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## **How Grandma Got Legal**

**by Mae M. Ngai**

“Made in America — by immigrants” and “We too have a dream” read signs at the May 1 [2006] marches across the country. By invoking an American ideal, today’s newcomers are staking their claim as the latest generation of nation-builders. But their critics object to this appeal to history; they resent comparisons to previous generations of immigrants, who were legal.

Sen. Jon Kyl (R-Ariz.), for example, says his grandparents — Dutch immigrants who settled in Nebraska — didn’t try to get ahead by breaking the law. Rather, they made it through “frugality ... hard work, grit, honesty,” he says. “They would be very upset about people who didn’t do it the right way.”

Such comparisons between past and present miss a crucial point. There were so few restrictions on immigration in the 19th and early 20th centuries that there was no such thing as “illegal immigration.” The government excluded a mere 1 percent of the 25 million immigrants who landed at Ellis Island before World War I, mostly for health reasons. (Chinese were the exception, excluded on grounds of “racial unassimilability.”)

What’s more, statutes of limitations of one to five years meant that even those here unlawfully did not live forever with the specter of deportation.

In the early 1900s, immigrants from Europe provided cheap, unskilled labor that made possible the nation’s industrial and urban expansion. They shoveled pig iron, dug sewers and subway tunnels, and sewed shirtwaists. Even then, people born in the United States complained that the newcomers stole jobs, were ignorant, criminal, and showed no desire to become citizens. The rhetoric was often unabashedly prejudiced against Italians, Jews, Poles, and other “degraded races of Europe.”

In the conservative climate after World War I, Congress slammed shut the golden door. For the first time, the United States imposed numerical limits on immigration. Congress gave the smallest quotas to Eastern and Southern European countries and excluded all Asians; it also created the U.S. Border Patrol and eliminated statutes of limitations on deportation. It exempted

countries of the Western Hemisphere, however, in deference to agricultural labor needs and the State Department's tradition of pan-Americanism.

These quotas created illegal immigration as a mass phenomenon. And since that time, Americans have been of two minds about the problem. We want restrictions on immigration, but we hesitate to execute mass deportations. Congress has thus pursued border control, on the one hand, and legalization of the undocumented, on the other.

Our legalization policies recognized that once a person settled here, had a family, a job, and a home, he or she became a part of society. Separating families was seen as detrimental to individuals and society, and deportation was likened to banishment.

Here's how hundreds of thousands of illegal immigrants — mostly Europeans — became legal:

- The Registry Act of 1929 allowed immigrants who arrived before 1921 but had no record of their admission to register retroactively, for a \$20 fee.
- From 1935 to the late 1950s, to keep families together, tens of thousands of Europeans unlawfully in the United States were allowed temporarily to go to Canada and reenter the States legally as a permanent resident.
- In 1940, Congress authorized the suspension of orders of deportation in cases of hardship, which it defined as “serious economic detriment” to the immigrant's immediate family. The guidelines have become less generous, but the principle remains in the law.

In 1965, the United States repealed racial restrictions against Southern and Eastern Europeans and Asians, but the 1965 law also imposed quotas for the first time on Western Hemisphere countries. That created illegal immigration from Mexico and Central America. The 1986 immigration reforms addressed the problem by legalizing nearly 3 million undocumented workers. It also called for increased enforcement — which didn't stop illegal immigration; it just made it more dangerous.

President Bush wants Congress to provide today's undocumented immigrants with a pathway to citizenship, to establish a guest-worker program, and to add the National Guard to police efforts at the border. History is only partly on his side.

Providing a route to legalization — even one that is much less generous than we've offered in the past — at least adheres to precedent. But history shows that as long as we restrict the number of legal entries, there will be a parallel stream of unauthorized ones, even with tough enforcement laws. And the European experience with guest-worker programs should warn us that guests don't always go home when they are supposed to.

To really tackle the problem, we might consider updating other policies from the nation's past. Reinstating a statute of limitations on deportation would limit the numbers of undocumented people in the country. We could also raise the ceiling on legal admissions — or eliminate it, especially for neighboring countries. This is not such a radical idea: the North American Free Trade Agreement has already lowered barriers to the movement of capital and products, and citizens of European Union states have free movement within the European Union.

Legalizing the undocumented is just and humane. But unless we address the restrictions on legal admission that do so much to cause illegal entries, the cycle of enforcement and legalization will continue.

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