Chapter One

A Nation of Immigrants and a Gatekeeping Nation: American Immigration Law and Policy

Erika Lee

In March, 1882, US Congressman Edward K. Valentine rose before his colleagues in the House of Representatives and offered his opinion on the Chinese immigration restriction bill under consideration. Chinese immigrants, he and other supporters of the Chinese Exclusion Act argued, were a menace to American labor, society, and even its civilization. "The gate must be closed!" he urged (Gyory 1998, p. 238). When the act was passed in May of that year, the United States took on a new role as a gatekeeping nation, one which used immigration laws to exclude, restrict, and control allegedly dangerous foreigners, often on the basis of race, ethnicity, class, and sexuality. By the 1920s, most immigrants from Asia were barred from entering the country and the numbers of southern and eastern Europeans allowed to apply for admission had been greatly reduced under the discriminatory national origins quotas of the 1924 Immigration Act. Through the 1940s, immigration was viewed as a hindrance, rather than as a benefit, to the United States.

Eighty years after Valentine's impassioned speech, the national mood towards immigration had begun to shift. In 1958, President John F. Kennedy hailed the United States as a "nation of immigrants." Immigrants were no longer dangerous menaces, he explained, but rather the bedrock upon which the country had been built (J.F. Kennedy 1964, p. 85). In 1965, President Lyndon Baines Johnson answered Kennedy's call for immigration reform and signed into law the 1965 Immigration Act, which abolished the discriminatory system of regulation that had governed immigration for 40 years. The signing ceremony took place at the foot of the Statue of Liberty in the New York harbor and signaled a new era of immigration to the United States. Johnson proclaimed that with the new law, "the lamp of this grand old lady is brighter today – and the golden door that she guards gleams more brilliantly" (L.B. Johnson 1966, pp. 1037–40). Since 1965, the doors to the United States have been opened wider than at any other time since the late nineteenth century. Millions of people have been admitted into the country and immigration has transformed American society, economy, culture, and politics. The notion that the United States is indeed a nation of immigrants currently reflects reality more than at any other period in the country's history.

At the same time, however, Americans' ambivalence about immigration remains deeply ingrained in both public discourses and in immigration law. From the 1970s through the 1990s, an increase in illegal immigration, especially from Mexico, fueled fears of an "invasion" from the south and inspired what some observers describe as the militarization of the US–Mexico border (Andreas 2000; Dunn 1996). Following the terrorist attacks of September 11, 2001, new immigration control measures targeting suspected terrorists or those with links to terrorism were instituted, mostly by the US Justice Department and the Immigration and Naturalization Service. In the name of enhancing national security, immigration regulation was placed under the jurisdiction of the newly created Department of Homeland Security, prompting some critics to worry that all immigration would be equated with terrorism (Hing 2002).

Americans are thus once again forced to decide if immigration is good or bad for the country. Who should be allowed in and who should be kept out? How can immigration policy best serve the nation? How should the country control suspicious activities among foreigners already in the United States? And at what risk to immigrant communities and cost to our own civil liberties? Can the United States be both a nation of immigrants and a gatekeeping nation? Although contemporary events have propelled these questions to the forefront of domestic and international policy discussions, immigration law has been critically important to the formation of the United States since the end of the nineteenth century. Based on a complex intersection of economic interests, foreign policies, racial and ethnic biases, and other factors, immigration laws are the gates that allow some immigrants into the country while shutting others out. They control immigration patterns, shape immigrant lives in America, contribute to the formation of the American state, help define what it means to be an "American," and reflect and reinforce racial, ethnic, class, and gender relations. Historians have long chronicled the most important, landmark laws and studied the politics behind their passage (Divine 1957, p. vii; Bernard 1980; Seller 1984). But such a limited focus obscures the larger significance of immigration policy and its consequences for both immigrant and non-immigrant America.

Reflecting new interdisciplinary trends in scholarship on immigration, this essay analyzes a broad spectrum of local, national, and international immigration policies as well as their effects on both immigrant and non-immigrant communities from 1875 to the present. Considering the development and characterization of the United States as both a gatekeeping nation and a nation of immigrants, the history and contemporary state of US immigration law reflect a deep-rooted ambivalence about the role of immigration and immigrants in American society. Unrestricted or liberal immigration policies have acted as a force of progress, ushering in great waves of immigrants, while restrictive and exclusionary measures have legalized racism and other forms of discrimination in the name of national security. It has not been uncommon for these two divergent immigration goals to coexist at the same time. Understanding American immigration law is thus critically important not only to the study of international migration and immigrant communities, but also to the larger significance and consequences of immigration for the United States itself. The first section of this essay identifies the changing definitions of immigration law as well as major directions in new scholarship. I then explain the historical development of US immigration law and policy from 1875 to the present through three chronological

sections: the origins of American gatekeeping (regulating for closure) from 1875 to 1924; immigration under the quota system, during depression, and World War II, from 1924 to 1965; and reform, "new" immigration, and transnational immigration regulation from 1965 to the present.

Definitions and Major Directions

Immigration law history is a relatively young sub-field. Primarily interested in migration patterns, community formation, and issues of assimilation, ethnicity, and identity, immigration historians have largely ignored the important role of immigration law and policy. Aristide Zolberg writes that social scientists studying incoming streams of migrants have "paid little or no attention to the fact that the streams were flowing through gates, and that these openings were surrounded by high walls" (Zolberg 1999a, p. 73). When they have focused on the laws and policies affecting immigrants, historians have traditionally focused on two areas: anti-immigrant nativism and the legislative history of immigration law. Studies of the former, building upon the foundation of John Higham's landmark 1955 study, *Strangers in the Land*, have sought to explain the motivations and social, intellectual, political, economic, racial, and ethnic factors behind nativist patterns in US history (Higham 1978, p. 4; Solomon 1989; Daniels 1962, 2004; De Leon 1983; Saxton 1971; Anbinder 1992; Kraut 1994). Other scholars have emphasized the congressional and presidential politics behind the passage of landmark immigration laws. Both bodies of scholarship employ the traditional definition of immigration law as "front gate immigration," the admission of foreigners who intend to become permanent residents of the United States (Fitzgerald 1996, pp. 17–18).

But immigration to the United States and immigrants already in the country are affected by a broad range of policies outside of those passed by Congress. These may include presidential executive orders, the administrative procedures and policies of the immigration service, and state- and local-based restrictions on social welfare benefits for foreigners, resident aliens, naturalized citizens, and native-born citizens. Studies that only focus on those who intend to become permanent residents unnecessarily limit scholarly inquiry. Foreigners arriving to and residing in the United States come as laborers, students, travelers, skilled professionals, refugees, asylum seekers, and relatives of citizens. Some are long-term residents, but do not become naturalized citizens. Others stay for only a short time and then return home. Some come illegally, either with no documents or with false ones, and are subjected to government harassment and perhaps arrest and deportation.

US immigration law thus has a far-reaching impact on a wide range of individuals in immigrant and ethnic communities. An interdisciplinary group of scholars, especially those involved in studying the relationship between law and society, have led an intellectual redefinition of immigration law to reflect this reality. A first group of writers has helped broaden our understanding of immigration law to include state and local laws; enforcement procedures by the courts, administrative agencies like the US Immigration and Naturalization Service, and consular officials abroad; and policies regulating the "back-door immigration" of undocumented immigrants and of refugees (Neuman 1993; Salyer 1995; Peffer 1999; Fitzgerald 1996, p. 18; E. Lee 2003; Ngai 2004; K. Johnson 2004). A broader perspective on immigration law has

allowed us to better understand the historical development of immigration regulation and its expansion to a wider range of individuals. It also helps scholars re-examine the contests surrounding enforcement procedures, the place of immigration law in comparison to other aspects of US law, and the role that immigration law has played in the growth of the federal government's administrative power. Lucy Salyer's study of the enforcement of the immigration laws in the late nineteenth and early twentieth centuries, for example, demonstrates how federal immigration regulation moved out of the realm of federal courts and into newly created federal agencies, like the Bureau of Immigration (Salyer 1995). Many other scholars explore immigration law at its "bottom fringes," focusing on the ways in which policies have been interpreted and enforced by immigration officials, courts, government employees, and social workers and contested by immigrants themselves. The focus on enforcement, rather than solely on the legislation itself, has enabled scholars to address a number of larger issues, such as the role of government in American society, the social and economic goals of immigration policy, the rights of individuals, the construction and deployment of race, class, gender, and sexuality in immigration regulation, and the power of both immigrants and the state (Calavita 2000; E. Lee 2003; Schuck 1984; Zolberg 1999a; Hing 1993; Luibhéid 2002; Ngai 2004).

A third area of focus has been on the immigrants themselves, tracing the ways in which immigration laws have affected immigrant settlement patterns, identity construction, family relations, gender ratios, internal community dynamics and politics, social, economic, and political incorporation, and occupational opportunities (Hing 1993; Palumbo-Liu 1999; E. Lee 2003; Gutiérrez 1998; Ong 2003). These studies have fully demonstrated that immigrants have consistently and creatively challenged discrimination in immigration law and enforcement, through the judicial system, political action, and everyday acts of resistance and negotiation. A fourth group of scholars has paved the way in explaining how immigration policy is, as Kevin Johnson has described, a "magic mirror" reflecting and shaping attitudes about race, gender, class, sexuality, and national identity in the larger society (K. Johnson 1998, 2004; see also Lopez 1996; Ngai 2004; Jacobson 1998; Luibhéid 2002). Immigrants were targeted for immigration restriction on the basis of many factors, but race and ethnicity were especially important in determining which immigrants were considered to be the most threatening to the United States. Studies focusing on groups that were the greatest targets of immigration restriction – immigrants and refugees from Asia, Latin America, Africa, the Caribbean, and southern and eastern Europe – have contributed greatly to this area of scholarship. Donna Gabaccia and Eithne Luibhéid have also illustrated how immigration laws were used to control sexuality and women's admission into the United States (Gabaccia 1994; Luibhéid 2002).

While most studies on immigration law remain centered within the United States, a fifth new direction in the field has turned to the question of immigration policy as a transnational subject, one whose origins and impact may reach across national borders. Restrictions against Chinese immigrants, what Aristide Zolberg has called the world's "first immigration crisis," were implemented through North America, the Philippines, Australia, and New Zealand (Zolberg 1999b; Huttenback 1976; Price 1974; Markus 1979; E. Lee 2002b). Indeed, migration has dramatically increased across the world in the late twentieth and early twenty-first centuries, and as more nations grapple with its consequences, the importance of understanding immigration

law becomes a question not only of local and national dimensions, but transnational and global ones as well (Cornelius, Martin, and Hollifield 1994).

Building America's Gates: 1875–1930s

Although the United States did not attempt to regulate foreign immigration on the federal level until the late nineteenth century, colonial and state governments played an important role in both encouraging and restricting immigrants prior to then. Western and southern states encouraged immigration to increase population in those regions. As Gerald Neuman has illustrated, state governments also attempted to prohibit the transportation of foreign criminals or paupers into their jurisdictions (Neuman 1993, pp. 1834, 1837–8). The federal government did set the terms for the naturalization of foreigners. At the same time extremely generous and highly restrictive, the 1790 Naturalization Act reflected the young nation's ambivalence about immigration and set important precedents for subsequent immigration and naturalization laws. The act allowed all "free white persons" who had been in the United States for as little as two years to be naturalized in any American court, thereby mirroring Congress's confidence in the ability of European immigrants to assimilate and become worthy American citizens. But the act also explicitly neglected to include non-whites under the naturalization statutes and thus encoded into law a racialized national identity that marked African Americans and American Indians (and later, immigrants from outside of Europe) as outsiders (Kettner 1978, pp. 108–10; Gerstle 2001, pp. 4–7; Schneider 2001).

The racial restrictions on naturalized citizenship allowed the federal government to assume gatekeeper functions and had long-lasting repercussions. When Asian immigrants tried to become naturalized citizens, they were consistently denied by the courts which ruled that they were not "white" as required by the Naturalization Act (Lopez 1996, pp. 79–110). Immigration laws also reaffirmed the ban on naturalized citizenship for Asians (Chinese Exclusion Act, act of May 6, 1882 (22 Stat. 58); Immigration Act of 1924 (43 Stat. 153)). At the same time, the generous extension of naturalization to all whites allowed European immigrants to automatically claim membership in the nation and foster a strong political presence. Although Italians, Greeks, Poles, Croats, and Slovenians were often considered or viewed as James Barrett and David Roediger have argued, "in-between people" in the larger American culture, the state still considered them "white" and consistently allowed them to be naturalized. As they explain, "the power of the national state [in the form of the country's immigration and naturalization laws] gave recent immigrants both their firmest claims to whiteness and their strongest leverage for enforcing those claims" (Barrett and Roediger 1997, pp. 9–10). Thomas Guglielmo has further argued that Italian immigrants were simply "white on arrival," and that this fact had profound implications in their ability to achieve socio-economic stability, start families, and participate in local and national politics (Guglielmo 2003, pp. 6–7).

During the 1850s, immigration became a central political topic with the rise of the so-called Know-Nothings, an anti-Catholic political party which sought to decrease the political influence of new immigrants by extending the standard naturalization waiting period to 21 years. But immigrant labor had become central to the nation's industries, and the Know-Nothings never proposed restricting the flow

of immigrants (Anbinder 1992, pp. 121–2). Just a few decades later, immigration restriction had become a political and legal reality in the United States. From 1880 to 1920, 23.5 million immigrants entered the United States, mostly from southern, central, and eastern Europe and from Asia (Barkan and LeMay 1999, p. xxxiv). These large-scale changes in the racial, ethnic, religious, and cultural composition of the immigrant population triggered an explosive xenophobic reaction based on racial and religious prejudice, fears of radicalism, and class conflict (Higham 1978). Combined with a new national identity that connected issues of immigration to sovereignty, the growth and expansion of the administrative capacities of the federal government that had begun during Reconstruction allowed it to exercise more control over immigration than ever before (Schuck 1984, p. 3).

The first immigrant group to be targeted for restriction were Chinese. From 1870 to 1880, a total of 138,941 Chinese immigrants entered the country, 4.3 percent of the total number of immigrants (3,199,394) who entered the country during the same decade. Their small numbers notwithstanding, Chinese immigrants were the targets of racial hostility, discriminatory laws, and violence. Opponents to Chinese immigration cited their use as cheap labor to support their argument that Chinese were a threat to white workingmen. Comparing Chinese immigration to the African American race "problem" in the south, anti-Chinese politicians warned that similar racial strife would beset the Pacific Coast states should Chinese immigration continue unabated. But class issues were inextricably tied to other race- and gender-based arguments that identified Chinese as too foreign and unassimilable. Chinese prostitution and what Americans believed to be aberrant gender relations among Chinese also fueled support for the restriction movement (E. Lee 2003, pp. 25–30; Wong 1998, p. 6; R. Lee 1999, p. 28; Leong 2000, pp. 131–48).

Politicians in Washington, DC responded to the California lobby and excluded Asian contract labor and women (mostly Chinese) suspected of entering the country for "lewd or immoral purposes" with the 1875 Page Act. As Tony Peffer has demonstrated, the law represented the country's first – albeit limited – regulation of immigration on the federal level, and served as an important step towards other immigration restriction, particularly the exclusion of Chinese immigrants (act of March 3, 1875 (18 Stat. 477); Peffer 1999, p. 28; Salyer 1995, p. 5). Seven years later, Congress passed the 1882 Chinese Exclusion Act, which prohibited the further immigration of Chinese laborers, allowed only a few select classes of Chinese immigrants to apply for admission, and affirmed the prohibition of naturalized citizenship on all Chinese immigrants (act of May 6, 1882, ch. 126 (22 Stat. 58)). The Chinese thus became the first immigrant group to be excluded from the United States on the basis of their race and class.

Early historians argued that the anti-Asian movements that targeted Chinese, and then all other Asian immigrants, were "historically tangential" to the main currents of American nativism. They identified debates over immigration and race in the 1920s – when a national origins quota system was established – as the most significant period of American immigration restriction (Higham 1978, preface, p. 167). More recent scholarship, however, argues that the Chinese Exclusion Act, together with the Page Law, transformed the nation into a gatekeeping nation. By affirming the right of sovereign states to control immigration and by legalizing restriction and exclusion based on race, the laws paved the way for subsequent immigration restriction

policies. Equally important, the enforcement of the Chinese exclusion laws set in motion new bureaucracies, modes, and technologies of immigration regulation, such as federal immigration officials who inspected and processed newly arriving foreigners, government-issued identity and residence documents, such as US passports and "green cards," and further regulations such as illegal immigration and deportation policies (Daniels 1997, p. 3; Peffer 1999; Torpey 2000, pp. 97–100; E. Lee 2003, pp. 30–43).

Once the principle of immigration restriction had been established in law, Congress acted quickly to bar other allegedly dangerous aliens from the nation's shores on the basis of race, gender, class, physical and moral fitness, political beliefs, and sexuality, among other factors. In 1882, it passed an immigration law which barred criminals, prostitutes, paupers, lunatics, idiots, and those likely to become public charges (act of August 3, 1882, ch. 367 (22 Stat. 214)). Three years later, the Alien Contract Labor Law was passed on the grounds that such forms of immigrant labor were a detriment to white workers (The Foran Act (23 Stat. 332)). In 1891, Congress forbade the entry of polygamists and aliens convicted of a crime involving "moral turpitude" (Immigration Act of 1891 (26 Stat. 1084)). By 1907, another immigration law excluded anarchists and the moral exclusion clauses had been broadened (Immigration Act of 1903 (32 Stat. 1203, section 2); Immigration Act of 1907 (34 Stat. 898)). Many of the general immigration laws, such as the exclusions of immigrants who were "likely to become public charge" or who had committed a "crime involving moral turpitude," were gender-neutral, but as scholars have illustrated, immigrant women were disproportionately affected by them. As Donna Gabaccia explains, "any unaccompanied woman of any age, marital status, or background might be questioned" as a potential public charge, and sexual misdeeds such as adultery, fornication, and illegitimate pregnancy were all reasons for exclusion (Gabaccia 1994, p. 37).

Public concern about immigration in the early twentieth century revolved around a number of issues, but race played perhaps the largest role in determining which immigrant groups to admit or exclude. By the 1910s and 1920s, the arguments and lessons of Chinese exclusion were resurrected over and over again during the nativist debates over the "new" immigrants from Asia, Mexico, and southern and eastern Europe. Following the exclusion of Chinese, Americans on the West Coast became increasingly alarmed about new immigration from Asia, particularly from Japan, Korea, and India. Californians portrayed the new immigration as yet another "Oriental invasion," and San Francisco newspapers urged readers to "step to the front once more and battle to hold the Pacific Coast for the white race." In 1907, under pressure from Washington, DC, Japan signed a diplomatic accord, known as the "Gentlemen's Agreement," which effectively ended the immigration of Japanese and Korean laborers (E. Lee 2003, pp. 30–46).

On the East Coast, nativist groups such as Boston's Immigration Restriction League targeted the "new" waves of southern and eastern European immigrants settling and working in northeastern cities. Although these immigrants from Europe were considered legally white, many anti-immigrant leaders considered them racially different and inferior to Anglo-Saxons and northern and western European Americans. The sense of "absolute difference" that already divided white Americans from people of color was extended to certain European nationalities, and new "scientific" studies

argued that immigrants from places like Austria-Hungary, Russia, Italy, Turkey, Lithuania, Rumania, and Greece were inferior compared to earlier immigrants from northern and western Europe. The US Immigration Commission's 1911 report gave credibility to such studies by announcing that new immigrants from southern and eastern Europe were highly unassimilable and that their presence caused social problems such as crime, prostitution, and labor problems (Higham 1978, pp. 132–3).

By the early twentieth century, the American public largely supported the call to "close the gates" to immigration in general. The Immigration Act of 1917 required a literacy test for all adult immigrants, tightened restrictions on suspected radicals, and as a concession to politicians on the West Coast, denied entry to aliens living within a newly conceived geographical area called the "Asiatic Barred Zone." With this zone in place, the United States effectively excluded all immigrants from India, Burma, Siam, the Malay States, Arabia, Afghanistan, part of Russia, and most of the Polynesian Islands (Immigration Act of 1917 (39 Stat. 874)). The Quota Act of 1921 limited annual admissions to 355,000 and restricted the number of aliens admitted annually to 3 percent of the foreign-born population of each nationality already residing in the United States in 1910. The act was designed to limit the immigration of southern and eastern European immigrants, whose populations had been much smaller in 1910. By the same token, the act was designed to favor the immigration of northern and western European immigrants who had as a group already been a large presence in the United States in 1910 (Quota Act of 1921 (42 Stat. 5, section 2)). Although the numbers of southern and eastern European immigrants decreased greatly after 1921, nativists pushed for even greater restrictions. The 1924 act thus reduced the total number of admissions to 165,000, changed the percentage admitted from 3 to 2, and moved the census date from 1910 to 1890, when southern and eastern European immigrants had yet to arrive in large numbers (Immigration Act of 1924 (43 Stat. 153); Higham 1978, pp. 308–24; Ueda 1994, p. 22). No restrictions were based on immigration from the Western Hemisphere, but the act closed the door on any further Asian immigration by denying admission to all aliens who were "ineligible for citizenship" (i.e. those to whom naturalization was denied) (Quota Act of 1921 (42 Stat. 5, section 2); Immigration Act of 1924 (43 Stat. 153); Higham 1978, pp. 308–24).

While historians had previously focused most of their attention on the nativist and legislative debates surrounding immigration law during this formative period, new studies are just beginning to concentrate on the consequences of the laws themselves and the ways in which they altered immigration patterns, labor markets, community and family formation, ethnic and racial identities and politics, the administrative state, and the very role of immigration in American life. First, immigration in general decreased dramatically, especially amongst those groups most affected by the new restrictions. While 23.5 million immigrants had entered the country from 1880 to 1920, fewer than 6 million entered from 1920 to 1965 (Barkan and LeMay 1999, p. xxxiv). In 1921, prior to establishment of the nationality quotas, 222,260 Italians entered the United States. From 1925 to 1930, the average number of Italians allowed into the country dropped to 14,969, about 7 percent of the 1921 entries (Zolberg 1999a, p. 75).

Moreover, due to the racial discrimination inherent in the laws themselves, late nineteenth- and early twentieth-century immigration debates and policies shaped

new understandings and definitions of race and racial categories – a process that sociologists Michael Omi and Howard Winant have called "racial formation" (Omi and Winant 1994, p. 55). By the 1920s, a hierarchy of admissible and excludable immigrants had been codified into law, reinforcing ideas of "fitness" that were measured by an immigrant's race, ethnicity, class, and gender. As Mae Ngai has shown, the 1924 Immigration Act applied the invented category of "national origins" to Europeans – a classification that presumed a shared whiteness with white Americans and separated them from non-Europeans. The act thus established the legal foundations for European immigrants to become Americans, while "colored races . . . [were kept] outside the concept of nationality, and therefore, citizenship" (Ngai 2004, p. 27). Matthew Frye Jacobson further explains that immigration restriction, along with internal black migrations, "redrew the dominant racial configuration along the strict, binary line of white and black . . . creating Caucasians where before had been so many Celts, Hebrews, Teutons, Mediterraneans, and Slavs." By the 1960s, European immigrants and their descendants were well on their way to being accepted simply as Caucasians (Jacobson 1998, p. 14). Chinese, Japanese, Korean, Filipino and Asian Indian immigrants, on the other hand, were codified in the 1924 act as "aliens ineligible to citizenship," and as a result were further marginalized as outsiders within America (Ngai 1999, p. 70). Such debates about immigration and racial classifications directly affected African Americans, reinforcing and justifying their second-class citizenship and the Jim Crow laws of segregation during this period (King 2000, pp. 2, 138–65).

The great migrations of Asians, Europeans, and Mexicans in the late nineteenth and early twentieth centuries also coincided with and helped instigate a new level of expansion, centralization, and bureaucratization of the federal government. This "state-building" came in the form of regulating both foreigners arriving into the United States and foreigners and citizens already residing there (E. Lee 2003, pp. 21–2; Torpey 2000, p. 1; Palumbo-Liu 1999, p. 31; Fitzgerald 1996, pp. 96–144; Zolberg 1999a, pp. 71–93). The federal government increasingly gained full control over the regulation of immigration by creating a federal bureaucratic machinery with which to make and enforce immigration policy. The Immigration Act of 1891 gave to federal administrators the sole power to enforce immigration laws and established the Bureau of Immigration as part of the Treasury Department. By 1903, the Bureau had become a centralized and powerful agency and was transferred to its parent department, the newly created Department of Commerce and Labor (an act to establish the Department of Commerce and Labor (32 Stat. L., 825); Smith and Herring 1924, p. 10). In 1906, the Bureau of Immigration became the Bureau of Immigration and Naturalization, undertaking control over the naturalization of immigrants (act of June 29, 1906 (34 Stat. L., 596); Smith and Herring 1924, p. 12). By 1924, as political scientist Keith Fitzgerald has illustrated, a "national policy network for front-gate immigration policy had emerged." Standing congressional committees, national interest groups, federal bureaus and agencies all monitored immigration and shaped immigration policy (Fitzgerald 1996, p. 145).

Indeed, in the process of determining whom to let in and whom to keep out, the very definition of what it meant to be an "American" was constructed and reinforced. Excluded from the country and barred from naturalization, Asians were largely considered outside the circle of "we the people." Americans were more confident

about the ability of immigrants from southern and eastern Europe to eventually acquire the necessary skills for responsible citizenship, but the drastic restrictions on new immigration were required, politicians argued, to allow the US to fully absorb the newcomers.

Half-Open Gates, 1924–65

Though traditionally overlooked by historians, the period of 1924 to 1965 has recently been the subject of renewed scholarly interest (Ueda 1994; Ngai 2004). Primarily seen as an era of limited immigration – due to the enactment of the national origins quotas with the 1921 and 1924 acts – this period is in fact significant on many levels. It represents an important intersection between the two periods of great migration, and both continuity with earlier periods and hints at reform characteristic of the post-1965 period are evident in the policy changes occurring during these years. World events such as the Great Depression, World War II, and the Cold War also impinged on immigration policies in ways that distinguished this era from other ones. Lastly, immigration to the United States did not cease despite the great effects of the restriction laws passed in the earlier period. Legal migration rose dramatically from specific regions of the world, not only shaping those immigrant communities in the United States, but also laying the foundation for subsequent immigration laws. More than 7 million immigrants and 4.7 million guest workers entered the United States from 1924 to 1954. Although these numbers reflect a great reduction in immigration prior to the quota acts, they do demonstrate that immigration was not completely halted. Many migrants during this period entered as "nonquota" immigrants, a new category created by the quota acts that gave preference to immigrants with occupational skills or who had spouses or parents already in the United States. From 1921 to 1924, professors, professionals, and domestic servants were among those with "preferred skills" allowed in under this category. After 1924, the class was redefined to include professors, students, and ministers only. Wives of US citizens and their unmarried children under 21 were also allowed to apply under this category after 1924. Such preferences were not completely new to immigration regulation. Reed Ueda points out that such selective measures (favoring occupational status and family relationship) were first instituted in the government's enforcement of the Chinese Exclusion laws and the Gentlemen's Agreement with Japan (Ueda 1994, pp. 24–5, 32). The largest number of immigrants during this period entered from the Western Hemisphere, which was exempted from quotas or ceilings. Migration from Canada and Mexico, in particular, rose dramatically in response to the labor shortages caused by the restrictions on Asian and European immigration. Over 1.4 million Canadians arrived in the United States from the 1920s to the 1950s. More than 5.5 million Mexicans came intending to settle or as temporary workers, of whom 840,000 intended to settle and 4.7 million were classified as temporary workers (Ueda 1994, p. 33). To regulate the dramatic increase of migration along the US–Mexico border, the US Border Patrol was created in 1925 (act of February 27, 1925: Relating to the Border Patrol (43 Stat. 1049–50)). Migration from the West Indies, Puerto Rico, and the Philippines also rose. From 1900 to 1930, more than 100,000 migrants from the West Indies entered the United States (Ueda 1994, p. 7). In 1920, there were just over 5,000 Filipinos on the mainland United States.

Ten years later, the number had jumped to 45,208 (Takaki 1989, p. 315). The Puerto Rican population in the United States experienced the most dramatic growth, fueled in part by the establishment of inexpensive air travel. From 1930 to 1950, the Puerto Rican population grew from 53,000 to almost a quarter of a million (Ueda 1994, p. 36). As US colonial subjects, both Puerto Ricans and Filipinos were exempted from the 1920s immigration restrictions that affected most other immigrant groups. Puerto Ricans entered the country as US citizens. Filipinos were considered "American nationals," a direct result of what Mae Ngai calls "imported colonialism" (Ngai 2004, pp. 13, 91–166).

Directly related to this increase in non-quota immigrants, temporary workers, American nationals and citizens was a significant increase in illegal immigration, which Ngai argues posed new legal and political problems. The illegal alien was a "new legal and political subject, whose inclusion within the nation was simultaneously a social reality and a legal impossibility – a subject barred from citizenship and without rights." The concept and practice of illegal immigration forced the federal government to respond in new, unprecedented ways and had a profound impact on notions of membership and belonging for both immigrants and native-born Americans (Ngai 2004, p. 27).

The economic depression of the 1930s sharply curtailed all migration and actually contributed to a large trend in return migration. Annual quotas for many nations were never filled from 1930 through the end of World War II, when less than 700,000 immigrants entered the country. The rate of return migration was greater during these years than new migration (Ueda 1994, p. 32). Nativists also renewed their calls for the restriction and deportation of immigrants during this decade, most notably Filipinos and Mexicans (Divine 1957, p. 60; Melendy 1976, pp. 115–16, 119–25). As the number of Mexicans applying for public relief increased with the economic downturn, local, state, and national officials launched aggressive deportation and repatriation programs during the 1930s. One recent estimate places the number of Mexicans, including American-born children who were returned to Mexico, at 1 million (Balderrama and Rodriguez 1995, p. 122). Furthermore, a 1929 law made it a felony for an alien to enter the country illegally and provided for more severe punishment for immigrants who returned after deportation (45 Stat. 1551).

The unrestricted immigration of Filipinos ended in 1934 when an unlikely coalition of nativists, anti-colonialists, and Filipino nationalists spearheaded the passage of the Tydings–McDuffie Act, which granted the Philippines independence and thus stripped Filipinos in the United States of their status as nationals. Now subject to the 1924 Immigration Act, Filipinos were reclassified as aliens and the Philippines were given an annual quota of 50 persons. Those already in the United States found themselves threatened with deportation and were ineligible for government assistance. The 1935 Repatriation Act – passed as part of the Philippine independence bill – sought to remove Filipinos from the United States by paying their transportation to the Philippines on the condition that they give up any right of re-entry back into the country (Divine 1957, pp. 68–76; Hing 1993, pp. 33, 36, 63; Takaki 1989, 331–4).

The crisis of world war during the 1940s had a tremendous impact on US immigration law. On the one hand, the door "opened a little," mostly in response to

new wartime alliances and foreign policy agendas as well as the acute labor shortage (Reimers 1985, p. 11). On the other hand, immigration regulation reaffirmed the principle of restriction, even in the most dire cases of human need. The war with Japan necessitated the need for new and renewed alliances with Asian countries, but with the exclusion of Chinese immigrants still in place at the start of World War II, the United States faced the embarrassing situation of barring from immigration the citizens of an allied nation. Repeal of the Chinese Exclusion laws – framed mostly as a wartime measure to recognize China's new status as a war ally – thus attracted much public support and was passed in December of 1943. Historically important, repeal nevertheless had little practical effect on Chinese immigration, since the quota for Chinese was set at 105 persons per year (Reimers 1985, pp. 11–15; Riggs 1950). In 1946, Congress also granted quotas of 100 to India and the Philippines and allowed for the naturalization of immigrants from those countries as well. Both measures were approved out of concern to shore up support from Asian allies. In 1945 and in 1947, Congress continued to relax the country's immigration laws with the War Brides Acts, which allowed the spouses of American servicemen to enter the country (Divine 1957, pp. 152–4; Bennett 1963, pp. 63–4, 79–81, 86–7; Ueda 1994, p. 37). The gates were also allowed to be opened to an estimated 200,000 *braceros*, temporary farmworkers and other laborers from Mexico, who were admitted under the Bracero Program established by the US and Mexican governments. Working primarily in agriculture and in transportation, these migrants were officially classified as foreign laborers, rather than immigrants. Although the program was primarily seen as a wartime measure that would replenish the depleted workforce and increase wartime production in many industrial sectors, it remained in place until 1964. The peak year of *bracero* migration was 1959, when 450,000 Mexicans entered the country under the program (Ueda 1994, p. 34).

At the same time that immigration policy was liberalized in some areas, restriction remained the primary principle influencing others. First, national security was linked to immigration more explicitly during the 1940s. The Smith Act of 1940 granted American consuls the power to refuse visas to any individual they deemed a potential danger to "public safety." Under the act, the President could also deport any alien whose removal was "in the interest of the United States" (Ueda 1994, p. 42). Secondly, restrictionism became extended to refugee issues. During the crucial years of 1938, when pressure for Jews to leave Nazi Germany intensified, to 1941, when it became impossible for them to leave the country, the US Congress ignored a variety of bills directed at admitting Jewish refugees fleeing Nazism. Nativism, anti-Semitism, American isolationism, and the economic depression were all factors behind what scholars Norman and Naomi Zucker call the United States' "anti-refugee policy." The US State Department went so far as to erect what David Wyman has characterized as "paper walls" to prevent refugees from landing. The most notable case involved the US government's refusal to let the SS *St. Louis*, carrying 937 Jews, from docking in Miami, Florida. Not one passenger was granted a permit to land, and the ship was forced to return to Europe (Wyman 1968; Breitman and Kraut 1987; Zucker and Zucker 1996, p. 21). Within the United States, decades of anti-Japanese sentiment culminated following the Japanese attack on Pearl Harbor in December 1941. Within a span of a few short months, 120,000 Japanese immigrants and their American-born citizens were removed from their homes on

the West Coast and interned behind barbed wire. Their incarceration reaffirmed their marginalization and represented an important continuity with earlier Asian exclusion policies that treated all Asians (even the second generation) as potential threats and perpetual aliens in the United States (Weglyn 1976; Daniels 1989, 1993; Irons 1993).

Foreign policy had always been a factor in determining immigration laws, but during the Cold War, the two became ever more intertwined (Zolberg 1995). The Internal Security Act of 1950 not only called for better tracking of "subversives" already within the United States; it also barred all aliens who had been Communist Party members and deported those already in the United States (Ueda 1994, p. 42). Refugee admissions were another area of immigration law that was directly influenced by American Cold War foreign policy agendas. Although the United States initially turned its back on refugees during World War II, subsequent refugee measures, primarily emanating from the executive branch, opened the gates a little, especially to those individuals fleeing Communist-held countries. In 1945, President Harry Truman signed an executive order allowing 40,000 refugees into the United States. In 1948, he signed the Displaced Persons Act, which issued 202,000 visas to refugees over a two-year period while still maintaining the quota system established in the 1920s. An amended version of the act in 1950 increased the annual admissions to 341,000, removed some of the discriminatory measures in the earlier law, and liberalized the admission and processing of refugee migration even more. The anti-Communist atmosphere in the United States inspired changes in the bill in 1953, 1957, and 1960 which allowed refugees from Communist-dominated countries or countries in the Middle East to enter the United States. These entries were "mortgaged" against their homelands' future quotas. The measure also favored refugees from Baltic states and discriminated against Jewish applicants. Such special refugee-related acts did not alter the national origins quota system established in the 1920s, but they did reflect a new trend in providing special admission provisions for various favored groups. It was in the arena of refugee policy that liberalization in immigration law, particularly in the weakening of quotas, also first began (LeMay 1987, p. 14; Ueda 1994, p. 37; Reimers 1985, pp. 22–4). Such measures not only provided a safe haven for refugees, but also reaffirmed the United States' image as a free, democratic nation in comparison to the Communist states the refugees had left behind.

One of the most important immigration laws passed during this period, the 1952 Walter–McCarran Act, clearly demonstrates both the continuity and change in relation to immigration law characterizing this era. It reinforced the tough restrictions of the 1920s by maintaining the national origins quotas, but it abolished the Asiatic Barred Zone, one of the most discriminatory aspects of previous immigration law. As a precursor to the 1965 act, it introduced a system of preference categories for skilled laborers and relatives of US citizens and permanent residents. It also removed all racial, gender, and nationality barriers to citizenship. Reflecting its Cold War era origins, the act strengthened the connection between immigration and national security by establishing strict security provisions designed to target suspected subversives. Liberals generally viewed the Walter–McCarran act as unduly harsh and racist because of it continuation of the national origins system. President Truman in fact vetoed it, but Congress overrode his veto (Reimers 1985, pp. 17–20).

Continuity and Change: Post-1965 Immigration Law

Motivated by Cold War politics and civil rights activism, the momentum for immigration reform increased by the 1960s. At a time when the United States emphasized its virtues of freedom and democracy over the totalitarianism of communism, the unequal treatment of immigrants based on race exposed the hypocrisy in American immigration regulation. Strong leadership came from the White House under President John F. Kennedy, whose 1958 book, *A Nation of Immigrants*, was an unabashed celebration of America's immigrant heritage and a call for immigration reform (J.F. Kennedy 1964, pp. ix–xi, 77–83). Following Kennedy's assassination, President Lyndon B. Johnson embraced the cause and declared that the national origins framework was "incompatible with our basic American tradition." Enacted as part of the Johnson administration's larger civil rights agenda, the 1965 Immigration and Nationality Act abolished the national origins quotas and created a new set of preference categories based on family reunification and professional skills (Immigration and Nationality Act (79 Stat. 911); King 2000, p. 243; Reimers 1985, p. 81). Cloaked in the rhetoric of liberal and civil rights reform, the 1965 act has been portrayed as representing a "high-water mark in a national consensus of egalitarianism" and a "reassertion and return to the nation's liberal tradition in immigration" (Daniels 1990, p. 338; Chin 1996, pp. 273, 277). Political opposition to the reforms was minimal (Stern 1974, pp. 248, 296). With such great public support behind them, lawmakers predicted that with the reforms, the United States – a "nation that was built by the immigrants of all lands" – would now be able to ask potential immigrants "What can you do for our country?" rather than "In what country were you born?" (L.B. Johnson 1965, p. 116).

The 1965 Immigration Act's assault on racism and the tremendous new immigration it has allowed into the country represent some of the most important changes in post-war American law and society. With the 1965 act, immigration policy grew beyond its original role of guarding against dangerous foreigners and sought to build upon earlier immigration, a legacy that was now seen as a strength to the nation. The abolition of the 1924 quota system flung open the gates to a multitude of peoples who had been excluded under the old regime, and the exponential growth in immigration has radically altered the racial composition of the United States. Prior to 1965, the peak decade for immigration was 1911–20, when 5,736,000 immigrants entered the country, mostly from Europe. During the 1980s, a record 7,338,000 immigrants came to the United States, followed by 6,943,000 from 1991 to 1997. The 2000 census figures reveal that the United States is accepting immigrants at a faster rate than at any other time since the 1850s (US Immigration and Naturalization Service 1999; Dinan 2002). Most new immigrants are from Asia and Latin America. In the 1980s, more than 80 percent of all immigrants came from either of these two geographic regions (Daniels 2001, p. 6). Between 1971 and 1996, 5.8 million Asians were admitted into the United States as legal immigrants, and over 1 million Asians have been admitted as refugees since 1975 (Zhou and Gatewood 2000, pp. 10–11). In the 1990s, immigrants born in Latin America made up more than half of all immigrants in the United States for the first time (Dinan 2002).

Despite such immense changes resulting from the new law, the act itself did not totally overturn all vestiges of the early gatekeeping system. Indeed, the conventional

focus on the transformation in immigration patterns after 1965 obscures the significant continuities that persisted in immigration regulation. Some of the most recent scholarship in history, sociology, and legal studies indicates that immigration laws continue to function in similar ways to their earlier predecessors. First and foremost, the 1965 act may have opened up the gates to a wider number of immigrants, but it never sought to dismantle the gates altogether or repudiate the principle of gatekeeping. The United States has retained the right to use gates and gatekeepers to control immigration and to document and keep track of immigrants already within the United States. Secondly, restrictions based on race were formally rejected, but the act still limited the number of immigrants allowed into the country each year through new hemispheric and national quotas. Persons from the Eastern Hemisphere were allotted 170,000 visas; persons from the Western Hemisphere were allotted 120,000. No country in the Eastern Hemisphere could have more than 20,000 visas. "Immediate" family members, such as spouses, minor children, and parents of US citizens were exempt from the numerical limits. In 1976, the Immigration and Nationality Act of 1965 was amended. The new provisions extended to the Western Hemisphere the 20,000 per country limit and a slightly modified version of the seven-category preference system. In 1978, immigration legislation was passed to combine the separate hemispheric ceilings into a worldwide ceiling of 290,000 with a single preference system (King 2000, p. 243; Reimers 1985, p. 81). Many of the barriers first established in the nineteenth century, including the "likely to become a public charge" clause, physical and mental health requirements, and ideological tests, also remained firmly in place (Daniels 1990, pp. 340–1).

Most notably, although the 1965 law's main intention was to end racial discrimination in immigration law, race played – and continues to play – a most important role in the debates over immigration reform and in subsequent laws both during the 1960s and in our contemporary period. The 1965 act abolished the national origins quotas, but lawmakers still expressed a desire to facilitate immigration from Europe and to limit – or, at the very least, discourage – immigration from Asia, Latin America, and Africa. Indeed, although a racial hierarchy was not explicitly written into the new law as in 1924, it remained deeply imbedded in the 1965 act's design and intent. European immigrants, the last group to be restricted in the pre-1924 period, were the first to be compensated for past discrimination. When Robert Kennedy testified before Congress of the urgent need to eliminate discrimination in immigration, the examples he cited pertained to European immigrants only (US Congress 1964, pp. 410–12; Reimers 1985, p. 69). President Lyndon B. Johnson stressed the bill's primary intent to redress the wrong done to those "from southern and eastern Europe" (L.B. Johnson 1966, pp. 1037–40). And lawmakers predicted that the main beneficiaries of the new law would be immigrants from Italy, Greece, and Poland, countries which had the largest backlogs of persons awaiting visas. No longer considered immigrant "menaces," these European immigrants came to epitomize instead the nation's newfound celebration of its "immigrant heritage" by the 1960s (Celler 1965, p. 21579; E. Kennedy 1965, p. 23352; Stern 1974, p. 160; Reimers 1985, pp. 77–9). This emphasis on America's newfound identity as a "nation of immigrants" was rooted in the European immigrant paradigm. It signaled the total integration of pre-1924 European immigrants into the nation and became a

metaphor for the success of European immigrant assimilation and boot-strap upward mobility (Trucio-Haynes 1997, pp. 374, 387).

The 1965 act sought to encourage European immigration and maintain the racial and ethnic homogeneity achieved under the older 1924 quota system through the new family reunification preference category. A compromise measure between organized labor, which wanted continued limits on immigration, and those who wanted to abolish the national origins system, family reunification was supposed to privilege new immigration based on the existing (i.e. European American) population already in the United States. Critics who charged that the new law did not go far enough argued that such "reforms" were not reforms at all, but rather maintained the status quo, just under a different system and with the appearance of non-discrimination (Reimers 1985, p. 76).

At the same time that European immigrants were described in celebratory terms, concerns about an increase in immigration from Asian, Latin American, and African countries persisted, revealing continued anxiety about large increases in the admission of immigrants of color. The numerical caps placed on the Western Hemisphere in the 1965 act were designed to placate lawmakers wary of large-scale migration from Latin America. By counting immigrants from the Western Hemisphere against an annual quota for the first time, the number of Mexicans allowed to enter the country legally was dramatically reduced (Reimers 1985, pp. 84–5). This reduction has had long-standing consequences. The waiting list for applications of Mexican citizens who qualify for immigration as the brothers and sisters of adult citizens under the 1965 act was recently calculated as taking as long as nine years. Applications of those who filed their papers to come to the United States in March of 1989 were only being processed in March of 1998 (K. Johnson 1998, p. 1134). Lawmakers also dealt with Asian immigration very cautiously. The 1952 act had abolished the Asia–Pacific Triangle, which excluded all immigrants from this manufactured geographic region, but the action was viewed as a symbolic end to discrimination only. As the debates over the 1965 Immigration Act make clear, lawmakers were repeatedly assured that the number of non-European immigrants would not materially increase with the changes in the law. Representative Celler disputed charges that the bill would allow entry to "hordes" of Africans and Asians or that the bill would allow the United States to become the "dumping ground" for Latin America (Celler 1965, pp. 20781, 20950; Stern 1974, pp. 120–1; Reimers 1985, p. 81). Asian American Senator Hiram L. Fong from Hawaii declared in Congress that "racial barriers [were] bad for America," but he also assured his colleagues that only a small number of people from Asia would enter the United States under the 1965 act (King 2000, p. 244; US Congress 1965, pp. 23557–81; Stern 1974, pp. 162–3). As such cautious reforms guiding the 1965 act illustrate, the great new migrations from Asia and Latin America were largely unintentional. Congress desired to end the explicitly discriminatory national origins quota, but it did not want to totally abandon either immigration restriction in general or the racial and ethnic homogeneity that the earlier system had provided.

Given such motivations behind the act, it is thus significant that lawmakers did not attempt to rescind the laws or reinstate the older system when it became clear that the main immigrant groups to take advantage of the new law came from Asia and Latin America, rather than from Europe. The major provisions of the 1965 act

remain largely intact, and both supporters and opponents of immigration characterize the post-1965 period as one of liberalized immigration in comparison with the earlier, pre-1924 period (Daniels 2001, pp. 46, 50, 58; Graham 2001, p. 157). Instead of an explicitly race-based hierarchy structuring immigration regulation, post-1965 policies give more weight to class and immigrant status in determining current immigration opportunities and treatment in the United States.

Gatekeeping ideologies, politics, and policies based on race, however, have not been totally abolished. Despite some observers' claims that the new nativism is not as racially based as the nativism of the pre-1924 period, the persistence of racialized understandings of which immigrants constitute a "threat" to the country demonstrate otherwise (Daniels 2001, pp. 46, 50, 58; Gotanda 1997, p. 253; Sanchez 1999, p. 373). The state's systematic efforts to regulate the entry of potentially dangerous foreigners applying for admission and to control those already residing in the country also remain central, even in the most humanitarian and liberal immigration policies. Gatekeeping does not function in the same way as it did in the earlier period. The immigrants, the gates, and the challenges are different, and immigration law and regulation reflect these important new contexts. Groups that had previously been targeted face less scrutiny from government officials. But other immigrants have taken their place, and the role of race in determining which immigrants are targeted follows patterns first established prior to 1924. The existence of a hierarchy of immigrant desirability and the increased importance of administrative, rather than legislative, regulations in immigration control also remain important continuities linking the two periods together. The cases of refugee resettlement following the Vietnam War, illegal immigration from Mexico, and the treatment of Muslim and Middle Eastern immigrants after September 11, 2001 are three important examples.

In its emphasis on egalitarianism and humanitarianism, the 1980 act, like its 1965 predecessor, to some extent reflects a distinct break from the explicitly discriminatory immigration laws of the early twentieth century. Scholars have described it as symbolic of "the avowed liberalization of American immigration law in the [late] twentieth century" and a "high water mark in the name of worldwide humanitarianism" (Daniels 2001, p. 44; Schuck 1998, pp. 18, 83, 291; Anker and Posner 1981, pp. 9, 12; Gee 2001, p. 577). Both a closer examination of the law itself and refugee resettlement programs, however, reveal that American gatekeeping and old and new domestic concerns about race (left over from earlier periods of nativism and produced by post-1965 immigration, civil rights era race relations, and the Vietnam War) conflicted with the humanitarian goals in refugee admissions and resettlement and became imbedded in the policies themselves.

Beginning in 1975, the United States' admission of the first waves of Vietnamese refugees was characterized as a necessary "rescue operation." As President Gerald Ford proclaimed, America's welcome to Vietnamese refugees was consistent with America's heritage of "opening its doors to immigrants of all countries." He also emphasized the middle- to upper-middle-class backgrounds of the first arrivals by stressing that the first-wave Vietnamese were "talented," "industrious," and would contribute to America. Attempting to connect the new migration of refugees to established analogies that celebrated immigration, Ford's remarks drew on the cultural pluralist notion that "all of us [Americans] are immigrants" (Loescher and Scanlan 1986, p. 113). Initially, the United States intended to evacuate only 17,600

American dependents and government employees from Vietnam. In the mass confusion following the fall of Saigon in April 1975, however, the small numbers of evacuees had increased to a total of 130,400 Southeast Asian refugees by December 1975. By 1978, the annual admission of Southeast Asian refugees had increased exponentially, most of them admitted under the Indochinese Parole Programs that granted the attorney general *ad hoc* authority to "parole" into the United States any alien on an emergency basis, with no real numerical limit or oversight from Congress. From 1978 to 1980, 267,800 refugees had been admitted into the United States (Hing 1993, p. 126). The latter arrivals included second-wave Vietnamese "boat people" who were primarily former political prisoners and ethnic Chinese expelled from Vietnam, as well as a third and fourth wave of Cambodian refugees fleeing the "killing fields" of Cambodia, and Laotian, Mien, and Hmong from Laos who had fought the United States' "secret war" in Laos. With higher rates of poverty and lower rates of education and transferable skills, these latter waves of refugees arrived in the United States much less well prepared than the initial 1975 wave, and consequently faced more difficulty adapting to the challenges of their new surroundings.

The dramatic increase in the number of Southeast Asian refugees following the Vietnam War prompted large-scale debate about the nation's refugee policies. On the one hand, groups like the Citizens' Commission on Indochinese Refugees lobbied government officials to adopt a coherent and generous policy for the admission of Southeast Asian refugees. Highly publicized reports of refugees crowded into unseaworthy boats in dangerous seas and cramped into makeshift refugee camps in Southeast Asia led to growing pressure on Washington to take action. Lobbyists argued that traditional restrictionist and anti-immigrant sentiment had no place in the United States. Joseph Califano, Secretary of the Department of Health and Human Services, stated that the refugee issue required the United States to "reveal to the world – and more importantly to ourselves – whether we truly live by our ideals or simply carve them on our monuments" (Gee 2001, pp. 640–1).

On the other hand, the initial welcome of refugees eventually led to debate, negative reaction, and a return to restrictionism as both the numbers of new refugees and the problems and cost of their resettlement grew. As early as April 1975, a Harris poll found that 54 percent of Americans polled believed that Indochinese should be excluded; while 36 percent believed they should be admitted. California Congressman Burt Talcott recalled anti-Asian sentiment from the early twentieth century and expressed American fears of another Asian invasion. "Damn it, we [already] have too many Orientals," he is quoted as saying (Kelly 1977, p. 18). Others connected the presence of Southeast Asian refugees in the United States with the unwelcome reminder of America's divisive war in Vietnam. "I am sick, sick of Vietnam, the boat people, and Southeast Asia," one letter writer claimed in the late 1970s. Interviews with Hmong refugees in Fresno, California revealed that such sentiments were commonly made known to the new arrivals. "It seems that Americans hate us," one informant simply told a resettlement worker (Palumbo-Liu 1999, p. 245; Reder 1983, p. 15). In Washington, congressional debates during the Carter administration repeatedly centered around the two themes of congressional authority over refugee admissions and the need to prevent the opening of "numerical" floodgates to Vietnamese refugees (Gee 2001, p. 639). By 1978, news and public

opinion polls revealed that the majority of those questioned opposed the relaxation of immigration laws to admit additional refugees. In the wake of the economic recession, a peak in American unemployment, and the continuing divisions surrounding the Vietnam War, the specter of large numbers of Southeast Asian refugees needing economic assistance and social welfare services prompted a strong backlash. In the Minneapolis and St. Paul areas, where a large concentration of Hmong refugees resettled in the early 1980s, rumors circulated that the government was granting higher welfare benefits, free apartments, and even tax-free income. Concerns that the new refugees would fail to assimilate and fears – especially among the nation's poor – that they would take away jobs were also prevalent (Reimers 1985, p. 178; Reder and Downing 1984, p. 9; Loescher and Scanlan 1986, p. 130). In short, Bill Ong Hing notes that "a major catalyst for the new refugee law was a disturbing anxiety felt by some members of Congress that thousands of Southeast Asians would destabilize many communities" (Hing 1993, p. 127).

Rhetoric surrounding the actual passage of the Refugee Act, however, largely ignored concerns that hinted at this unsavory restrictionist mood. Instead, the act was characterized by remarkable political consensus from both the left and the right in the United States. Co-sponsored by Senators Edward Kennedy and Strom Thurmond, the bill was hailed by lawmakers as further evidence of the nation's egalitarian and humanitarian policy towards immigrants and refugees. Congressman Peter Rodino defined the Refugee Act as "one of the most important pieces of humanitarian legislation ever enacted by a US Congress. . . . The United States once again [has] demonstrated its concern for the homeless, the defenseless, and the persecuted people who fall victim to tyrannical and oppressive government regimes" (Loescher and Scanlan, pp. 130–43). With its explicit welcome to refugees fleeing communist countries, the new law served America's Cold War politics, but Congress also hoped to set an example for other nations through its clear compliance with international standards in dealing with refugees. Overall, the act attempted to centralize refugee admissions by ending the executive branch's power to parole an unlimited number of refugees, and established an annual quota of 50,000 after a transition period. Presidents still retained some power to admit additional refugees as international events warranted. The act also incorporated the United Nations definition of "refugee" as a person who had a "well-founded fear of persecution" owing to race, religion, nationality, or membership in a social group or political movement. Finally, the act allowed for the admission of asylees – refugees who are already in the United States and are applying for entry and permanent residence (Hing 1993, p. 127; Parish 1992, pp. 923–4; Reimers 1985, p. 197).

Despite the humanitarian language surrounding the act, in practice, the Refugee Act resulted in a significant decline in the number of Southeast Asian refugees admitted. From 1975 to 1980, 432,676 refugees from Vietnam, Cambodia, and Laos arrived in the United States, with the peak year of immigration being 1980. By the early 1980s, an average of 50,000 refugees were admitted per year (Rumbaut 2000, p. 182). In light of such results, scholars have recently argued that the actual intent of the act was to limit, rather than facilitate, the admission of refugees from Southeast Asia. The emphasis on "humanitarianism," Bill Ong Hing suggests, clouds other political motivations such as the desire to limit refugee admissions. Kevin Johnson argues that the law's establishment of numerical limits on refugees was

designed not only to restrict the power of the President in refugee admissions, but also to prevent future mass migrations. In fact, the number of Vietnamese refugees admitted fell so sharply that, in 1997, a number of Vietnamese citizens charged the US government with discrimination in visa processing under the Refugee Act (Hing 2002, p. 128; K. Johnson 1998, p. 1134; Gee 2001, p. 579).

An analysis of how refugee resettlement actually worked in practice demonstrates American gatekeeping at work and also supports the argument that the country's refugee policies were designed around racialized understandings of refugees as well as a desire to manage and monitor this particular population. Much like the intentions of earlier gatekeeping policies which sought to contain and control potential immigrant menaces, resettlement programs and philosophies drew from past and contemporary narratives of immigration and race that emphasized "transformation" in order to integrate these newcomers "without destabilizing [America's] social core." As Bill Ong Hing argues, the "same drive to control the work, the location, and even the families of Asian Americans" that originated during the Chinese exclusion era also informed admissions law and policy on Southeast Asian refugees (Hing 1993, pp. 122, 127, 129; Palumbo-Liu 1999, p. 239; Ong 2003). Thus, assimilation – shaped by deep-rooted doubts concerning the assimilability of Asians on the one hand and European immigrant models of "successful" integration on the other – became one major goal of refugee resettlement. David Palumbo-Liu points out that refugee resettlement policies "overlaid the 'classic' narrative of immigration upon the refugee crisis." Such approaches ignored the significant differences between European immigrants of the early twentieth century who came voluntarily and who enjoyed the privileges of whiteness, and post-Vietnam Southeast Asian refugees who not only experienced great wartime trauma and persecution, but who also entered a country adapting to unexpected new immigration and the divisions of the Vietnam War (Palumbo-Liu 1999, p. 242).

One of the US government's main intentions was to disperse the refugee population as widely as possible in order to facilitate assimilation and to minimize any potential negative social and economic impact on receiving communities. Initial proposals called for locating refugees on uninhabited islands or in "holding centers" for indefinite periods of time. Studies found that Southeast Asian refugees were "initially resettled in 813 separate zip code areas in every state, including Alaska, with about two-thirds settling in zip code areas that had fewer than 500 refugees. Only 8.5 percent settl[ed] in places with more than 3,000 refugees." In comparison with other immigrant or refugee populations, Southeast Asians were the most dispersely settled group (Palumbo-Liu 1999, p. 239; Rumbaut 2000, p. 183).

Self-sufficiency – informed by fears that refugees, like African Americans and other minorities, would become dependent upon welfare – became the other primary goal in refugee resettlement programs. Over the course of the 1980s, news reports of Southeast Asian refugees making "exemplary use of the welfare system," increased anxieties that they were failing to assimilate. In this way, the refugees' dependence on the welfare state became a measurement of assimilation (Palumbo-Liu 1999, p. 235). Refugee resettlement workers complained that it was "too easy" for Hmong refugees in Minnesota to receive cash assistance, and supported welfare cuts in order to "force" refugees into "work at making it here." As one government resettlement site report found, one worker suggested that "instead of just granting public assistance

to the Hmong . . . welfare [should] be used as a tool to provide gentle pressure on the refugees" (Reder and Downing 1984, p. 38; Palumbo-Liu 1999, pp. 235–6, 240). Such resettlement program goals reveal how refugee policy was informed not only by domestic race relations of the 1970s and 1980s, but also by the American gatekeeping model first established in the pre-1924 period. As scholars of the refugee experience have been quick to observe, there exists a deeply-embedded "competition between compassion and restrictionism" in refugee policy in general. Norman and Naomi Zucker write that refugee policy "has become an exercise in alchemy: how to transform refugees into immigrants, immigrants who can be controlled, regulated, and above all, chosen" (Zucker and Zucker 1996, pp. 6–7).

The racial concerns both implicitly and explicitly encoded into the Refugee Act and its corresponding resettlement programs help explain the transition between immigration reform in the 1960s and the persistence of a racialized American gatekeeping in the late twentieth and early twenty-first centuries. By the 1970s, scholars have observed that "even liberals questioned refugee policy," as the "problems" associated with Southeast Asian resettlement were associated with growing concerns about the new immigration from Asia and Latin America (Palumbo-Liu 1999, p. 246; Loescher and Scanlan 1986, pp. 209–11).

American anxiety related to refugee resettlement first helped to fuel the political debate surrounding illegal immigration from Mexico. Caused in part by the Western Hemispheric caps in the 1965 act, illegal immigration from Mexico increased, beginning in the 1970s. Apprehensions of undocumented immigrants steadily rose from 500,000 in 1970 to nearly 1 million seven years later (Gutiérrez 1998, p. 188). In the midst of a deep national recession, alarmists talked of the "loss of control" over the country's borders, and their rhetoric reflected a larger anxiety and fear about the unprecedented demographic racial and ethnic changes brought on by the new post-1965 immigration. Racialized metaphors of war such as "invasion," "conquest," and "save our state" were commonly deployed to describe illegal immigration from Mexico, while illegal immigration from other countries was largely ignored. (A large percentage of the new Irish immigrants arriving in America in the 1980s had no proper documentation or overstayed their visas, and the high-profile cases of Chinese "smuggled" into the country by boat along the west and east coasts point to a dramatic increase of Chinese illegal immigration (Perea 1997, pp. 67, 73; Corcoran 1993, p. 144; Kwong 1997; K. Johnson 1998, p. 1137).) The US government's efforts to crack down on illegal Mexican immigrants have placed the entire Mexican American community under suspicion, making illegal immigrants, legal residents, and even native-born American citizens of Mexican descent vulnerable to scrutiny and government action (Garcia 1995; K. Johnson 2000).

The ways in which the US government has attempted to control illegal immigration offer additional evidence of the extension of pre-1924 gatekeeping practices, especially the centrality of administrative, rather than legislative, initiatives. As Lucy Salyer has demonstrated for the pre-1924 period, the Bureau of Immigration evolved into a highly powerful agency that enjoyed great administrative discretion and little interference from the courts in the enforcement of immigration laws (Salyer 1995, pp. 121–78). Beginning in the 1980s, the Bureau's successor, the Immigration and Naturalization Service (INS), has similarly relied upon its own administrative power and internal INS operations (with the sanction and increased budgets approved by

Congress) to control illegal immigration from Mexico. The Immigration Reform and Control Act of 1986 (IRCA) attempted to "get tough with" illegal immigrants and their employers, but lax enforcement and migrant adaptation have proven such provisions to be ineffectual (Daniels 2001, pp. 52–8). Instead, the US government has turned to border patrol initiatives with military codenames like "Operation Gatekeeper" in San Diego, California, "Operation Rio Grande" in Brownsville, Texas, "Operation Safeguard" in Nogales, Arizona, and "Operation Hold the Line" in El Paso, Texas. From 1993 to 1996, the US Congress increased funding for the Border Patrol by 102 percent (Peters 1996). The United States currently spends $2 billion a year to build walls and manage a 24-hour patrol over the border that includes the use of night scopes, motion sensors, communications equipment, jeeps, a 10-foot high steel wall, and 9,400 border agents (Schmitt 2002a). The US Border Patrol arrested approximately one million individuals along the US–Mexico border in the year 2000 alone. In contrast, only 11,000 people were arrested for illegally crossing the US–Canada border (*National Post*, November 7, 2001). With such efforts resulting in the militarization of the US–Mexico border, no other area of immigration control has so literally embodied American gatekeeping in the contemporary period.

In the wake of the terrorist attacks on America on September 11, 2001, the core components of American gatekeeping and immigration law were pushed to the very forefront of US and international policy. Political pundits and lawmakers argued that, in hindsight, American gatekeeping efforts did not work well enough. The Federal Bureau of Investigation failed to act upon internal reports of suspicious individuals who were later found to be among the hijackers who attacked the World Trade Center and the Pentagon. At least one September 11th hijacker entered the country on a student visa, while others studied at flight schools in the United States despite their lack of student visas (Lewis 2002). Several of the suspects spent time in Canada, where less stringent immigration laws allow immigrants and refugees to enter with false or no passports, apply for asylum, travel freely, and raise funds for political activities while their asylum applications are pending. Canada's open doors, critics have argued, increased the risk of America's own national security (*Chicago Tribune*, September 26, 2001; Crossette 2001; Bueckert 2001; *National Post*, October 4, 2001; Howe Verhovek 2001; *Seattle Times*, October 10, 2001).

Following the attacks, the identification of a new immigrant threat and the solutions that followed borrow from and extend earlier gatekeeping efforts. In the search for the perpetrators, entire Middle Eastern and Muslim immigrant communities were vulnerable to blanket racializations as "terrorists," "potential terrorists," or accomplices and sympathizers. Within days of the attacks, law enforcement officials had arrested more than 1,200 people, only a handful of whom were proven to have any links to terrorism. At the end of November, 2001, approximately 600 people were still in custody, held on unrelated immigration violations (Wilgoren 2001; Firestone and Drew 2001). Despite US government appeals to prevent racial scapegoating, hate crimes directed against Middle Eastern Americans and those who appear Middle Eastern rose throughout the nation, resulting in at least one murder, of a South Asian Sikh gas-station owner in Mesa, Arizona. Racialized as the latest immigrant menace, entire ethnic communities found themselves under suspicion (Goodstein and Niebuhr 2001; Goodstein and Lewin 2001; *The Detroit News*,

September 30, 2001). Newspapers reported on a "broad consensus" among both supporters of immigration and restrictionists on the need for additional immigration restriction as a matter of national security (Center for Immigration Studies 2001; *Miami Herald*, November 16, 2001).

In an effort to manage the new terrorist threat, drastic changes in immigration policy took effect in the few short months immediately following the attack. No formal legislation restricting the immigration from countries suspected of being breeding grounds for terrorists was passed, but other important controls on immigration, and, especially, immigrants already within the United States, were instituted as part of other laws. A section in the "Patriot Act" passed in the House of Representatives in October of 2001 allowed the long-term detention of non-citizens whom the attorney general "certified" as a terrorist threat (Toner and Lewis 2001). Similar to earlier gatekeeping efforts, internal, administrative decisions of the INS were also significantly altered to track, control, and detain immigrants suspected of terrorist activity or those deemed a potential threat to national security. Immigration officials quietly amended the INS's own administrative rules and procedures to grant them greater control over all foreigners. During November and December of 2001, US government agents targeted 200 college campuses nationwide to collect information on Middle Eastern students (Steinberg 2001). In November, the Justice Department expanded the power of its officers to detain foreigners even after a federal immigration judge had ordered their release for lack of evidence. The judicial order can be set aside if the immigration service believes that a foreigner is a "danger to the community or a flight risk." While immigration lawyers argued that the new law deprives the detainees of the fundamental right of bond hearings, supporters claimed that the change was necessary in the new war against terrorism. Still others noted that the agency appeared to be strategically using the new political climate to address long-standing concerns about the power of immigration courts (Firestone 2001).

In April of 2002, a Justice Department legal ruling set in motion the use of state police to enforce federal immigration laws. Under a proposed federal plan, local police officers were to become deputized as agents of the INS with the power to arrest immigrants for overstaying a visa or entering the country illegally (Schmitt 2002a). In June 2002 Attorney General John Ashcroft proposed new Justice Department regulations that would require Muslim men to be fingerprinted, photographed, and registered with the INS. Such a measure – so similar to the Geary Act of 1892, which required Chinese laborers to register with the federal government – is to provide a "vital line of defense" against terrorists, in the words of the attorney general (Schmitt 2002b). Critics claimed that such sweeping legal changes in immigration control institutionalized racial profiling and the suspension of liberties for immigrants, and government officials themselves have publicly questioned the merit of the program. Of the more than 83,000 immigrants considered suspect for ties to terrorism, only six were further investigated by the Department of Homeland Security. (Nearly 13,000 were found to be in the country illegally.) Furthermore, the September 11 Commission questioned these findings and reported that it had found little evidence supporting the Department's claim that these six individuals had any links to terrorism at all. Nevertheless, the Bush administration's proposals commanded strong public support, and as of early 2005, important vestiges of the original program remain in place. Most notably, immigrants from 25 countries are still

required to register with immigration officials when they enter and leave the country (Purdy 2001; Swarns 2003).

Such drastic measures have been justified as part of America's new war against terrorism, and officials have been careful to assert that the new policies were put in place to target terrorists only. Nevertheless, the effects and consequences of these new policies have already been felt by all immigrants, and, indeed, all Americans. In 2002, Congress passed the Homeland Security Act of 2002, which, among many other things, abolished the Immigration and Naturalization Service and created two new divisions, the Bureau of Citizenship and Immigration Services and the Directorate of Border and Transportation Security (US Department of Homeland Security). The former deals primarily with naturalization, visa and work permits, and other services for new residents and citizens; the latter deals with border and immigration law enforcement. Placing both bureaus under the control of the new Homeland Security Department, immigrant advocates have argued, sends the message that all immigrants, not just those suspected of terrorism, are potential risks to national security (Hing 2002). Questions relating to the role of immigration in the United States, and America's identity as a nation of immigrants, let alone the serious questions of civil liberties and the effects that such a reorganization and paradigm shift will have on the millions of immigrants already in the country, remain to be answered.

Conclusion: A Global Era of Immigration Policy

One of the first changes in immigration regulation following the terrorist attacks in 2001 was the discussion of transnational immigration control, and cooperative efforts among the United States, Mexico, and especially Canada to enforce the northern and southern borders of the United States and to regularize immigration policies among the three countries. In late September of 2001, Paul Celluci, the US Ambassador to Canada, publicly called for Canada to "harmonize its [refugee] policies with those of the United States." President George W. Bush sketched out a vision of a "North American security perimeter" to which transnational immigration controls would be central. Discussions with Mexico have also secured that country's cooperation in improving security over the shared US–Mexico border (*National Post*, October 1, 2001). Such calls for transnational immigration regulation reflect the new global era of migration and migration policy that characterizes the early twenty-first century.

America's role as an immigrant-receiving nation is no longer unique in the world. Great Britain, France, Spain, Germany, Australia, and others have all begun to wrestle with the same types of questions and methods of immigration control that the United States has considered for over 125 years. European nations are currently grappling with the challenge of integrating the foreign laborers they had primarily perceived as temporary "guests" in their countries, but who have unexpectedly decided to stay and raise families. The need for labor in Japan has caused that country to increasingly rely upon foreign labor from Latin America (mostly ethnic Japanese), Korea, and other countries. In many ways, the United States has become a global example of a gatekeeping nation, and as immigration policies become more international, the nation – and indeed the world – enters a new era of immigration

control. Wayne Cornelius, Philip Martin, and James Hollifield point out that the increasing mobility of migrants throughout the world has resulted in a new type of cooperation amongst nation-states to coordinate and harmonize migration policies, especially those concerning refugees. The economic interdependence and relaxation of internal borders that has accompanied the establishment of the European Union, in particular, has accelerated this shift. As a result, the authors posit that immigration policies are at a point of convergence. Among the United States, Canada, Britain, France, Germany, Belgium, Italy, Spain, and Japan, there is increasing similarity and cooperation in relation to the policy instruments used to control immigration, especially illegal immigration, and refugee admissions and to integrate those foreigners and their descendants already resident in each country. Public reaction to immigration in one country can directly affect public reaction in another as well (Cornelius, Martin, and Hollifield 1994, pp. 3, 6–7).

Such internationalization of immigration policy exemplifies the latest development in immigration law. For the United States, the contradictory impulses to both welcome and exclude immigrants have reflected and reinforced Americans' long-standing ambivalence towards immigration. Periods of reform and progress have been overshadowed by eras of restriction and exclusion. The history of immigration law is thus neither smooth nor predictable, but the laws themselves have always had long-lasting consequences (K. Johnson 2000, pp. 304–5). If, as historian Oscar Handlin wrote, "immigrants *are* American history," then immigration laws provide the crucial framework for understanding both immigrant and non-immigrant America (Handlin 1973, p. 3). Increasingly, migration and migration policy are essential to global history and global studies as well.

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