DEPORTING OUR SOULS

In the past three decades, images of undocumented immigrants pouring across the southern border have driven the immigration debate, and policies have been implemented in response to those images. The Oklahoma City bombings and the tragic events of September 11, both of questionable relevance to immigration policy, have provided further impetus to implement strategies that are anti-immigration in design and effect. This book discusses the major immigration policy areas – undocumented workers, the immigration selection system, deportation of aggravated felons, national security and immigration policy, and the integration of new Americans – and the author suggests his own proposals on how to address the policy challenges from a perspective that encourages us to consider the moral consequences of our decisions. The author also reviews some of the policies that have been put forth and ignored and suggests new policies that would be good for the country economically and socially.

Bill Ong Hing is Professor of Law and Asian American Studies and the director of law clinical programs at the University of California, Davis. He has litigated before the U.S. Supreme Court and was co-counsel in the precedent-setting case INS v. Cardoza-Fonseca (1986), which established a more generous standard for asylum seekers. He is the author of many books on immigration including Defining America through Immigration Policy and To Be an American – Cultural Pluralism and the Rhetoric of Assimilation.
Deporting Our Souls

VALUES, MORALITY, AND IMMIGRATION POLICY

Bill Ong Hing
University of California, Davis
CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
One Liberty Plaza, 20th Floor, New York, NY 10006, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
314-321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi - 110025, India
103 Penang Road, #05-06/07, Visioncrest Commercial, Singapore 238467

Cambridge University Press is part of the University of Cambridge.
It furthers the University's mission by disseminating knowledge in the pursuit of
education, learning and research at the highest international levels of excellence.

www.cambridge.org
Information on this title: www.cambridge.org/9780521864923

© Bill Ong Hing 2006

This publication is in copyright. Subject to statutory exception
and to the provisions of relevant collective licensing agreements,
no reproduction of any part may take place without the written
permission of Cambridge University Press.

First published 2006

A catalogue record for this publication is available from the British Library

Library of Congress Cataloging in Publication data
Hing, Bill Ong.
Deporting our souls : values, morality, and immigration policy / Bill Ong Hing.
p. cm.
Includes bibliographical references and index.
ISBN-10: 0-521-86492-5 (hardback)
1. Immigrants – Government policy – United States. 2. Illegal aliens – Government
policy – United States. 3. United States – Emigration and immigration. 4. Title.
JV6483.H564 2007
325.73 – dc22 2006011102


Cambridge University Press has no responsibility for the persistence or
accuracy of URLs for external or third-party internet websites referred to in
this publication, and does not guarantee that any content on such websites is,
or will remain, accurate or appropriate.
For
Kim Ho Ma, Yuthea Chhoueth, the Cuevas family, Manuel Garcia, Louen Lun, José Luis Magaña, Chanphirun Meanowuth Min, Jonathan Peinado, Mao So, Sor Vann, José Velasquez, and the countless others who have been deported since 1996 without receiving a second chance
And my friends
Many Uch and Andrew Thi, who are facing deportation and deserve a second chance
Contents

Foreword by Senator Edward M. Kennedy........ page ix
Acknowledgments........................ xi
Introduction: Hysteria and Shame........... 1
1 Illegal Immigration: Give Them a Parade .... 8
2 Deporting Our Souls........................ 52
3 Promoting Family Values and Immigration .... 118
4 Misusing Immigration Policies in the Name of Homeland Security ........ 140
5 A Welcome Wagon for New Americans....... 164
Epilogue: A Policy of Humanity............... 204
Index................................... 217
Foreword

Senator Edward M. Kennedy

Immigration is the story of American history. From the earliest days of our nation, generation upon generation of immigrants has come to be part of a land that offers freedom and opportunity to those willing to do their part. Immigrants built our great cities. They cultivated our rich farmlands. They built the railroads and highways that bind America from sea to shining sea. It is said that under every railroad tie, an Irishman is buried.

Immigrants erected houses of worship to practice their faiths. They fought under America’s colors in our wars. In fact, seventy thousand immigrants are serving in the U.S. armed forces in the world today. Immigrants worked hard so that their children could enjoy the ever-widening possibilities in our land. Over the centuries, immigrants came to America from every part of the globe and reached the American Dream. They created a nation that is the envy of the world.

That is our history. But it is also our present and our future. As recent years have made clear, however, our current system is broken and fails to meet our nation’s modern needs. Our borders are out of control at a time of heightened concern about terrorism. Vast numbers cross our borders and remain illegally, creating an underground society that is vulnerable to exploitation and abuse. I heartily agree with Professor Hing’s philosophy. There are certain fundamental values that we should not compromise away for political expedience – values that are fundamental to our nation and our humanitarian tradition and fundamental to our heritage and history as a nation of immigrants. We cannot turn our back on the eloquent
words of Emma Lazarus engraved in stone on the base of the Statue of Liberty in New York Harbor:

Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, tempest-tossed to me,
I lift my lap beside the golden door!

I also agree with Professor Hing’s call for reaching out to newcomers for greater civic and economic participation. When immigrants do well, we all do well. To do so is to set a path, a way forward for the nation as a whole to a new prosperity and greater opportunity for all. It’s a vision of the country we can become – an America that embraces the values and aspirations of our people now and for coming generations.

As we face the forces of globalization, we must affirm anew what it means to be an American. A new American majority is ready to respond to our call for a revitalized American Dream, grounded firmly in the Constitution and in the endless adventure of lifting this nation to new heights of discovery, prosperity, progress, and opportunity. A fundamental part of that revitalized American Dream is the inclusion of immigrants.
Acknowledgments

I am indebted to all of my good friends and relatives who have contributed to the ideas on progressive immigration policy that are presented in this text. They deserve credit for anything in these pages that makes sense. Everyone mentioned here has inspired me to think widely and broadly, while challenging me to put my time and effort into seeking fair and just change in our nation’s approach to immigration.

I had the benefit of excellent research assistance from a group of dedicated students including Jennifer Chu, Candice Lee, Yoonjin Park, Diana Geng, Lindsay Bennett, Evelien Verpeet, Wynter O-Blanquet, Vicky Choy, Daniel Rizk, Rene Juarez, Carla Romero, Kristy Kunisaki, and Chanlee Sheih. The entire library staff at UC Davis School of Law has always been phenomenal in responding to my requests, and two reference librarians – Susan Llano and Peg Durkin – have been particularly helpful. Linda Cooper and Jennifer Thompson Fuentes of the law school’s support staff assisted me with the preparation of the manuscript.

At UC Davis, I am lucky to be a part of two amazing programs. My law faculty colleagues have been supportive of my work in every important way. Cruz Reynoso, Jennifer Chacón, Madhavi Sunder, Anupam Chander, and Tom Joo have played important roles in the development of my most recent scholarship. And I cannot imagine a better pair of “bosses” than Dean Rex Perschbacher and Associate Dean Kevin Johnson, who are most responsible for creating an environment in which I have been able to thrive. My talented Asian American Studies colleagues push me to maintain a strong commitment to scholarship, our students, and our communities: Billie Gabriel, Darrell Hamamoto, Richard Kim, Sunaina
ACKNOWLEDGMENTS

Maira, Susette Min, My Diem Nguyen, Rhacel Parreñas, Caroline Kieu Linh Valverde, Nolan Zane, and especially Wendy Ho and Stan Sue, who have been amazing leaders.

The inspiration for many of my efforts has been shaped by my good friends and prolific academic colleagues Kevin Johnson and Jerry López. My attorney friends who are in the front lines of day-to-day immigration work regularly teach me about the injustices of our immigration system: Jay Stansell of the Federal Public Defender’s office in Seattle, Stan Mark and Margaret Fung of Asian American Legal Defense and Education Fund in New York, Sin Yen Ling and Joren Lyons of the Asian Law Caucus in San Francisco, Lucas Gutten-tag of the ACLU Immigrant Rights Project in Oakland, Bill Tamayo of the Equal Employment Opportunities Commission in San Francisco, and of course my clinical faculty colleagues at UC Davis: Amagda Pérez, Jim Smith, Holly Cooper, Millard Murphy, Cappy White, and Sarah Orr.

My information, knowledge, and any expertise in the field I may have is derived primarily from my more than twenty-five-year association with the entire staff of the Immigrant Legal Resource Center (ILRC), a legal services support center in San Francisco. Over the years, this talented group of support staff, administrators, bookkeepers, development experts, and lawyers has included Kathy Brady, Eric Cohen, Judy Golub, Jonathan Huang, Angie Junck, Sally Kinoshita, Shari Kurita, Susan Lydon, Irene Nyein, Rene Pérez, Nora Privitera, Elizabeth Romero, Tim Sheehan, Mark Silverman, Adam Sopko, and Shellie Stortz. Like any nonprofit organization, the ILRC has needed a board of directors to guide the organization through financially good times and bad times. Fortunately, a number of dedicated individuals has stepped up to the plate to serve on the ILRC board to ensure its viability in different periods: Sallie Kim, Lisa Spiegel, Dick Odgers, Don Ungar, Roger Wu, Lee Zeigler, Lupe Ortiz, Richard Boswell, John Burton, Angeli Cheng, Maribel Delgado, Howard Golub, Jerry López, Drucilla Ramey, Matt Schulz, Lynn Starr, Clark Trevor, Ruben Abrica, and Jackson Wong.

I also have enjoyed the benefit of serving on the National Advisory Council of the Asian American Justice Center in Washington, D.C., led by Karen Narasaki, with whom I regularly work on formulating policy positions. Karen and her staff members – Traci Hong and Katherine Newell Bierman – are extraordinary. I also must acknowledge the hard work and dedication of a number of my other D.C. friends who try to
ACKNOWLEDGMENTS

push Congress to do the right thing on immigration policy. I do not always agree with their specific strategies or positions, but they are accessible and respect all immigrant communities. They deserve our respect: Kevin Appleby, Jeanne Butterfield, Marshall Fitz, Doris Meissner, Cecilia Muñoz, Demetri Papademetriou, Rick Schwartz, and Frank Sharry.

The values that I express in this text have been shaped by my work with the colleagues and friends mentioned here. However, this all started as I was growing up in the small, copper mining town of Superior, Arizona, where most of my friends were of Mexican ancestry. That experience as well as getting to know my own Chinese immigrant relatives in Superior and Phoenix formed my early views about immigration. To say the least, those early views were all positive and have remained that way ever since. Those views were supported and validated by my parents, Ong Chung Hing and Helen Annie Soo Hoo, and by every one of my older siblings: Lilly, Minnie, Ally, Holy, Bob, Mary, Grace, Joyce, and Johnny. Their example of friendship, love, and respect for our Mexican American friends in particular has never been forgotten.

None of what I do would be possible without the love and support of my wife, Lenora Fung. Her incredible commitment to health care, volunteer work, and family is matched only by her own staunch support for immigrant rights. Most important to me, I can always count on Lenora for a smile and the start of a good day with her there. We have been blessed with three wonderful children who have blossomed as young adults. In their own way and on their own time, Eric, Sharon, and Julianne have developed deep commitments to social and economic justice for subordinated groups and individuals. I learn from them constantly. What they do with the rest of their lives is, of course, up to them and dependent upon circumstances that none of us can foresee. But I’m confident that they will lead their lives with open minds, dedicated to fairness and respectful of others, irrespective of race, gender, or background. I cannot be more proud nor can I ask for much more.

Bill Ong Hing
Davis, California
Summer 2006
DEPORTING OUR SOULS