



11350 Random Hills Road, Suite 800, Fairfax, Virginia 22030 Phone (703) 934-6101 Fax (703) 352-3678

fff@fff.org www.fff.org

Are Illegal Immigrants Criminals? *Not!*

by Ken Schoolland

I hear it from some of the nicest people one would ever meet. Some dear friends of mine, whom I respect very much, say that all illegal immigrants are criminals because they broke the laws that control who may come into this country. And since these immigrants are criminals, we don't want that kind of person here.

Such accusations confuse what is legal with what is moral. American history is filled with people who broke unjust laws and were morally justified in doing so.

The American Revolution was fought by men and women who broke the laws of England and of King George III. Had they been arrested, they would have been hanged for treason to the Crown. If breaking the law makes one a criminal, then the Founding Fathers were all criminals. But no one still believes that today.

Dred Scott and thousands of other slaves defied the Fugitive Slave Act and ran away, "stealing themselves" from Southern plantation masters in the early and mid 1800s. Those who were arrested were returned to their slave "owners," and anyone found trying to help them escape to Canada was prosecuted as well.

Many juries exercised jury nullification. Declaring that the law was unjust, juries often refused to convict participants in the Underground Railroad. No one today would claim that a runaway slave was a criminal.

In the 1930s there were hundreds of Jews who came to American shores aboard the SS *St. Louis*, forcibly rejected under the guise of immigration quotas, many of whom ultimately perished in Hitler's concentration camps. Countless potential immigrants watched in desperate disappointment.

But suppose those passengers had defied immigration law and jumped ship in Miami harbor. Would anyone today call them criminals? I think not. Indeed, those who returned Jews to their persecutors might be considered guilty of collaborating with villainy — albeit *legal* villainy.

Treasures of the earth

It may be illegal for people to seek freedom and opportunity in this country, but it isn't immoral. I admire the courage of immigrants who leave all that is familiar to them, risking life and limb on stormy seas and deadly deserts, in order to move to a strange land where everything is unfamiliar and potentially hostile.

Most of our ancestors moved for freedom and opportunity, and we are the beneficiaries. Thank God they weren't arrested and sent packing, as were violators of the Chinese Exclusion Act. Indeed, we might wonder whether we could have mustered the same measure of courage if we had been in their shoes.

In the first case, many immigrants are great entrepreneurs who offer jobs to Americans. Other immigrants take jobs, but they never "take" jobs that are not willingly offered to them by eager employers.

I often ask audiences, "Suppose you are an employer and you know only one thing about two job applicants in front of you: one is native-born and the other is an immigrant. Whom would you expect to be the harder worker?" Audiences overwhelmingly favor the immigrant. Why? Americans are surely good workers. But the very act of migration is seen as proof of vigor, ambition, determination, and courageous self-reliance.

Americans have a moral right to make these choices for themselves — as employees and as employers. Says Robert W. Tracinski, a senior writer for the Ayn Rand Institute,

The irrational premise behind our nation's immigration laws is that a native-born American has a "right" to a particular job, not because he has earned it, but because he was born here. To this "right," the law sacrifices the employer's right to hire the best employees — and the immigrant's right to take a job that he deserves. To put it succinctly, initiative and productiveness are sacrificed to sloth and inertia.

The "American dream" is essentially the freedom of each individual to rise as far as his abilities take him. The opponents of immigration, however, want to repudiate that vision by turning America into a privileged preserve for those who want the law to set aside jobs for them — jobs they cannot freely earn through their own efforts.... Any immigrant who wants to come to America in search of a better life should be let in — and any employer who wants to hire him should be free to do so.

To the legalist, however, who places law above moral right, the employer who hires as he pleases is a criminal. The legalist wants stricter penalties against employers who defy state mandates on hiring. He fails to see that violations of certain laws can be illegal but not immoral.

Welfare magnet?

But what of the immigrant who takes welfare? Isn't this a burden on society that must be stopped?

Yes, it is. But politically powerless newcomers are no more responsible for the welfare system in this country than they are responsible for the tyranny and corruption in the country that they are fleeing. Okay, stop the flow of welfare, but at the same time remove the plethora of (anti-)labor laws that make it difficult for newcomers to be hired.

It is wrong to assume that most immigrants come to America to get on the welfare gravy train. If this were true, then immigrants would be moving away from states with the lowest welfare and into states with the highest welfare.

My research (*The Journal of Private Enterprise*, spring 2004) demonstrates that the opposite is true. In overwhelming numbers, both the native-born population and the foreign-born population through the decade of the 1990s moved *away* from states with the highest welfare and *into* states with the lowest welfare. While there are some high-profile exceptions, most immigrants seek opportunity, not welfare.

The brilliant economist Julian Simon demonstrated that immigrants are a great source of productivity and economic growth. They always have been.

Moral principles

Governments do not decide morality. Governments behave morally when upholding moral action and behave immorally when suppressing moral action. Morality is based on principles far more constant and profound than the variant whims of majority votes.

The people who understood this best were those rebels who defied the law of the day to pen these words:

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.

To George Washington this meant,

The bosom of America is open to receive not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and religions, whom we should welcome to a participation of all our rights and privileges.

[Ken Schoolland](#) is an associate professor of economics and political science at Hawaii Pacific University and a member of the board of directors for the International Society for Individual Liberty.