that even the most advanced and tolerant democracies risk being destabilized politically by an influx of unwanted immigrants. Weiner postulated that there are limits on how many foreigners a society can absorb. Samuel Huntington of the "clash of civilizations" fame argued that failure to control American borders is the single biggest threat to the national security of the United States (Huntington 1996, 2004). Weiner and Huntington echo the sentiments of Arthur Schlesinger, Jr. (1992) and others (Brimelow 1995), who fear that immigration and multiculturalism will lead to the "disuniting of America." In this line of reasoning, nation-states are threatened by globalization from above and multiculturalism from below.

At the heart of the migration crisis are concerns about sovereignty, citizenship, national security, and identity. The ability or inability of a state to control its borders and hence its population is the sine qua non of sovereignty (Freeman 1998a; Guiraudon and Lahav 2000; Hollifield 2005). With some notable exceptions—such as the

international refugee regime created by the 1950 Geneva Convention in the aftermath of World War II (Goodwin-Gill 1996; Gibney 2004)—the right of a state to control entry and exit of persons to and from its territory is an undisputed principle of international law (Shaw 1997). But this political and legal principle immediately raises several questions: why are some states willing to accept rather high levels of immigration when it would seem not to be in their interest to do so (Hollifield 1992a; Freeman 1995, 1998b; Cornelius et al. 1994; Joppke 1998b)? Does this influx pose a threat to the institutions of sovereignty and citizenship (Joppke 1998a; Freeman 1998b; Guiraudon and Lahav 2000) and should we view migration primarily as an issue of national and/or international security (Rudolph 2006; Adamson 2006)?

It might be tempting to argue, as some have, that international migration is simply a function of the inexorable process of globalization (Sassen 1996). Demand for labor—both skilled and unskilled—is high in the principal receiving countries of North America, Europe, and Australia, and the supply of workers in Asia, Latin America, and Africa, willing to fill this demand is unlimited. Demand-pull and supply-push forces seem to account rather well for the surge in international migration. Yet we know that individuals are risk averse and migration is fraught with risks—the transaction costs alone should be enough to deter most people from moving, and this indeed is the case. Two hundred million immigrants represent less than 3 percent of the world's population. Despite efforts to restrict immigration, people are moving in increasing numbers, and there is a sense of crisis and loss of control. Sociologists and anthropologists have helped us to understand how individuals reduce the risks associated with migration (Massey et al. 2002). Individuals are more likely to migrate if they have friends or relatives in the destination country willing to help and ease the process of transition. Social networks lower the transaction costs associated with emigration, making it less risky and connecting supply and demand, like two poles of a battery.

Is this the end of the story? If so there would appear to be no room for the state in managing migration. Policy, some say (Sassen 1996), may be irrelevant, playing at best only a marginal role in the migration process, and the institutions of sovereignty and citizenship increasingly outdated (Soysal 1994). According to this logic, we are entering a post-national era, and migration is redefining the international state system. I shall argue, however, that it is a mistake to eliminate the state from our analysis. *The necessary conditions for migration may be social and economic, but the sufficient conditions are*

political and legal. States must be willing to open their borders to the movement of people, and as people move they can acquire rights. Immigration has profound political implications, and states are critical in shaping migration outcomes.

GLOBAL GOVERNANCE OF MIGRATION

Because migrants have agency—that is they are not inanimate commodities subject to strict regulation—it is difficult for states to regulate flows of people in the same way they can regulate the movement of goods, services, and capital. As with trade and FDI, however, there are great obstacles to cooperation in migration governance. One state's policies to control or regulate migration inevitably affect another state's, and externalities in migration governance abound. If anything, interdependence with respect to migration is even greater than with trade and investment, making unilateral or bilateral approaches to regulation extremely difficult. Short of autarky (the North Korean example comes to mind), states have little choice but to cooperate in migration governance, even though a truly multilateral migration regime has proven elusive.

Following the work of John Ruggie (1993, 3–47), we can identify three tenets of multilateralism. The first is *indivisibility*, which is another way of saying that multilateral regulation should take the form of a public good (the benefits of an international migration regime would have to be nonexcludable and nonrivalrous). A single state or even a small group of states cannot provide migration governance for the international community. The costs and benefits of governance and its provision must be shared relatively equally among states. The second tenet is *principles,* or *norms of conduct*, which can alter the behavior of states. The fewer principles or norms there are, the greater the likelihood that states will adhere to them and change their behavior. The most difficult problem in any multilateral regime is to find a single compelling principle (or at least a very small number of interrelated norms or principles) "around which actor expectations can converge." Third, Ruggie points to *diffuse reciprocity*, meaning that states must be convinced that everyone will respect the rules of the game, making it possible for governments to persuade a skeptical or even hostile public to accept the short-term political and economic costs of establishing the regime in order to reap the long-term gains.

Using this liberal/public goods framework, we can ask: What are the possibilities of building an effective international migration regime? What would be the incentives to participate in such a regime?

Can states overcome their misgivings, which may include loss of sovereignty, threats to national security and identity, and changes in the composition of the citizenry (Joppke 1998a)?

On the first point, indivisibility, we must ask if migration can be defined as an international public good. As noted earlier, this is problematic, especially if we compare migration and trade. During the postwar period, a consensus emerged—based on American leadership and the doctrine of comparative advantage—that an open trading regime would promote global welfare and advance the cause of peace. The motto of the immediate postwar period was "peace through trade." The General Agreement on Tariffs and Trade (GATT) system was created to ensure that the costs and benefits of free trade would be shared equally, and this allowed the leading liberal states (especially the United States) gradually to overcome the hostility and skepticism of weaker developing states. Free trade would lead not only to specialization in production, increased output, and pareto-optimal economic outcomes, but it also would promote interdependence and a more peaceful world.

This type of economic reasoning, however, does not work well in the area of migration because the asymmetry between developed and developing countries is too great. It is only at certain points in time (such as the turn of the century in America, the period of reconstruction in Europe after World War II, or the period of very high growth in Asia in the 1970s and 1980s) that the interests of developing and developed states converge. Developing states almost always have an incentive to export surplus populations, whereas developed states have an interest only periodically in admitting large numbers of foreign workers. The history of south-to-north migration has tended to be one of fits and starts, of peaks and valleys that tended to follow the business cycle. But there is strong evidence that this dynamic may have been broken in the postwar period, at least for certain "core" liberal states in America and Europe (Hollifield et al. 2008; Hollifield and Wilson 2011). We can see this in the rates of world migration, which have been rising continuously since 1945.

So, if migration does not mirror the business cycle, what is driving it? The answer, in a word, is rights. As the world becomes more open, more democratic, and more liberal, people are freer to move than ever before. This has placed great strains on liberal states, especially on the institution of citizenship. Liberal states are caught on the horns of a dilemma or, what I have called a liberal paradox (Hollifield 1992a; Weiner 1995). In liberal political and economic systems, there is constant tension between markets and rights, or liberty and equality.

Rules of the market require openness and factor mobility, whereas rules of the liberal polity, especially citizenship, require some degree of closure, mainly to have a clear definition of citizenry and to protect the sanctity of the social contract—the legal cornerstone of every liberal polity. Equal protection and due process cannot be extended to everyone without undermining the legitimacy of the liberal state itself. How can states solve this dilemma and escape from the paradox? Constructing an international migration regime, as European Union members have done, is one way.

One way out of the dilemma is to build an international migration regime, thus defining global migration governance as a public good. But, assuming such a regime could meet the criteria of nonexcludability and nonrivalry—where the benefits of governance could not be denied to any state, all could benefit equally, and all would share the costs—such a regime could not be defined purely in economic terms, even though mobility of productive factors is recognized to be Pareto optimal. To regulate migration on a unilateral basis, liberal states must adopt draconian (illiberal) policies that may threaten the foundations of the liberal state itself. It is not efficient or desirable in a liberal state to close or seal borders. This would be the ultimate strategy for external control (Freeman 1995). Likewise, strategies for internal control, including heavy regulation of labor markets, limiting civil rights and liberties for foreigners and citizens, and tampering with founding myths (e.g., weakening birthright citizenship in the United States) also threaten the liberal state (Hollifield 1999). Such measures can fan the flames of racism and xenophobia by further stigmatizing foreigners. Establishing a multilateral process for regulating and controlling immigration offers one way out of this dilemma, but to accomplish this, control must be redefined on a multilateral basis as the "orderly movement of people" (Ghosh 2000). Orderly movements imply respect for the rule of law and state sovereignty, which are fundamental principles in every liberal state (Hollifield 2005).

The problem remains of how to set up generalized principles of conduct in the area of migration. Various conventions exist, many put forward by the UN and its agencies (UNHCR, IOM, and ILO) to safeguard the rights of refugees, migrant workers, and their families. Likewise, Mode 4 of the General Agreement on Trade in Services (GATS) includes provisions for migration (Bhagwati 1998; Ghosh 2000). But none of these agreements has achieved the status of a full-blown international migration regime capable of altering the behavior of states. Moreover, economic migration, whether low-skilled or high-skilled, is a private (not a public) good, and states

have the option of competing in a relatively open marketplace for basic labor (manpower) and human capital. It is only with asylum and refugees that a quasi-effective international regime, which approximates a global public good, has emerged in the postwar period, with a single guiding norm/principle—a well-founded fear of persecution. The freedom-of-movement clauses of the various European Union treaties have resulted in the construction of a regional migration regime for EU member states, and the Schengen group has developed rules for dealing with the migration of third-country nationals, specifically asylum seekers (Uçarer 1997).

In such a regional context, where the asymmetry is less pronounced than in the international system, it is easier to solve the problems of reciprocity and collective action, and pursue a migration regime that more closely approximates a club good (with benefits limited to a small group of states and costs equally shared) than a true public good. In the European Union, for example, rules can be adopted and formalized through already established institutional procedures that discourage free riding. At the international level, what we have seen instead is a proliferation of very weak rules, norms, and procedures, resulting in a kind of fragmented and ineffective regime (Ghosh 2000), and the proliferation of bilateral agreements for migration control has resulted in what trade experts would call a "spaghetti bowl" effect. Moreover, the primary concern of the most powerful liberal states is not to facilitate the orderly movement of people (even paying tourists) or promote international factor mobility. Rather, the concern is for control *tout court*, which has as many different meanings as there are states (Cornelius et al. 1994, 2004). The challenge for any state or organization attempting to construct an international migration regime will be to define control in such a way that it is indivisible, can serve as a generalized norm or principle of conduct, and can lead to diffuse reciprocity. This is no mean feat because, heretofore, international migration has been regulated almost exclusively on a bilateral basis, if not through some type of imperial hierarchy—the EU is a notable exception. In fact, we still see both regulatory systems at work today. It is only among the OECD states that freedom of movement (but not settlement) has been more or less achieved, especially for the highly skilled. Between the core liberal states in the international system and the less developed countries, movement of populations is still governed by a system of imperial hierarchy, which is in many ways more one-sided today than it was during the colonial era.

To better understand the difficulties of international cooperation to regulate migration, I have constructed a simple typology of

Figure 8.1   **A typology of international regimes.**

international regimes. This typology, depicted in figure 8.1, points
to a clear distinction between the regulation of capital, goods, and
services on one hand and migrant labor or refugees (people) on the
other. When it comes to regulating trade and capital flows—an essen-
tial function of the international political economy—multilateralism
(on the y axis) is strongest and most heavily institutionalized in the
area of finance. Even though the institutions dealing with interna-
tional finance are far from perfect, the IMF and World Bank have
become the bulwarks of stable exchange rates, without which inter-
national trade and investment would be difficult and extremely risky.
The GATT/WTO regime for trade also is heavily institutionalized,
but the multilateral basis of this regime is, I would argue, weaker than
that for finance. The need for strong currencies and stable exchange
rates is felt much more acutely by states than the need for free trade.
Nonetheless, both of these institutions have evolved together in the
postwar period. Powerful market incentives, as well as formal enforce-
ment mechanisms in the case of WTO, compel states to "play by the
rules" (Goldstein 1993, 201–232).

Of the two "regimes" dealing with migration, one for labor
migrants and the other for refugees, clearly the refugee regime, which
is institutionalized through UNHCR, is the more effective and comes
closer to a global public good, for reasons I have spelled out. I put the
term regimes in quotes because the labor regime is quite ineffective.
The rules for entry and exit of economic migrants are controlled by
nation-states, not by international organizations like the UN, IOM,
or ILO (Joppke 1998a); and labor migration constitutes a private,
not a public good. Again, the major exception is the EU, but the EU

regime for international labor migration functions only for nationals of the member states (it is a club good), not (or at least not yet) for third-country nationals (Guiraudon 1998). Even for the Schengen states—referred to in the British press derisively as Schengenland—third-country nationals do not have freedom of movement. Only Schengen nationals have this right. Schengen does, however, function as a multilateral regime for asylum and is designed to help member states restrict refugee migration and prevent "asylum shopping" (Thielemann 2003). Refugees have the right to request asylum in the first Schengen state in which they arrive—consistent with the Geneva Convention—but if they transit through a "safe" third country, they can be *refoulés* (sent back to that third country). The result has been to forge a more or less common asylum policy in Schengen and turn all adjoining states into buffer states. The important point is that these Western European states, together with the United States and other liberal democracies, are respecting the letter, if not the spirit, of international refugee law. Although the principles of the refugee regime are widely recognized, UNHCR as an institution remains weak and heavily dependent on a few "client states," especially Sweden, The Netherlands, and other small European social democracies (Loescher et al. 2008; Gibney 2004). The Japanese contribute a significant amount of money to UNHCR, and the Americans support it and use it as a tool for managing refugee crises around the world, especially when American national interests are involved.

The regime for international labor migration is weakly institutionalized (depicted on the x axis) with no central norm, and its principal organs, ILO and IOM, based in Geneva, have little regulatory or institutional capacity. For developed states in particular, the costs of participating in a regime for international labor migration outweigh the benefits, and a short-term strategy of unilateral or bilateral regulation of migration is preferred to a long-term, multilateral strategy. This is less true for the refugee regime because the more powerful liberal states need this regime for situational exigencies—to manage massive refugee flows that can destabilize governments and, in some cases, entire regions. When such crises strike close to home, as in the 1999 Balkan war, the utility of the refugee regime goes up exponentially. But when the crisis is past, it drops again.

To date, unwanted labor migrations might be considered more of a nuisance, especially from a political and security standpoint. They are not fundamentally threatening and, therefore, can be handled unilaterally and on an ad hoc basis. The payoff from international cooperation in the area of unwanted labor migration is negative, and opportunities for defection are numerous. The possibilities for

monitoring, enforcing, or developing some principle of nondiscrimination are minimal at this point. That brings us back to the domestic level in our search for an explanation of why states risk migration. The three factors driving migration policies—cultural and ideational, economic interests, and rights—must be studied on a case-by-case basis.

Yet an international market for labor exists and is growing. If the first rule of political economy is that markets beget regulation, some type of a stronger regime is likely to develop. What will be the parameters of such a regime, and how will it evolve? International relations theory, especially liberal/rationalist arguments, offers some clues.

Sovereignty, Suasion, and Global Migration Governance

One of the principal effects of economic interdependence is to compel states to cooperate (Keohane and Nye 1977; Milner 1988). Increasing international migration is one indicator of interdependence, and it shows no signs of abating. As the international market for skilled and unskilled labor grows in the coming decades, pressures to create an international regime will increase. Following the work of Lisa Martin (1993, 91–121) we can identify two ways in which states can overcome coordination problems in the absence of trust and reciprocity (developed states do not trust less developed states to help control borders and deter irregular migration): (1) through the centralization of regulatory power and pooling of sovereignty, and (2) suasion or, as Martin puts it, "tactical issue linkage" (104).

We already have seen an example of the first strategy at the regional level in Europe. The EU and, to a lesser extent, the Schengen regimes were built through processes of centralization and pooling of sovereignty. But, as I have pointed out, this was fairly easy to do in the European context because of the symmetry (of interests and power) within this region and the existence of an institutional framework (the European Community or EU). It would be much more difficult to centralize control of migration in the Americas or Asia, where the asymmetry (of interest and power) is much greater, and levels of political and economic development vary tremendously from one state to another (Fields 1994; Sadiq 2009). It is unlikely that regional trade regimes like the North American Free Trade Agreement (NAFTA) or Asia-Pacific Economic Cooperation (APEC) will lead quickly to cooperation in the area of migration. But the beginnings of collaborative arrangements are there, just as they were with the European Coal and Steel Community (ECSC)

in the early 1950s. The regional option—multilateralism for a relevant group of states where migration governance can be defined as a club good—is one way to overcome collective-action problems and to begin a process of centralization. Most international regimes have had a long gestation period, beginning as bilateral or regional agreements. It is unlikely, however, that an international migration regime could be built following the example of the International Trade Organization/GATT/WTO. It is too difficult to fulfill the prerequisites of multilateralism: indivisibility, generalized principles of conduct, and diffuse reciprocity. The norm of nondiscrimination (equivalent of MFN) does not exist, and there are no mechanisms for punishing free riders and no way of resolving disputes. In short, as depicted in figure 8.1, the basis for multilateralism is weak, and the institutional framework is very weak.

With the asymmetry of interests and power between developed (migration receiving) and less developed (migration sending) countries, *suasion* may be the only viable strategy for overcoming collective-action problems, whether at the regional or international level. Martin (1993, 104–106) points to a number of ways in which suasion can help to solve coordination problems.

Step one is to develop a *dominant strategy*, which can be accomplished only by the most powerful states, using international organizations to persuade or coerce smaller and weaker states. From the standpoint of receiving countries, the orderly movement of people, defined in terms of rule of law and respect for state sovereignty, would be the principal objective of hegemonic, liberal states. From the standpoint of the sending countries, migration for development, taking advantage of remittances and return (brain gain) or circular migration, would be the principle upon which an international regime could be based (Russell 1986; Faini 2007; Ratha 2007).

Step two is to persuade other states to accept the dominant strategy. This will necessitate *tactical issue linkage*, which involves identifying issues and interests not necessarily related to migration (such as MFN, for example) and using these as leverage to compel or coerce states to accept the dominant strategy. This is, in effect, an "international logroll." Such tactics will have only the appearance of multilateralism, at least initially. Tactical issue linkage was considered in negotiations between the United States and Mexico over the NAFTA agreement, and migration issues have figured prominently in negotiations between the EU and prospective EU members in East Central Europe. At the EU summit in Seville in 2002, for example, the British and Spanish attempted to link official development aid (ODA)

and trade concessions for African states to migration control, but this initiative was blocked by the French and the Swedes.

In such instances, reciprocity is specific rather than diffuse. Individual states may be rewarded for their cooperation in controlling migration. Again, we have seen many bilateral examples of this type of strategic interaction between the states of Western and Eastern Europe. The post-unification German governments have cut a number of deals with East Central European states to gain their cooperation in the fight against irregular migration. In the case of Poland, this has involved investments and debt relief as well as greater freedom of movement for Polish nationals in Germany. But liberal-democratic states may face a problem of credibility in pursuing these types of strategies. They need international organizations to give them greater credibility (cover) and facilitate these logrolls.

The third step for hegemonic states is to move from what is an essentially one-sided, manipulative game to a multilateral process, and eventually to *institutionalize this process*. The long-term benefits of such a strategy for receiving states are obvious. It will be less costly to build an international regime than to fight every step of the way with every sending state, relying only on unilateral or bilateral agreements. This may entail some short-term loss of control (such as larger numbers of visas, or higher quotas for the sending states) in exchange for long-term stability and more orderly/regular migration. The ultimate payoff for liberal states is the establishment of a liberal world order based upon rule of law, respect for state sovereignty, ease of travel, and the smoother functioning of international labor markets. The payoff for sending states is greater freedom of movement for their nationals, greater foreign reserves and a more favorable balance of payments (thanks to remittances), increased prospects for return (brain gain) migration, and increases in cultural and economic exchange, including technology transfers—potentially a "win-win-win" for sending and receiving states, as well as the migrants themselves (Russell 1986; Hollifield et al. 2007, specifically Ratha 2007; Faini 2007).

However, changes in the international system with the end of the Cold War have altered this game in several ways. First, it has made defection easier. Since 1990, states have been more likely to pursue beggar-thy-neighbor policies by closing their borders and not cooperating with neighboring states in the making of migration and refugee policies. The Schengen process itself is a kind of beggar-thy-neighbor policy on a regional scale. Second, the new post–Cold War configurations of interests and power, both at the international and domestic levels, make it more difficult to pursue a multilateral strategy for

controlling international migration. Rights-markets coalitions have been breaking apart in the dominant liberal states, increasing polarization and politicization over immigration and refugee issues. Yet liberalization and democratization in formerly authoritarian states to the east and south have dramatically reduced the transaction costs for emigration (Hollifield and Jillson 1999; Geddes 2003; Koslowski 2005). Initially, this caused panic in Western Europe, where there was a fear of mass migrations from east to west. Headlines screamed "The Russians Are Coming!" Even though these massive flows did not materialize, Western states began to hunker down and search for ways to reduce or stop immigration. The time horizons of almost all Western democracies suddenly were much shorter because of these changes in domestic and international politics. Migration and mobility came to be perceived as greater threats to national security, especially in the post-9/11 strategic environment (Huntington 2004).

If the United States were to defect from the liberal refugee and migration "regimes," such as they are, it could mean the collapse of these regimes. In game theoretic terms, such a defection would fundamentally alter the equilibrium outcome, and it would be potentially costly to all states and the international community. At least as far as migration is concerned, the process of globalization of exchange could be quickly and dramatically reversed. To prevent the collapse of liberal migration and refugee regimes the United States and other liberal states must pursue an aggressive strategy of multilateralism, taking the short-term political heat for long-term political stability and economic gain. This happened in the areas of international finance, with the collapse of the Bretton Woods system in the early 1970s, and trade, with the Latin debt crisis of the 1980s and Asian crisis of the 1990s. Without the kind of leadership exhibited in international trade and finance, irregular migrations will increase and become ever more threatening, leading more states to close their borders.

The Emerging "Migration State"

International migration is likely to increase in coming decades, unless there is some cataclysmic international event, like war or economic depression. Despite the 9/11 terrorist attack on the United States, the liberal democracies have remained relatively open to international migration. Global economic inequalities mean that supply-push forces remain strong, while at the same time demand-pull forces are intensifying (Martin et al. 2006). The growing demand for highly skilled workers and the demographic decline in the industrial democracies

create economic opportunities for migrants in the industrial democ-
racies. Transnational networks have become more dense and efficient,
linking the sending and receiving societies. These networks help to
lower the costs and the risks of migration, making it easier for people
to move across borders and over long distances. Moreover, when legal
migration is not an option, migrants have increasingly turned to pro-
fessional smugglers, and a global industry of migrant smuggling—
often with the involvement of organized crime—has sprung up,
especially in the last decade of the twentieth century (Sadiq 2009).
Hardly a week passes without some news of a tragic loss of life associ-
ated with migrant smuggling (Kyle and Koslowski 2000).

But migration, like any type of transnational economic activity
(such as trade and foreign investment), cannot and does not take place
in a legal or institutional void. As we have seen, states have been and
still are deeply involved in organizing and regulating migration, and
the extension of rights to non-nationals has been an extremely impor-
tant part of the story of international migration in the post–World
War II period. For the most part, rights that accrue to migrants
come from the legal and constitutional protections guaranteed to all
"members" of society (Layton-Henry 1990; Hollifield 1992a, 1999;
Joppke 2001). Thus, if an individual migrant is able to establish some
claim to residence on the territory of a liberal state, his or her chances
of being able to remain and settle will increase. At the same time,
developments in international human rights law have helped to solid-
ify the position of individuals vis-à-vis the nation-state, to the point
that individuals (and certain groups) have acquired a sort of interna-
tional legal personality, leading some analysts to speculate that we are
entering a post-national era, characterized by "universal personhood"
(Soysal 1994), the expansion of "rights across borders" (Jacobson
1996), and even "transnational citizenship" (Bauböck 1994).

Others have argued that migrants have become transnational,
because so many no longer reside exclusively on the territory of one
state (Glick-Schiller 1999; Levitt 2001), opting to shuttle between a
place of origin and destination. This line of argument gives priority
to agency as a defining feature of contemporary migrations; but it
ignores the extent to which state policies have shaped the choices that
migrants make. The migration state is almost by definition a liberal
state, inasmuch as it creates a legal and regulatory environment in
which migrants can pursue individual strategies of accumulation.

But regulating international migration requires liberal states to be
attentive to the (human or civil) rights of the individual; because if
rights are ignored or trampled upon the *liberal* state risks undermining

its own legitimacy and raison d'être (Hollifield 1999). As international migration and transnationalism increase, pressures build upon liberal states to find new and creative ways to cooperate, to manage flows. The definition of the national interest and raison d'être have to take this reality into account, as rights become more and more a central feature of domestic and foreign policy. New international regimes will be necessary if states are to risk more openness, and rights-based (international) politics will be the order of the day (Hollifield 1992b, 1994, 2000a, 2000b; Cornelius et al. 1994).

Some politicians and policymakers, as well as international organizations, continue to hope for market-based/economic solutions to the problem of regulating international migration. Trade and foreign direct investment—bringing capital and jobs to people, either through private investment or official development assistance—it is hoped, will substitute for migration, alleviating both supply-push and demand-pull factors (Bhagwati 1983; Martin et al. 2006). Even though trade can lead to factor-price equalization in the long term, as we have seen in the case of the European Union (Straubhaar 1988), in the short and medium term exposing LDCs to market forces often results in increased (rather than decreased) migration, as is evident with NAFTA and the US-Mexican relationship (P. L. Martin 1993; Massey et al. 2002; Hollifield and Osang 2005; Rosenblum 2006). Likewise, trade in services can stimulate more "high end" migration, because these types of products often cannot be produced or sold without the movement of the individuals who make and market them (Bhagwati 1998; Ghosh 2000).

In short, the global integration of markets for goods, services and capital entails higher levels of international migration; therefore, if states want to promote freer trade and investment, they must be prepared to manage higher levels of migration. Many states (like Canada, Australia, and Germany) are willing, if not eager, to sponsor high-end migration, because the numbers are manageable, and there is likely to be less political resistance to the importation of highly skilled individuals. However, mass migration of unskilled and less educated workers is likely to meet with greater political resistance, even in situations and in sectors, like construction or health care, where there is high demand for this type of labor. In these instances, the tendency is for governments to go back to the old guest worker models, in hopes of bringing in just enough temporary workers to fill gaps in the labor market, but with strict contracts between foreign workers and their employers that limit the length of stay and prohibit settlement or family reunification (Miller and Martin 1982; Rogers 1985).

The alternative is illegal immigration and a growing black market for labor—a Hobson's choice.

The nineteenth and twentieth centuries saw the rise of what Richard Rosecrance (1986) has labeled the *trading state*. The latter half of the twentieth century has given rise to the *migration state*. In fact, from a strategic, economic and demographic standpoint, trade and migration go hand in hand; because the wealth, power and stability of the state is now more than ever dependent on its willingness *to risk both trade and migration* (Lusztig 1996; Hollifield 1998, 2004; Hatton and Williamson 1998). In launching a new "blue card" program to attractive highly skilled foreign workers, the European Union is clearly seeking to emulate the United States and Canada, on the premise that global competitiveness, power, and economic security are closely related to a willingness to accept immigrants. Europeans are somewhat reluctantly following the American and Canadian examples in order to enhance their material power and wealth. But, in one important respect, Europe has an advantage over the United States, and Canada or Australia. Europe is a regional economic enterprise, which is not only creating a free trade zone, but also a free migration area.

Now more than ever, *international security and stability are dependent on the capacity of states to manage migration*. It is extremely difficult, if not impossible, for states to manage or control migration either unilaterally or bilaterally. Some type of multilateral/ regional regime is required, similar to what the EU has constructed for nationals of the member states. The EU model, as it has evolved from Rome to Maastricht to Amsterdam and beyond, points the way to future migration regimes, because it is not based purely on *homo economicus*, but incorporates rights for individual migrants and even a rudimentary citizenship, which continues to evolve (Geddes 2003; Lahav 2004). The problem, of course, in this type of regional migration regime is how to deal with third country nationals (TCNs). As the EU expands and borders are relaxed, the issue of TCNs, immigrants, and ethnic minorities becomes ever more pressing, and new institutions, laws and regulations must be created to deal with them (Guiraudon 1998).

In the end, the EU, by creating a regional migration regime and a kind of supra-national authority to deal with migration and refugee issues, allows the member states to finesse, if not escape, the liberal paradox (Geddes 2003). Playing the good cop/bad cop routine and using symbolic politics and policies to maintain the illusion of border control help governments fend off the forces of closure, at least in the

short run (Rudolph 2006). In the end, however, it is the nature of the liberal state itself and the degree to which openness is institutionalized and (constitutionally) protected from the "majority of the moment," that will determine whether states will continue to risk trade and migration (Hollifield 2000c, 2008; Hollifield et al. 2008).

Regional integration reinforces the trading state and acts as a mid-wife for the migration state. In the EU, migrants are gradually acquiring the rights that they need in order to live and work on the territory of the member states (Layton-Henry 1990; Groenendijk et al. 2000; Geddes 2003; Hollifield 1992b. 2000a). Regional integration blurs the lines of territoriality, lessening problems of integration and national identity. The fact that there is an increasing disjuncture between people and place—which in the past might have provoked a crisis of national identity and undermined the legitimacy of the nation-state—is less of a problem when the state is tied to a regional regime, like the EU. This does not mean, of course, that there will be no resistance to freer trade and migration. Protests against globalization and nativist or xenophobic reactions against immigration have been on the rise throughout the OECD world (Bhagwati 2004). Nonetheless, regional integration—especially when it has a long history and is deeply institutionalized as it is in Europe—makes it easier for states to risk trade and migration and for governments to construct the kinds of political coalitions that will be necessary to support and institutionalize greater openness.

Mexican leaders, like former Presidents Raul Salinas de Gortari and Vicente Fox, looked to Europe as a model for how to solve problems of regional integration, especially the very delicate political issue of illegal Mexican immigration to the United States. Their argument is that freer migration and a more open (normalized) border are logical extensions of the North American Free Trade Agreement (NAFTA). The government of Ernesto Zedillo moved to grant dual nationality to Mexican nationals living north of the border, thereby taking a big step towards consolidating and extending the rights of Mexicans in the US. But, the US government under George W. Bush was reluctant to move so fast with economic and political integration, especially after the attack of September 11, 2001, preferring instead to create new guest worker programs, or to continue with the current system, which tolerates high levels of unauthorized migration from Mexico (Massey et al. 2002; Fitzgerald 2009). Clearly, however, North America is the region that is closest to taking steps towards an EU-style regional migration regime,

and the U.S. is facing the prospect of another amnesty comparable to the one carried out as part of the 1986 Immigration Reform and Control Act. In the long run, it is difficult for liberal states, like the U.S., to sustain a large, illegal population. For this reason, amnesties, legalizations, or regularizations have become a common feature of the migration state.

Even though there are large numbers of economic migrants in Asia, this region remains divided into relatively closed and often authoritarian societies, with little prospect of granting rights to migrants and guest workers (Fields 1994; Sadiq 2009). The more liberal and democratic states, like Japan, Taiwan and South Korea, are the exceptions; but they have only just begun to grapple with the problem of immigration, on a relatively small scale (Cornelius et al. 2004). In Africa and the Middle East which have high numbers of forced migrants and refugees, there is a great deal of instability as a result of civil wars, diasporas abound, and states are fluid with little institutional or legal capacity for dealing with international migration (Lischer 2005; Adamson 2006; Salehyan 2009; Betts 2009a).

Conclusion

Migration is both a cause and a consequence of political and economic change. International migration, like trade, is a fundamental feature of the postwar liberal order. But, as states and societies become more liberal and more open, migration has increased. Will this increase in migration be a virtuous or a vicious cycle? Will it be destabilizing, leading the international system into greater anarchy, disorder and war; or will it lead to greater openness, wealth and human development? Much will depend on how migration is managed by the more powerful liberal states, because they will set the trend for the rest of the globe. To avoid a domestic political backlash against immigration, the rights of migrants must be respected and states must cooperate in building an international migration regime. I have argued that the first, halting steps towards such a regime have been taken in Europe, and that North America is likely to follow (Hollifield 1997b; 2004). As liberal states come together to manage this extraordinarily complex phenomenon, it may be possible to construct a truly international regime, under the auspices of the United Nations. But I am not sanguine about this possibility, because the asymmetry of interests, particularly between the developed and the developing world, is too great to permit states to overcome problems of coordination and cooperation. Even as states become more dependent on trade and migration, they are likely to remain trapped in a liberal paradox,

needing to be economically open and politically closed, for decades to come.

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Why Not the Whole World?
Ethical Dilemmas of
Immigration Policy

Aristide R. Zolberg

My provocative title "Why Not the Whole World?" is borrowed from Herman Melville who, having recently served on an immigrant ship during the "Great Hunger," proclaims in the novel *Redburn*, published when the Know-Nothing movement had made its appearance on the American political scene. His words are "Let us waive that agitated national topic, as to whether such multitudes of foreign poor should be landed on our American shores; let us waive it, with the one only thought that if they can get here, they have God's right to come; though they bring all Ireland and her miseries with them. For the whole world is the patrimony of the whole world; there is no telling who does not own a stone in the Great Wall of China" (Melville [1849] 1976, 382).

Adjusting for language, Melville's position evokes that of today's "Rawlsian Cosmopolitans."[1] Its adherents do not include Rawls himself who, when he belatedly theorized about justice at the global level, abandoned the "veil of ignorance" incorporated in the original position devised to construct his theory of justice so as to prevent facts about citizens, notably their location in the society's stratification system, from influencing the instructions they give to their representatives (Rawls 1999, 529–564). Consequently, in a Rawlsian perspective, you don't know if you were born a man, or woman, of what color, of what level of wealth, but you do know whether you are part of the US population, or of Haiti's, and will presumably instruct your representatives accordingly.

Charles Beitz, Thomas Pogge, and Linda Bosniak, among others (Bosniak 2000),[2] have criticized Rawls for arbitrarily limiting the original position of liberalism to the "domestic" level; I shall not examine their arguments in detail, nor consider whether Rawls's response is satisfactory or not for a general theory of justice, since that is not my present topic. But I do believe any consideration of our obligations toward refugees must take into consideration the more general context of immigration policy within which they are to be carried out. This is particularly relevant to the issue of refugee settlement or resettlement in the relatively affluent societies of Europe, North America, as well as Australia and Japan.

More immediately relevant, for the present purpose, Joseph H. Carens, in a 1987 article, insisted on applying the "veil of ignorance" concept to a normative evaluation of international migration practices by formulating an argument on behalf of "open borders" (251–273). Carens thereby fundamentally reoriented the normative debate on international migration by positing an ideal world in which borders would not prevent movement. As he explained in subsequent publications, he adopted that position in order to be able to criticize present conditions from a normative perspective, in full awareness that the cosmopolitan stance was not realistic. I agree with Carens that such an exercise is required for a normative discussion of immigration policies and shall, therefore, follow suit.

To begin with, the demographic perspective leaves no doubt as to the importance of migration as a fundamental social process: the outward and inward movement of individuals is one of the constitutive processes of any population entity, be it a local community or a country, the others being birth and death. But the demographic perspective does not help us understand how movement from one country to another differs from all other kinds of movement. Rather, this is a function of the political organization of the world into mutually exclusive territorial spaces, each tagged as all or part of a sovereign state. International migration, therefore, does not constitute "movement" only, but relocation from one sovereignty to another even if it involves the mere crossing of a bridge (as in the notorious case of movement from Ciudad Juarez in Mexico to El Paso, Texas, which I experienced repeatedly while doing military service at Fort Bliss, outside of El Paso; and less colorfully, the commuting process linking Windsor, Ontario, and Detroit, Michigan). The much more numerous temporary entries by travelers into a country, even when they involve the same displacement, do not amount to migration

and are always distinguished from them in official statistics—even if in some cases they turn into unauthorized immigration by way of "overstaying."

Viewed from this angle, international migration is a historically bound political phenomenon, arising from the advent of territorial sovereignty as the dominant form of modern political organization, usually associated with the European-dominant seventeenth century, and in particular, the Treaty of Westphalia. The seventeenth century was still an era of high mortality, and hence slow population growth. Economic production of any sort was labor-intensive, as was international conflict; population was in effect a scarce commodity; hence state rulers were more concerned with keeping their subjects in than with preventing others from entering the realm, unless they did so in the course of an invasion.

Both then and now, international migration differs essentially from the process whereby individuals constantly redistribute themselves across space by moving short or long distances *within* the state under whose authority they fall. The distinctiveness of *international* migration arises not from the nature of the movement, but rather from the change of jurisdiction from one sovereign state to another. If the transfer becomes permanent, it constitutes a deviation from the norm in terms of which the world is politically organized. That norm prevails not only in the popular conception of a "normal" world consisting of countries considered as natural entities but also in the conceptual apparatus of most of the social sciences for both empirical and normative analysis.

In relation to this, Henry Sidgwick identified the distinctiveness of the cosmopolitan perspective in normative discussion nearly a century ago at the time of what we now recognize as a first phase of globalization. I cite him briefly:

> The truth is, that when we consider how far the exercise of this right of exclusion is conducive to the real interest of the state exercising it, or of humanity at large, we come upon the most striking phase of the general conflict between the cosmopolitan and the national ideals of a political organization, which has more than once attracted our notice. (Sidgwick 1919, 309)

Sidgwick himself did not fully endorse the cosmopolitan perspective. He did so with respect to trade, asserting that the economic argument on behalf of free trade "is now generally admitted as decisive,"

and that the cosmopolitan principle should be adhered to, apart from limited military considerations to the contrary (303). As for immigration, he argued that to the extent it involves the movement of labor, immigration is an aspect of trade, to which the same rule would apply. In keeping with this, free immigration "is a recognized feature of the ideal which orthodox political economists have commonly formed of international relations" since in order to fully realize the advantage of freedom of exchange "it is necessary that labor should move with perfect ease from country to country to meet the changes that are continually likely to occur in the industrial demand for it" (303).

However, at this point Sidgwick abruptly rejects the "cosmopolitan point of view" on behalf of the "national ideal." His justification for doing so is grounded in an earlier discussion of membership and his conception of what a later social scientist might term "the prerequisites of a national society." He goes on to suggest that the cosmopolitan position "is perhaps the ideal of the future; but it allows too little for the national and patriotic sentiments which...appear to be at present indispensable for social well-being." Because sentiments of common humanity are not widely shared, "the casual aggregates that might result from perfectly unrestrained immigration would lack internal cohesion." Under these circumstances, "the governmental function of promoting moral and intellectual culture might be rendered hopelessly difficult by the continual inflowing streams of alien immigrants, with diverse moral habits and religious traditions," and "a large intermixture of immigrants brought up under different institutions might inevitably introduce corruption and disorder into a previously well-ordered state" (309). Without entering into details, let us note that Sidgwick's justification for the shift of perspective is very similar to that of Carens's critics.

At the time Sidgwick originally formulated his normative approach to state policy (1891), issues arising from immigration and its consequences were moving to the top of the political agenda in both Europe and North America. Adoption of the national perspective led to the creation of a restrictive international migration regime whose dynamics provide a baseline for understanding the present situation despite significant modification in the post–World War II era. The late nineteenth-century crisis erupted as a result of a concatenation of factors, mostly related to the progress of industrial capitalism. They included, most notably, a transportation revolution, combining the railroad and the iron steamship; the further expansion of the geographical domain of the "great transformation," involving the commercialization of land and labor, to encompass nearly the whole earth by way

of trade and the more active penetration by Europeans and their overseas descendants into Asia, Africa, and South America. Concurrently, demographic growth took off in consequence of the declining death rate—largely attributable to the spread of immunization against major diseases—in regions with hitherto relatively stagnant populations, particularly Eastern and Southern Europe, as well as parts of Asia.

These processes uprooted huge rural populations, subjecting them simultaneously to the necessity of moving to find work in urban centers within their own countries or abroad, and providing them with the capacity to do so. Following the pattern of Western Europe in the first half of the century, they also prompted most governments to reduce barriers against the free exit of their citizens, or even to encourage their departure so as to reduce the burden of welfare, lower social tensions, and obtain foreign exchange. The leading countries' demand for cheap, disposable, and reputedly "docile" labor, such as foreign workers from less developed countries might provide, increased substantially as well, not only in the overseas settlement countries but also within the industrializing Europe itself (Zolberg 1987). However, the supply steadily grew much larger than the demand, leaving the receivers to face a surfeit of newcomers, of whom a substantial number sought to remain in the destination country and relocate their families there. But this was contrary to the interests of the receiving states, which sought to develop measures to prevent such settlement. As I put it in an essay some years ago, workers were "wanted but not welcome" (Zolberg 2006). To go back to Sidgwick, in an economic perspective, workers were wanted as labor, but not welcome as potential members of the society.

Perceptions of immigration as a "problem" were exacerbated by the increasing diversity of the arrivals, which entailed greater "cultural distance" from the receivers, and hence lent credibility to arguments about their unassimilability and the reduction of fertility among the receiving populations, which precipitated fears of population decline and a concomitant swamping of natives by immigrants. Debated within the framework of the then prevailing racialist ideational structures, this reinforced existing prejudices and stimulated a proliferation of xenophobic myths, such as the "Protocol of the Elders of Zion," and Sax Rohmer's Fu Manchu novels. In the overseas countries, including the United States, fears of invasion initially focused on the Chinese, trickling in from an immense reserve of over 400 million, whose apparent willingness to work for low wages and under dreadful conditions was expected to depress conditions for white workers.

While the determination to dam the incoming tide was undoubtedly amplified by anti-Oriental prejudices, the arguments developed to justify restrictions against the Chinese were shortly applied to other groups as well, notably Europeans from the east (including, but by no means only, Jews) and south. Britain and Germany closed their gates early on—with Britain nevertheless ensuring a continuing flow of labor from Ireland that was incorporated willy-nilly into the United Kingdom, while Germany innovated institutionally by recruiting Polish "guest workers," subject to tight controls to prevent their permanent settlement. France, due to its precocious achievement of "Zero population growth," which triggered security as well as economic concerns, was the major European exception and actively encouraged foreign immigration not only of culturally similar neighbors, notably Italians in the South and Belgians in the North, but also East Europeans, notably Poles; consequently, as of 1930, it had the same proportion of foreign-born as the United States.

Well under way on the eve of World War I, the movement to build a wall around the "West" was vastly strengthened by the outbreak of international conflict and revolutionary upheavals, which simultaneously amplified the "push" factors and provided additional reasons of strategic and political security for protecting oneself against the invasion. For example, in the United States the movement to enact a literacy requirement for immigrants, advocated since the 1880s, finally succeeded in 1917 over President Wilson's second veto. As the reliance by nearly all states on mass armies enhanced the importance of cultural integration of the rural and urban masses, homogeneity acquired greater value, and immigrants were assessed in terms of their putative assimilability into the dominant national culture. This in turn further enhanced the instrumental value of racialist frameworks founded on the erroneous theory that culture was inherent in "blood" and well-nigh impossible to alter. Aware of the global situation, decision makers in each of the individual states concerned viewed enhanced border control as necessary because of increased "migration pressure" occasioned by the closing of doors elsewhere. The fear of acting too late triggered anticipatory moves, and thereby unleashed an upward spiral of restriction founded to the extent possible on "remote control," that is, control at the point of departure. Obviously, this was much easier to accomplish when it involved ocean-crossing in a closed container such as a ship. Simultaneously national and international, these dynamics resulted in the emergence of a restrictive international migration régime, with zero immigration as its normative baseline. In effect, the basic question was not "Why Not the Whole World?" but "Why Anyone at all?"

The most visible consequence of this development was a drastic reduction of immigration into the world's affluent countries, and since this constituted a large part of ongoing flows, of international migration more generally. Beyond this, however, adoption of the "zero baseline norm" contributed to the naturalization of nativism, that is, of a cultural construction that views "normal" national societies as essentially self-contained population entities with a common and fairly homogeneous ancestry, perpetuating itself exclusively by natural reproduction. In relation to this, immigration came to be regarded as an essentially pathogenic disturbance. This conception subsequently entered the political culture of many European and European-origin countries.

Another important consequence of the closing of borders was the impossibility for persecuted groups to secure asylum abroad, at a time when the need was escalating because of the proliferation of authoritarian regimes and ethnic conflicts; moreover, the closing of doors legitimized the persecution of target groups as people who were demonstrably undesirable because nobody would accept them (this was later used prominently in Nazi propaganda regarding Jews). The implementation of such a restrictive international movement regime required a vast increase in state power by way of the issuance of reliable identity documents and border-crossing permits (Torpey 1999).[3] In the United States, for example, the imposition of visa requirements for visitors as well as immigrants required a fundamental transformation of consular services from a largely honorific part-time organization staffed by natives of the countries where they were located into a US-staffed bureaucracy trained to police newly imposed US entry requirements.

Nevertheless, most of the affluent countries continued to rely on foreign migrant workers when conditions in specific sectors warranted it, with formal and informal barriers to their settlement. For example, after excluding the Chinese, the United States encouraged the recruitment of workers from Mexico, initially largely self-propelled, and when the United States adopted a highly restrictive immigration regime in the 1920s, it was not applied to the Western Hemisphere, allowing for largely unregulated freedom of movement from Mexico, to supply stoop labor for Texas cotton and California produce farms, and Canada, whose Quebeckers were regarded as "Mexicans of the North" working largely in grain-producing and forest industries of the Northeast. Moreover, the US government supplied the police force required to return these workers to their country of origin when no longer needed at the onset of the Great Depression. Similarly, Britain, while enacting

restrictive immigration policies around the turn of the twentieth century, ensured the availability of a continued supply of labor from Ireland by integrating the island into the United Kingdom.

The restrictive features of the international regime were further reinforced at the outbreak of the Great Depression. Among other things, the United States enforced more strictly than ever the "liable to become a public charge" prohibition of its immigration regulations. This functioned as an additional barrier to the admission of victims of Nazi persecution, already handicapped by the national origin quotas designed to sharply limit immigration from Eastern Europe.

When the United States entered World War II, the federal government departed from the long-established policy against the importation of contract labor (formally prohibited by an 1885 law directed against the trade in Chinese "coolies"), and organized the systematic recruitment of "braceros," a program of temporary contract workers similar to the "guest worker" arrangements developed around the turn of the century in Germany, France, and Switzerland.

POST–WORLD WAR II CHANGES

In the wake of World War II, the international régime was liberalized in two distinct ways. On the one hand, the economic boom induced among the leading countries by the liberalization of trade, of exchanges, and of capital movement, created a vast demand for certain types of labor. Under conditions of relatively slow demographic growth, which facilitated the achievement by indigenous workers of more favorable conditions, foreign workers provided a very convenient solution to the problem of inflationary pressure on wages. Turning initially to neighboring less developed countries—Mexico for the United States; Italy, Greece, and Portugal for the original European Economic Community countries; Caribbean colonials for the United Kingdom—the receivers subsequently expanded the domain of their recruitment farther afield, so that the diversity of the immigrants was broadened as well. Although in many cases formal or informal institutions were established to ensure that they could be disposed of when no longer needed, the comings and goings of these workers produced everywhere a significant residue of settlement. Concurrently, given lasting favorable economic conditions, the overseas "immigration countries" (including the United States) eliminated the egregious discriminatory features from their immigration policies, and raised the annual cap on permanent immigration, allowing for broader family reunion.

At the same time, in response to the tragic consequences of the refusal to provide asylum for the victims of persecution in the inter-war period and during World War II itself, the Western countries undertook to establish a limited international refugee regime. Western motivations for taking in refugees were subsequently enhanced by the onset of the Cold War, when the encouragement of "defection" and the provision of asylum for those who did served as a strategic instrument for demonstrating the superiority of liberal democracy over Communism. In keeping with this, most of the Western countries adopted some sort of asylum policy; however, this was initially restricted to Europeans—including their overseas descendants, notably Latin Americans—and they shunned taking on the obligation of admitting large numbers of refugees for resettlement—except in the case of Germany and Israel, and then only with regard to persons identified as being of their own origin. The United States began by opening a sizeable side-door for displaced persons, so as to avoid their interfering with German recovery but did not accede to the International Refugee Protocol until 1980.

A similar growth of consciousness regarding the morally unacceptable consequences of racial theories brought about their rejection by postwar social scientists and contributed to a more widespread ideological transformation that underlay what was called in the United States "the Civil Rights Revolution." This deprived racially and ethnically based immigration restrictions from legitimacy, resulting in the abandonment by the United States of the notorious ethnic origins quota system in 1965, and similar policy changes in Canada and Australia.

The Current Crisis in Analytic Perspective

The debates immigration provokes are especially contentious because they straddle disparate spheres of concerns and interests, and also involve both domestic and external policy considerations. On the domestic side, immigration can be assessed in terms of two distinct dimensions, neither of which is reducible to the other: on the one hand its impact on the labor market—that is, in the perspective of class; on the other its impact on politics and culture—in Durkheimian terms, in the perspective of societal integration. On the external side, since the regulation of incoming flows concomitantly affects emigration, a state's immigration policy constitutes an element of foreign policy that affects the international migration system as a whole, much as is the case with trade. Although immigration also evokes issues of

security, notably with regard to penetration by potential terrorists, it must be noted that here, the relevant issue is not so much immigration as "alien entries," most of which are temporary, and much more numerous. It is worth noting, for example, that none of the 9/11 perpetrators were immigrants and that despite vastly increased surveillance since then, only a handful of immigrants have been suspected of involvement in terrorism.

Because they involve the two very different dimensions as noted, immigration issues cut across the usual left-right divide, making for strange political bedfellows. Leaving aside outright xenophobes, the debate often entails "a contest of 'right' versus 'right'" (Teitelbaum 1980, 22). Immigration pits free-market advocates who view it as increasing the labor supply, lowering its price, and welcome it as a stimulus to economic growth against others concerned with protecting the job market for indigenous workers, and particularly those who are already the most deprived. It also pits "humanitarians" who believe affluent democracies have a moral obligation to provide asylum for refugees in need against "realists" who contend this obligation cannot be discharged because too many refugees are being produced in the world at large and that a country has the right—and some would argue, even the obligation—to use immigration to better itself by acquiring valuable manpower, notably trained scientists and health providers.

Another confrontation involves "cosmopolitans," who believe borders violate the unity of humanity, against "communitarians" (at root "nationalists") who believe the world's division into distinct national communities is a sine qua non for liberal democracy, and that the viability of these communities would be jeopardized by a very large influx of immigrants, particularly if they are culturally very different from the receivers and hence likely to actively or passively resist integration.

For some the answer is simple: draconian measures are called for to deter the "invaders," especially because by virtue of their origins in the developing world they are so different from Western receivers as to be "unassimilable"; moreover, it is alleged, experience with recent arrivals from those regions indicate that they insist on maintaining their alien ways, thereby sowing the seeds of future ethnic conflict. Most ominously, this type of reaction is fueling a resurgence of right-wing extremism, especially in Europe, where the "invasion" is largely identified as the intrusion of Islam, whereas in the United States the threat is viewed principally as one of "hispanization" (Zolberg and Long 1999).

While the crisis is real and suggests there is need for a worldwide reconsideration of prevailing regimes governing international population movements and the incorporation of newcomers, I believe the resurgence of nativist responses and the enhancement of state controls over persons that they precipitate present more immediate threats to liberal democracy than does immigration itself, including its unauthorized segment. The most pressing danger today is a reenactment of developments triggered by the first global "immigration crisis" outlined above.

The effective elimination of unauthorized immigration would require no less than the transformation of the affluent liberal democracies into police states, protected by a new iron curtain or a Berlin Wall, while further tightening of asylum procedures would jeopardize the very possibility of providing havens for refugees in need. Rigid adherence to the cultural status quo in the face of pressures to include elements from the cultures of recent immigrants constitutes a self-fulfilling prophecy that would render the incorporation of newcomers more problematic. At the international level, the maintenance by the affluent democracies of relatively open borders is a sine qua non for the development of a more liberal world, and is particularly vital for the success of democratizing forces in the Third World and the ex-Communist countries.

The elaboration of a more measured response requires first of all a dispassionate analysis of the "crisis" itself. The disparate migratory flows within and between countries constitute interconnected components of the global system. Shaped by "Those who send, those who go, and those who receive," the overall system "mirrors the world as it is at the time" (Davis 1974, 91). It is molded by broad demographic, economic, political, technological, and cultural conditions in the world at large, including also the policies pursued by the states of origin and potential destination and the regulations they impose on movement across their borders. For example, the populations of Communist-dominated Europe were largely immobilized for several decades.

By virtue of the interconnectedness of all parts of the stream, the actions of individual states are interactive, in that the opening and closing of gates affects flows in the stream as a whole, and particularly the pressure on other gates. For example, an important contributing factor to the present crisis is the generalization of freedom of exit, arising not only from the collapse of Communism, but also from the achievement of independence by colonial populations whose international mobility was hitherto severely limited, a

situation rendered more critical by the emergence of authoritarian regimes in many of them and the resurgence of internal conflicts arising from religious and ethnic diversity. Incidentally, many of the countries currently complaining about immigration pressures contributed to the achievement of "freedom to leave," now broadly recognized as an important human right. Yet, although in a world of self-contained nation-states, it is evident that freedom to leave cannot be exercised without the concomitant availability of some place to enter, the latter has not been acknowledged as a counterpart of the former. Paradoxically, when freedom to leave is denied, those affected and who manage to escape are likely to have a place to go because they qualify as refugees. But once the door opens, this qualification is lost.

Driven by a sense of crisis, issues arising from immigration and its consequences are once again moving to the top of the political agenda in both Europe and North America. Even as some progress is being made in dismantling thermonuclear arsenals, ominous developments intimate that human pressure on the borders of the world's affluent countries will rank as one of the leading problems of international security in the twenty-first century. The pressure is reflected in the formation of very long queues when some attractive country provides an opportunity to apply for admission, and most dramatically in the proliferation of requests for asylum, of unauthorized border crossings, often under very dangerous conditions—by crossing deserts or bodies of ocean in frail vessels—as well as "overstaying" where circumstances allow. Even after discounting for exploitative exaggerations, there is no gainsaying that, because international migration is governed by the profound inequality of worldwide political and economic conditions, the situation is likely to become more acute in the foreseeable future.

Reacting to the energy crisis of the 1970s and the subsequent abrupt end of the postwar boom, many of the European receivers immediately terminated their foreign labor procurement policies, not only imposing a freeze on further recruitment, but also seeking to dispose of foreign workers who were no longer needed. By and large, however, they failed to achieve their objectives, largely because the workers in question were reluctant to return to their countries of origin, where the economic situation also deteriorated and support structures were much weaker. Despite their own lack of political power, foreign workers were able to find allies within the indigenous population, thanks to the surge of "postindustrial humanitarian norms." Faced with the likelihood of a much longer stay than originally anticipated, the

workers also sought to bring in their families; and they once again largely succeeded, in part because the receivers viewed this as a way of ensuring greater social control over immigrant populations, but also because of the emerging norms noted. Concurrently, as prevailing conditions in the countries of origin continued to stimulate departures, the receivers were also faced with mounting numbers of unauthorized entries, facilitated by the presence of substantial immigrant communities in their midst. Finally, as the doors to ordinary transnational movement began to close, an increasing number of potential migrants also availed themselves of established procedures for asylum to gain admission or postpone expulsion.

Thus, paradoxically, rather than decreasing in accordance with stated objectives, immigration continued to grow; temporary workers began to turn into settlers; and these young, fertile settlers produced a sizeable second generation. With the immigration crisis already well under way, the sudden liberalization of exit from the Communist countries and the subsequent collapse of their economies together with explosions of violent ethnic conflict in some of them was the straw that broke the camel's back.

The mounting crisis precipitated disparate attempts to build more effective walls, including further elaboration of "remote control"—that is, the requirement of preembarkation visas—for travelers from countries identified as sources of unwanted immigration, putting a heavier burden on applicants for asylum; and in the American case, an attempt to control unauthorized immigration by imposing unprecedented sanctions on employers of such labor.[4] In Europe, it stimulated international cooperation to police the borders of the European Union more effectively, introducing a basic status distinction between their citizens, who gained freedom of movement, and others. This was usually translated into discriminatory treatment of non-European-appearing persons and others at the EU's internal borders.

But as in the case of the first crisis, contemporary realities generate processes that exceed the capacity of established control mechanisms. Dawning awareness that traditional border controls are not much more effective than the notorious Maginot and Siegfried lines has triggered a panic and propelled "immigration control" into the sphere of "security policy." Yet, from a more realistic perspective, similar to that used for automobile traffic control, it is arguable that the established system functions quite effectively in containing immigration well below the level it might otherwise attain as a consequence of the vastly enlarged global pool of potential international migrants.

In short, we are once again faced with the debate between the optimist and the pessimist. However, some things are very clear. The immigration policies of diverse countries are interactive, and amount in effect to a global international migration regime. This regime's ongoing development contributes to a further accentuation of the division between haves and havenots—those who can move internationally without visas and those who cannot. The imposition of draconian "remote control" measures has also had a deleterious effect on the asylum process.

It is precisely these emerging realities that make the Rawlsian "Original position," and especially the presumption of a "veil of ignorance," vital for thinking about normative issues across different societies, as set forth by Joseph Carens, and as I have attempted in the present chapter.

Components of Choice

To simplify matters somewhat, the following principal policy questions arise for affluent liberal democracies with regard to immigration, including asylum admissions and refugee resettlement:

Level of admission: Although the theoretical level ranges from zero to unlimited, in practice it goes from very close to zero indeed (notably Japan) to a level that is high only in relation to the hypothetical "near-zero" baseline. This can be conceived either in absolute terms, or in relation to population size.

Allocation of priorities: Given that with any sort of limit the number of candidates for admission will exceed the number authorized, some sort of triage must be imposed. On what criteria should this be based? And whose needs and interests should be accorded priority, those of the receivers or of the applicants?

Modalities of incorporation: Although this arises only after immigration takes place, it is inseparable from immigration properly speaking. Theoretical possibilities (as illustrated historically) range from totally segregated status without rights (African slaves) to ready admission into full membership by virtue of admission itself (as in the case of persons recognized as Jews in Israel, or *aussiedler* in postwar West Germany), with various intermediary situations such as high or low naturalization requirements (e.g., Canada's three-year residence requirement versus the United States's five), the application of *jus sanguinis* or *jus soli* to native-born children of immigrants, provision of various rights to foreign residents (social, civil, political, cultural) or their denial.

What sorts of principles should govern the making of these choices? A recent review of leading perspectives, which include "Marxism," "realism," "libertarianism," "liberal egalitarianism"—with a further distinction between "cosmopolitans" and "communitarians"—and "natural law" suggests that the differences that arise among them are largely from the extent to which the perspective ascribes moral legitimacy to existing institutions, especially the state. In keeping with this, "realists" are wont to advocate quite restrictive immigration,[5] whereas "libertarians" are usually found among the most ardent defenders of open boundaries in keeping with a view of human beings as essentially "labor,"[6] "liberal egalitarians"—who constitute the mainstream among political theorists dealing with the subject—usually offer an eclectic compromise between an ethic of rights and consequences; they constitute a family of viewpoints, in which different weights are attributed to various considerations regarding "freedom" and "equality."

Much of the debate within liberalism revolves around different weights attributed to these two basic values, as well as differing interpretations of the consequences of immigration on them. "Communitarians" tend to argue that since it is well established that cultural heterogeneity can be a source of acute political conflict, a democracy might well be justified in restricting the immigration of very large numbers of people who are culturally very different because of the difficulty of integrating them. Such arguments are made not only by the extreme nationalist fringe such as Le Pen in France, or David Duke and Pat Buchanan in the United States, but also eminently respectable traditionalists such as George Kennan and even social-minded liberals such as Michael Walzer.

A very important distinction arises also from the choice of unit of reference; this pits "cosmopolitan" liberals (where I also place myself), who espouse the perspective of a global community founded on the unity of the human species, against "communal" liberals, who espouse the perspective of a particular national community (and take the existence of such communities as a desirable state of affairs and even as a necessity for the realization of liberal regimes). Although both are led to make compromises, the "cosmopolitans " in effect place the burden of proof on those who would limit immigration, whereas the "communitarians" place it on candidates for entry and their supporters.

Conclusion

In conclusion, I shall present a brief on behalf of the "cosmopolitan" strain of "liberal egalitarianism," tempered by a realistic analysis of contemporary trends such as has been sketched here. A consideration

of choices to be made might start from the hypothesis of a world without borders, as Joseph Carens set forth in his seminal 1987 article referred to earlier. Granted—as Carens himself has done in later publications—that this is unrealistic as a guide for policy. Nevertheless, the choice of starting point itself makes considerable difference. If we adopt a "realistic" position and start with the status quo of a world divided into mutually exclusive national communities that are markedly unequal in many respects, the fundamental question might be, why should any of these communities—and especially the most privileged ones—admit any strangers. But if we start instead with a theoretical world that has no borders, we are led to ask the more radical question, what gives a group the right to exclude others? This was precisely Melville's question as well. Bruce Ackerman has posed this in terms of a situation involving an explorer landing on a desert island and then refusing access to someone who comes later. If we are to any degree "consequentialists" (as everyone engaging in moral analysis is necessarily to some degree), then we are led to ask: What difference do borders make? What is their function?

The answer is twofold. To begin with, under prevailing conditions, borders are a sine qua non for maintaining affluence and privilege. Brian Barry, for example, has argued that under conditions of free movement, conditions among the affluent countries would quickly decline to the level of the less developed ones. And this would be the case not only with regard to economic conditions, but also political ones. Second, borders are necessary to establish and preserve distinct communities, notably self-governing democracies.[7] As I have demonstrated, once borders are established, international migration entails not merely physical relocation, but a transfer from one political community to another—from one perspective, a change of jurisdiction, from another, a change of membership.

One starting point for my approach is the observation that the liberal world order is founded on a striking asymmetry. While the Universal Declaration of Human Rights states that "everyone has the right to leave any country, including his own," there is no concomitant principle to the effect that everyone has the right to enter any country, or even some country. On the contrary, there is a universal and unambiguous consensus on the very opposite principle, namely, that every country has the right to restrict the entry of foreigners—modified only to the extent as adhered to the Refugee Convention—in which case it is obligated to consider the case, but not necessarily to grant admission. And while the international community has belatedly come to object to the exercise of exclusive nationalism when it

provokes the exclusion of minorities, it voices little disapproval in the face of "preventive exclusion," that is, the run-of-the-mill exercise by national communities of their power to exclude nonnationals.

Brian Barry has argued that there is no good reason why emigration and immigration policies should be symmetrical, given that this is the generic characteristic of associations, whereby people are free to leave but not to join. Accordingly, there is a presumption in favor of asymmetry rather than symmetry (Barry 1992, 284). But this reasoning, which parallels Michael Walzer's, is based on a faulty analogy. Membership in a comprehensive political community is different from membership in an association, because the latter is not a sine qua non for existence. If one is excluded from an association, it is usually possible to join another, or even to found a more welcoming one with others who are excluded (as was done, for example, by American Jews who wished to become Masons in the first half of the nineteenth century). But it is possible to make a case for restraining the power to exclude from a country, grounded in the necessity for liberalism to adapt to the inexorable globalization we are undergoing, by developing a more explicitly "cosmopolitan" orientation. Such questioning of national sovereignty is in keeping with our dawning awareness of the interdependence of all the segments of the human species, arising from the global nature of the thermonuclear threat and of environmental degradation that occasions global warming.

From a cosmopolitan liberal perspective, unwanted immigrants are not "invaders," but rather people voting with their feet in support of the "Melville principle," founded on rights arising from membership in a common and unique species. Concomitantly, the burden of justification must be borne not by those who seek admission in some country, but rather by those who would exclude them. The appropriate question, therefore, remains not "Whom Shall We Admit?" but "Why Not the Whole World?"

The obvious answer is that under present conditions of global inequality, in the absence of border controls, the world's affluent and relatively affluent countries would be quickly overwhelmed by truly massive flows of international migrants in search of work and safety. Although this is a counterfactual, there can be little doubt of its very high degree of plausibility, as indicated by the long lines that form wherever a possibility of legal admission exists, as well as the proliferation of surreptitious entries. The likelihood that in the absence of borders a major redistribution of the world's population would take place is suggested also by theoretical models of migration founded on current and prospective income differentials, to which one must

add political conditions as an additional major source of emigration "push" (Zolberg, Suhrke, and Aguayo 1989, 227–258).

Considered more generally, the Melville principle suggests that the strict confinement of individuals to membership in the states under whose jurisdiction they happened to be born negates their being as members of a common species and concomitantly imbues the states in question with an aura of "naturalness" that obfuscates their reality as historical constructs. Descended from common ancestors, in the course of their history, which we are only beginning to understand, humans scattered over the face of the earth by way of untold migrations; and throughout this history, they also constantly organized and reorganized themselves into bounded communities. But what gives the generations alive today a warrant to regard the present configuration that has resulted from these two processes in our own time as the definitive outcome of history? As empires gave way to "national" states (some visibly "multinational") in the course of the twentieth century, the resulting reorganization also tended to be regarded as definitive; but we now know that this freezing of history proved illusory as a variety of "national" groups emerged to press claims on behalf of a distinct state of their own. In the same vein, a freezing of the current distribution of political membership by way of prohibitively restrictive immigration policies is contrary to the constitutive principles of a liberal world order because it would in effect confine individuals alive today as well as the generations to come to the jurisdiction of their states of origin, thereby vastly enhancing the power of the latter. While there is room for debate about the details, there is no gainsaying that population movements into the affluent countries would be extremely large to the point of jeopardizing regime maintenance. And there is no normative requirement for liberal regimes to adopt policies that would genuinely jeopardize their survival.

This prospect imposes a major constraint on the application of the "Melville principle" Upon reflection, it is evident that Melville's generous stance was implicitly predicated on the knowledge that Ireland contained but some 6.5 million people, and that there were just so many sailing ships available at any given time to bring the Irish to the United States, which had many areas still hardly settled by white people (Melville's generous cosmopolitanism obviously did not extend to Native Americans). In effect, from the perspective of the American side of the Atlantic, prevailing conditions in the world at large kept the mid-nineteenth-century immigration crisis within bounds, even in the absence of restrictive action. But as we have seen, the situation changed dramatically in the final third of the nineteenth century, and continued to evolve in the same direction throughout the twentieth.

What are we to do today, in a world that consists of numerous Irelands and in which there is in effect an unlimited number of ships? Although there are no simple answers, the perspective of "cosmopolitan liberalism" does provide an ethically valid and practical guiding principle. Recognizing that unlimited immigration would jeopardize the material welfare of the receivers, without enhancing that of the newcomers, and that it would also jeopardize democratic self-government, we can nevertheless insist that those who would restrict immigration assume the burden of proof regarding the probable nefarious consequences of various levels.

Since a limit will be imposed, selection will necessarily be brought into operation. Hence, in practice, the most important ethical questions pertain to the criteria for selection. Triage involves positive and negative rules: some categories of persons will be excluded altogether, others assigned various priorities in the queue. In keeping with liberal norms, grounds for exclusion must be limited to those validly invoked to disqualify persons within the state from the exercise of citizenship rights, temporarily or permanently. In practice, this means properly tried and sentenced felons—which happens to be the oldest ground for exclusion in American immigration practice. A second traditional category, mental incompetents, is already more problematic, as standards for such assessments have evolved considerably. This would still leave an enormous pool of eligible people.

On the positive priority side, neither the cosmopolitan nor communitarian versions of liberalism provide a warrant for basing an affluent liberal state's immigration policy on "acquisitive" principles. Hence, an ethical policy would have to significantly reduce present priorities attributed to immigrants with rare and valuable skills. Incidentally, this should be considered in relation to the normative obligation to improve the education and opportunities of the less well-off among the indigenous population. In practice, the most difficult choice will be that between relatives and refugees. Walzer and Dworkin have emphasized obligations to family, including extended ethnic kin. But if priority were attributed to kin, there would be little room for anyone else. Hence, family must be defined narrowly and totals kept within bounds to allow for the admission of those in greatest need, that is, refugees.

There is fairly widespread agreement in the present international regime that priority must be attributed to political refugees ahead of the economically desperate. This is founded on two justifications: the priority attributed to freedom (Carens) and the impossibility of exporting relief to them (Walzer); but there is considerable disagreement on who is a refugee. Foreign policy grounds—as was practiced

during the Cold War—of themselves are not justified. And it must be acknowledged that the United Nations Protocol leaves something to be desired, as persecution assumes a nefarious agent, usually the state. This was clearly based on the European experience and quite realistic in relation to that. But it must be recognized that many people in the South today are victims of violence—under conditions where the state is unable or unwilling to provide minimal protection. Such victims also meet the Walzerian criterion of not capable of being helped in situ. Clearly, they should also be considered refugees.

Moreover, the category should be expanded to include victims of economic deprivation, where this is attributable to state policies gravely inconsistent with liberal principles of justice, notably conditions of grave inequality of land or wages, maintained by force. This would be applicable retroactively to nineteenth-century Irish Catholics, whose starvation was not attributable solely to the potato plight, but to Whig policies imposed on the island after 1690.

NOTES

1. The position is analyzed by Michael Blake in the entry on "International Justice," published in the *Stanford Encyclopedia of Philosophy*.
2. Bosniak cites in support Martha Nussbaum, who in 1994 proclaimed herself "citizen of the world," prompting reactions to the effect that the concept of world citizenship is incoherent in the absence of formal governing institutions and that such a regime would be a tyrannical nightmare (as argued by Hannah Arendt in *Men in Dark Times*).
3. Although Torpey traces the passport to the Napoleonic wars, its use was vastly expanded in the course of the elaboration of the international migration regime under consideration here.
4. The Immigration and Reform Control Act of 1986, commonly referred to as "Simpson-Mazolli," was the result of several years of bi-party negotiation in the light of congressionally mandated reports; one of its main features was the opportunity for millions of illegal entrants, largely Mexican, to gain legal permanent residence.
5. A leading ideological architect who sought to legitimize opposition to immigration in the name of American nationality as essentially European was the late Samuel Huntington, whose position was stated in *Who Are We: The Challenges to America's National Identity*.
6. A serious statement of opposition to immigration on economic grounds is presented by George J. Borjas in *Friends and Strangers: The Impact of Immigrants on the U.S. Economy*.
7. This is the foundation of communitarian liberalism, best illustrated by Michael Walzer.

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Conclusion

Kavita R. Khory

Migration and security, when negatively linked in the public imagination, signify a particularly corrosive form of exclusionary politics demonizing racial and ethnic groups, citizens and noncitizens alike. Economic crises and severe income inequality, needless to say, deepen anxieties and fears about one's material conditions. As the "Occupy Wall Street" protests in 2011 demonstrate, economic insecurity serves as a powerful catalyst for political action. But how and why economic insecurity crystalizes into attacks on immigrants in Europe and elsewhere is a core question for scholars of migration politics, one that calls for precisely the kind of multidisciplinary study of history, politics, and social stratification that distinguishes the work of our contributors.

By carefully analyzing historical contexts and political conditions, we can better understand the motives of political elites for selecting security frames over others when shaping public attitudes toward migrants and immigration policy. Among the consequences—sometimes unintended—of linking security with migration, four are worth noting. First, political elites may have sound reasons for believing that some forms of migration can lead to severe demographic and resource pressures, but treating immigrants as threats to a majority population's culture and economic well-being exposes vulnerable groups to discrimination in all areas of public policy and, in extreme cases, even violence. Second, by claiming that immigrants jeopardize state and societal security, cynical politicians may succeed in garnering public support for short-term gains. But such incendiary claims alienate immigrant populations, even those who may not be directly targeted, and more importantly, trivialize genuine demographic, economic, and political challenges that immigration can pose for states, especially in cases where large numbers of refugees or asylum seekers are involved.

Third, by citing Muslim communities' "failure to integrate" into European societies as a major cause of terrorism, politicians

and government officials in Britain, France, and Germany push immigrant groups toward self-segregation, leaving behind disaffected citizens and increasing the likelihood of violence and militancy within immigrant communities. When perceived through a national security lens, integration assumes a deeply coercive form that ultimately threatens the liberal democratic order championed by European leaders. As Aristide Zolberg argues in his chapter, "the resurgence of nativist responses and the enhancement of state controls over persons that they precipitate, present more immediate threats to liberal democracies than does immigration itself, including its unauthorized segment." And, finally, not only are the rights of immigrants severely curtailed, but the rights of citizens, too, are at risk when national security sets the parameters of immigration and integration policies. As Britain and Germany have learned, fusing counterterrorism tactics with immigration policy does not prevent "homegrown" terrorism or violence perpetrated by citizens.

Public officials and politicians in Western democracies are by no means the only ones to frame migration policy in security terms. As Gregory White points out, governments in the developing world, too, raise the specter of security to advance a particular political agenda—for example, India's claim that "climate-refugees" crossing over from Bangladesh could threaten its security. While Bangladesh's environmental challenges are genuine and Indian anxieties about cross-border population movements legitimate, India's principal aim at the time was to obtain US and NATO support for building a high-tech fence covering 2,100 miles of its border with Bangladesh.

Applying a security framework to a complex issue such as climate-induced migration has major policy implications. When government officials in the United States and elsewhere view migration principally as a challenge to territorial sovereignty and a problem of border security, tougher law enforcement and sophisticated technologies, such as those employed in biometric screening, become the preferred policy and tools for controlling and limiting human mobility across national boundaries. But relying heavily on enforcement and technology in lieu of comprehensive policy reforms comes at a price; governments lose sight of the human dimensions of migration, especially at the individual level, where immigrant families suffer the most from discriminatory visa regimes, stringent citizenship requirements, and punitive measures such as deportation. A narrow focus on migration as a security issue,

moreover, limits policy options and raises unrealistic expectations among constituents looking for quick fixes to a policy dilemma with wide-ranging economic, social, and political ramifications.

The framing of migration as a security threat preceded the attacks of 9/11. But the events of 9/11 and terrorist threats, more generally, have been invoked repeatedly to justify tougher law enforcement measures and the creation of mammoth bureaucracies like the US Department of Homeland Security, which absorbed the functions of the Immigration and Naturalization Service.

For the reasons Daniel Tichenor outlines in his chapter, a consensus on the benefits and costs of various facets of US immigration—including the most pressing issue of setting standards for 11 million undocumented immigrants to gain legal status—remains elusive. Immigration policy, we know, is forged out of a series of compromises among diverse constituencies across the political spectrum. But reconciling conflicting interests, such as those of small-business owners and farmers seeking temporary and low-wage labor with those favoring highly restrictive immigration policies, proves to be much harder in the midst of a global economic crisis and acute income inequality in the United States and other industrialized countries. The exploitation of immigrant workers, especially undocumented, rarely registers in the public's consciousness. Meanwhile, immigrants, regardless of the facts, are accused of depressing wages and stealing jobs from native-born citizens.

Formulating a just and humane immigration policy is further complicated by the fact that any change in immigration laws is likely to impact other areas of public policy, including labor, welfare, education, and healthcare. As a result, proposals for immigration reform often become entangled in legislative battles at the federal and state level involving public and private sectors of the economy, educational institutions, and the healthcare industry—all represented by powerful interest groups and lobbyists. As President Obama's efforts to enact federal immigration reform stalled, the administration took incremental steps toward addressing some of the more egregious flaws in its own immigration policy, for example, by calling for a review of procedures for deporting undocumented immigrants. In addition, the administration in January 2012 announced measures for streamlining visa procedures that would reduce the prolonged separation of American citizens from their undocumented spouses and children, who in order to attain legal status in the United States must first return to their country of origin.

Reconciling the disparate interests of regional and international actors, recipient and sending countries is even more challenging than forming a consensus on immigration at the national level. Despite efforts by international organizations to promote comprehensive approaches to global migration and better coordinate policy, the prospects for a robust multilateral regime appear somewhat dim at this time. Developing appropriate regional and international norms, institutions, and enforcement mechanisms is exceedingly difficult without a common set of principles for governing migration. Unlike other areas of international politics—trade, monetary policy, human rights, and refugee protection—global migration does not fall under the purview of major international institutions such as the World Trade Organization and the International Monetary Fund, nor is migration the sole responsibility of a set of organizations dedicated to promoting fair and equitable rules and legal standards for migrants as well as countries of origin, transit, and destination. In order to address this institutional gap, the UN in 2006 set up the Global Migration Group (GMG), an interagency group of 16 agencies and the International Organization for Migration to study and implement norms and mechanisms for protecting migrant workers' rights, combatting human trafficking, and developing strategies for maximizing human capital. The GMG's mandate, though ambitious, is limited for now to policy-relevant research, monitoring various initiatives for advancing migrant rights, and serving as a forum for discussion among governmental agencies and civil society organizations.

The Schengen Agreement, which eliminated internal borders between EU member states, serves as an example of a regional model for coordinating immigration policies and border control. But even this model is under tremendous political and economic pressure within Europe and from external forces. Refugees and asylum seekers, fleeing political upheaval from Tunisia, Libya, and Egypt, exposed deepening rifts and resurgent nationalism among Europeans already reeling in the spring of 2011 from the sovereign debt crisis. Refugees from Europe's Mediterranean and North African neighbors did not precipitate intra-EU tensions, but the arrival of refugees on the shores of Southern European countries such as Italy intensified conflicts over economic stabilization and fiscal policy, put additional pressure on EU institutions and budget-strapped agencies, and convinced member states to reject collective burden-sharing in favor of defending their own interests and territorial boundaries.

Whereas nation-states have traditionally protected and defended their sovereign territory, the function of securing and policing the

external boundaries of the EU, specifically against immigrants, is now being partially transferred from the physical territory of the EU itself to third-party transit countries. In return for aid and, in some cases, temporary work visas for their citizens, developing countries on Europe's periphery and beyond—Libya, Senegal, and Egypt, among others—agree to carry out stringent monitoring of their borders and assert stronger control over migration routes leading to the EU. Though such arrangements seem reasonable in light of the EU's concerns with porous boundaries and the free movement of immigrants once they enter the Schengen zone, these types of bilateral and multilateral agreements do raise serious questions about the safety, security, and rights of immigrants in countries outside of EU jurisdiction, such as Libya, which received funding from Italy in 2004–2005 for setting up new detention centers, and signed an agreement in 2009 with Italy for joint naval patrols to control the flow of immigrants to Italy. The practice of setting up detention centers for asylum seekers, refugees, and undocumented immigrants in other countries, though controversial, is not confined to EU states. Australia, for instance, concluded an agreement with Malaysia in May 2011, allowing the government to transfer a number of asylum seekers to Malaysia, which has not signed the UN Refugee Convention.

Migration trends and policies in many respects are challenging long-standing conceptions of sovereignty, security, and citizenship. By contracting out the responsibility for securing territorial boundaries, European countries themselves are transforming traditional models of state security and sovereignty, with profound implications for international norms and laws, especially those governing refugees and human rights. Meanwhile, nonstate actors are contesting prevailing conceptions of citizenship and its rights and responsibilities.

As Shahrukh Khan asserts, diasporas with their growing economic power, political and kinship networks, and connections to emerging economies have become powerful nonstate actors in global politics. While diasporas historically have been both celebrated and vilified for participating in "long-distance nationalism," scholars and policymakers imperfectly understand their evolving power and precise impact on contemporary politics and the foreign policies of home and host states. Incorporating immigrants into the economy and politics of destination countries, Caroline Brettell points out, is a multifaceted process, with enormous implications for individuals and diasporas working and living in a globalized economy, as well as the states and transnational communities that they inhabit.

Though the appeal of exclusive forms of national and political identities—often targeting racial and ethnic minorities—shows few signs of diminishing, multiple linguistic, social, and cultural identities have become the norm today. Whereas the idea of diverse, contextualized identities is not a new one, the "networked" reality of an immigrant's sense of identity today is far more fluid than ever before. The desire to "belong" to more than one territorial entity increasingly challenges outmoded forms of citizenship. With global mobility and access to sophisticated communications technology—for example, Webcams, and mobile phones that serve as ATM machines—growing numbers of immigrants want to invest in their countries of origin, share their ideas and skills, and actively shape policies by participating in local and national politics across territorial boundaries.

Because commercial investments, political office, and voting rights in many countries are privileges enjoyed only by the citizens of a state, demands for dual citizenship, residency permits, and long-term visas have become more common, and are likely to grow even more in a global economy where developing countries rely heavily on remittances and diaspora knowledge and skills. Governments of various developing and advanced industrial countries have responded to requests for lowering barriers to legal entry and residency with varying degrees of enthusiasm and trepidation. But as states, especially in the developing world, intensify efforts to attract diaspora investments and solicit the support of influential diaspora lobbies in foreign countries, governments, out of necessity and self-interest, may have to be more open to the idea of expanding the criteria and means for acquiring citizenship rights and privileges, without expecting individuals to swear lifelong allegiance to a single state.

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