

By Roger Waldinger

IMMIGRATION REFORM

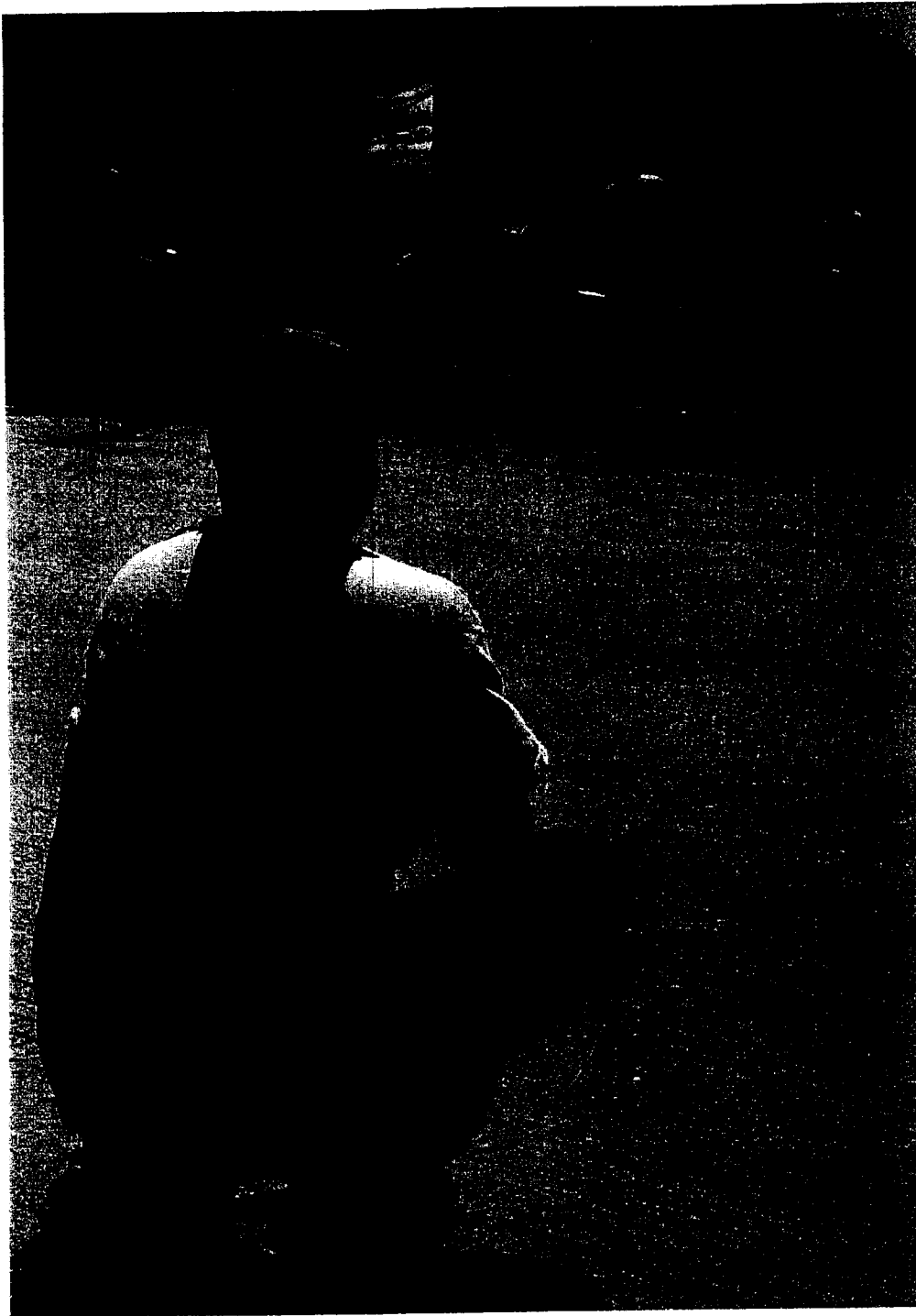
Too Hot to Handle

IMMIGRATION LIES AT THE HEART OF THE AMERICAN EXPERIENCE. BUT A HISTORY OF more than 200 years of immigration has not yet imparted the understanding needed to implement an immigration system that most Americans would deem wise. On the contrary, the system seems broken, frustrating both the new and would-be Americans, while yielding substantial social costs and tensions from the Mexican to the Canadian border, and just about everywhere in between.

Though the problems are complex, there is one over-riding single ill: greatly intensified efforts at border enforcement have largely had perverse effects. Immigrants continue to enter or work in the United States without authorization, but do so under increasingly difficult conditions. Tragedy at the U.S.-Mexico border is a daily occurrence—undocumented migrants who get across are forced into growing dependence on unscrupulous smugglers, whose interactions with U.S. residents living and working along the border are ever more contentious. While the build-up of dollars and personnel for en-

forcement has done nothing to calm the anxieties of border state residents, the undocumented population has risen to unprecedented levels, with 11 million undocumented immigrants now living in the United States. Moreover, the inflow of undocumented immigrants currently exceeds the influx of those who arrive through legal channels.

These are the developments that have made immigration reform a matter of urgency in the halls of Congress. The politics are complex and the disagreements intense. For over a century, the political fissures generated by immigration



REUTERS/Fred Greaves

Armed Minuteman Project volunteer Chad Henely watches as other Minutemen volunteers and Mexican demonstrators talk over the US/Mexico Border fence in Jacumba, California, 80 miles east of San Diego, October 8, 2005.

have taken a distinctive form, yielding “strange bedfellow” alliances that span common political divisions. As described by political scientist, Aristide Zolberg, commitments to expansion or restriction fall out along the two dimensions of identity, on the one hand, and interest, on the other. Identity motivates both nativists and nationalists, who want to exclude foreigners, and likewise immigrants and their descendants, who find affinity with the people that the nativists see as aliens and want to keep America a welcoming place for newcomers. By contrast, interests impel employers, on the lookout for foreign labor more skilled or more tractable than what can be found available locally. The very same factor has historically galvanized workers here at home who have often viewed themselves as competing with newcomers for jobs. Consequently, left and right have often combined, immigrant advocates allying with capitalists, big city workers and their unions coalescing with small town xenophobes.

Not only are the combinations unholy, they are not necessarily stable, since disagreements on the twin issues of rights and admissions threaten to drive partners apart or create divisions among parties previously able to coalesce, as Daniel Tichenor has explained. Free market expansionists and cosmopolitans (ethnic or otherwise) can cooperate, for example, when the question involves opening the doors *into* the United States. But they are likely to squabble when the debate turns to measures that could help or hinder the newcomers *after* arrival *in* the promised land. In theory, admissions and rights *can* be separated, but in practice, successful surgery proves hard. A temporary worker program is particularly appealing to free market expansionists, eager to move skilled workers around the world with greater ease

while importing low-skilled labor at bargain rates. To be sure, exchanging today’s *de facto* temporary worker program (furnished via the recruitment of illegal immigrants) for a *de jure* guest worker program will probably alleviate the plight of some, if not many, undocumented immigrants. However, the net benefit to the immigrants will largely depend on the options for easy movement to better jobs—most important for the immigrants yet to come—as well as the possibilities for a predictable shift from illegal to legal status—most important for the undocumented workers already here.

Just how these underlying differences will get played out is not yet clear. When faced with a similar dilemma twenty years ago, Congress fashioned legislation that satisfied both sets of odd couples—or at least, so it seemed at the time. The Immigration Reform and Control Act (IRCA) prohibited the employment of undocumented immigrants, a goal long championed by organized labor (and also sought by nativists worried about the “Hispanicization” of the United States). But IRCA also yielded benefits valued by expansionists, providing an amnesty for illegal immigrants who arrived prior to 1982, to which it added a special amnesty for illegal immigrants employed in agriculture and who arrived six months prior to the bill’s enactment. In the end, IRCA did more for the expansionist than the restrictionist part of the odd couple, in part because the amnesty for agricultural workers led to a far larger legalization than anyone anticipated. Employer sanctions also proved toothless: the needed funding was never supplied; employer resistance to meaningful enforcement predictably overwhelmed occasional efforts to apply the law; and as Congress could not agree on a nationwide, tamper-proof identification card,

employers could comply with the law by asking for identification without checking that cards were authentic—which meant a boon for counterfeiters, but no bar to undocumented workers.

More crucial were the long-term consequences, which unfolded in complex, unanticipated, and contradictory ways. Amnesty altered first the demography, and then the politics of immigration. Once legalized, the former undocumented immigrants could then bring their spouses and children to the United States as permanent residents, an option that millions pursued. By the mid-1990s, moreover, the amnestied, former undocumented immigrants gained eligibility for citizenship. Up until then, Mexican immigrants (the lion's share among the amnestied) had been generally slow to naturalize, for reasons of taste, geography, and convenience. Given Mexico's proximity to the United States and a history of circular migration, persistent ties to the homeland diminished the impetus to commit to the United States. But then the pendulum swung back to the restrictionist side: California's voters first passed Proposition 187 in 1994; two years later, Congress enacted legislation that widened the divide between citizens and legally resident noncitizens, restricting access to a large number of public benefits to citizens alone. At that point, the new immigrants concluded that only a deeper stake in American society would protect them. Naturalizations then spiked, as did voter registrations.

The burgeoning of America's immigrant population generated new interests in immigration that didn't previously exist. For example, California's Republicans sacrificed long-term

prospects of an electoral majority on the altar of Proposition 187—a disaster from which they have yet to recover. The same factor has also pushed labor to significantly change its line and, to some extent, its position in the political line-

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up. In the early 1980s, when the immigrant presence varied sharply from one sector to another, only the affected unions—like the late Ladies' Garment Workers' Union (now absorbed in and reincarnated as UNITE HERE)—embraced expansion. But with immigrant density throughout the unionizable workforce now at turn of the 20th century levels, labor has embraced immigrant rights—though accepting expanded guest worker programs is too difficult a pill for all unions to swallow. Business interests, both big and little, are as concerned as ever with easy access to immigrant labor; however, America's burgeoning undocumented population has also opened up a new market, to which business would much rather sell than have expelled.

Consequently, today's expansionist odd-

bedfellow coalition takes a distinctive form, one odder and very different from a similar coalition that emerged two decades ago. Case in point is the National Immigration Forum, whose board brings together representatives of the International Franchise Association and the National Association of Manufacturers along with the secretary-treasurer of UNITE HERE and an executive of La Raza—all of whom have moved to support the reforms drafted by Senators John McCain and Edward Kennedy. McCain-Kennedy hits many of the right notes wanted by the coalition's various parties: offering the guest worker (with up to 400,000 visas at the time of inception) and high-skilled migration programs cherished by employers, it also yields dividends to cosmopolitan expansionists, most notably gradual legalization for the current crop of undocumented workers, as well as greatly expanded opportunities for family migration.

The proposed legislation offers ample evidence of the political compromises these unstable alliances entail. The route to legalization will be slow, entailing a six-year period of transition to permanent resident status, and a program funded by user fees—that is to say, payments made by the former undocumented themselves. The bill also promises to create a new, supposedly tamper-proof, work eligibility system, with its first application targeted at the new guest workers, followed by eventual extension to all workers. Although the close relatives of U.S. citizens will find the bill's provisions for legal immigration to be a boon—with a disproportionately positive impact likely to be felt in countries like Mexico or the Philippines, where there is a long backlog of prospective immigrants waiting their turn—so too

will employers, as the slots available for legal immigrants recruited for jobs that are short on labor are slated to grow. Last, the capacity of the guest worker program to absorb the undocumented flow, while providing both basic labor protections *and* keeping the population circulating in and out of the United States is open to doubt. It is certainly possible that the experts, who have long insisted that “there is nothing as permanent as a temporary labor program,” will be proved wrong. However, only time will tell whether the guest workers will go home as planned or will instead decide to drop out of the program and to stay on in an unauthorized status. In the meantime, there will have been a large, additional infusion of low-skilled labor—a group that would not seem to otherwise merit expansion, were it not for the interests of restaurant operators or agribusinesses keen to get new labor on the cheap. While the program will allow for portability, giving guest workers the crucial ability to change jobs, programs like these inevitably tip the scales in the employers' direction.

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A coalition of this sort is easily prone to fracture, with employers the most likely object of affection of suitors seeking to push policy in a different direction. The chief alternative involves some form of the usual Republican marriage of social conservatism with free market economics: in this case, stepped up enforcement

at the border, linked to a guest worker program, but without opportunities for passage from undocumented to permanent, legal residence status. As of now, the expansionist coalition behind McCain-Kennedy seems to be holding together. While wanting more immigrants, business also likes the undocumented immigrants it currently employs, and indeed wants to see their status regularized and stability enhanced—which is why a guest worker program of the pure and simple sort lacks appeal. That McCain-Kennedy will also facilitate employment-based migration of legal permanent residents—an option most attractive to the high skilled, foreign workers that every advanced country now wants—provides further incentive for organized business to stick with its liberal bedfellows.

Meanwhile, the social conservatives have proven dead-set against expansion of any sort, including an employer-friendly guest worker program, let alone the more ambitious liberal plan, along the lines of McCain-Kennedy. Immigration is a live wire issue on the right, and for reasons that go beyond xenophobia. Its roots, rather, extend to the failure of the last round of immigration reform and the inherent contradictions of the immigration policies pursued ever since. IRCA promised to curb the flow of undocumented immigrants, but for all practical purposes, it did nothing of the sort. With little in the way of workplace enforcement, and an erosion of more general efforts to monitor and control labor standards in the low-wage sector, the networks connecting employers to new immigrant workers took over, yielding undocumented inflows that steadily rose. The policy's failure was plain for all to see, provid-

ing an opening to social conservatives and political entrepreneurs eager to exploit a public that had never reconciled itself to growing immigrant numbers.

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Thus, the policy response to policy failure has produced the worst of all possible worlds. Seeking to demonstrate that it was attacking the issue, government has simply shown that the problem is beyond its control. Though paying little attention to what scholars say, it does appear that many men and women in the street have ended up seeing things in much the same way. Unhappy with “border games” that only yield “smoke and mirrors” —to cite the titles of two, well-received academic studies—there is now a good-sized constituency for proposals to do something more drastic, which is why entrepreneurial social conservatives are looking at immigration as the ground to re-ignite their base.

BETWEEN A ROCK AND A HARD PLACE?

FOR THE BUSH ADMINISTRATION THIS DOES NOT spell good news, as it may find itself squeezed—eager to appease its socially conservative base, not to speak of quieting the anxieties of Anglo voters in the border states, but

not able to do so without losing support of business, let alone today's (and tomorrow's) Latino electorate. Is it possible that the party that has thrived on wedge politics will now find that the same weapon comes back to hurt it?

Political prognostication is inherently difficult, perhaps more complicated in this case than in others. The politics of immigration policy depend on an inert public, largely disengaged from the issue. When asked, the public has consistently opposed expanding immigrant numbers, a pattern no less true today than it was fifty years ago. The most recent Gallup poll, for example, shows that the majority of Americans want immigration levels reduced, as opposed to the small minority (15 percent) that favors increasing immigrant numbers. As I will explain at greater length below, the same pattern applies to virtually every demographic group, and cuts across the political spectrum, with considerable support not just for restriction, but for quite coercive efforts to constrain the flow.

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If the public leans toward restriction, immigration nonetheless ranks low in its list of priorities. As noted by a recent poll of likely

voters commissioned by the National Immigration Forum, just a handful of Americans—barely 5 percent—rank immigration as a matter of key concern. Persons with a more direct connection to the immigrant experience tend to see it as a policy issue of some importance, but even they don't necessarily view it as a leading concern. When it asked respondents to identify the two most important issues facing the country, the Pew Hispanic Center's 2002 Survey of Latinos found that only a fifth of noncitizen, foreign-born Latino immigrants put immigration on their list of priorities, with percentages steadily declining as one went from Latino foreign-born citizens and then to U.S.-born Latinos, and then to native-born blacks and whites.

Issues low in salience today can be high tomorrow, especially if the politics move from backstage to frontstage, with Congressional hearings providing visibility, and political entrepreneurs eagerly trying to find a way to tap into the public's unease, if not downright discontent. Under these circumstances, public opinion may block the route to expansion, as it is an option with no public support, immigrants and interest groups aside.

Results from a well-publicized survey conducted for National Public Radio in 2004 show that the public is committed to restriction. It also wants government to continue on course, tightening up the border, but doing so with even greater intensity. For much of the public, the boat is already full: a plurality of respondents thought that the United States has too many immigrants, a pattern no less true for black and white natives than for Latino immigrants. Although McCain-Kennedy prom-

ises to substantially increase legal immigration, this was an option with virtually no public support, except among immigrants, of whom only a minority of the respondents voted. While researchers insist that toughening up on immigration yields perverse consequences, making matters worse not better, the public polled by NPR seemed not to have noticed. Well over two-thirds of U.S.-born whites and blacks thought that the government is “not tough enough” on immigration—a view with which only Latino immigrants were likely to disagree. Answers about enforcement policy reflected the same type of thinking. Majorities among both white and black natives thought that government needed to spend more money to prevent illegal immigrants from entering the United States—a view supported by over 40 percent of the non-Latino, foreign-born respondents. In general, African-Americans—the most reliably progressive group—outdid whites in their commitment to restriction.

The survey also sent a message to politicians concerned about electoral consequences. Among natives, voters were the group most committed to sealing the borders: as compared to respondents who did not vote in the previous presidential election, voters were more likely to advocate tougher enforcement and more spending for enforcement, both in general and at the U.S.-Mexico border. While neither party got high marks for its ability to deal with immigration, distaste for immigration and support for restriction cut across the parties, with Republicans and Democrats among the native-born sharing very similar views. Nor did respondents respond positively, when asked about President Bush’s plan to convert illegal immigrants into guest workers: most U.S.-born black and white respondents opposed the idea.

By contrast, almost half of the foreign-born Latino interviewees voiced approval, a response that underscores the intensity of whites’ and blacks’ opposition, as the pollsters made sure to tell respondents that under Bush’s proposal “illegal immigrants would be required to return to their countries of origin after their time under this program had expired.” Among natives, responses to Bush’s proposal seemed to more closely reflect general views toward Bush, as opposed to specific attitudes toward immigration. Thus, while Republicans were more likely than Democrats to support Bush’s proposal, the Republican supporters were just as restrictionist as those who opposed it. Moreover, moving ahead on the guest worker front seems far likelier to antagonize Bush’s already angry opponents than to catalyze his base—which certainly doesn’t like immigration.

Of course, these findings offer no cheer to progressives, who have committed themselves to McCain-Kennedy, despite their concerns that the legislation will do too little to improve immigrant rights, while tilting the playing field further toward employers. In retort, couldn’t one argue that immigration does provide ground for political gain, most notably by mobilizing Latinos, the nation’s most rapidly growing minority group, and the one sector most likely to look on expansion with favor?

While banking on the Latino vote is an appealing proposition, it offers little strategic traction. To begin with, the demographic shifts that have boosted Latino numbers have done much less to increase the size of the Latino electorate. The bulk of the very recent Latino flows has come among the undocumented—despite an upswing in naturalizations, legal permanent residents are still relatively slow to apply for citizenship, with the backlogs in the immigration

bureaucracy doing nothing to hasten the change; once naturalized, Latinos are less likely to vote than other citizens. Moreover, the Latino difference tends to get blunted over time: Americanization makes Latinos more like other Americans in every respect, views toward immigration included. Polls conducted by the Pew Hispanic Center—surveying large, nationally representative samples of the Hispanic population—make it clear that citizenship and nativity lead Latinos to place greater importance on the boundaries that separate the United States from the rest of the world. For example, a 2002 poll, which asked whether the United States should allow more legal immigration from Latin America, found that 57 percent of noncitizen Latinos, answered yes, but only 44 percent of the naturalized Latinos and 36 percent of the U.S.-born Latinos thought the same. Likewise, while only 16 percent of the non-citizen immigrants thought that illegal immigrants harmed the U.S. economy, 28 percent of the naturalized immigrants and 42 percent of the U.S. born Latinos saw illegal immigration as having a harmful effect.

Responses elicited in surveys don't directly map onto votes, especially since views are likely to be affected by the ways in which more concrete issues get framed in political campaigns. As indicated by the history of the Proposition 187 campaign, restriction's abstract appeal can be quickly tarnished if the target gets framed in ethnic terms. If in practice, only a minority of Latino votes are likely to be peeled off by restrictionist campaigns, there is only cold comfort for progressives hoping for significant policy change. In the best case scenario, the Latino vote could become a significant con-

straint against restriction, but low levels of citizenship and still lower levels of voting spell very modest electoral impact, at least for now.

In the end, the views of the American public are likely to matter in an uncertain and highly

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contingent way. Immigration policy is notoriously intractable, with unusual circumstances needed to produce the major reforms proposed by today's players, whether on the expansionary or restrictionist side of the spectrum. Conventional wisdom would suggest that the necessary ingredients don't seem to be in place: an already damaged executive is steadily weakening, and the bipartisanship historically needed for immigration legislation is at a historic low ebb.

It is possible, however, that the congressional Republicans will turn out to be the joker in the cards. Desperately seeking a last wedge with which to galvanize their base, the Republican-controlled House marked the end of 2005 by passing restrictionist legislation of unprecedented severity. The Illegal Immigration Control Act of 2005 would make it a federal crime to live in the United States illegally, converting millions of illegal immigrants into felons, and

likewise turn the provision of services or assistance to illegal immigrants into a criminal offense. Giving no ground to either Bush or the free-market expansionists, the house legislation would also slap employers of illegal immigrants with steeper penalties and a more intrusive inspection system.

Just where this latest venture may be headed is hard to say. The White House has kept its distance from the Republican incendiaries in the House; with the business-supported Essential Immigrant Worker Coalition up in arms against this stab toward restric-

tion, one suspects the going will get a good deal tougher as the action moves from the House to the Senate. In the end, therefore, the crystal ball seems to suggest more of the same: we can probably count on Washington to fiddle while the problems at the border fester. If and when its time comes, however, immigration reform will be a tough test for whichever party then finds itself in power. Only thing is for sure: a price will be paid for the perversities of the recent past and the continuing failure to confront reality, however difficult it may be. ■