# A Nation by Design

*Immigration Policy in the Fashioning of America*

Aristide R. Zolberg

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# Themes and Perspectives

A nation of immigrants, to be sure, but not just any immigrants. From the moment they managed their own affairs, well before political independence, Americans were determined to select who might join them, and they have remained so ever since. Immigration policy, broadly conceived in this book to encompass not only entry but also related processes that affect the nation's composition, thus emerged from the outset as a major instrument of nation-building, equivalent in the fashioning of the United States to the amalgamation of diverse regions in the making of the United Kingdom, France, or Spain. Although as historical constructs all nations in some sense make themselves, the very nature of the immigration process provided the Americans with unusual latitude in doing so, and hence theirs may properly be termed "a nation by design."[1]

In the Old World, the people came with the territory: the construction of "France" is the history of the royal state's territorial expansion from the Paris region and of the concurrent transformation of the successively incorporated populations into *français;* in the same vein, in their aspiration to forge Britons out of the pieces being assembled by way of dynastic manipulations, the rulers of the United Kingdom had little choice but to work with the English, Welsh, Scots, and Irish.[2] In contrast, from the very outset, by way of its state and federal governments, the self-constituted American nation not only set conditions for political membership, but also decided quite literally who would inhabit its land. Long before what is conventionally regarded as the beginning of national immigration policy, the Americans undertook to violently eliminate most of the original dwellers, imported a mass of African workers whom they excluded from their nation altogether, actively recruited Europeans they

considered suitable for settlement, intervened in the international arena to secure freedom of exit on their behalf, elaborated devices to deter those judged undesirable, and even attempted to engineer the self-removal of liberated slaves, deemed inherently unqualified for membership. Immigration policy not only emerged as a major instrument of American nation-building, but also fostered the notion that the nation could be designed, stimulating the elevation of that belief into an article of national faith.

The American experience of nation-building is exceptional not only in comparison with the Old World prefabs, but also in relation to the other overseas nations of European origin where, throughout their formative years, immigration remained largely governed by the imperial governments or, in the case of the precociously independent South American states, was for a protracted period hardly governed at all.[3] As against this, American grievances regarding British immigration and naturalization policy were voiced for several decades before 1776, and their inclusion in the Declaration of Independence, which forms the core of Chapter 2, provides clear evidence of the founders' understanding that immigration was bound to play a key role in the building of the American nation. Duly noted in accounts of the founding, but as a side issue, the Declaration's grievances regarding immigration and naturalization belong in the foreground because these matters were regarded by both British imperial authorities and the American leaders as key processes that shaped basic features of the colonies' existence: the size of their population, its composition, and the rules for membership in the body politic. Rather than isolated skirmishes, the confrontations over these issues were vital episodes in the larger war over sovereignty, and amounted to an epochal struggle over the structure or design of American society. In short, the American colonies amounted to a congeries of disparate population fragments that had come into being largely as intentional and unintentional by-products of migration policies tailored to the pursuit of imperial objectives; to turn these elements into a unified society, and one that would provide the social underpinnings of a republic, was an immensely ambitious task, which required among other things a fundamental modification of ongoing immigration policies and related practices.

My account thus challenges the widely held notion that until the late nineteenth century, the United States maintained a laissez-faire stance in the sphere of immigration. As will be elaborated in Chapter 6, the conventional narrative was largely shaped by the protracted confrontation over immigration that spanned the first two-thirds of the twentieth century. This gave rise to a full-blown *Historikerstreit,* in which contending historians justified their respective



positions by situating the founders on a continuum ranging from "openness" or "generosity" to "restrictionism." Marcus Lee Hansen's classic interpretation, elaborated before his death in 1938 and subsequently edited by Arthur M. Schlesinger Sr., prudently but deliberately comes down somewhere in the middle: "So the United States began its career with no encouragement to immigrants except that offered by its opportunities, and with no barriers except those confronting native and foreigner alike."[4] Echoed in the influential synthetic overview published in 1960 by Maldwyn Jones, this interpretation of the policy baseline as benevolently neutral, but marred by occasional eruptions of "nativism," has become canonic, and nativism itself has become a distinct object of study.[5] With regard to the first century, its adoption was facilitated by the near-absence of federal legislation on the explicit subject of immigration. While historians have accepted this as a given, from a perspective informed by theories of state—and nation—formation, this absence constitutes a puzzle: given the evident concern of the founders with the subject, why was so little legislation enacted?

A reexamination of the record with this in mind reveals that the absence of federal legislation does not reflect a lack of interest in regulating entry, but was attributable to the overriding of immigration policy by what was then the central issue of national politics, the matter of states' rights in relation to slavery. In effect, immigration policy could only be dealt with at the state level. Indeed, a considerable amount of regulation was enacted by port-of-entry states, amounting in toto to a national immigration policy; however, much of this was in turn invalidated by the courts on the grounds that it exceeded state authority. Although Gerald Neuman has reconstructed the record of state action, he has done so from an exclusively juridical perspective and has not paid much attention to the actors who challenged the states' actions and their motivations.[6] Such an inquiry in fact provides considerable insight into the political dynamics underlying immigration policy at a crucial turning point, half a century after independence, when the United States truly became a nation of immigrants.

The American "design" became more explicit as the founders sought to regulate immigration and naturalization so as to foster the transformation of a loose aggregate of political entities, some formed along the "family farm" path, others more properly colonial and stratified along racial lines, into a politically integrated white republic. As elaborated in Chapter 3, emerging as the key theorists in this field, Tench Coxe, Thomas Jefferson, Alexander Hamilton, and James Madison engaged in elaborate explorations of the relationship

between population, land, and labor to determine what immigration policy would best serve broader goals of nation-building and economic development. On the political side, in his famous debate with Edmund Burke, Tom Paine set forth a radically innovative "civic" model of the nation as an alternative to the "ethnic" body politic, and this in turn provided the theoretical foundations for the country's first naturalization law. My analysis engages a collegial debate with Rogers Smith; although he rightly emphasizes the egregious shortcomings of American citizenship with regard to race, he gets so carried away by his critique that he fails to give proper weight to the innovative character of what was done. From a contemporaneous international perspective, the more striking fact is the law's *inclusiveness,* indicated by the absence of religious or national origin qualifications.[7] This constituted an obvious invitation to non-British nationals and, on the religious side, to Roman Catholics and Jews.

The concerns expressed at the moment of political emancipation adumbrate a lasting feature of the fledgling new republic, rooted in its peculiar colonial origins: although regulation of the movement of persons across a state's borders and access of aliens to citizenship by way of naturalization were recognized by contemporaneous legal and political thinkers as established practices, in the United States they achieved unprecedented practical and theoretical prominence because foreign immigration—as against mere transfers within the empire—made a much greater contribution to its population than had ever occurred in any European nation, or than any political philosopher envisioned might take place in a constituted community. Paradoxically, while the location of the United States on the western side of the Atlantic somewhat insulated its political development from European ideological currents and the effects of international tensions, thereby lending it a peculiarly insular character, the prominence of international migration rendered it unusually cosmopolitan, and promoted its role as an advocate of freedom of exit (Chapter 4).[8]

Nevertheless, observing the United States half a century after independence, Alexis de Tocqueville saw it as a fully formed "Anglo-American" society, and at this time Americans hardly thought themselves "a nation of immigrants." Despite the prevailing immigrationism, annual arrivals amounted to only one-fourth of 1 percent of the white population and contributed less than one-tenth of its spectacular demographic expansion (nearly 3 percent a year!). Chapter 3 demonstrates that this was not happenstance and that, in effect, the largely ignored federal Passenger Act of 1819, together with state regulations governing ports of entry, created a rudimentary system of "remote



control," whereby the United States sought to select immigrants by projecting its boundaries into the source countries.[9]

However, in a thoroughly pessimistic footnote inserted on the eve of publication of *Democracy in America* in 1835, Tocqueville observed that the situation he reported on so optimistically had begun to change, and that the country's two large port-of-entry cities, Philadelphia and New York, were being invaded by a "dangerous" population of poor blacks and poor Europeans who "bring to the United States our greatest vices, and lack any of the interests which might offset their influence." As demonstrated in Chapter 5, this reflected his Whig friends' sense that the United States faced an unprecedented "immigration crisis" occasioned by an abrupt and considerable rise of arrivals from Europe, of whom an increasing proportion were perceived as significantly different from the established population, in that they were not "British" but largely Irish and German, as well as Roman Catholic to boot. Induced by the continuing expansion of the "great transformation," this human wave propelled immigration to the top of the political agenda, lining up the new capitalists eager to maximize their labor supply against defenders of the traditional boundaries of American society, whom historians subsequently labeled "nativists," and urban wage workers, who perceived immigrants as a threat to their living and an obstacle to the organization of a labor movement. The immigration crisis reached all the way to the U.S. Supreme Court, whose rulings in turn shaped the strategies of both camps and thereby determined the course of policy. The confrontation over immigration eventually interacted with the crisis over slavery to destroy the "second party system" and bring on the Civil War.

Ultimately, the "nativists" lost out to the capitalists, and consequently Tocqueville's nightmarish footnote moved into the text, transforming the established "Anglo-American" nation into a unique "nation of immigrants." This outcome inaugurated the protracted hegemony of economically driven policy, further elaborated during and after the Civil War, and expanded to encompass the recently opened West Coast. The vast increase and growing heterogeneity of the immigrants, now including Chinese, once again precipitated a crisis (Chapter 6). In keeping with the general trend of American political development during this period, within a single decade the ambiguous and administratively awkward jurisdictional equilibrium between levels of government in the sphere of immigration decisively shifted toward the national, as measures favored by most states but barred from enactment by the pre–Civil War Supreme Court now became national policy. The availability of a large

and ethnically variegated labor force, with a substantial component of "birds of passage" on both coasts, imparted a distinctively segmented structure to the American industrial labor market and largely provides the answer to Werner Sombart's notorious question, "Why is there no Socialism in the United States?"

## Nativism Reconsidered

Our understanding of the onset of federal regulation after the Civil War is largely shaped by the late John Higham's *Strangers in the Land,* which has deservedly achieved classic status and remains, after half a century, the most distinguished work on the subject.[10] Focusing on the period 1880–1925, Higham constructed a narrative in which the United States moved from openness to steadily growing restriction, culminating in the imposition of the national origin quotas and wholesale Asian exclusion. However, in his preface to a later edition, Higham himself reflected that "I would . . . if I were writing today, take more account of aspects of the immigration restriction movement that can not be sufficiently explained in terms of nativism." In his postscript to a revised second edition, he suggested that the "nation-building" framework I had adumbrated in preliminary articles would be particularly helpful.[11] His generous encouragement convinced me to undertake the present work, despite my long-term professional involvement in quite different fields.

Tacitly underlying Higham's conceptualization of nativism is the "frustration-aggression" syndrome derived from psychoanalytic theory by way of Theodore Adorno's *The Authoritarian Personality* and Gordon W. Allport's *Prejudice.*[12] Highly influential among American intellectuals in the 1950s, this syndrome also inspired Richard Hofstadter's analysis *Anti-intellectualism in American Life,* "conceived in response to the political and intellectual conditions of the 1950's," notably McCarthyism.[13] Underlying Higham's history of immigration policy is the idea that Americans, frustrated by the disruptions that accompanied industrialization and urbanization, projected their anger upon strangers. Translated into pressure on decision makers to restrict immigration, this collective disposition was alleviated only when the international situation provided alternative outlets in the form of external aggression, notably the Spanish-American War and World War I; but these were temporary alleviations, and afterward immigrants became once again the main target.

The basic problem with this approach is that there is no way of independently charting the level of frustration of a society except by using aggressive behavior—that which is to be explained—as the indicator, nor can the level of aggressivity be independently established with respect to particular groups and at different times. The result is such inherent covariance between cause and effect as to suggest we are in the presence of a tautology. Whose frustrations, when, and how deep? While suggestive overall, a psychopathology-inspired approach is inadequate because it cannot account for particular policy outcomes at specific times. Why immigrant strangers rather than other objects? If "nativism" and the restrictions to which it gave rise were rooted in a projection of insecurity in the face of change, how come when insecurity reached a new high in the post–World War II period, it produced McCarthyism instead, while immigration policy was in fact liberalized?



Whereas "nativism" is credible as an expression of frustration, what sort of stance would be "normal"? Given the historical baseline preceding the advent of restriction, it tacitly appears to be open immigration. But surely it is unrealistic to expect the United States to maintain its previous stance in light of the global transformations of the period, which vastly enlarged the worldwide pool of potential immigrants. The moment that constitutes Higham's starting point marked what is being increasingly recognized as the onset of globalization, when a number of factors changed more or less simultaneously to vastly enlarge the migratory flow, drastically altering the situation the United States faced. To begin with, Europe's demographic transformation spread to the Continent's least developed regions, the railroad revolutionized inland transportation, while the advent of iron steamships, whose carrying capacity was nearly tenfold that of sailing vessels and which reduced the Atlantic crossing from approximately one month to one week, transfigured overseas travel. Simultaneously, Asia and Africa were incorporated into the global political and economic system, and the recently formulated theory of evolution was combined with ideological rationalizations of imperialism to produce scientific racism. But if the external conditions of the late nineteenth century must figure in the explanation of the emergent American immigration policy, then in retrospect, it stands to reason that the conditions of the preceding period should be taken into account for the earlier phase of policy as well.

Most important, the psychopathological approach minimizes the rationality of the behavior of groups and classes with respect to the consequences of immigration. Higham himself seemed to be aware of the problem, as he pointed out the role of employers in resisting restriction, of labor in fostering it, of business cycles upon the receptivity of legislators to group pressures,

and of the relatively autonomous role of the American executive branch in the entire process of policy making. However, he stopped short of taking into consideration that during the period with which he was concerned, employers not only resisted restrictions, but also were in fact fostering the expansion of immigration, thereby in effect generating the very conditions that stimulated "nativism." This contradiction, which has recurred in various forms throughout American history, often producing "strange bedfellows" on both sides of the confrontations over immigration, is at the heart of the present account.

Economic grounds for promoting or opposing immigration are easily conceived as "rational." This is much less the case with regard to the cultural considerations that underlie "nativism." Yet this might be thought of as the shrill expression, based on prejudicial assessments, of commonplace concerns with maintaining the receiving society's established identity. Viewed in the perspective of nation-building, a process common to both settled and immigrant societies, nativism can be thought of as representing the conservative position on an "identity" continuum, which allows for other positions ranging through the acceptance of shifting boundaries as a concomitant of historical change—where I would roughly place myself—all the way to the advocacy of radical transformation. Rather than thinking of "Americans" as going "nativist," one should think of such episodes as confrontations between different actors who position themselves variously on the "identity" dimension, much as economic actors do with regard to economic issues.

Another constraint arises from the unidimensionality of the concept of "restriction." Accounts of the more recent period generally highlight the persistence of restrictions until the 1950s, a return to greater openness from 1965 to 1990, and a neorestrictionist swerve in the 1990s. However, this again distorts reality in a number of ways. While the prohibition of Asian immigration together with the draconian reduction of European admissions and the notorious nationality quotas imposed in the 1920s certainly amounted to "restriction," this was only part of the story: concurrently, the United States was deliberately stimulating the expansion of immigration from Mexico and promoting massive internal migrations, notably the movement of African Americans from the South, which together blatantly contradicted the restrictionists' nation-building objectives. Conversely, the "liberal" legislation of 1965, which abolished the discriminatory European quotas and the remnants of Asian exclusion, and opened the door to their expansion, was coupled with measures explicitly designed to minimize "brown" immigration from Mexico and "black" from the Caribbean. And while there was surely a resurgence of



restrictionism in the 1990s, the most interesting aspect of *that* story is its failure to achieve its most explicit objectives, the control of illegal immigration and a substantial reduction of legal immigration, both driven by shrill concern over the impact of immigration from the "South" on the character of the American nation.

Under the unprecedented conditions emerging in the world at large at the turn of the twentieth century, the imposition of limits on the immigration flow arose as a pressing imperative. Limits in turn implied selection; but on what grounds should this take place? Spanning an entire generation (Chapters 7 and 8), debate over this question was settled only in the aftermath of World War I, when, in one of the most spectacular displays of legislative power on record, with two waves of its magic wand the U.S. Congress sought to restore America's northwest European identity by making immigration from southern and eastern Europe disappear, much as it sought to do with alcohol. But whereas legislative action managed to reduce alcohol consumption by only one-third, in the sphere of immigration it was miraculously effective, and by 1930 the United States in effect proclaimed to the face of the world, "We are no longer a nation of immigrants." It maintained this position even after the advent of the New Deal and when some of its European cousins undertook to persecute others, who thereby became desperately in need of havens (Chapter 9).

A largely neglected aspect of the history of this period, even by recent institutionalist scholars of American political development, is that the implementation of restrictionism entailed a vast expansion of the American state's capacity to regulate movement across its borders, and the deployment of this capacity within the territory of other sovereign states so as to achieve the elusive "remote control" to which regulators had long aspired. However, even at this time American policy was by no means consistently "restrictionist." Responding to pressures from powerful agriculture interests for an ample supply of cheap labor, as well as from equally powerful oil interests concerned with establishing better relations with postrevolutionary Mexican governments, the legislators resisted closing the country's "back door," despite their explicit commitment to preserving the "original American stock" from contamination by Mexicans who, by their own standards, were even more objectionable than the southern and eastern Europeans they were keeping out.

In sharp contrast with the unswerving earlier march from open immigration to restriction, the reformers of the post–World War II decades dispersed along winding trails. One led to a redesigned main gate that fulfilled the aspirations

of Americans (issued from the "new immigration") for status equality in the cultural sphere and enabled them to bring in their relatives; another to a revolving back door that continued to provide agricultural entrepreneurs with temporary labor; and the third to a side entrance for various groups loosely labeled "refugees," used by the U.S. government as a Cold War weapon as well as by influential ethnic communities unable to bring in populations of special concern through the main gate. The restrictionist régime was dismantled, giving way to a shifting bundle of disparate policy components (Chapter 10). The new policies reflected the broader transformation of postwar American society: dramatic changes in the size and distribution of the population as a whole; a shift in the boundaries of identity to encompass the "new immigrants," notably by way of the acceptance of Catholicism and Judaism as "American religions"; the emergence of a postindustrial economy; the beginnings of the civil rights revolution; the restructuring of political alignments; and the rise of the United States to world power.

It is noteworthy that at the very moment of these reforms, the foreign-born fell to their lowest proportion of the American population since Tocqueville's visit nearly a century and a half earlier, confirming that the restrictionists of the earlier part of the twentieth century had achieved their principal objective: the United States was no longer a nation of immigrants. Despite their protracted confrontations in the postwar years, defenders of the status quo and reformers were in agreement on keeping things that way. In this perspective, it is quite unexpected that in the last third of the twentieth century, the country's foreign-born population tripled in size and underwent a startling change of composition. Not surprisingly, even as it materialized, the new immigration stimulated an expanding debate over its desirability and consequences, recalling the confrontations of a century earlier, with social scientists and public intellectuals once again playing a prominent role in the production of updated ideologies (Chapters 11 and 12).

Very much in keeping with the established "strange bedfellows" pattern, the resulting alignments cut across the usual conservative-liberal divide; but in sharp contrast with the 1920s, an immigrationist coalition of capitalists and recent ethnics gained the upper hand. With regard to post–World War II policy developments, I had the benefit of a vast secondary literature, which is properly acknowledged at the appropriate points; but on the historical side, I relied especially on the several works of David Reimers, and on the political science side, on Daniel J. Tichenor's Ph.D. dissertation, completed in May 1996 and published in 2002.[14] On the period 1980–2000, our interpretations



are in broad agreement; however, I focus my explanation more sharply on the surprising outcome—why reasonable expectations of a reenactment of the 1920s restrictions were not fulfilled.

## Theorizing Immigration Policy: A Global Perspective

Although this book is concerned exclusively with American immigration policy, I consider the subject in a comparative perspective with a globalist bent, by way of a hybrid theoretical framework tinkered out of insights drawn from sociology, political economy, and cultural anthropology, as well as political science.

The starting point for theorizing about immigration policy is an understanding of the distinctiveness of international migration itself as a social phenomenon. In short, "international migration" entails not merely movement from one place to another, but derives its specificity from the organization of the world into a congeries of mutually exclusive sovereign states, commonly referred to as the "Westphalian system."[15] It involves the transfer of a person from the jurisdiction of one state to that of another and the eventuality of a change of membership in an inclusive political community. Accordingly, international migration is an inherently political process, and the relevant policies encompass not only the regulation of outward and inward movement across state borders—including of persons who are not, or declare that they are not, migrants—but also rules governing the acquisition, maintenance, loss, or voluntary relinquishment of "membership" in all its aspects—political, social, economic, and cultural.

Migration policies vary enormously, both historically and between states in a given period. As commemorated by the biblical narrative of the flight from Egypt, states traditionally prohibited the exit of economically valuable populations and resorted to draconian means to implement this policy, such as the imposition of galley slavery in seventeenth-century France to prevent Huguenots from departing for Protestant states, or shoot-to-kill border policing by the German Democratic Republic from its inception to its demise. But states have also acted ruthlessly to push out religious, ethnic, or social groups they considered undesirable and incapable of being subjected or transformed. All these stances coexisted in various parts of the world throughout the nineteenth and twentieth centuries, suggesting no overall historical trend toward convergence. A similar range of variation can be found on the entry side. States have raided others to abduct valuable populations; encouraged and facilitated

the importation of slaves; and stimulated immigration by providing subsidized travel, lands, security, and easy citizenship, or by promising jobs; but they have also prohibited settlement and acted ruthlessly to prevent it. Positive or negative stances with regard to both exit and entry are usually defined in relation to specified categories of persons established on the basis of a wide array of criteria, including objective socioeconomic and cultural attributes (degree of skill, education, and wealth; religion, language, nationality, and race), as well as their putative moral or political disposition (judged likely or unlikely to commit crimes, or to support or oppose the régime). As a result, emigration and immigration policies often amount to complex arrays of disparate regulations and practices, with "laissez-faire" seldom a mark of indifference. States also exhibit considerable variation regarding modes of relinquishing and acquiring "membership," including not only formal citizenship but also political, social, and cultural rights.

How are we to make theoretical sense of this variation? At the most general level, "Whether migration is controlled by those who send, by those who go, or by those who receive, it mirrors the world as it is at the time."[16] Or, as suggested by a committee of the International Union for the Scientific Study of Population, the world can be conceptualized as a "global population system" in relation to which sending and receiving states, much as the migrants themselves, figure as "utility-maximizing" agents that respond to changing world-historical and local conditions by modifying their comportment—in the case of states, their policies regarding exit and entry.[17]

However, two qualifications are called for. As the complexity of contemporary debates on immigration policy in the affluent liberal democracies indicates, "utility" encompasses not only a population's economic value, but also its putative value in relation to cultural and political objectives. Moreover, "utility-maximizing" cannot be mechanically transposed from individuals to states. As executors of policies, states do not function as autonomous actors (even in the loose sense in which we consider individuals to do so), but rather as instruments manipulated by internal actors who have gained the upper hand in this particular sphere at a given time. Legal and administrative institutions, as well as "political traditions," which constitute the legacy of earlier policies, also play a significant role in shaping current responses.

In recent times, migration policies have been shaped by the dynamics of world capitalism, on the one hand, and of the international state system, on the other, within the context of epochal population dynamics.[18] Since the global population system and the system of states are both finite, migration



policies are extremely interactive: any emigration always entails immediate immigration somewhere else; conversely, the possibility of immigrating affects decisions to emigrate; and the closing or opening of a particular national gate affects the potential flows into other states.[19] However, in contrast with the sphere of international trade, for example, far from being founded on recognition of this interactivity, state policies regarding emigration and immigration have been notoriously unilateral; as noted by Hannah Arendt, for example, "sovereignty is nowhere more absolute than in matters of emigration, naturalization, nationality, and expulsion."[20] This highlights the theoretical significance of even slight departures from the "sovereignty" baseline observable today, notably with regard to asylum.[21]

For the purpose of analytic clarification, exit and entry policies might be arrayed along an axis demarcated by negative and positive poles. Given the considerable variation in exit policies that can be observed historically, their impact on the formation of migration networks, and their interactivity with immigration policies elsewhere, it is evident that a comprehensive theory pertaining to the role of states in regulating international migration must cover the exit side as well. One basic proposition is that the possibility of preventing "exit" is a requisite for the effective exercise of most types of "predatory rule."[22] In the early modern era, under prevailing conditions of demographic scarcity, for the European mercantilist/bellicist state, the acquisition and retention of human capital for economic production and war comprised a basic source of power; from this perspective, the most important form of control pertained to outward movement. Accordingly, unauthorized emigration was tantamount to treason, and punishable by death or enslavement. The continuing significance of this policy stance is highlighted by its resurgence in the twentieth century as the hallmark of "totalitarian" states with command economies.[23]

The leading patterns of forced exit, including deliberate expulsions as well as escape from persecution or violence, stimulated by what is now generically termed "ethnic cleansing," can also be accounted for by the dynamics of state and nation formation within a bounded international system.[24] However, given this book's exclusive concern with the United States, I shall focus here on the entry side only. Although considerable attention has been devoted to variation among the contemporary immigration policies of capitalist democracies, the most striking fact about them is that, on a hypothetical continuum ranging from "open" to "closed" borders, they are clustered very narrowly around the "closed" pole.[25] While post–World War II policies constituted a liberalization in relation to the extremely restrictionist régime established in

the first quarter of the century, the contemporary régime retains a "near-zero baseline" with regard to the supply of entries in relation to the demand for them as well as in relation to the size of the resident population—current annual U.S. immigration, for example, amounts to approximately one-third of 1 percent. As the theorist of international trade Jagdish Bhagwati observed in the early 1980s, the process of international migration is characterized by "disincentives" rather than "incentives," which led him to hypothesize quite correctly that if the socialist countries were to let people out, "the effective constraint on the numbers migrating would soon become the immigration legislations of the destination countries."[26]

The restrictive immigration régime prevails worldwide because it constitutes a sine qua non for maintaining the "Westphalian" international state system, as well as the privileged position of the "core" states amidst highly unequal conditions.[27] Economic modeling suggests that the hypothetical elimination of borders would stimulate worldwide economic growth, but also result in an equalization of conditions and hence produce a vast redistribution of income to the benefit of the populations of poorer countries. In effect, borders serve to prevent labor from commanding the same price everywhere, and also prevent people from the poorer countries from gaining access to the bundles of "public goods" dispensed by the more affluent states, which now constitute an important part of their populations' income.[28] It is also widely believed that restrictions on access to membership constitute a sine qua non for democratic governance, which requires at least some minimal degree of "community." Although the matters of precisely what level of immigration might be allowed and what priorities might be established are hotly debated, there is broad agreement that under present world conditions, the level would at best fall far short of the demand for access.[29]

## Political Economy and Identity Politics

Consequently, the process of immigration policy decision making in a given state is driven by two very different sets of considerations, each of which relates to a distinct sphere of social interaction. In the perspective of capitalist dynamics, immigrants of any kind—including refugees—are considered primarily as "labor." Accordingly, immigration policies are shaped by the prevailing "class compromise" and the specific configuration of economic interests in the country in question, in keeping with the imperatives of prevailing technological and economic conditions.[30] Immigrants are characteristically



welcomed by employers because they reduce the unit cost of labor (that is, lower wages) and also increase its elasticity; conversely, they are characteristically resented by resident workers as unfair competitors willing to accept lower wages (which constitute an improvement over their income in the country of origin) and below-standard conditions. At worst, they may not only lower wages but also altogether displace natives. However, even the most profit-driven capitalists are unlikely to favor a *huge* and *sudden* increase in labor supply, as that would occasion major social disruptions; hence, in contemporary capitalist democracies, arguments on behalf of "open borders" appear perennially as the playful musings of free-market ideologues, such as Julian Simon in the *Wall Street Journal,* but almost never in actual policy debates.[31]

These considerations, usually cast in a Marxian framework, have given rise to a considerable body of work accounting for the tendency of advanced industrial societies to recruit "guest workers" from less developed countries.[32] An alternative explanation was provided by the theory of labor segmentation, whereby under conditions of the welfare state the upper strata of the workforce are assimilated into "fixed" capital, leading to the institutionalization of a distinct "flexible" segment, for which again "guest workers" of one sort of another are very convenient.[33] In the United States, this analysis is applicable not only to the importation of Chinese workers to the West Coast from 1850 on, and of Mexican workers in World War I and World War II, as well as in the 1950s, but also by extension to the long-standing tolerance of "regular irregular" (in other words, undocumented) workers from the same neighbor. However, in recent years matters have been complicated by the reliance of some labor unions on such workers for the survival of their industry.

Still in the economic sphere, immigrants are also consumers of goods and services, both the ordinary kind that one buys and the "public goods" that are automatically available to all residents. Whereas they tend to be welcomed by sellers of individual goods and services—for example, real estate agents in port-of-entry cities—from the perspective of public goods the situation is more complex. Recent U.S. debates regarding the "balance sheet" of immigration in relation to welfare highlight the difficulty of establishing whether immigrants contribute more in taxes than they consume in public services or whether they are "free riders"; and the subject is understandably much hotter in European countries with more extensive welfare states.[34] Moreover, because different units of aggregation are used to draw up a balance sheet of the various costs and benefits involved, immigrants may be "good" for the whole

economy, but "bad" for a particular locality or social group—or vice versa (for example, they may reinvigorate declining "rust belt" cities). Incidentally, similar considerations are applicable also to international-level assessments of the economic value of particular human flows by sending and receiving countries as a whole.

However, all types of immigrants—including even temporary workers—also constitute a political and cultural presence, which evokes a distinctive dimension of consideration pertaining to the putative impact of immigration on the host country's "way of life," "cohesiveness," or, in current discourse, "identity." Although the process in question is well evoked by classical sociology's concept of "integration," from Émile Durkheim through Talcott Parsons, I shall use the term "identity axis." In almost any immigration situation, there are significant groups among the hosts who believe that newcomers in general, or particular groups among them, would jeopardize the established national ways. In the United States alone, just about every cultural attribute imaginable was found objectionable at one time or another, notably "race," as constructed in the nineteenth and early twentieth centuries, referring to not only "Asiatics" and blacks but also "mixed-breed" Mexicans, different European nationalities, and Jews; religion, notably Roman Catholics from the eighteenth century until quite recently; and language, starting with German speakers at the time of the founding and again in the early twentieth century, and Spanish speakers today. Similar hostile responses have surfaced elsewhere, notably toward Jews from eastern Europe in most of western Europe yesterday, Arabs and Muslims more generally throughout Europe today, or when "Oriental" Sephardic Jews began arriving in Israel in the 1950s and when Ethiopian Jews began arriving later on.

Although reactions such as these are attributable in large part to prejudice and xenophobia that tend to exaggerate the problematic aspects of the situation, it should be recognized that the settlement—or prospective settlement—of any substantial group of people whose culture diverges markedly from the hosts' is likely to call the established "cultural compromise" pertaining to religious, linguistic, and racial diversity into question, and hence is a legitimate source of concern.[35] The key questions are always "How different can we be?" and "How alike must we be?" and, when they are answered, how the answers are to be implemented organizationally and materially.[36]

As it enters into play with regard to immigration, "identity" centers on nationality.[37] Originating largely in the course of efforts to institutionalize "predatory rule" in late medieval European states, modern nations have succeeded in socializing their populations to perceive one another as fellow members of intimate, family-like bodies, with a common ancestry and a common destiny. Although the formula for identity is usually founded on some objective characteristics of the society, such as the language actually spoken by much of the population and the religion many of them share, the culture of the rulers is usually accorded pride of place. However, political culture and ideological orientation may be invoked also, as in the United States and France following their democratic revolutions, or in the confrontation between "the West" and "the East" in the Cold War decades.[38]



Much less noted by writers on nationality and nationalism is that the formation of identity always involves a negative aspect as well. As conceptualized by the anthropologist Fredrik Barth, it entails the elaboration of a boundary between "us" and "them": thus, we are who we are by virtue of who we are *not*.[39] In this light, nationality involves the delineation of a boundary, denoting simultaneously inclusion and exclusion. Whatever the objective realities may have been in the early modern era, princes and their serving intellectuals emphasized similarities within the national borders and differences between the nation and its neighbors.[40] Although the negative "others" are commonly close neighbors with whom perennial wars are fought, from whom "we" must distinguish ourselves by any means possible, they can also be remote aliens, regarding whom little is known and therefore much can be invented. Groups originally recruited as low-skilled "workers" are especially likely to belong to the "non-us" world, a difference that is functional to their subjection within a status hierarchy; but this "wanted but not welcome" syndrome creates problematic situations if and when the workers begin turning into permanent settlers, akin to the dynamics of "liminality" analyzed by Victor Turner.[41]

Differing assessments along these lines precipitate confrontations not only between "natives" and "foreigners" but also among the "natives" themselves, between those who perceive the newcomers as a threat in relation to what is deemed a fragile status quo, and others more confident in the society's ability to weather change, or who welcome the diversity the newcomers would contribute as an enrichment. These alignments are probably related to a more comprehensive cultural cleavage that is emerging as the contemporary equivalent of the older rift between religious and secular camps, and encompasses other "cultural" and "moral" issues such as abortion, feminism, gay rights, or the death penalty. However, the camp of those positively disposed toward immigrants may also include "natives" who are not particularly open to change, but who feel an affinity with particular groups of newcomers, notably

fellow religionists or ethnics. This sometimes involves the national community as a whole, with respect to populations located in other states who are regarded as "external nationals," on whose behalf the state may devise a "law of return" or some other unusually generous immigration policy.[42]

Refugee policy has tended to be driven by strategic considerations arising quite directly from the dynamics of the international political system: providing asylum to the victims of one's enemies was consistent with the imperatives of realpolitik in that it demonstrated the antagonist's evil ways and undermined its legitimacy. Concomitantly, refugees tended to be ranked high on the positive side of the "identity" axis throughout western countries; this was almost by definition, as in earlier times they were welcomed exclusively on the basis of religious or political affinity with the receivers, and therefore were not strangers but brothers and sisters in need. Under these conditions, statecraft and humanitarianism went hand in hand. By the same token, states were not inclined to help victims not "like us": proletarian Communards had almost no place to go after their defeat in 1871, and Jewish victims of Nazism were denied havens as well.

However, in the post–World War II period the international community began moving toward a more cosmopolitan approach, eventually extending refugee status to all those, anywhere in the world, who are outside their country and without government protection as consequences of "reasonable fear" of persecution. Concurrently, the superpowers expanded the domain of their strategic confrontations to encompass many regions of the Third World, contributing to a vast enlargement of the refugee pool. Although the overwhelming majority remained in their region of origin, some came knocking at the door of the affluent countries, and the fact that an increasing proportion of those who sought asylum were poor people of color—and thereby akin, from the perspective of the receivers, to immigrant workers—triggered alarm bells and prompted a reconsideration of established policies. This revisionism was facilitated by the end of the Cold War, which eliminated at one blow the "realist" foundations of the postwar refugee régime. The United States retained a refugee policy founded almost exclusively on "realist" foreign and security considerations until about 1980; although it then subscribed to the international régime, its actual policy continued to be driven by "realism," with some intrusion of constituency pressures (particularly with regard to eastern European Jews). The end of the Cold War, which eliminated at one blow the "realistic" foundations of the postwar refugee régime, has led to a sharp narrowing of the scope of the affluent democracies' refugee policy, including in the United States.



The persistent coexistence of these two very different dimensions of consideration and, concomitantly, of interests, the one pertaining to the putative or actual effects of immigration on material conditions, the other for cultural and political conditions, can be represented by cross-cutting axes, each with positive and negative poles, providing for a continuum of alignments from "for" to "against." Hence, it is possible to adopt a positive position on immigration with respect to one dimension, and a negative one in relation to another. This accounts for the often remarked upon tendency of immigration politics to straddle the ordinary "liberal/conservative" divide, and concomitantly the emergence of "strange bedfellow" coalitions for or against particular proposals. Successive attempts to resolve these disparate imperatives in the face of changing conditions shape immigration policy into complex and often inconsistent configurations, such as the segmentation of U.S. policy into a "main gate" dealing with general immigration, a side door for refugees, and a "back door" dealing with the procurement of temporary agricultural workers (Chapters 11 and 12).

Overall, in distinction from the prevailing view of American immigration policy as a single historical line weaving between openness and restriction at different points in time, I believe it has involved from the outset a combination of disparate elements designed to facilitate or even stimulate the entry of immigrants deemed valuable while deterring those considered undesirable, and occasionally even going beyond this to rid the nation of populations already in its midst. The result of deliberate efforts by policy makers responding to changing circumstances at home and abroad, these elements have intermittently crystallized into policy settlements anchored in concrete bureaucratic institutions, amounting to an "immigration régime." Once they have come into being, a protracted process spread over a half-century or so, these régimes acquire inertial power by way of the sheer weight of established institutions and of the interests of certain actors in preserving the status quo, turning attempts to change policy into an uphill struggle and thereby shaping the subsequent course of history, in keeping with the notion of "path dependency."[43]

This approach provides the framework for a revised understanding of the history of American immigration policy as beginning with the formation of an immigration régime in the 1750–1820 period, combining elements of colonial legacy with newly wrought bits of state and federal policy. Despite changing circumstances in both the United States and Europe, which triggered numerous policy initiatives, this foundational régime survived pressures to change throughout the antebellum period. Elaboration of a successor régime,

designed to meet the challenges of the industrial age and of globalization, began as early as the 1870s but was not completed until the 1920s; in the intervening period, however, immigration was shaped largely in accordance with the residual older design. Efforts to substantially modify the second régime were launched as early as the 1930s, but largely failed until 1965, when the principal elements of a third edifice were set in place, with complementary pieces added over the next two decades. Once again, even as the régime was still being completed, challengers initiated efforts to replace it altogether. At the turn of the millennium, however, the outcome was by no means evident, as the imperatives of globalization pulled in opposite directions. While the formation of a North American economic zone fostered a consideration of modifications allowing for greater freedom of movement, the events of 9/11 abruptly revived obsolescent concerns over immigration as a threat to national security, and hence fostered a tightening of borders.

## Political Process and Political Institutions

However powerful, the effects of social forces, external and internal, are not automatically translated into policy outcomes, but are mediated by political structures.[44] In the case of the modern United States, relevant considerations include the effects of formal political institutions in facilitating and constraining the elaboration of policy, notably the allocation of decision-making authority and power between levels and branches of government as well as the structures of representation and the electoral system. Proper attention must also be paid to the role of political parties and organized interests in decision making.

Each of the two dimensions represented by the axes also fosters a distinct mode of interaction between elites and the public, with concomitantly distinct outcomes.[45] Inspired by organization theory, Gary Freeman has suggested that "expansionist and inclusive" policies occur because, while the benefits of immigration are concentrated, notably by providing lower costs for employers in certain economic sectors and gratification for kin and coethnics of incoming groups, its costs tend to be diffuse, notably increased competition for jobs among some groups of the resident population and increased demand for certain services. Such a distribution tends to produce "client" politics, where small and well-organized groups intensively interested in a policy develop close working relationships with officials responsible for it, largely outside of public view and with little outside interference. Consequently, policy makers



are more responsive to their immigration-advocating clients than to the more ambivalent or even opposed general public, whose utility-maximizing ability is handicapped by "serious barriers to the acquisition of information" about immigration and by a "temporal illusion," whereby the short-term benefits of immigration are easily seen whereas its long-term costs are denied or hidden. As a result, "[O]fficial policies tend to be more liberal than public opinion and annual intakes larger than is politically optimal"—in other words, the policies preferred by the median voter.

The situation with regard to "identity" is the reverse of what prevails in the economic sphere: the costs of immigration are diffuse, in the sense of a malaise pertaining to "threats to nationality," whereas the benefits are concentrated, in that certain ethnic groups increase their weight and hence "recognition" and potential political power in the nation. This may account for the reluctance of U.S. elites around the turn of the twentieth century to endorse immigration restriction, and for their eventual movement toward "universalism," notably with regard to the elimination of the national origins quotas directed against southern and eastern Europeans in the 1950s, when these groups became the mainstay of the urban wing of the Democratic Party but also provided new opportunities for the Republicans. Both dimensions make for "client" politics, but involve different sets of clients. The combination of business and ethnic groups as strange bedfellows into a "pro-immigration" camp is a characteristic U.S. outcome, partly a function of the rapid incorporation of immigrants into the body politic. More generally, the "concentrated-diffuse" measure is more heuristic when applied to disaggregated elements, and when a distinction is made between concentration within economic sectors and concentration in space.

While the distribution of costs and benefits of particular policies does shape political dynamics, policy issues do not arise in a vacuum but in a field structured by previous historical experiences, including ongoing policies in the sphere under consideration, which can be accounted for by way of path dependency. Contemporary American policy making takes place within the context of a prevailing worldwide restrictive immigration régime, which has to be explicitly accounted for. Another matter is that although Freeman speaks of "immigration policy" as of a piece, this ignores an important institutional reality, whereby all states today distinguish between "refugees" and "ordinary" immigrants, and in effect also between "settlers" and "workers." Accordingly, rather than a single overall dynamic, we should expect different processes to prevail in each of these policy areas.

Within the sphere of political economy alone, there is considerable variation in how the principal class actors are organized, and this in turn makes for major differences in the process and substance of policy: strong or weak labor unions, industrial or craft organization, the presence or absence of "peak associations" among workers and employers, and corporatist "social compacts" or unruly pluralism.[46] These structures account for not only variation in political dynamics, but also some variations in policy—such as the organization of formal guest worker programs in the more corporatist European countries (Germany, the Low Countries, and Sweden) as against employer-driven programs, often involving processes of marginal legality where unions do not participate in the making of industrial policy (France and the United States).

This is applicable to the "identity" dimension as well. For example, the ethnic organizations established by earlier immigrants in the United States achieved a degree of legitimacy as political interlocutors beyond what might be expected on the basis of their electoral weight, forming in the cultural sphere an equivalent of the "corporatism" that is sometimes encountered in Europe within the political economy sector, but is absent in the United States. Newer ethnic groups benefited in the 1970s from the technical and financial assistance of charitable organizations, notably the Ford Foundation, in organizing themselves along established lines, a development that distinctively shaped the subsequent dynamics of immigration politics (as detailed in Chapters 9 and 10). The standing of these ethnic organizations as "clients" is thus not merely a function of the concentration of benefits fostered by immigration policy, as demonstrated by the fact that in Europe, they have not become clients despite a similar concentration of immigration policy benefits.[47]

Some of these problems are addressed in a recent study by Keith Fitzgerald, inspired by the "structuration" approach of Anthony Giddens. Fitzgerald views the policy-making process as "episodic," with innovation commonly arising from improvised solutions to pressing problems.[48] The work is founded on a disaggregation of immigration policy into three segments, dealing respectively with permanent residents ("front-gate immigration"), refugees, and unsanctioned migrant laborers ("back-door immigration"), which display distinct policy dynamics that can be accounted for by contending theories of policy formation. Whereas policy regarding the "front gate" is shaped by the relatively free play of competing societal interests (political science's traditional "pluralism"), refugee policy is shaped by "realism" (in which the state looms as a major agent pursuing interests of its own), and "back-door" policy comes close



to fitting classical "class-conflict" theories. While the disaggregation of "immigration policy" into discrete components does capture an often ignored feature of reality, in fact, all three modes of policy formation occur in each of the components; for example, while refugee policy has been driven to a considerable extent by foreign policy considerations, "pluralist" elements have come into play as well, notably by way of ethnic constituency pressures for and against the award of refugee status to particular groups. Moreover, the weight of "realist" considerations in the policy-making process is not a constant, but fluctuates with the salience of security concerns, notably the emergence of the Cold War, its waning, and the advent of 9/11.[49]

Together, these insights into the possible effects of political institutions and processes impart an indispensable concreteness to the macroanalytic considerations arising from the interaction of the political economy and identity axes within the global perspective set forth earlier. Social theory and history are both vital instruments if we are to understand how, even as it rose to world paramountcy and asserted itself as the leading conservative state, the United States redesigned itself as the first nation to mirror humanity.

Although my work has been cast all along in an historical perspective, this is my first attempt at producing a major study that engages in a direct dialog with historians, and on a key American subject to boot. With regard to primary sources, I would like to acknowledge a special debt to Edith Abbott, whose compilations of original material pertaining to American immigration up to the 1920s which I discovered in the University of Chicago library longer ago than I care to recall, very much inspired me to launch the present venture and pointed to likely sources of information. I have also relied heavily on secondary sources from a wide range of disciplines, including historical monographs and social science analyses. If, in the course of doing so, I often assess these works critically in order to account for the selective use I make of them, it will be understood that this is done in a collegial spirit and in no way reduces my gratitude to fellow scholars.