

FORUM: FEAR AND LOATHING

## National (In)security and the Immigration Act of 1996

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The nativist rhetoric of the 2016 presidential campaign brought renewed attention to the ways immigrants and refugees have been blamed for society's ills over time. Americans celebrate and commercialize the nation's immigrant heritage but suspicion and resentment of newcomers have always run parallel, especially during times of war and economic contraction. National insecurity has provided the justification for restriction, surveillance, detention, and deportation policies since the nineteenth century. Consequently, when Donald J. Trump announced his executive order restricting the admission of refugees and of visitors from six predominantly Muslim nations, many immigration historians, though outraged, were not surprised. The fear of immigrants has deep roots in American history and has produced such laws and policies as the Chinese Exclusion Act; the Immigration Acts of 1907, 1917, 1921, and 1924; the Mexican repatriation campaigns of the 1930s; Japanese internment; and Operation Wetback, to name just a few.

More recent examples can be found in the securitization policies of the past quarter-century. The 1993 terrorist attack on U.S. soil resulted in the passage of one of the most draconian immigration laws of the twentieth century—a law that continues to have significant repercussions for refugees, asylum seekers, and immigrants but is often obscured in the discussions of the post-9/11 restructuring of the immigration bureaucracy.<sup>1</sup> In response to this terrorist attack, members of the Clinton administration enacted tougher restrictions on immigration to try to reassure fearful constituents that they were safe. The original intent of the law and its consequences could not have been more different.

On September 1, 1992, Ramzi Yousef (an alias for Abdul Basit), an engineer of Pakistani origin, arrived at John F. Kennedy International Airport. Traveling on the same flight from Pakistan was Ahmad Ajaj, who was detained and interrogated by U.S. authorities when his forged Swedish passport attracted suspicion. When police searched Ajaj's suitcase they found bomb-making manuals and videotapes of suicide bombers. Yousef's Iraqi passport also aroused suspicion but he deflected further scrutiny by requesting asylum, which redirected him to immigration authorities. Yousef was sent to an Immigration and Naturalization Service (INS) detention facility to await an asylum hearing; the facility was overcrowded at the time of his arrival so authorities released Yousef on his own recognizance and told him to return for his hearing. He never showed up.

Once in New York, Yousef became part of a loosely affiliated group of men of different nationalities who came together to plot an attack.<sup>2</sup> These men did not act on behalf of any nation, nor were they part of any organization. The only immediate link between them

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<sup>1</sup>A more detailed discussion of the 1993 WTC bombing and its consequences can be found in chapter 3 of my book, *The Refugee Challenge in Post-Cold War America* (New York, 2017).

<sup>2</sup>United States Federal Bureau of Investigation National Security Division Counterterrorism Threat Assessment and Warning Unit, *Terrorism in the United States: 1999, 30 Years of Terrorism: A Special Retrospective Edition* (Washington, DC, 2000), 15–6, <https://search-proquestcom.proxy.library.cornell.edu/docview/1679135833?accountid=10267> (accessed Jan. 9, 2018); Thomas H. Kean and Lee Hamilton, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (Washington, DC, 2004), 72–3.

was that several were followers of Sheikh Omar Abdel-Rahman, a blind, fifty-two-year-old Egyptian-born cleric living in Brooklyn, known for his anti-American teachings. Yousef and his fellow conspirators stockpiled the chemical ingredients they needed for bomb-making in a rented storage locker in New Jersey, and tested the explosives at different locations. Once satisfied with their plan, they chose a date, loaded their fifteen-hundred-pound bomb into a rented van, parked the van on a ramp beneath the World Trade Center (WTC), lit the twenty-foot fuses, and sped off in another car. The explosion at 12:17 p.m. on February 26, 1993, carved a one-hundred-foot crater several stories deep and several more high. Six people died in the explosion and more than one thousand were injured.<sup>3</sup>

The Federal Bureau of Investigation (FBI) eventually identified the culprits and, in March 1994, a federal jury sentenced four of them to life in prison. The following year, a jury found Abdul-Rahman and nine others guilty of various terrorism-related charges, including a plot to blow up the George Washington Bridge, the United Nations, the Holland and Lincoln Tunnels, and other New York City landmarks and offices. In 1995, Yousef was finally arrested in Pakistan, extradited to the United States, and sentenced to life in prison plus 240 years.

As the complex details of the 1993 conspiracy came to light, journalists, elected officials, and even President Clinton himself expressed incredulity that a man who had arrived with problematic travel documents, on a flight transporting a suspected terrorist, could be released so easily into U.S. society by immigration authorities. Subsequent investigations revealed other irregularities. Many of those associated with the WTC and New York City landmarks conspiracies had manipulated the immigration bureaucracy in order to stay in the United States: three had received amnesty under the Special Agricultural Workers Program; six had secured permanent residency by marrying U.S. citizens; and others had remained in the United States illegally past the expiration of their tourist visas. Abdel-Rahman, who had given ideological and financial support to the conspirators, and who himself was implicated in the assassination of Egyptian president Anwar el-Sadat, entered and exited the United States several times during the early 1990s despite his presence on FBI lists. When authorities finally arrested him in August 1992 and revoked his permanent residency status, Abdel-Rahman requested asylum and was allowed to remain in the United States to await an asylum hearing.<sup>4</sup> In an interview on *Good Morning America*, New York Governor Mario Cuomo expressed what was becoming the prevailing American sentiment in the post-Cold War period:

All the asylum laws are a joke. We all know that. It's not just the sheikh, that just made it dramatic. You come in, you say asylum, they say "OK." It'll take us a year to figure out whether or not you're telling us the truth. Meanwhile, go down ... and get yourself a job. They disappear. It is a joke. That has to be changed.<sup>5</sup>

The terrorist attack of 1993 set into motion a radical restructuring of the U.S. immigration bureaucracy that has had lasting consequences into the twenty-first century. Strengthening national security meant restricting the entrance of all state and non-state actors that might potentially harm the United States, be they terrorists, drug smugglers, or other criminals; but immigrants, refugees, and asylum seekers became the true casualties of this restructuring since they, too, were identified as threats to the safety and well-being of Americans. By competing with

<sup>3</sup>Daniel Benjamin and Steven Simon, *The Age of Sacred Terror* (New York, 2002), 7; Jesse Greenspan, "Remembering the 1993 World Trade Center Bombing," History Channel, Feb. 23, 2013, <http://www.history.com/news/remembering-the-1993-world-trade-center-bombing> (accessed Oct. 24, 2017).

<sup>4</sup>Richard A. Clarke, *Against All Enemies: Inside America's War on Terror* (New York, 2004), 77–9; Douglas Jehl, "The Twin Towers; Rahman Errors Admitted," *New York Times*, Mar. 7, 1993, <http://www.nytimes.com/1993/03/07/nyregion/the-twin-towers-rahman-errors-admitted.html> (accessed Oct. 24, 2017).

<sup>5</sup>Cited in John L. Martin, "Immigration Reform Gains Momentum," Center for Immigration Studies, Aug. 1, 1993, <http://www.cis.org/articles/1993/back593.html> (accessed Oct. 24, 2017).

Americans for jobs, or refusing to culturally assimilate, immigrants were threats to the American way of life, some argued, and had to be barred from entering the United States. A CNN/*USA Today* poll taken just a few months after the WTC bombing found that 76 percent of Americans believed that immigration should be stopped or greatly reduced.

In the aftermath of the 1993 WTC bombing, more and more individuals were apprehended at U.S. airports or at the U.S.–Canada border; but for many Americans, the U.S.–Mexico border—and not these other ports of entry—became the symbol of the nation’s vulnerability, simply because of the sheer number of Mexicans and Central Americans who crossed that boundary day in and day out, to work in *el norte*, often without legal authorization.<sup>6</sup> In a July 1993 press conference, President Bill Clinton complained that U.S. borders “leak[ed] like a sieve.”<sup>7</sup> Two months later, the president proclaimed illegal immigration *the* major threat to the security of the United States: “The simple fact is that we must not and cannot surrender our borders to those who wish to exploit our history of compassion and justice.... We must say no to illegal immigration.”<sup>8</sup>

The term “illegal immigration” was associated with migration from Latin America, not the Middle East, so the president’s words refocused attention on the U.S.–Mexico border and away from other permeable points of entry. Keeping the United States safe from terrorists might have been the initial impulse driving immigration reform, but controlling the movement of undocumented laborers from the Americas quickly became its major focus. If the ideologically driven, lone-wolf terrorist could not be stopped completely from accessing the United States, stopping the immigrant worker at the border at least demonstrated accountability to one’s electoral constituents.

Members of Congress rushed to propose their own immigration reform bills. Over eighty immigration-related bills were introduced during the 103rd Congress, most of them focused on the policing of immigrants. For the next three years, Congress heatedly debated the specifics of a new immigration policy. Finally, in September 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), a comprehensive immigration act whose 750 pages covered topics as diverse as mail-order brides, foreign physicians, employment eligibility, and visa processing.<sup>9</sup> However, the principal focus of the law was controlling unauthorized immigration, which, though not specifically referenced, was associated with Mexico, Central America, and the Caribbean, not the Middle East.

To discourage unauthorized immigration, this new legislation enacted a series of deterrence programs. IIRAIRA expanded the U.S. Border Patrol by five thousand agents over the next five years; authorized the purchase of state-of-the-art equipment to assist in the patrolling of the U.S.–Mexico border; imposed harsher penalties on those who smuggled immigrants; and imposed harsher penalties on those apprehended in the United States without authorization, or who stayed past the expiration of a visa. On this last point, those unlawfully present in the United States for more than 180 days, but less than a year, were barred from reentering the country for a period of three years; those unlawfully present for more than a year were barred from future admission for ten years. To facilitate the incarceration and deportation of immigrants, IIRAIRA reclassified several misdemeanor crimes as aggravated felonies if committed by an undocumented immigrant. In sum, IIRAIRA was the most punitive immigration legislation since the Johnson Reed Act of 1924. Passed almost in tandem was the 1996 Welfare Reform Act, which eliminated food stamps to disabled or otherwise needy authorized immigrants, including children.

<sup>6</sup>Robert S. Leiken, *Bearers of Global Jihad? Immigration and National Security after 9/11* (Washington, DC, 2004), <http://www.mafhoum.com/press7/193S23.pdf> (accessed Oct. 24, 2017).

<sup>7</sup>William J. Clinton, “Remarks and an Exchange With Reporters on Immigration Policy,” July 27, 1993. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=46906> (accessed Jan 10, 2018).

<sup>8</sup>Susan Hegger, “Many in US Concerned over Immigration,” *St. Louis Dispatch*, Sept. 3, 1993, 4B.

<sup>9</sup>“HR 3610--104th Congress: Omnibus Consolidated Appropriations Act, 1997,” <https://www.govtrack.us/congress/bills/104/hr3610> (accessed Jan. 10, 2018).

Refugee advocates objected to many of the law's provisions. IIRIRA's bar on those with criminal records, for example, raised the possibility that asylum seekers might be barred for political acts criminalized in their home countries but not illegal in the United States. The one-year filing deadline for asylum seekers penalized the severely traumatized, who often delayed requesting asylum for fear that they might not be believed and then deported to face their persecutors. The IIRIRA provision that elicited the loudest objections from advocates, however, was the provision requiring the "expedited removal" of those apprehended at port of entry without proper documentation. The "expedited removal" of asylum seekers without offering them a chance to prove a well-founded fear of persecution in an immigration court, they argued, violated the international principle of *non-refoulement* (no forced return).

The expanded policing of the U.S.–Mexico border mandated by the 1996 law came just as the Clinton administration was establishing "the world's largest free trade area" through the North American Free Trade Agreement (NAFTA). The administration regarded the unhindered movement of trade desirable, but not the free movement of laborers. The INS budget grew from \$1.5 billion in FY 1993 to \$4.8 billion in FY 2001, and INS personnel expanded from seventeen thousand to thirty thousand, including 6,700 new Border Patrol agents and immigration inspectors.<sup>10</sup> By the end of FY 2000, the Border Patrol had over nine thousand agents. To restore public faith in the government's ability to control the country's borders and keep Americans safe from threat, the INS staged highly publicized policing operations along the "busiest illegal border-crossing corridors in the nation." The administration heralded its success by releasing statistics on the growing number of apprehensions, detentions, and "removal" of aliens.

The crackdown came at a human cost, of course. The growing militarization of the border strained long-established family and commercial relations in the U.S.–Mexico borderlands, making it difficult for Americans and Mexicans alike to freely shop, attend school, and visit family on the other side of the political border, as residents of the borderlands had done since the mid-nineteenth century. Over time, the militarization of high-traffic areas of the U.S.–Mexico border redirected the flow of unauthorized migration across more dangerous stretches, especially across the Sonora/Arizona desert, leading to more immigrant deaths and an expansion of the smuggling enterprises the administration had tried so hard to stop.

The law also did not stop another group of terrorists from accessing U.S. territory five years later. The devastating events of September 11, 2001, launched yet another and more far-reaching reform of immigration law and bureaucracy in the interest of national security. Fifteen years after 9/11, Americans still dissatisfied with these comprehensive immigration reforms, and still fearful for their way of life, elected Donald J. Trump.

Political and economic crises have cascading consequences, and often lead to unanticipated and unsavory policies that are rationalized in the present but lamented as "un-American" in retrospect. The events following the 1993 WTC bombing are one such example, but the study of immigration history, in general, reveals the fault line between American ideals and insecurities. It is too early to tell whether Trump's worldview, shared by many anxious and resentful Americans, will leave a permanent mark on U.S. immigration and refugee policies, or if other voices and perspectives will ultimately prevail.

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<sup>10</sup>History of the Department of Justice and Clinton Administration History Project, "[Dept. of Justice] [2]," 79–80, *Clinton Digital Library*, <https://clinton.presidentiallibraries.us/items/show/4542> (accessed Jan. 10, 2018).