

Debating Immigration

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Good Neighbors and Good Citizens

Beyond the Legal–Illegal Immigration Debate

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The year 2006 will go down in history as the year when immigration moved definitively to the center stage of American national politics. For more than 20 years, political elites have been able to contain and marginalize this intractable and emotional issue, dealing with it discreetly and episodically. But over time, the number of newcomers – both legal and illegal – has continued to grow and is now reaching historic proportions. Meanwhile, the dispersion throughout the United States of immigrants formerly concentrated in a few gateway states has contributed to the nationalization of this issue.

The politics of immigration changed fundamentally in 2001, when the George W. Bush administration seized on the issue in order to build support among Hispanics and to open a dialogue with Mexico's president, Vicente Fox, one of the few heads of state eager to do business with the new president. This was the rare occasion when a major national political figure did not merely react to events or seek the protective cover of a study commission but grabbed immigration with both hands to further his own objectives. Sidelined by the terrorist attacks of September 11, 2001, Bush's immigration initiative reemerged in January 2004 with his proposed guestworker program. That proposal jump-started a debate over illegal immigration that was then fueled by tough enforcement legislation passed by the House of Representatives in December 2005. That bill provoked unprecedented demonstrations by illegal immigrants and their supporters in cities across the nation, resulting in a flurry of counteractivity on conservative talk radio. The debate rages on even as we write during the summer of 2006.

At the center of this controversy are the approximately 12 million illegal immigrants now living in the United States. This number is unprecedented, as is the group's homogeneity: almost 80 percent of illegals are Latinos.¹ Furthermore, there is a broad gap in attitudes toward illegal immigration between the vast majority of ordinary Americans and our social, economic, and political elites.² Indeed, we believe that part of what is fueling the current reaction is anger among many Americans that their concerns and complaints about illegal immigrants have for too long been ignored by elites.

We are also critical of our academic colleagues for being insufficiently attentive to the building public outrage over what increasingly looks to be the largest influx of immigrants in our nation's history. More to the point, the American public's anxieties about immigration are not fairly or prudently reduced to racism or nativism. We take our cue here from the late John Higham, the dean of immigration historians and author of the standard work on nativism, *Strangers in the Land: Patterns of American Nativism 1860-1925*.³ Although his book continues to be widely and approvingly cited by those concerned with underscoring the history of prejudice and intolerance toward newcomers to the United States, Higham himself repeatedly and eloquently distanced himself from such use of his work. In fact, two years after *Strangers in the Land* first appeared in 1955, Higham declared, "I propose that research on the conflicts associated with foreign elements in American society should take a new line. The nativist theme, as defined and developed to date, is imaginatively exhausted."⁴ More than 40 years later, Higham was still making this same point.⁵

Following Higham, we believe that a fuller understanding of immigration politics requires moving beyond long-dominant academic preoccupations with irrational prejudices and distorting ideologies as the presumed mainsprings of negative reactions to immigrants. Instead, we advocate focusing on the concrete processes and structures of daily life. As Higham acknowledged, this approach entails paying less attention to dramatic and passionate outbursts and more to the mundane contexts of neighborhoods and cities. This is where a myriad of quite rational conflicts of status and interest play out between immigrants and nonimmigrants, as well as among various immigrant groups themselves.⁶

Yet this is not to say that the views of Americans – or of the politicians representing them – about immigration should be taken at face value. Even opinions with rational origins can be distorted by perverse political dynamics. Contemporary policy debates often get stuck in frames

that politicians and advocates find comfortable but that do not lead to discussion of meaningful policy options. Immigration is an issue area that seems particularly prone to such distortions.

A case in point is the American public's current preoccupation with illegal immigration. All parties to the current debate share the same unexamined assumption: that legal immigration is benign or even beneficial, while illegal immigration is problematic.⁷ Here, we will argue to the contrary that the real challenges do not stem exclusively or even primarily from illegal immigration but from mass migration itself. Specifically, those challenges involve the social strains and disorder that inevitably accompany any movement of large numbers of unskilled migrants into advanced democratic societies. Were it possible to stop illegal immigration tomorrow, most of the concerns expressed by so many Americans would remain unaddressed.⁸

The high-decibel popular debate over illegal immigration has proceeded simultaneously with a more muted elite discussion over the meaning of citizenship in contemporary America. Some have expressed concern that immigrants are not naturalizing as quickly or as eagerly as they might. Others are suspicious of the motives of those becoming citizens, in part because of the increased visibility of dual citizenship. Overall, many Americans are convinced that immigrants are "gaming the system" and naturalizing not out of commitment to our values and ideals but for crass, instrumental reasons.

These are different issues, but each reflects widespread anxiety that immigrants are taking advantage of the system, that things are out of control, and that American national identity is being challenged. The parallel debates over illegal immigration and citizenship also both hinge on similar formalistic dichotomies – legal immigrants versus illegal immigrants, citizens versus noncitizens. These categories are hardly incorrect. Indeed, they have intuitive appeal and legal grounding that policymakers ignore at their peril. However, in the contemporary context, they get used as legalistic shorthand that obscures the true dilemmas facing us. In our view, rigid adherence to these simple dichotomies has gotten in the way of creative policy responses to the complexities of today's immigration predicament.

In this chapter, we will elaborate on the limitations of the legal-illegal and citizen-noncitizen dichotomies; examine why these have nevertheless become so entrenched in the current debate; and offer an alternative way of thinking about these issues that supplements the prevailing preoccupation with the formal, vertical ties between individuals and state institutions

with a focus on informal, horizontal relationships. While the current debate asks whether immigrants can be good citizens, we argue that to many Americans the more immediately pressing question is whether immigrants can be good neighbors. To be sure, many communitarians do emphasize this horizontal dimension of civic membership, but they typically neglect the vertical dimension. We argue that both dimensions are critical and that only by paying attention to both can policymakers hope to make rational and fair public policy in this extremely contentious area.

ILLEGAL IMMIGRATION: NUMBERS AND CATEGORIES

The public's anxiety over illegal immigration is hardly unfounded. The Pew Hispanic Center reports that of the 12 million "unauthorized migrants" estimated to be in the United States today, 40 percent have arrived since 2000. During the first half of the 1990s, about 450,000 illegals arrived here every year. Since 2000, that annual figure has jumped to 850,000.⁹

Over the same period, illegal immigrants have dispersed across the land. In 1990, California had the largest share of the nation's illegals: 45 percent. By 2004, the Golden State still led the nation, but its share had dropped to 24 percent. Meanwhile, the proportion of illegal immigrants ending up in states such as North Carolina, Georgia, Tennessee, and other nontraditional destinations more than tripled. As a result, a regional concern has become a national one.¹⁰

Long before the current furor, it was evident to those who would look that Americans were particularly vexed by illegal immigration. In the early 1990s, a *New York Times* poll found that Americans greatly exaggerated the proportion of all immigrants who were in fact illegal.¹¹ In 1994, California's Proposition 187, which would have banned most public services to illegal immigrants, was passed with support from almost three-fifths of the state's voters, including about one-fifth of Hispanic voters and an even greater proportion of Asians.¹²

In 1998, Alan Wolfe reported in *One Nation, After All* that ordinary Americans otherwise uncomfortable with strong moral judgments were not at all reluctant to express moral outrage toward illegal immigrants. Indeed, based on his in-depth interviews across the United States, Wolfe concluded that the divide between legal and illegal immigrants "is one of the most tenaciously held distinctions in middle-class America; the people with whom we spoke overwhelmingly support legal immigration and express disgust with the illegal variety."¹³

But the watershed event here was Proposition 187. The federal courts eventually gutted this draconian measure. Nevertheless, this was a political earthquake that continues to define the terrain – such that legal immigration is generally regarded as benign, while illegal immigration is seen as the source of most problems.

Before Proposition 187, most politicians – indeed, most officials – studiously avoided the issue of immigration, period. It took a politician as shrewd, tough, and desperate as California Governor Pete Wilson to seize on it. Indeed, Wilson salvaged his doomed reelection bid by acknowledging what a majority of Californians felt – that illegal immigration was a critical problem that had to be addressed.

Of course, the price Republicans paid for Wilson's boldness is now political legend. Universally overlooked, however, is that Proposition 187 also chastened immigrant advocates. Before its resounding passage, they vigorously resisted the drawing of any bright lines between legal and illegal immigrants and rejected labels such as "illegal immigrant" and "illegal alien" in favor of more neutral or positive terms such as "undocumented immigrant" and "undocumented worker." But with their backs to the wall after Proposition 187's victory, immigrant advocates retreated to the legal-illegal dichotomy and accepted the fall-back position that attributed negative outcomes associated with immigration to illegals and positive outcomes to legal immigrants. Hence, the still dominant paradigm "illegal immigrants, bad; legal immigrants, good."

Immigrant advocates are hardly the only ones to have this mind-set. They are joined by skittish politicians and political elites of varied persuasions who have found this to be a relatively safe way to address a technically complex, emotionally charged issue that they would prefer to avoid completely. For their part, immigration restrictionists went through the obverse process and learned to narrow an array of objections about immigration generally to the problem of illegal immigration specifically. Thus, at some point restrictionists figured out that it was more costly politically to inveigh against Hispanic immigrants than against illegals.

If one must address "immigration," then illegal immigrants – relatively small in number and definitely not well organized or vigorously defended – represent the path of least resistance. To be sure, Proposition 187 taught Republicans that even the illegal immigration card can be overplayed. Nevertheless, illegal immigration – particularly when not explicitly linked to a specific ethnic group – remains the safest way for policymakers and politicians to address this intractable issue.

Now, in recent months immigrant advocates have been arguing for amnesty for millions of illegal immigrants. Does this mean that the line between legal and illegal immigration is becoming less bright? Not really. In fact, the opposite is more nearly true. After all, the case for amnesty has been made on the grounds that illegal immigrants live a separate, second-class existence in a netherworld.

Consider the rhetoric across the political spectrum. A liberal columnist depicts illegals as "living in the shadows."¹⁴ A conservative commentator refers to them as a "huge, subterranean population" that exists in fear of one day being "whisked away by government agents."¹⁵ A Los Angeles religious leader bemoans their exploitation at the hands of "unscrupulous employers" who know they "are reluctant to seek legal recourse."¹⁶ Finally, President Bush has characterized undocumented workers as dwelling "in the shadows of American life – fearful, often abused and exploited."¹⁷

In a moment, we will argue that such characterizations are misleading – that in fact illegal immigrants are much more integrated into American life than is typically understood. But right now, our point is that those arguing for amnesty – to relieve the undeniable burdens on illegal immigrants – actually end up reinforcing that bright line between legal and illegal. And this is just one of many ways that this line gets relied on by political elites.

In fact, the legal-illegal dichotomy makes much more political sense than policy sense. To be sure, illegal immigrants working in remote citrus groves in south Florida¹⁸ or in chicken-processing plants in rural Arkansas fit the stereotype. Yet such workers routinely gravitate to urban areas – which is why their employers routinely push for fresh infusions of foreign labor. Once in the cities, illegal immigrants join other immigrants, documented and undocumented alike, in low-paying and arduous service or manufacturing jobs.

One undeniable outcome of this phenomenon is that 59 percent of adult illegals lack health insurance, compared with 25 percent of adult legal immigrants and 14 percent of natives.¹⁹ Similarly worrisome is the infrequently noted fact (about which immigrant advocates are understandably discreet) that 78 percent of illegals are from Latin America, 56 percent from Mexico alone.²⁰ While approximately four-fifths of Latinos are *legal* residents or citizens, the danger nevertheless looms that the public will equate being Latino with being illegal.²¹

Despite such troubling indicators, the dominant image of illegal immigrants as a distinctive and isolated group "living in the shadows" is

overdrawn. After all, hundreds of thousands have – at least until recent restrictive legislation – applied for and obtained driver's licenses. And how vulnerable could illegal workers be if, as is the case, they have been joining unions in significant numbers? As UCLA sociologist Ruth Milkman observes, undocumented Latinos "have been at the core of the L.A. labor movement's revival."²²

Similarly suggestive is the number of illegal immigrants who are homeowners. In a study for the American Immigration Law Foundation, Rob Paral presents what he considers a generous estimate of 429,000 undocumented Latino homeowners.²³ A survey of undocumented Mexicans by the Pew Hispanic Center found that at least 10 percent are homeowners.²⁴ These are necessarily guesstimates. But one way or another, undocumented homeowners number in the hundreds of thousands.

This figure is all the more striking because mortgages held by illegal immigrants are not, as a matter of policy, purchased on the secondary market by Fannie Mae or Freddie Mac. Pressure from the housing industry to tap into this growing market may change this. But in the meantime, individual taxpayer identification numbers are being issued to millions of illegal immigrants by the Internal Revenue Service and functioning as an alternative to the social security number necessary to open a bank account and establish a credit rating.²⁵

In those homes owned by illegals live many legal immigrants and even citizens. Of the approximately 15 million individuals who live in households where the head or spouse is illegal, about one-fourth are legal. Most of these are children who are U.S. citizens.²⁶ Looking beyond such households to their relatives and friends, one finds more legal immigrants and citizens, whose presence and support encourage illegals to come here in the first place. In this same vein, the pervasive media image of people sneaking across the Mexican border hardly applies to all 12 million illegals. In fact, as many as 45 percent entered *legally* through a port of entry – as shoppers, workers, or tourists – and then overstayed their visas.²⁷

On the other side of the ledger, over the decades there have been several amnesties. The last one, in 1986, legalized some 3 million aliens.²⁸ Up until a few years ago, illegal immigrants with children born here (who are therefore citizens) were routinely awarded green cards. Nowadays, every year 50,000 lucky individuals – many of whom are already residing here illegally – win a green card in Homeland Security's Diversity Lottery.²⁹ Indeed, according to the New Immigrant Survey at Princeton, in a typical year (1996) about one-third of all adult legal immigrants in the United

States had prior experience here as undocumented immigrants; two-thirds of adult legal Mexican immigrants did.³⁰

Then there are the 1 million–1.5 million among those 12 million illegals who University of Virginia law professor David Martin estimates to be in “twilight status.” Of these, more than 300,000 have Temporary Protected Status (TPS), a category Congress devised in 1990 as a way to avoid either repatriating or granting refugee status to individuals from countries (such as El Salvador or Nicaragua) beset by civil war and other unsafe conditions. Some Liberians have been here “temporarily” for 14 years. In any event, those afforded TPS are usually counted among the undocumented.³¹

Martin also points out that as of May 2003, another 617,000 persons were caught up in processing delays waiting to be granted adjustment to “lawful permanent resident” status. All but a small fraction of such persons typically get approved, but they are nevertheless included among the illegals and are technically deportable.³²

Martin’s analysis hardly accounts for all 12 million illegal immigrants in the United States today, but it does underscore the fact that a nontrivial number of them are illegal for reasons not entirely of their own making. Indeed, errors and delays by immigration bureaucrats are notorious and arguably contribute to undermining the rule of law as much as the presence of millions of illegals. In fairness to those bureaucrats, immigration law is a complicated maze of exceptions and deadlines carved out by Congress to accommodate diverse constituencies. These are not only difficult to administer; they are hard to comply with and easy to run afoul of.

Therefore, the conventional understanding of illegal immigrants as conscious lawbreakers hardly accounts for all the facts on the ground. While many, indeed most, illegals actively committed a crime – or, to be sure, a misdemeanor – by entering or remaining in the United States without authorization, many others have become entangled in a complicated system of rules and regulations that confuses everyone.

BORDER PATROL EMPATHY

There is another, more fundamental source of ambiguity about the line between legal and illegal immigrants. It has surfaced readily and repeatedly in conversations and interviews that one of us has had with scores of Border Patrol (now Customs and Border Protection) agents. Given the opportunity to express their views about the individuals they are charged

with apprehending, these federal law enforcement officers routinely volunteer, almost without exception and nearly verbatim: “If I were in their shoes, I would be doing the same thing, coming across that border and trying to better things for me and my family.” Ironically, this observation comes from men and women who also readily express frustration about their low status in the federal law enforcement hierarchy and are therefore generally eager to enhance their standing relative to other agencies. Yet just imagine your neighborhood cop similarly empathizing with drug dealers or even petty thieves and opining that, “If I was in that guy’s situation, I’d be pushing cocaine, too!”

This ambiguity lies at the heart of our immigration policy dilemmas. For example, how can one ask Border Patrol agents to risk their lives apprehending illegal immigrants if in an elemental, gut-level sense they and their superiors do not consider the violation in question to be a crime? The answer of course is that one cannot – which is why the Border Patrol long ago abandoned its policy of engaging immigrant smugglers in high-speed pursuits on U.S. highways. Too many serious accidents and fatalities clarified the calculus that the costs far outweighed the perceived benefits from successful pursuits and apprehensions. As a Border Patrol supervisor at a highway checkpoint north of San Diego explained, “The life of one of my agents or of one American citizen is not worth the apprehension of a whole truckload of illegals or of their smuggler.”³³

Border Patrol agents do not need the Catholic bishops or the *New York Times* to tell them that illegal immigrants are not typically criminals.³⁴ Still, they do their job and detain illegals when they find them.³⁵ Nevertheless, the trade-offs and moral ambiguities of immigration control pervade all that the Border Patrol does. They clearly contribute to high turnover and low morale at the agency.³⁶ They also help explain why, for example, agents in the field are so readily drawn into pursuing drug smugglers who operate along our borders – about whose status as “really bad guys” there is little or no ambiguity.³⁷

If the line between legal and illegal immigration is much fuzzier than it appears, what is bothering Americans? Is it possible that their concerns are both broader and deeper than anyone has bothered to notice? In this connection, it is certainly noteworthy that in one breath Americans denounce illegal immigrants, while in the next they complain about job competition, overcrowded schools, chaotic hospital emergency rooms, and noisy neighborhoods where nobody speaks English – all problems that have more to do with mass migration per se than with its strictly legal component.

Take, for example, the views of independent congressional candidate Jim Gilchrist. Running in a special run-off election in Orange County, California, in December 2005, Gilchrist won 25 percent of the votes in a protest campaign focused exclusively against illegal immigration. But when asked by the *Wall Street Journal* to elaborate, Gilchrist immediately cited concerns about Spanish-speaking newcomers not assimilating, multiculturalism, and overpopulation.³⁸ Pollsters report similar complaints. Two-thirds of respondents in an April 2005 *Fox News* poll agreed that illegal immigrants "take jobs away from U.S. citizens," while 87 percent claimed that illegals "overburden government programs and services."³⁹ In a January 2006 *Time* magazine survey, 63 percent expressed concern that illegals "take jobs away from Americans," and 60 percent agreed that "there are already too many people in the United States."⁴⁰

Whatever their specific merits, none of these or similar problems are unique to illegal immigrants. Indeed, these concerns are explained by readily identifiable factors common to both legal and illegal immigrants: low levels of education and skills, low average age, the strains from the transience of migration, and that historically a high concentration speak only Spanish. To be sure, some of these may beset illegal more than legal immigrants. But there is simply no reason to believe that legal and illegal immigrants are starkly different with regard to such salient characteristics. In fact, because there are more legal immigrants than illegal immigrants, the former arguably contribute more to such problems than the latter.

Some of these complaints are wide of the mark in other respects. For example, while immigrants themselves may not be learning as much English as Americans would like, the evidence is that their children and grandchildren certainly are.⁴¹ Neither is there much reason to believe that immigrants are competing directly in the labor market with large numbers of American workers. (The obvious exceptions are low-skilled individuals, including more settled immigrants, especially Latinos, and many African Americans.)⁴²

It would be easy therefore to dismiss many such complaints as misguided and ill-informed, even as nativist and racist. Our own reading of the evidence certainly leads us to the conclusion that the United States is *not* as threatened by the current influx of immigrants as many clearly believe. We do not believe that our society is unraveling.⁴³

Yet to cling to expert opinion here is to miss a larger, more important political reality. Both legal and illegal immigrants have become the human face of two sweeping forces: the fraying of local community ties and the decline of national sovereignty. The title of Robert Putnam's controversial book *Bowling Alone*⁴⁴ has become a national metaphor for the perceived

decay of social bonds and traditional institutions that have helped to make a diverse democracy function. At the same time, transformations in communication and transportation have resulted in an increasingly interconnected globe that leaves us unsure about who is part of "our community," as more people live both here and there. However ineptly or even at times harshly they express themselves, large numbers of Americans *do* feel that "things are out of control" and that immigrants are straining the social fabric. Such concerns are not completely unfounded.

Consider day-labor hiring sites, one of the most contentious immigration issues in communities across the nation. For many Americans today, the image of immigrants that most readily comes to mind (aside from shadowy figures running across the border) is of male laborers hanging out near a Home Depot, waiting to be hired by contractors or homeowners. To some, such scenes are evidence of ambition and hard work. But to many others, they represent the annoying, even threatening behavior of unkempt men leering at passing women, darting out into traffic to negotiate with potential employers, drinking and urinating in public, perhaps dealing drugs, and sometimes worse.⁴⁵

Here again, not all such complaints should be taken at face value. Nor should we overlook that day laborers are often mistreated by employers, which is confirmed by findings from the National Day Labor Study at UCLA.⁴⁶ That research also indicates that while most day laborers are illegals, one-fourth are legal immigrants.⁴⁷

Yet the UCLA study also confirms that virtually all day laborers are males, more than three-fifths of whom are single or unattached. So, it is not without reason that for many Americans, day laborers have come to personify the transience and social disorder associated with mass migration. At times, such individuals have even been the fodder for civil disturbances that have broken out among immigrants in cities such as Miami; Washington, D.C.; New York; and of course Los Angeles.⁴⁸ Noting that 51 percent of those arrested during the 1992 L.A. riots were Hispanics, RAND demographers Peter Morrison and Ira Lowry point to "the availability of a large pool of idle young men who had little stake in civil order" as one reason why in multiethnic states such as California "we ought to expect more riots."⁴⁹

CITIZENSHIP: THE VERTICAL AND THE HORIZONTAL

Similar, though hardly identical, issues arise over the naturalization of today's immigrants. On the one hand, these reflect concerns that the United States has reduced citizenship to a thin, one-dimensional

relationship, shorn of emotional commitment and focused more on the rights of individuals than on their obligations to the political community. But there is also the perception that immigrants themselves have come to view citizenship in cramped, instrumental terms.

Political scientist Stanley Renshon has written persuasively that in the contemporary world, the real possibility of multiple national memberships renders frequently cited indicators of immigrant economic success insufficient evidence of meaningful attachment to the United States.⁵⁰ The analyst who has raised such questions to the highest visibility is, of course, Samuel Huntington. In his controversial volume *Who Are We? The Challenges to America's National Identity*, Huntington focuses much of his critical energy on denationalized American elites, who in his view have fostered the weak national commitments that immigrants are now taking advantage of. Notably, Huntington argues that "naturalization is the single most important political dimension of assimilation."⁵¹

Concerns with the quality of contemporary citizenship are found more among elites than among the population at large. They have typically led to calls for more meaningful naturalization ceremonies and more rigorous citizenship exams.⁵² Yet the more salient point is that, like popular worries about illegal immigration, elite concerns about citizenship reflect a preoccupation with formal legal categories. Such categories are of fundamental importance, needless to say. But as John Higham reminds us, America's pluralist values call for a "lack of precision in social categories, and a general acceptance of complexity and ambiguity."⁵³

Both concerns also reflect the top-down administrative rationality that the contemporary bureaucratic state inevitably imposes on dense, informal social relations.⁵⁴ Thus, when finally compelled to address the issue of immigration, political actors enmeshed in the logic of the administrative state offer responses and "solutions" appropriate for and suited to the tools at their disposal. In the current context, they have focused on refining categories and then policing the new boundaries – whether between legal and illegal immigrants or between citizens and noncitizens.

Such tendencies have been reinforced in recent years by the dramatically increased attention and resources expended on immigration enforcement. Immigration bureaucrats have had to account for themselves. But what if the problems at hand transcend the categories that bureaucrats and politicians have seized upon, or if those problems are not addressed simply by revised citizenship exams and ceremonies? What if they also depend on the horizontal ties between individuals or between individuals and local private or public institutions? Unlike the vertical ties between

individuals and the state, which are formal and tend to be episodic, these horizontal relationships are informal, day-to-day, and ongoing.⁵⁵

In our view, the prevailing emphasis on vertical ties overlooks what is at least equally salient to the public about immigrants – regardless of how this public actually articulates its concerns. Most Americans are less worried about immigrants having proper documents or being able to answer questions about American history and politics than their behaving like responsible members of the community. Are immigrants making too much noise? Are they attempting to communicate in English? Are they parking their cars where there is supposed to be grass? Are they crowding too many people into their living quarters? Are they cluttering the neighborhood with abandoned shopping carts or cars? In sum, we believe that when Americans complain about immigrants, their concern is less about immigrants failing to be good *citizens* than about their failing to be good *neighbors*.

Of course, such informal horizontal relations are open to highly subjective, even arbitrary, judgments. They can become the basis for harassment and exclusion of minorities. This is why we are not suggesting that horizontal ties should be looked at exclusively. Indeed, we maintain that citizenship should be defined along *both* the vertical and horizontal axes.

Yet this insight is overlooked by all sides in the current debate. Occasionally, advocates stress immigrants' vertical ties, particularly that they pay taxes. More typically, advocates highlight the horizontal ties that immigrants establish, especially good relations with their employers or their children's teachers.⁵⁶ But, by themselves, these are insufficient, for the matter at hand concerns membership in a political community that can never be reduced simply to social relations.

For their part, immigration critics are preoccupied with the vertical dimension – illegals' lack of formal status. But, as we have seen, they are also upset with immigrants' poor horizontal relations. The basic shortcoming of the critics – and of the debate whose terms they have established – is that they ignore the vital distinction between the two dimensions of citizenship and implicitly collapse all their concerns onto the vertical axis.

SOCIAL ORDER IN A POLITICAL COMMUNITY

How do we address these constraints? How do we move beyond the unhelpful and misleading formalism and legalism of the current immigration debate toward a meaningful reevaluation of citizenship?

A starting point would be to recognize that this is hardly a new problem. Social theorist Philip Selznick reminds us that the liberal theorists who provide the conceptual foundations of our society are heavily reliant on abstractions, including the state of nature, natural rights, and atomized individuals detached from society, culture, and history. In this same vein, Selznick emphasizes that we are prone to think in terms of walls of separation – between individual and society, law and morality, private and public, church and state.⁵⁷

More to the point, Selznick argues for an alternative way of thinking about contemporary society. Reminiscent of Higham, he points out that pluralism necessarily implies a certain messiness: “All societies are composed of different, often contending groups based on kinship, age, occupation, and inequalities of property and power. Pluralism finds in this natural diversity a benign disorder, a vital source of energy and safety.”⁵⁸ Selznick consequently points to the advantages of boundaries that are *not* bright and rigid: “A common life is furthered when boundaries are blurred – for example, between parenting and teaching, work and recreation, religion and social work.”⁵⁹ Overarching such specific points is Selznick’s broader argument against abstraction in favor of, as he puts it, “the primacy of the particular.”⁶⁰ He calls for an alternative “conception of individuals as socially embedded persons, products of history and culture, neither idealized nor abstract.”⁶¹

The relative importance of informal horizontal relations over formal vertical ties emerges in varied contexts. The military is a case in point, as underscored by the research of sociologists Edward Shils and Morris Janowitz. In their classic essay “Cohesion and Disintegration in the Wehrmacht in World War II,” Shils and Janowitz found that the effectiveness and cohesion of the German army was traceable not to ideological zeal or indoctrination from above but to the strong and satisfying primary group relations, especially among infantry and junior officers, fostered by the social dynamics of the German army. As in most settings, the appropriate conclusion is not that formal, vertical relations do not matter. On the contrary, those relations have a lot to do with how well horizontal relationships function. But the broader point is, as Shils and Janowitz noted, that “most men are members of the larger society by virtue of identifications which are mediated through the human beings with whom they are in personal relationships. Many are bound into the larger society only by primary group identifications.”⁶²

Immigration is the *locus classicus* of these enduring issues. The formalism and legalism of today’s complaints about illegal immigrants and citizenship certainly echo those articulated by Progressives in the period

leading up to World War I, when the number of immigrants (as a percentage of the population) reached its highest point in our history. Then, as now, Americans were alarmed that newcomers were too preoccupied with their own private concerns and were insufficiently attentive to broader community and national goals. Barriers to naturalization were even lower than those today, and the process was prone to abuse and corruption. Not unlike today, there were anxieties that citizenship was being devalued and that immigrants were becoming Americans out of the crassest motives. Looming over all such concerns for most Americans was the specter of powerful urban political machines that drew immigrants into the voting booth by catering to their private needs.

Progressive outrage at such abuses led to reforms inspired by a high-minded, dualistic notion of the private and the public. From this perspective, the goal was to reinforce the boundary between the two realms. Requirements for citizenship were raised, as were barriers to electoral politics. Voter registration was instituted as a disincentive to immigrant voting, which remained depressed for a generation until the New Deal. Patronage hiring was curtailed by civil service reforms that reflected the Progressive view that the influence of disinterested scientific experts housed in legal-rational bureaucracies needed to be enhanced. Not all of these reforms were equally effective, but the intellectual ethos that informed them was clear: to cleanse the public domain of petty private interests. The overall objective of such reforms – sometimes intended, sometimes not – was to exclude immigrants and their families from the civic realm on the grounds that they were inadequately prepared for it.⁶³ Ultimately, this perspective led many Progressives to advocate immigration restriction.⁶⁴

By contrast, Jane Addams represented a different current of Progressivism. As Jean Bethke Elshtain explains in her biography of the founder of Hull House, Addams was as troubled about the integration of immigrants into American civic life as her fellow Progressives. But unlike many of them, Addams saw the domestic arena as a springboard into wider civic life rather than an inhibition to matters civic.⁶⁵ Unlike the principled reformers and dogmatic socialists who either denigrated or just ignored the narrow, even petty, concerns of uneducated immigrants, Addams used those private preoccupations to draw them into the civic arena. Among the immigrant wives and mothers with whom Addams often worked, those preoccupations were strictly domestic and rigidly defined. Nevertheless, Addams taught such women how their families’ health and well-being – for example, with regard to garbage collection – depended on much more than keeping their own homes clean.

Accordingly, Addams got embroiled in "the garbage wars" in Chicago's 19th Ward, to the point of being appointed garbage inspector. No mere bureaucratic sinecure, this meant getting up at six in the morning to make sure that the garbage collectors were doing their job. Addams did this by enlisting the help of the immigrant women who were her neighbors at Hull House. Over time, the results were impressive. Eventually, the death rate in the ward was reduced.⁶⁶

Yet those efforts definitely clashed with how immigrant women defined their duties and responsibilities. As Addams explained in *Twenty Years at Hull House*:

Many of the foreign-born women of the ward were much shocked by this abrupt departure into the ways of men, and it took a great deal of explanation to convey the idea even remotely that if it were a womanly task to go about in tenement houses in order to nurse the sick, it might be quite as womanly to go through the same district in order to prevent the breeding of so-called 'filth diseases.'⁶⁷

Such attempts to build bridges between the private concerns of immigrant women and the broader public realm led Addams to her notion of "municipal housekeeping." As Elshain explains, this did not imply that politics could be replaced by housekeeping on a grand scale. Rather, Addams's point was to socialize politics by bringing some of the concerns and virtues of the private realm, especially as experienced by wives and mothers, into the public arena.⁶⁸

In a similar way, Addams resisted the heavy-handed efforts of the Americanization movement, which sought to integrate immigrants and their children by encouraging them to make a sharp break with the history and culture of their country of origin.⁶⁹ On the contrary, Addams encouraged immigrants to respect and build on their past while pursuing integration into the American culture.⁷⁰ As Addams wrote, "We were often distressed by the children of immigrant parents who were ashamed of the pit whence they were digged, who repudiated the language and customs of their elders, and counted themselves successful as they were able to ignore the past."⁷¹

To such immigrants, Addams and her Hull House colleagues held up the example of an American such as Abraham Lincoln as someone who relied on his appreciation of the past to guide his current and future actions.⁷²

Perhaps the most apt support for the point we are making about the importance of informal horizontal ties comes from social scientists who have in recent decades developed an alternative understanding of crime

and ways to address it. James Q. Wilson began his 1968 study *Varieties of Police Behavior* by observing that "the patrolman's role is defined more by his responsibility for *maintaining order* than by his responsibility for enforcing the law."⁷³ Written by a conservative in the midst of a nationwide crime wave that was leading to widespread demands for "law and order," this is a striking observation. It suggests that in the midst of today's demands to get tough on illegal immigration, it would be similarly helpful to move beyond the legalistic terms of the current debate. And it once again suggests that the public's anxieties ought not to be dismissed as racist, but neither should they be taken at face value. What lurks just beneath the surface of Americans' inarticulate, and sometimes harsh, rhetoric are not-unreasonable concerns that record numbers of immigrants are threatening the maintenance of social order.

Twenty years after his initial insight, Wilson and a colleague, George Kelling, published the widely cited article "Broken Windows."⁷⁴ In the subsequent book by that title, Kelling and Catherine M. Coles called for nothing less than the reconceptualization of crime, away from formal status criteria and toward behavioral criteria. They argued that law enforcement should be less concerned with *loiterers* and more focused on *behaviors* that are associated with loitering but are nevertheless specific offenses – such as petty vandalism, public urination, or drunken and disorderly behavior.⁷⁵

These insights about order maintenance and crime suggest to us that we should be less concerned with whether immigrants are here legally or why they are naturalizing. Instead, we should focus more on whether they are *behaving* like responsible, law-abiding members of the political community. For example, are they steadily employed? Are they making sure their children attend school regularly? Are they seriously attempting to learn English? Are they learning about American culture, history, and politics so that they might become knowledgeable, active citizens? Are they involved in local community life? Are they avoiding difficulties with the law? In other words, are immigrants demonstrating through their actions that they intend to become part of the social and political fabric of America, or are they behaving as if they are here provisionally with some other end in view?⁷⁶

Fragments of the perspective being outlined here can be identified in a few programs and proposals. In Chicago, for example, a consortium of predominantly Mexican-immigrant Catholic churches called The Resurrection Project provides housing opportunities – both rental and owner-occupied units – to parishioners. Eager to avoid becoming a mere service

provider, the Project requires beneficiaries of its housing programs to meet specific behavioral conditions. In the case of rental housing, these conditions include the protection of the property and attempts to prolong its life. The Project is concerned with developing a stronger sense of commitment, particularly among immigrants who do not always exhibit those traits either because they are too busy struggling to make ends meet or because they may be planning to return home to Mexico.⁷⁷ As the chief executive officer of the organization put it, "When our residents buy one of our houses, they are buying part of our community."⁷⁸

The state of California's Little Hoover Commission has proposed what would be another example. In a report entitled *We the People: Helping Newcomers Become Californians*, the Commission called for the establishment of "The Golden State Residency Program," in which all immigrants – regardless of their formal legal status – could participate. The guiding principle here would be to commit governmental resources to immigrants who demonstrate through their behavior that they intend to become responsible members of the community. The report mentions several criteria by which to judge immigrant behavior:

Responsibility to the local community, as indicated by a history of paying taxes, remaining in good standing with law enforcement agencies, and where appropriate, being employed or engaged in workforce development and training

Proficiency in English, as demonstrated by actual skills or enrollment in appropriate programs

Participation in civic affairs, for example in public, volunteer and community-based programs

Responsibility for children and other family members, as demonstrated by care for dependent family members and enrollment of children in school and health plans

In return for satisfying such criteria, immigrant enrollees would become eligible for benefits that might include a driver's license, in-state tuition at public colleges and universities, eligibility for public health insurance, and even welfare support.⁷⁹

The Commission even suggests that participants in the Golden State Residency Program be put on track for citizenship – even those who are here illegally.⁸⁰ This would clearly be controversial, and perhaps ill-advised. But any such program component could be optional, with specific details tailored to the preferences and values of individual states.

Programs providing benefits to illegal immigrants could even coexist with rigorous enforcement of our immigration laws, especially by federal authorities along the borders and ports of entry as well as at workplaces.

We have no illusions that this would be easy. Tensions and inconsistencies would arise. But if efforts like the Golden State Residency Program were allowed to address gnawing but unacknowledged problems, then that would be better than the status quo, which is also rife with inconsistencies.

A further advantage of programs such as those the Little Hoover Commission has proposed is that they would make more explicit the terms of the bargain struck between immigrants and American society. This would be helpful to everyone – immigrants and nonimmigrants alike. Immigrants would benefit because such programs would make clear to them what Americans expect of them. Indeed, nonimmigrants tend to overlook the confusing signals this diverse society sends out to newcomers. Certainly, in recent decades we have taken a decidedly laissez-faire approach to the integration of immigrants.⁸¹ As one astute immigrant organizer in Chicago put it, "I wish to hell someone would make it clear how we're supposed to act here!"⁸²

But endeavors like the Golden State Residency Program would be even more helpful to nonimmigrants. If Americans want immigrants to join our political community, then we need to show them how to do that. Yet this is precisely the area where we have the most cause for self-reproach. Contrary to the usual complaints, Americans are not particularly guilty of racial or ethnic prejudice toward immigrants. But we *are* guilty of a certain smug complacency. All too often, we unthinkingly assume that because immigrants have gained an opportunity for which there is clearly an oversupply of takers, they should be content just to be here, and that we have fulfilled our end of the bargain. Initiatives like the Golden State Residency Program require us to turn vague assumptions into conscious choices and to negotiate an explicit, realistic bargain that asks something of both sides.

In this chapter, we have been concerned with highlighting the importance of informal, horizontal relations in the current debate over illegal immigration. Ultimately, though, the bargain described here speaks to the *political* community, whose formal, vertical ties of membership benefit from explicit articulation and choice. It would behoove America's newcomers to express clearly both their desire to become members of the American political community *and* their commitment to its terms. But that cannot happen unless those who already belong to that community do a better job of defining just what those terms are.

- not federally mandated (i.e., to state welfare assistance). Affected programs include general assistance, sight conservation for the visually impaired, utility repair and assistance, and adult foster care. The Federation for American Immigration Reform has sued the state on grounds that the attorney general impermissibly restricted the definition of "public benefit" and seeks to expand the scope of Proposition 200 to include many additional benefits, such as housing, food assistance, college education, and employment benefits.
10. Defenders of Proposition 200 will likely argue that in the 1996 Personal Responsibility and Work Opportunity Reconciliation Act, Congress affirmatively authorized the states to deny most benefits to the undocumented thereby implicitly "consenting" to state enforcement of immigration-related law. In this theory, Congress has devolved some of its immigration power (which, recall, has been deemed to be largely unreviewable by the courts) to the states. Opponents will counter that the immigration power is an inherently and necessarily nondelegable federal power, "reserved by the architecture and animating principles of the Constitution to Congress and the President." See Michael J. Wishnie, "Laboratories of Bigotry? Devolution of the Immigration Power, Equal Protection and Federalism," *NYU Law Review* 76 (2001): 493, 499. Opponents will also raise due process arguments in relation to the criminal penalties imposed.
 11. The agency is deemed to "know," however, only under limited circumstances, and is specifically not authorized to "ask."
 12. The Undocumented Alien Emergency Medical Assistance Amendments to the Medicare Act of 2003 (H.R. 3722, Rohrabacher) was defeated in April 2004. However, the Department of Health and Human Services has implemented regulations that require hospitals to verify the immigration status of patients and to keep that information on record for potential federal audit as a condition of emergency care reimbursement.
 13. Maldef press release.
 14. *Id.*
 15. For an extremely useful discussion of recent policy developments and criticisms thereof, see Michael J. Wishnie, "State and Local Police Enforcement of Immigration Laws," *University of Pennsylvania Journal of Constitutional Law* 6 (2004): 1084.
 16. CLEAR Act (Clear Law Enforcement for Criminal Alien Removal Act), H.R. 2671.
 17. *U.S. v. Morrison*, 529 U.S. 598 (2000).

7. Good Neighbors and Good Citizens

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2. *American Public Opinion and Foreign Policy: Global Views 2004* (Chicago: Chicago Council on Foreign Relations, 2004), 12-13, 47-48.

3. John Higham, *Strangers in the Land: Patterns of American Nativism 1860-1925* (New York: Atheneum, 1975).
4. John Higham, "Another Look at Nativism," in *Send These to Me: Jews and Other Immigrants in Urban America* (New York: Atheneum, 1975), 103.
5. John Higham, "Instead of a Sequel, or, How I Lost My Subject," in *The Handbook of International Migration: The American Experience*, ed. Charles Hirschman, Philip Kasinitz, and Josh DeWind (New York: Russell Sage Foundation, 1999), 383-389.
6. Higham, "Another Look at Nativism," 106-108; see also Higham, "Ethnic Pluralism in Modern American Thought" and "Another American Dilemma," in his *Send These to Me*, 196-246.
7. See recent polling data in "America's Immigration Quandary: No Consensus on Immigration Problem or Proposed Fixes" (Washington, DC: Pew Hispanic Center, March 30, 2006), 13.
8. This point gets elaborated in Peter Skerry and Devin Fernandes, "Citizen Pain: Fixing the Immigration Debate," *New Republic*, May 8, 2006, 14-16.
9. Passel, "The Size and Characteristics of the Unauthorized Migrant Population in the U.S.," 2-3.
10. Jeffrey S. Passel, "Unauthorized Migrants: Numbers and Characteristics - Background Briefing Prepared for Task Force on Immigration and America's Future" (Washington, DC: Pew Hispanic Center, June 14, 2005), 11-13.
11. Seth Mydans, "Poll Finds Tide of Immigration Brings Hostility," *New York Times*, June 27, 1993, A1, A16.
12. "Demographic Profile of the Electorate: November 8, 1994," *Los Angeles Times* Election Poll.
13. Alan Wolfe, *One Nation, After All* (New York: Viking, 1998), 147.
14. Ronald Brownstein, "Bush Needs to Imitate Clinton to Solve Immigration," *Los Angeles Times*, July 23, 2001, A10.
15. Linda Chavez, "Legalizing Immigrants Just Makes Sense," *Chicago Sun-Times*, July 18, 2001, 47.
16. Cardinal Roger Mahony, "Immigrant Workers Deserve Legal Status and Respect," *Los Angeles Times*, June 8, 2000, 13.
17. Quoted in Edward Alden and Scott Heiser, "A Border War: Why America Is Split Over Its Rising Numbers of Illegal Immigrants," *Financial Times*, August 29, 2005, 11.
18. See John Bowe, "Nobodies: Does Slavery Exist in America," *New Yorker*, April 21 and 28, 2003, 106-133.
19. Passel, "Unauthorized Migrants: Numbers and Characteristics," 35.
20. Passel, "The Size and Characteristics of the Unauthorized Migrant Population in the U.S.," 5.
21. Derived from the numbers cited in Passel, "Unauthorized Migrants: Numbers and Characteristics," 35; and the Census Bureau's 2005 estimate of the total number of Hispanics in the United States - 42.7 million.
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23. Rob Paral, "The Potential for New Homeownership Among Undocumented Latino Immigrants," prepared for the National Association of Hispanic Real Estate Professionals, n.d.
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25. Marti Dinerstein, "Giving Cover to Illegal Aliens: IRS Tax ID Numbers Subvert Immigration Law," Center for Immigration Studies Backgrounder (Washington, DC: Center for Immigration Studies, November 2002).
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27. "Modes of Entry for the Unauthorized Population," Fact Sheet (Washington, DC: Pew Hispanic Center, May 22, 2006), 1.
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52. See Representative Lamar Smith, as quoted on *Morning Edition*, National Public Radio, March 25, 1997; John Fonte, testimony given at U.S. Senate, Committee on the Judiciary, Subcommittee on Immigration, Hearing on Naturalization Requirements and the Rights and Privileges of Citizenship, October 22, 1996; John J. Miller, "The Naturalizers," *Policy Review* 78 (July-August 1996): 50, 52; John J. Miller, *The Unmaking of Americans: How Multiculturalism Has Undermined Americans' Assimilation Ethic* (New York: Free Press, 1998), 149; and Georgie Anne Geyer, *Americans No More: The Death of Citizenship* (New York: Atlantic Monthly Press, 1996), chapters 2-4. See also Peter Salins, *Assimilation, American-Style* (New York: Basic Books, 1997), 215; and Noah Pickus, *True Faith and Allegiance: Immigration and American Civic Nationalism* (Princeton, NJ: Princeton University Press, 2005), 175-178.
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57. Philip Selznick, *The Communitarian Persuasion* (Washington, DC: Woodrow Wilson Center Press, 2002), 103, 136-137; Philip Selznick, *The Moral Commonwealth: Social Theory and the Promise of Community* (Berkeley: University of California Press, 1992).
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65. Jean Bethke Elshstain, *Jane Addams and the Dream of American Democracy: A Life* (New York: Basic Books, 2002), 77.
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67. Jane Addams, *Twenty Years at Hull House* (New York: New American Library, 1981), 204.
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72. Addams, *Twenty Years at Hull House*, 41-42; see also Elshtain, *Jane Addams and the Dream of American Democracy*, 52-53.
73. James Q. Wilson, *Varieties of Police Behavior: The Management of Law and Order in Eight Communities* (Cambridge, MA: Harvard University Press), 16.
74. George L. Kelling and James Q. Wilson, "Broken Windows: The Police and Neighborhood Safety," *The Atlantic* 249 (March 1982): 3, 29-38.
75. George L. Kelling and Catherine M. Coles, *Fixing Broken Windows: Restoring Order and Reducing Crime in Our Communities* (New York: The Free Press, 1996).
76. We acknowledge that there is another possible inference about immigration to be drawn from Kelling and Wilson's work. After all, their approach to crime also meant convincing law enforcement professionals to pay more attention to the minor offenses that they traditionally disdained as "social work." Given the ambiguity surrounding illegal immigration that we have emphasized here, one might conclude that Kelling and Wilson's perspective points to waging a campaign to eliminate that ambiguity and persuading law enforcement and the public alike that illegal immigration is an offense worthy of law enforcement's attention. A relevant analogy would be the transformation in public attitudes toward drunken driving wrought by Mothers Against Drunk Driving. Nevertheless, it is our judgment that the ambiguous status of illegal immigration is much more deeply rooted in contemporary American life and not likely to be changed in this way.
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79. Little Hoover Commission, *We the People: Helping Newcomers Become Californians* (Sacramento, CA: Little Hoover Commission, June 2002), 34-35, 50-54.
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81. A similar point is made in Renshon, *The 50% American*, 179-181.
82. Skerry, "Citizenship Begins at Home," 28.

8. Alien Rights, Citizen Rights, and the Politics of Restriction

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3. Tichenor, *Dividing Lines*, 87-113; Desmond King, *Making Americans: Immigration, Race, and the Origins of the Diverse Democracy* (Cambridge, MA: Harvard University Press, 2000), 199-236.