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Kevin R. Johnson. *The "Huddled Masses" Myth: Immigration and Civil Rights*. Philadelphia: Temple University Press, 2004. x + 254 pp. \$59.50 (cloth), ISBN 978-1-59213-205-8; \$23.95 (paper), ISBN 978-1-59213-206-5.

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"If you catch 'em, you ought to clean 'em and fry 'em"

Harold Ezell, western regional commissioner of the Immigration and Naturalization Service (INS) in charge of border enforcement in the west, made the above recommendation in 1989 when referring to undocumented immigrants (p. 156). It is this attitude, held by many members of the U.S. Government and by the general public towards documented and undocumented immigrants, that Kevin Johnson's work examines and explains. Johnson, a supporter of open borders, is critical of the U.S. past and current treatment of immigrants. Through the glasses of a liberal scholar trained in law, Johnson offers a perspective on the history of immigration to the United States and its relevance to the issues in the post-September 11 United States. He is not alone in doing so. Stephen H. Legomsky, *Immigration and Refugee Law and Policy* (1997) is an important precursor, as is a study by Roger Daniels, *Coming to America: A History of Immigration and Ethnicity in American Life* (1990). While Legomsky's study is written for a law readership, the latter remains concerned with the social and economic forces largely avoiding the legal controversies of the U.S. immigration law.[1] Johnson meticulously examined the legal cases relevant to the history of the huddled masses and used them as evidence of what he calls the "harsher side of the nation's immigration history" (p. 1). His analytical inquiry into the legal aspects of exclusion and deportation is unique for its synthesis of all the main attributes of the story of the "huddled masses": race, ethnicity, gender, and citizenship status. He proved that a "binary race paradigm" is too simple.

Although the United States accepts huddled masses in greater numbers than any other country, the Governmental law and policy has been for over one hundred years to reject "the tired and the poor and the wretched refuse of" their shores (p. 1). Neither are or were immigrants of different races, immigrants of undesirable politics, alleged or actual criminals, or gay immigrants welcome at the shores of the United States. The immigration

law has also marginalized women. Immigrants have been deported or excluded for these "handicaps."

Historically, racial fears have resulted in passing legislation that has kept the influx of the undesirable immigrants to a minimum. Despite congressional action bringing to an end the racially discriminatory quota system in 1965, the dominance of the white immigrants remained and was further perpetuated by the Immigrant Act of 1990. The preponderance of the white immigrants was guaranteed through "an ironic twist of political jargon" by establishing "the facially neutral 'diversity' visa program" (p. 27), Johnson argues. At the core of the immigration legislation and initiatives such as the Proposition 187 is nativism –not a phenomenon of only the past but a syndrome afflicting U.S. politics today (p. 27). This ideology favoring the non-immigrants is today aimed against "colored" immigrants and aliens. Johnson adroitly demonstrates nativist tendencies in the current treatment of Mexicans and Haitians. There are many undocumented aliens in the United States, but the often-erratic governmental policy mainly focuses on hunting down the Mexicans. There have been many asylum seekers, but no group has received such a discriminatory treatment (even among other non-white races), as have the Haitians. The fashionable ubiquitous governmental and general suspicion of Arabs and Muslims (or their look-alikes) also fits into the long-standing history of nativism.

Huddled masses likely to become a "public charge" have also been legislated out as undesirable additions to the American nation. Johnson contrasts the relationship between the marginalization of poor and working-class people under the immigration laws and the treatment of the domestic poor in the United States. The native-born Americans have feared that the poor immigrants would eat up available public benefits. The reality is that the disadvantaged non-citizens have always received either no or lower benefits than the native citizens, as Johnson

aply documents.

Exclusion and deportation on political and criminal grounds, on gender basis, and on sexual orientation basis affected many resident aliens and would-be immigrants throughout the history of the country. By excluding the groups that “do not fit” the American political system, Johnson charges the government with protecting particular social and economic values (p. 55), resulting in deportation of anarchists, labor-leaders, and communist party affiliates during the course of U.S. history. Despite the U.S. government’s celebratory noises about its stand for political freedom, exclusion for mere political belief was on the books until 1990. Johnson warns that grounds for ideological and political exclusion still exist today and are generally justified by the U.S. government’s efforts to stamp out terrorism as “courts and legal proceedings are being side-stepped at every turn” (p. 77), affecting the non-citizens and eventually possibly impinging the rights of the citizens.

The government has justified keeping these huddled masses out by excluding or deporting the unwanted on double, albeit erroneous, charges—the communists are homosexuals, the women are prostitutes, and the poor are also inferior. The ability to act in such a discriminatory fashion was bestowed on the government by the “plenary power” doctrine that gives it great discretion in matters of exclusion and deportation (p. 14).

The current legal structure of immigration is here to stay; the governmental policy towards the unwanted immigrants has generally had a popular support. Anglo-Saxon homogeneity is the goal of most and has been on the law books since 1924. No meaningful check on the treatment of aliens existed then, and this remains the law today. For aliens “judicial review of the constitutionality of laws that provide for the exclusion and deportation has been negligible” (p. 3). The exclusionary law preceded by the violence against the Chinese in the late-nineteenth century, and the constant suspicion and deportation of Mexican immigrants, for example, shows the dominant white society’s attitude towards its own minorities. Thus “immigration law is an especially illuminating resource for studying the place of domestic groups in the U.S. social hierarchy” (p. 3), for it reveals how the minorities would be treated if their rights were not protected by the Constitution. Johnson argues that while the minorities in the United States share common characteristics, the citizen undesirables have the protection of the Constitution while the aliens have none. The danger to the citizens looms large beyond the horizon. Historically, the

citizens’ civil rights have been abused through segregation, genocide, deportation, and internment. These citizens were not Anglo-Saxons. At times, however, the law intervened on behalf of these “racially inferior” groups. Many times a change of law, however, did not mean a change of heart or attitude but prudence in foreign policy, as for example during World War II when the Chinese became an ally and the exclusion of the Chinese had to stop. Legislation against prejudice, however, is a kin to Sisyphus’ work.

In this book, Johnson successfully proved that while publicly the United States proclaims to embrace the world’s huddled masses, it treats its immigrants harshly. He repeatedly gives evidence that “a relationship exists between the treatment of immigrants and minority citizens” (p. 10).

This is a dynamic relationship and it is imperative to understand it since the exclusionary aspects of migration may affect the civil rights of minority citizens. The government’s aggressive treatment of terrorist suspects since September 11, 2001 is evidence that even the minority citizens’ rights are not always protected. Johnson concludes, “denial of rights to non-citizens lays the groundwork for the denial of rights to citizens” (p. 12).

Johnson’s excellent and carefully thought out analysis of governmental discriminatory practices concerning the unwanted huddled masses is accessible to a general social science audience. Despite his repetitious warnings about the “magical mirror” revealing “how dominant society might treat domestic minorities if legal constraints were lifted” (p. 14), Johnson’s study is highly polished, well argued and accessible. At the end of his work he pronounces the Immigration laws as interwoven with “racism, political censorship, classism, sexism, and homophobia” and challenges the U.S. Government to a daring test in abolishing “the immigration laws in their entirety. ”Only then will the United States even begin to approximate the promise to the world inscribed on the Statue of Liberty“ (p. 176).

Note

[1]. See Alan M. Kraut, *The Huddled Masses: The Immigrant in American Society, 1880-1921* (Arlington Heights: Harlan Davidson, Inc., 1982); Stephen H. Legomsky, *Immigration and Refugee Law and Policy*, 3rd ed. (New York: Foundation Press, 2002); Roger Daniels, *Coming To America: A History of Immigration and Ethnicity in American Life*, 2nd ed. (New York: Harper Collins, 2002); and Maldwyn Allen Jones, *American Immigration*, 2nd ed. (Chicago: The University of Chicago Press, 1992).

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