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Official Imaginations: Globalization, Difference, and State-Sponsored Immigration Discourses

Any attempt to “situate the immigrant in the inter/national imagination,” as the title of this symposium bids us do, must engage two extremely influential academic discourses. I will designate them as (1) the discourse of globalization as a cultural phenomenon and (2) the discourse of difference. Certain strains within these discourses deploy to their own ends an undifferentiated analytic category, “the immigrant,” without paying adequate attention to the specifically economic politics of contemporary immigration.

I

IMMIGRATION, GLOBALIZATION AND DIFFERENCE

The discourse of globalization as a cultural phenomenon names as its object of analysis “the intensification of consciousness of the world as a whole.”¹ The emphasis on “consciousness” announces a rejection of Marxist analysis, which in turn enables an emphasis on “certain fundamental disjunctures between economy, culture and politics.”² The positing of “fundamental disjunctures” enables claims of autonomy to be made on behalf of culture, economy, politics, and so on. Within certain diagnoses of

* Assistant Professor of Law, Cleveland-Marshall College of Law, Cleveland State University. This paper was made possible by a grant from the Cleveland-Marshall Fund. The arguments presented here form part of an extended project examining the relationships between immigration and globalization. The author would like to thank Antony Anghie, Ruth Buchanan, Patricia Falk, Patricia McCoy, Tayyab Mahmud, Annelise Riles and Yumna Siddiqi for their comments on earlier drafts of this paper.

¹ ROLAND ROBERTSON, *GLOBALIZATION: SOCIAL THEORY AND GLOBAL CULTURE* 8 (1992).

² ARJUN APPADURAI, *MODERNITY AT LARGE: CULTURAL DIMENSIONS OF GLOBALIZATION* 33 (1996).

globalization as a cultural phenomenon, "the immigrant" features in two distinct ways depending upon the register of the discussion. First, "the immigrant" becomes critical in the production of a supposedly autonomous "global culture" through the mere fact of her arrival in the West. In other words:

[T]he numbers of sojourners, refugees, and migrant workers means that 'the other' is no longer something to be searched out in exotic locations in the distant parts of the world by adventurers, literary travelers, and tourists. The others work and live alongside us in the metropolitan areas. In effect, 'the rest are in the West.'³

Second, "the immigrant" gives rise through the mere fact of movement to supposedly autonomous "global ethnoscares," defined as "the landscape of persons who constitute the shifting world in which we live: tourists, immigrants, refugees, exiles, guest workers, and other moving groups and individuals."⁴ Identifications of "global culture," on the one hand, and "global ethnoscares," on the other, are assumed to entail a certain progressive politics insofar as culture, formerly imagined as specific, divisive, immobilized, and immobilizing, is freed up, liberated, and unleashed so that it comes to be represented as shared ("global culture") and/or deterritorialized ("global ethnoscares").

However, in both instances, "the immigrant" is simply an *instrument* through which "global culture" and "global ethnoscares" emerge. Her appearance in the West, serving to produce "global culture" and "global ethnoscares," is described in a naturalistic vocabulary of population flows, mobility, and movement that completely paints over the politics of contemporary immigration. Even though each of the above extracts reveals a certain familiarity with the *legal* categories—tourists, refugees, and migrant workers, for example—that together constitute "the immigrant," the distinctions among these categories are ultimately vestigial to the ensuing diagnoses of "global culture," "global ethnoscares," or any other similar global cultural phenomena.

³ Mike Featherstone, "Travel, Migration, and Images of Social Life", in GLOBAL HISTORY AND MIGRATIONS 241 (Wang Gungwu ed., 1997).

⁴ APPADURAI, *supra* note 2, at 33. The invocation of "global ethnoscares" in this paper should be understood not so much as referring to specific concepts within the discipline of anthropology as standing for the entire contemporary fascination within the discourse of globalization as a cultural phenomenon with diaspora, displacement, and movement.

In other words, certain strains within the discourse of globalization as a cultural phenomenon appear to relegate the contemporary politics of immigration to the prehistory of global cultural phenomena.

The discourse of difference distinguishes itself from Marxist analysis by identifying as its political project a war on "the monolithic and homogeneous in the name of diversity, multiplicity, and heterogeneity."⁵ A supposedly autonomous identity serves as the basis of political struggle. Certain strains within the discourse of difference annex "the immigrant" to a phalanx of differences constituted around varieties of identitarian opposition, either because "the immigrant" represents difference through sheer foreignness or because "the immigrant" disappears into a brand of difference represented by a domestic minority. The economic politics of immigration are overrun by the politics of multiculturalism. In this respect, popular debates on immigration mirror academic discourses of immigration as difference. For example, popular debates on immigration in Europe are increasingly organized around "cultural differences" as free-standing, evenly distributed markers of ethnicized identity that may be invoked by an entire range of political perspectives on immigration.⁶ Just as anti-immigrant, exclusionary, or assimilationist initiatives are justified by invocations of the naturalized incompatibility of different "cultures," pro-immigrant, inclusionary, or multiculturalist initiatives are justified by invocations of the morality of equal acknowledgment of, or respect for, different "cultures."

The rhetoric of the popular American debate on immigration differs from that of its European counterparts for various historically contingent reasons, including the absence of an American national identity distinct from the American state, the rich American experience with the "problem" of "diversity," and the survival of the powerful myth of the United States as a nation of immigrants. Nevertheless, distinctly American discourses of difference claim "the immigrant" through the use of such free-standing, evenly distributed, and ultimately interchangeable terms as "race," "culture," "community," "work ethic," and

⁵ Cornell West, *The New Cultural Politics of Difference*, OCTOBER, Summer 1990, at 93.

⁶ See Verena Stolcke, *Talking Culture: New Boundaries, New Rhetorics of Exclusion in Europe*, 36 CURRENT ANTHROPOLOGY 1 (1995).

"family values" as markers of ethnicized identity. If certain immigrants are energetically attacked by nativists as bearers of undesirable "cultures" or "values," including "cultural" propensities to crime, disorderliness, and economic dependency, others are vigorously defended by liberals of varying stripe as bearers of desirable "cultures" and "values," including "cultural" emphases on hard work, education, religion, and family.⁷ By virtue of their capture by the discourse of difference, contemporary American debates on immigration often appear to blend effortlessly into a broader debate on multiculturalism encompassing topics such as minority hiring and the redefinition of the literary canon.

Academic analyses of developments in American immigration law tend to be inundated with discourses of difference serving as critique.⁸ On the one hand, as an unmediated expression of "culturally" oriented, anti-immigrant sentiment, immigration law might serve to preserve "race," "culture," "community," "work ethic," or "family values" by restricting, in different ways, the influx of immigrants, the opportunities available to immigrants, and the ability of immigrants to retain their distinctive identities. This view is enabled by restrictive immigration policies combined with strong readings of the venerable plenary power doctrine invented by the United States Supreme Court over a century ago to immunize immigration policy from substantive constitutional review. On the other hand, as a check on unmediated expressions of "culturally" oriented, anti-immigrant sentiment, immigration law might serve to represent, in a more or less egalitarian

⁷ An example of the construction of the American immigration debate around "culture" is afforded by Francis Fukuyama's treatment thereof. Fukuyama begins a paper on immigration with the following paragraph:

At the Republican National Convention in Houston in August 1992, Patrick J. Buchanan announced the coming of a block-by-block war to 'take back our culture.' Buchanan is right that a cultural war is upon us, and that this fight will be a central American preoccupation now that the Cold War is over. What he understands less well, however, is that the vast majority of the non-European immigrants who have come into this country in the past couple of decades are not the enemy. Indeed, many of them are potentially on his side.

Francis Fukuyama, *Immigrants and Family Values*, in *ARGUING IMMIGRATION: THE DEBATE OVER THE CHANGING FACE OF AMERICA* 151 (Nicolaus Mills ed., 1994).

⁸ Juan Perea argues, for example, that "[t]he deteriorating treatment and scapegoating of undocumented persons is vitally linked to the deteriorating treatment and scapegoating of persons of color, minorities, and women." Juan F. Perea, *Introduction*, in *IMMIGRANTS OUT!: THE NEW NATIVISM AND THE ANTI-IMMIGRANT IMPULSE IN THE UNITED STATES* 3 (Juan F. Perea ed., 1997).

fashion, a diversity of "races," "cultures," "communities," "work ethics," and "family values." This view is enabled by liberal immigration policies combined with readings of the plenary power doctrine as limited by some reading of the substantive provisions of the United States Constitution that are often taken to hold out the promise of equal representation in the identitarian imagination.⁹ Although a range of perspectives might exist between these extremes, the point here is to underscore the ubiquity of the discourse of difference in academic analyses of contemporary developments in immigration law. Even highly complex politico-legal events such as the passage in California of the infamous Proposition 187 are reduced to thought principally in terms of their "racist" antecedents.¹⁰

Although the discourse of globalization as a cultural phenomenon, on the one hand, and the discourse of difference, on the other, advance seemingly distinct projects, strains within the two that have been highlighted above might readily be seen to coalesce around their use of "the immigrant" as an undifferentiated analytic category. In producing "global culture," "global ethnoscapas," and difference, "the immigrant" enables each discourse to serve as a dimension of the other. A recent study of immigration reveals this through its thematic confusion of "global culture," "global ethnoscapas," and difference:

Even 'nationals,' classically understood, increasingly fear that they will become foreigners in their own countries as the cultural, ethnic and religious hues of 'their homeland' become ever more nuanced. Living in a diaspora is becoming the common experience. Similarly, domestic society has become a mi-

⁹ For example, in arguing for constitutional limits to the plenary power doctrine, Frank H. Wu argues that courts "conceivably could strike down some, though by no means all, [immigration] restrictions based on a cultural rationale, to the relatively limited extent that the First and Fourteenth Amendments offer protection of cultural rights or may be interpreted to do so in the future." Frank H. Wu, *The Limits of Borders: A Moderate Proposal for Immigration Reform*, 7 STAN. L. & POL'Y REV. 35, 50 (1996). Later in the article, Wu goes on to suggest that, "[w]ithin constitutional limits, immigration issues should be viewed as integral to the civil rights movement—for Asian American and Latino communities certainly, but for all racial groups in some sense." *Id.* at 51.

¹⁰ Kevin Johnson, *A Paper on Immigration Politics, Popular Democracy, and California's Proposition 187: The Political Relevance and Legal Irrelevance of Race*, 70 WASH. L. REV. 629, 635 (considering "the evidence that nativist and racist sentiment influenced the initiative's passage and how, under current equal protection doctrine, it nonetheless would be difficult to successfully challenge Proposition 187 for those reasons").

crocosm of the world at large¹¹

From the perspective of this paper, the deployments of "the immigrant" to produce "global culture," "global ethnoscapas," and difference, to the extent that they rest upon a certain erasure of the economistic politics of immigration, point towards serious lapses within the discourse of globalization as a cultural phenomenon and the discourse of difference. Even the most cursory examination of the plethora of state-sponsored immigration "studies" reveals how official immigration discourses, driven by imaginations of the topographies of the global economy, tend overwhelmingly to structure immigration in terms of economistically defined notions of productivity, skill, resources, and self-sufficiency.¹² Yet strains within the discourse of globalization as a cultural phenomenon and the discourse of difference, each of which self-consciously arrogates a certain politically progressive posture, perplexingly fail to account for this economistic orientation in their deployment of "the immigrant" as the instrument through which "global culture," "global ethnoscapas," and difference are produced.

The failure to incorporate the economistic politics of immigration into representations of "global culture," "global ethnoscapas," and difference does not stem from mere unfamiliarity with the interstices of immigration law. Very often, purveyors of the discourse of globalization as a cultural phenomenon and the discourse of difference display considerable knowledge of the legal categories around which immigration tends to be organized. Responsibility for this failure might squarely be assigned to a fetishistic "anti-foundationalism" running through the discourse of globalization as a cultural phenomenon and the discourse of difference that permits "global culture," "global ethnoscapas," and difference to claim autonomy from the traditional emphases of Marxist analysis. While often representing themselves as providing *correctives* to the clumsy determinism of outmoded Marxist analysis, such discourses refuse—barring desultory references to global capitalism that are ultimately vestigial to their intellectual enterprise—to relate "global culture," "global ethnoscapas," and

¹¹ DAVID JACOBSON, RIGHTS ACROSS BORDERS: IMMIGRATION AND THE DECLINE OF CITIZENSHIP 126 (1996) (footnote omitted).

¹² The references here are legion. Although economistic studies of immigration proliferate rapidly, a good example of kinds of arguments that they contain may be found in U.S. COMMISSION ON IMMIGRATION REFORM, TEMPORARY MIGRANTS IN THE UNITED STATES (1996).

difference to the relationship between contemporary immigration policy, on the one hand, and imagined topographies of the global economy, on the other. As a result, they fail to apprehend the ways in which the undifferentiated analytic category of "the immigrant" is fragmented by immigration policy in terms of productivity, skill, resources, and self-sufficiency.

The object of drawing attention to the ways in which contemporary immigration policy corresponds to the imagined topographies of the global economy is not to turn away from "global culture," "global ethnoscapas," and difference as appropriate objects of analysis, but rather to avoid the pernicious effects of analyzing "global culture," "global ethnoscapas," and difference as produced by an undifferentiated analytic category, "the immigrant," that functions as though it were entirely disconnected from the logic of global capitalism. As the most comprehensive critique of capitalism to date, Marxist analysis should be an indispensable hermeneutic device in any approach to "global culture," "global ethnoscapas," and difference that invokes immigration because, as Arif Dirlik points out:

[h]owever much we may sympathize with the programmatic assertion of 'difference,' the implied suggestion here of autonomy with regard to either social groups or localities is almost naive in its voluntarism and is self-contradictory. It seems designed, above all, to avoid confronting the problem of capitalism, which provides the broadest context for any notion of social (as distinct from ecological) totality and the location for the theoretical discourse itself. Just as social existence is overdetermined by the web of social relationships that, ultimately, are themselves configured by this context, it is counterproductive and epistemologically misleading to assert the priority of the local over the global as if the local may be comprehended in isolation from the global. To do so is especially misleading under Global Capitalism, where the local emerges to the surface of consciousness as it is worked over by the intrusion and operations of capital.¹³

Without the hermeneutic devices of Marxist analysis, Dirlik argues, "anti-foundational" discourses, notwithstanding their self-conscious arrogation of a politically progressive posture, become obfuscatory languages of global capitalism itself in their insistence on the autonomy of the cultural, the deterritorialized, and the different. This is because global capitalism is itself deter-

¹³ ARIF DIRLIK, *AFTER THE REVOLUTION: WAKING TO GLOBAL CAPITALISM* 78-79 (1994) (footnote omitted).

ritorialized and celebratory of the "local" (or the different) in the form of "guerrilla marketing." Dirlik represents its logic as follows:

[T]he managers of Global Capitalism . . . face a situation that parallels that of guerrilla revolutionaries, who also seek to articulate theory with concrete local circumstances. Their task, in other words, is to domesticate the capitalist mode of production in diverse localities without compromising the global imperatives of capital. . . . Local resistance [to capitalism] ranged in form from the assertion of national economic autonomy against capitalist hegemony to the literally local, where precapitalist social relations persisted in resistance (or, at the least, as obstacles) to relations of production and habits of consumption conducive to the penetration of capital. The re-affirmation (we might even say, conscious invention and articulation) of native culture and habits has been part of this resistance and integral to its language. Capital has responded by appropriating this language as its own, if only . . . to disorganize local cultures and habits so that they may be "reconstructed" in accordance with the imperatives of capitalist production and consumption. The price, however, has been . . . the fragmentation of the language of capital itself.¹⁴

It is unnecessary to espouse Dirlik's theoretical stance in its entirety to recognize that it is precisely this "fragmentation of the language of capital," reflected in assertions of autonomy on behalf of "global culture," "global ethnoscares," and difference, that must be eschewed in any attempt to "situate the immigrant in the inter/national imagination."

With a view to restoring the economic politics of immigration to discussions of "global culture," "global ethnoscares" and difference, this paper advances a critique of certain official imaginations of immigration. This critique attempts (1) to isolate within these official imaginations of immigration the increasingly powerful deployment of criteria such as productivity, skill, resources and self-sufficiency as organizing principles of immigration policy; (2) to establish certain correspondences between imaginations of the desirable immigrant and imaginations of the topographies of the global economy; and (3) to offer observations about the implications of such correspondences for analyses of "global culture," "global ethnoscares," and difference. Contained in *Legal Immigration: Setting Priorities*, a detailed report released on July 7, 1995 by the U.S. Commission on Immigration Reform ("the Commission"), these official imaginations consist

¹⁴ *Id.* at 73.

principally of a set of informed views, interpretations, analyses, and recommendations articulated in accordance with the Commission's mandate under the Immigration Act of 1990 to examine the state of immigration in the broadest possible terms. In many instances, while affirming the basic structure of contemporary U.S. immigration law, the Commission proposes modifications in the current legal immigration regime or, in its own terms, "sets priorities." It is within the interstices of these "priorities" that the changing face of immigration is to be apprehended.

II

Homo Oeconomicus

The most recent immigration legislation, labeled the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996," is an official declaration of war on illegal immigration even at the very literal level of appropriations. For example, Title I of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), labeled "Improvements to Border Control, Facilitation of Legal Entry and Interior Enforcement," authorizes or requires increases in the number of border patrol agents and border support personnel, improvements of barriers at the border, acquisitions of improved border equipment and technology (including fixed-wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes and sensor units), and the introduction of machine-readable border crossing identification cards including "biometric identifiers."¹⁵ In contrast, because there has been to date no formal legislative declaration of hostility with respect to the very idea of legal immigration, the legal immigration regime remains open to reimagination. This is the task the Commission sets itself.

Like various other diagnoses of the state of the legal immigration regime, the Commission's report opens with the assertion that "[a] properly regulated system of legal immigration [continues to be] in the national interest of the United States."¹⁶ By describing the correct level of regulation as one that "enhances the benefits of immigration while protecting against potential

¹⁵ Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 104-208, 110 Stat. 3009-555.

¹⁶ U.S. COMM'N ON IMMIGR. REFORM, LEGAL IMMIGRATION: SETTING PRIORITIES 1 (1995).

harms,"¹⁷ the Commission sets about identifying sources of "benefits" and "potential harms" lurking within the current legal immigration regime with a view to advancing recommendations that will produce the appropriate calibration of "benefits" and "potential harms." Because this is the general form in which the Commission's reimagination of the legal immigration regime occurs, it is worthwhile to present at the outset the Commission's litany of "benefits" and "potential harms" associated with legal immigration.

The "benefits" associated with legal immigration are wide-ranging. They include the revitalization of declining urban environments through the involvement of immigrants in urban small business structures; high labor force participation in low-skill industries such as apparel, electronics, and meat packing; high labor force participation in high skill sectors such as medicine, engineering, and higher education; the reinvigoration of "American values" through emphases on work and family that "offset countervailing pressures toward gangs and crime"; the enrichment of American resources in the sciences and humanities by "American-immigrant Nobel laureates, renowned inventors, business leaders, and performing, sports and artistic icons"; the improvement of educational systems by "the Asian family commitment to education"; and the strengthening of "America's economic and political ties with other nations and, thus, [the] enhance[ment of] our ability to compete in a global economy and provide leadership in international and humanitarian affairs."¹⁸

The "potential harms" associated with immigration include the possession of skill levels below the national average; competition for jobs or public services with "the most vulnerable of Americans," "less-well educated workers in the United States" or "earlier waves of immigrants, many of whom are members of minority populations and households"; the special needs of refugees; pressures on school systems posed by a plethora of foreign languages resulting in declines in levels of spoken English; substantial difficulties for local governments; immigrant preferences for employing individuals through ethnic networks that prevent the benefits of immigrant economic activity from being dispersed outside immigrant communities; and burdens on public services

¹⁷ *Id.*

¹⁸ *Id.* at 22-24.

caused by disproportionately heavy use by older immigrants.¹⁹

The Commission's litany of "benefits" and "potential harms" is overwhelmingly represented in terms of unabashedly economic notions of productivity, skill, resources, and self-sufficiency. Even when certain "benefits" and "potential harms" contain traces of the vocabularies of globalization and difference, such traces are resolutely reduced to their economic values. Accordingly, the contemporary fact of living in diaspora is transmuted into the possibility of an increase in American competitiveness in the global economy through the elaboration of cross-border ties, the distinctiveness of Asian immigrants is transformed into an improvement of educational systems, the multiplicity of foreign languages becomes a drain on educational systems, and so on.²⁰

However, quite apart from revealing the pervasiveness of cost-benefit analysis in policy discourse, the reimagination of legal immigration in terms of "benefits" and "potential harms" effects, as does much economic analysis, an individualization of costs and benefits. Underlying the Commission's litany of "benefits" and "potential harms" associated with immigration is the fantasy that preexisting individuals *produce* benefits and costs which are either conferred or inflicted upon society, but never produced by society itself. The individual immigrant, imagined as existing "outside" society in every sense, thereby becomes the locus of cost-benefit analyses that will resolve questions as to her admissibility.²¹ This individualization is, of course, simply another mani-

¹⁹ *Id.* at 25-30.

²⁰ Some have argued that the unacceptability of blatantly identitarian categories has contributed to the shift in official immigration discourses towards the deployment of a more neutral language. See, e.g., Phyllis Pease Chock, *Ambiguity in policy discourse: Congressional talk about immigration*, 28 *POLICY SCIENCES* 165 (1995). It would be a mistake, however, to read the deployment of economic categories as a mere proxy for subterranean identitarian categories.

²¹ The preoccupation among economists with the "quality" of immigrants—allegedly captured by proxies such as earnings profiles, labor market activities, and the like—stems precisely from such individualizations of costs and benefits. It is worth citing just one economic analysis of immigration to provide the reader with a sense of the quality of prose employed:

This investigation presents a rather dim view of a set of abilities possessed by non-elderly male immigrants arriving in the 1980s. Compared with immigrants arriving in the 1960s, today's new arrivals appear less likely to pursue productive activities and less likely to avoid prolonged periods of idleness. Fortunately, the decline in economic activity surfaces exclusively in increased labor market withdrawal and not in the form of an increased propensity to be institutionalized, so it does not appear that today's immigrants are imposing greater costs on the public fisc via the penal system.

festation of the dominant state ideology of detachment from disadvantaged segments of the population through a steadfast refusal to socialize any of the costs associated with lack of privilege—whether relating to health care, education, or welfare—in the name of fiscal responsibility, social contract or the encouragement of self-sufficiency.²² Where, as a general matter, the fastening of benefits and costs upon the individual has the effect of legitimating the diminution of the welfare state, in the context of reimagining legal immigration, the Commission's cost-benefit analyses have devastating implications for the current legal immigration regime.

U.S. immigration law is structured around four broad categories of immigrants, consisting of family-sponsored immigrants, employment-based immigrants, diversity immigrants, and refugees. What follows is an examination of the Commission's reimagining of family-sponsored immigration, employment-based immigration, and diversity immigration through the deployment of individualized, economistic cost-benefit analyses centered around productivity, skill, resources, and self-sufficiency. Although the Commission's reconfiguration of U.S. refugee policy is fairly extensive, it will not be discussed here because of the distinctiveness of refugee issues.

A. *Family-Sponsored Immigration*

Family-sponsored immigrants fare poorly when subjected by the Commission to individualized, economistic cost-benefit analyses. Deep-rooted assumptions code family-sponsored immigrants as an economic drain because their admissibility is determined independently of their ability to "contribute" in a discrete, identifiable, and ultimately market-tested way. Influential scholarly analyses holding family-sponsored immigrants responsible for lowering the "quality" of the immigrant pool

Richard Fry, *Has the Quality of Immigrants Declined? Evidence from the Labor Market Attachment of Immigrants and Natives*, 14 CONTEMPORARY ECON. POL'Y 53, 67 (1996).

²² In terms of the analysis offered by Claude Meillasoux, the individualization of costs and benefits associated with immigration represents a willingness to extract the benefits of production combined with a refusal to socialize the costs of reproduction of labor. CLAUDE MEILLASSOUX, *MAIDENS, MEAL AND MONEY: CAPITALISM AND THE DOMESTIC COMMUNITY* (1975). For an analysis of undocumented aliens in precisely these terms, see Leo R. Chavez, *Immigration Reform and Nativism: The Nationalist Response to the Transnationalist Challenge*, in *IMMIGRANTS OUT!*, *supra* note 8, at 69-72.

reflect, legitimate, and feed the popular nightmare of an underclass expanding through the unchecked influx of relatives of non-European, unskilled immigrants.²³ The Commission states that “[a]lthough a significant portion of the immigrant population is highly skilled, in recent years many unskilled immigrants entered and *they will be the principal sponsors of new immigrants.*”²⁴ Official nervousness about this possibility takes the form of recommending serious reductions in current family-sponsored admission levels.

Under the Immigration Act of 1990, the annual worldwide level of family-sponsored immigration was set, with various provisions for adjustment, at 480,000.²⁵ If technical definitions are disregarded, family-sponsored immigrants may be disaggregated, in order of preferential treatment, into (1) immediate relatives of United States citizens, comprising minor children, spouses, and parents; (2) unmarried adult children of United States citizens; (3) spouses, minor children, and unmarried adult children of legal permanent residents; (4) married adult children of United States citizens; and (5) siblings of United States citizens. Under current law, with the exception of immediate relatives, annual admissions under each of these preference categories are mandated at statutorily designated levels, regardless of the development of waiting lists with respect to higher preference categories.²⁶

The Commission reimagines family-sponsored immigration by eviscerating this entire structure on the basis of what it identifies as a “national interest” in “promoting strong and intact nuclear families—that is, the basic social unit consisting of parents and their dependent children living in one household.”²⁷ Calling for a reduction of the annual worldwide level of family-sponsored immigration to 400,000, the Commission recommends that family-

²³ Although economists have been particularly active in attempting to judge the “quality” of family-sponsored immigrants, the evidence produced by economists themselves is contradictory. See, e.g., Harriet Orcutt Duleep and Mark C. Regets, *Admission Criteria and Immigrant Earnings Profiles*, 30 INT’L MIGRATION REV. 571 (1996) (refuting the general thesis that family-sponsored immigrants lower the “quality” of the immigrant pool). Politics ultimately determine which of these contradictory views receive attention in the media, legislatures and so on.

²⁴ U.S. COMM’N ON IMMIGR. REFORM, LEGAL IMMIGRATION: SETTING PRIORITIES 73 (1995) (emphasis added).

²⁵ 8 U.S.C. § 1151(c) (1997).

²⁶ 8 U.S.C. § 1152(a) (1997).

²⁷ U.S. COMM’N ON IMMIGR. REFORM, *supra* note 24, at 45 (emphasis added).

sponsored immigration be organized around only three preference categories, consisting of (1) spouses, minor children, and certain dependent adult children of United States citizens; (2) parents of United States citizens; and (3) spouses, minor children and certain dependent adult children of legal permanent residents.²⁸ The category of admissible dependent adult children is defined narrowly to include only those adult children who are dependent upon their parents "because of a serious mental or physical disability."²⁹

The wholesale erasure of preference categories enabling the admission of non-nuclear family members relies, to be sure, upon a homogenizing Euro-American conception of family. However, although the Commission's erasure of these preference categories may validly be contested in the name of "cultural" difference, it must also be seen as an attempt to reduce the number of individuals, judged in terms of productivity, skill, resources, and self-sufficiency, without exceeding the limits of political feasibility. The Commission justifies its erasure of these preference categories on the grounds that, "[u]nless there is a compelling national interest to do otherwise, immigrants should be chosen on the basis of the skills they contribute to the U.S. economy"³⁰ and that "[w]hile the admission of nuclear families . . . provides such a compelling interest, reunification of adult children and siblings of adult citizens do not reach that level."³¹

Furthermore, although the Commission recognizes a "compelling national interest" in the admission of nuclear family members, because such individuals—like all other family-sponsored immigrants—are not admitted on the basis of their ability to "contribute," the Commission subjects them to omnipresent discourses of cost internalization. Those who petition to bring nuclear family members into the United States, and not the state, should bear costs associated with their presence. In this regard, "family values" and cost internalization are represented as mutually reinforcing. In recommending the imposition of cost internalization, the Commission asserts with a certain lack of irony that "[i]mmigration policy also can contribute to the strength of U.S. families by ensuring that immigrants receive any needed fi-

²⁸ *Id.* at 49-64.

²⁹ *Id.* at 49.

³⁰ *Id.* at 72.

³¹ *Id.* at 72.

nancial support from their own relatives and, thus, pose no financial burdens to the taxpaying public.”³²

According to the Commission, because spouses and children entering as family-sponsored immigrants are, or will be, of working age, the chief culprits among family-sponsored immigrants who do not “contribute,” thereby constituting a drain on public resources, are the parents of U.S. citizens. Although immigrant parents represent “tangible economic benefits for their children and the broader society . . . [by] help[ing] their citizen children with child care,”³³ the Commission is acutely aware of “the potential negative impacts that the entry of parents may pose for the U.S. taxpayer if these individuals utilize Supplemental Security Income . . . , Medicaid and similar programs.”³⁴ Therefore, it recommends that the admission of parents of U.S. citizens be made contingent upon receipt of (a) legally enforceable affidavits of support establishing a contractual relationship between a sponsor and the government that will be entirely independent of any future naturalization of the parent, (b) proof that the sponsor has the capacity to provide lifetime support for the parent, and (c) verifiable assurance of the purchase of “what may be lifetime health coverage for the parent.”³⁵ Regardless of whether parents become citizens, “until [they] work[] the forty quarters that are needed to become eligible for Social Security and Medicare benefits,”³⁶ they should be marked by their very presence as a drain on society that their sponsor will have to bear.

Since the release of the Commission’s report, the discourses of cost internalization, in the guise of welfare reform, have been deployed with devastating effect against all immigrants.³⁷ More significantly, however, IIRIRA transformed the Commission’s cost-internalizing proposals with respect to the admission of par-

³² *Id.* at 45.

³³ *Id.* at 54-55.

³⁴ *Id.* at 58-59.

³⁵ *Id.* at 58.

³⁶ *Id.* at 60.

³⁷ Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, popularly known as the “Welfare Reform Act,” severely restricts the access of legal aliens “not only to traditional welfare programs but also to practically every federal program, including those that bear no resemblance to ‘welfare,’ such as professional and commercial licenses and the earned income tax credit.” Charles Wheeler, *The New Alien Restrictions on Public Benefits: The Full Impact Remains Uncertain*, 73 INTERPRETER RELEASES REPORT AND ANALYSIS OF IMMIGRATION AND NATIONALITY LAW 1245, 1245 (1996). There will be no discussion here of the political difficulties into which these draconian welfare provisions have run.

ents of U.S. citizens, into a ground of inadmissibility applicable to *all family-sponsored immigrants* but not to other categories of legal immigrants. Under section 212(a)(4)(C) of the Immigration and Nationality Act (INA),³⁸ all family-sponsored immigrants, with some exceptions not relevant here, will be deemed inadmissible as public charges unless their sponsors have executed an affidavit of support, the basic requirements of which are specified as follows:

No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge . . . unless such affidavit is executed by a sponsor of the alien as a contract—(A) in which the sponsor agrees to provide support to maintain the sponsored alien at an annual income that is not less than 125 percent of the Federal poverty line during the period in which the affidavit is enforceable; (B) that is legally enforceable against the sponsor by the sponsored alien, the Federal Government, any State (or any political subdivision of such State), or by any other entity that provides any means-tested public benefit³⁹

In order to meet the definition of “sponsor,” an individual must “demonstrate[] . . . the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.”⁴⁰

As a concrete manifestation of an extremely significant trend in official reimaginings of immigration, these income-based admission tests mark the triumph of productivity, skills, resources, and self-sufficiency as organizing principles of legal immigration, particularly because they have been deployed within an admission category, family-sponsored immigration, that is supposedly exempt from economic valuation. Although it is too early to predict exactly how these public charge provisions will be applied, preliminary research based upon 1993 Census Bureau income data suggests that as much as forty percent of immigrant families in the United States and twenty-six percent of Americans born in the United States would be barred from sponsoring relatives.⁴¹ It is politically irresponsible to ignore the ways in

³⁸ 8 U.S.C. § 1182(a)(4)(c) (1997).

³⁹ 8 U.S.C. § 1183a(a)(1) (1997). Such contracts are to be enforceable against a sponsor until such time as the sponsored alien naturalizes or, if earlier, works (or is credited for) forty qualifying quarters as defined in Title II of the Social Security Act.

⁴⁰ 8 U.S.C. § 1183a(f)(1)(E) (1997).

⁴¹ Celia W. Dugger, *Immigrant Study Finds Many Below New Income Limit: Bar to Uniting Families*, N.Y. TIMES, Mar. 16, 1997, at A1.

which these public charge provisions, with severe adverse consequences for ethnic minorities,⁴² enact a specifically economic mode of discrimination designed to improve the "quality" of family-sponsored immigration.

B. Employment-Based Immigration

Employment-sponsored immigrants fare better than family-sponsored immigrants when subjected to individualized economic cost-benefit analyses because their admissibility results from their ability to "contribute" in a discrete, identifiable, and ultimately market-tested way. The Commission reimagines the category of employment-based immigration, which it significantly relabels "skill-based" immigration, principally in order to raise the threshold levels of productivity, skill, resources, and self-sufficiency so as to keep out employment-based immigrants with lower skill levels.

The Commission explicitly links employment-based immigration to the imperatives of the U.S. economy under conditions of global capitalism. In the Commission's words, employment-based immigrants "may help create jobs for U.S. workers and may enable the export sector of our economy to grow";⁴³ provide U.S. businesses with "access to a global labor pool from which they can select the brightest and the best [because] [e]xploitation of global business opportunities, expansion in the international markets and delivering the highest caliber professional and financial services is dependent upon a global workforce";⁴⁴ enable "[i]nternational corporations . . . to shift key personnel in response to changing conditions and needs";⁴⁵ and "benefit the U.S. national interest by stimulating the economy and generating capital."⁴⁶ In short, while the category of family-sponsored immigration is reimagined to devastating effect, the category of employment-based immigration is invested with the dynamism of a fantasy about the global economy.

⁴² An article in *The New York Times* reports that "roughly half of the Mexicans and Salvadorans, one-third of the Dominicans and Koreans, one-fourth of the Chinese and Jamaicans and one-fifth of the Filipinos, Indians and Vietnamese would not have met the new income requirements." *Id.*

⁴³ U.S. COMM'N ON IMMIGRATION REFORM, *LEGAL IMMIGRATION: SETTING PRIORITIES* 81 (1995).

⁴⁴ *Id.* at 81-83.

⁴⁵ *Id.* at 83.

⁴⁶ *Id.*

In fact, the recent growth of employment-based immigration must itself be explained in terms of the growing importance of the global economy in official imaginations. Prior to the passage of the Immigration Act of 1990, the legal immigration regime provided for the annual admission of only fifty-four thousand employment-based immigrants, divided into two preference categories. The Immigration Act of 1990 dramatically increased the number of annual admissions for employment-based immigrants to 140,000, divided into five preference categories: (1) a maximum of approximately forty thousand "priority workers" consisting of individuals who possess "extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,"⁴⁷ outstanding professors and researchers "recognized internationally as outstanding in a specific academic area"⁴⁸ and individuals working for multinational corporations "in a capacity that is managerial or executive";⁴⁹ (2) a maximum of approximately forty thousand "members of the professions holding advanced degrees . . . or [individuals] who because of their exceptional ability in the sciences, arts or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States";⁵⁰ (3) a maximum of approximately forty thousand individuals capable "of performing skilled labor (requiring at least 2 years training or experience);"⁵¹ professionals holding baccalaureate degrees⁵² and "[o]ther qualified immigrants . . . capable . . . of performing unskilled labor"⁵³ (with the share of unskilled labor in the third preference set at a maximum of 10,000⁵⁴); (4) a maximum of five thousand "special immigrants" consisting of religious workers, former long-time employees of the U.S. government or international organizations and miscellaneous categories;⁵⁵ and (5) a maximum of ten thousand investors required to make investments of at least one million dollars and

⁴⁷ 8 U.S.C. § 1153(b)(1)(A) (1997).

⁴⁸ 8 U.S.C. § 1153(b)(1)(B)(i) (1997).

⁴⁹ 8 U.S.C. § 1153(b)(1)(C) (1997).

⁵⁰ 8 U.S.C. § 1153(b)(2)(A) (1997).

⁵¹ 8 U.S.C. § 1153(b)(3)(A)(i) (1997).

⁵² 8 U.S.C. § 1153(b)(3)(A)(ii) (1997).

⁵³ 8 U.S.C. § 1153(b)(3)(A)(iii) (1997).

⁵⁴ 8 U.S.C. § 1153(b)(3)(B) (1997).

⁵⁵ 8 U.S.C. § 1153(b)(4) (1997).

generate ten full-time jobs.⁵⁶

Although employment-based immigration is imagined in terms of its contribution to the competitiveness of the United States in a global economy, the Commission invests only the stewards of global capitalism—outstanding professors and researchers, multinational executives, capitalists able to generate employment and highly skilled professionals—with the ability to “contribute in a manner that might enhance the competitiveness of the U.S. economy.” As the list of benefits associated with employment-based immigration illustrates, legions of underpaid unskilled workers, equally participants in the global economy, are not imagined as rightfully belonging in this category. In this respect, the Commission seeks merely to refine forms of discrimination based on productivity, skill, and resources that are already written into the category of employment-based immigration.

The individual preference categories within the current category of employment-sponsored immigration are structured around, and discriminate on the basis of, the precise degree to which an individual possesses skill, productivity, and resources. Unlike other employment-based immigrants, who can only be brought in by their employers, aliens possessing “extraordinary ability” or qualifying as “investors” are able to petition for immigrant visas on their own behalf.⁵⁷ Furthermore, aliens within the “priority worker” and “investor” categories are exempt from, while aliens within the other preference categories are ordinarily subject to, the requirement of a labor-market test or “labor certification.”⁵⁸ “Labor certification” requires the Secretary of Labor to determine (1) that “there are not sufficient workers who are able, willing, qualified . . . and available” to perform the skilled and unskilled labor that the alien seeks to perform, and (2) that “the employment of the alien will not adversely affect the wages and working conditions of similarly employed workers in the United States.”⁵⁹

The Commission proposes an intensification of these forms of discrimination structured around levels of productivity, skill, and

⁵⁶ 8 U.S.C. § 1153(b)(5) (1997).

⁵⁷ 8 U.S.C.A. § 1153(b)(1)(A) (West Supp. 1997).

⁵⁸ 8 U.S.C. § 1182(a)(5)(A)(i) (1997).

⁵⁹ *Id.* The number of applications for permanent labor certification fell from 71,652 in 1989 to 30,068 in 1993. The decline in applications reflects a declining economy, reduced opportunities for unskilled workers, and tougher Labor Department standards. 70 INTERPRETER RELEASES 1433, 1436-37 (1993).

resources. Recommending a reduction of the number of admission spaces for employment-based immigrants to 100,000, the Commission proposes a rationalization of the current structure of employment-based immigration into only two preference categories, exempt and non-exempt from labor market testing, with a maximum of 100,000 admission spaces reserved for exempt immigrants and only "spill-downs" available to non-exempt immigrants. This arrangement is proposed because the Commission considers "the exempt admissions to have a higher priority than those subject to the labor market test requirements."⁶⁰

The two preference categories proposed by the Commission are derived from, and combine, the five preference categories for employment-based immigration in the current legal immigration regime. In the Commission's view, the first preference category of employment-based immigrants exempt from labor-market testing should comprise four different subcategories: (1) "individuals at the very top of their chosen field whose extraordinary ability in the sciences, arts, education, business, or athletics is demonstrated by sustained national or international acclaim";⁶¹ (2) managers and executives of international businesses, because "it is in the national interest to allow international businesses to transfer their executives and managers from their foreign operations to locations in the United States on an expedited basis";⁶² (3) entrepreneurs "whose active investment in new commercial enterprises generate a significant number of jobs for American workers in the United States";⁶³ and (4) limited number of religious workers.⁶⁴

According to the Commission, the second preference category of employment-sponsored immigrants who are subject to labor-market testing should include only professionals with advanced degrees,⁶⁵ professionals with baccalaureate degrees,⁶⁶ and skilled workers with a minimum of five years of specialized work experience (as distinguished from the two years required under current

⁶⁰ U.S. COMM'N ON IMMIGRATION REFORM, LEGAL IMMIGRATION: SETTING PRIORITIES 88 (1995).

⁶¹ *Id.* at 89-90.

⁶² *Id.* at 92.

⁶³ *Id.* at 95.

⁶⁴ *Id.* at 97.

⁶⁵ *Id.* at 99.

⁶⁶ *Id.* at 101.

law).⁶⁷ The Commission recommends the elimination of the subcategory for unskilled workers that forms part of the third preference category under the current legal immigration regime.⁶⁸ Although entirely consistent with its emphasis on skill, productivity, and resources as criteria for admissibility, the Commission's reasoning in this regard is worth reproducing in its entirety principally because it illustrates the intimate connection, at the level of animating philosophy, between the Commission's reworking of the legal immigration regime, the shrinking of the state and global capitalism:

Unless there is another compelling interest, such as in the entry of nuclear families and refugees, it is not in the national interest to admit unskilled workers. Most economic research does not show that the admission of unskilled workers is harmful during times of a strong economy. However, at present, the U.S. economy is showing difficulty in absorbing disadvantaged workers. At the same time, efforts toward welfare reform suggest that safety nets no longer will be available or will be under severe pressure and perhaps hundreds of thousands of additional unskilled Americans will be entering the labor force. Under these conditions, the admission of unskilled workers cannot be justified.⁶⁹

In addition to reimagining the current employment-based immigration regime, the Commission recommends a three-pronged overhaul of the cumbersome labor certification process. The principal impact of the Commission's recommended labor-market test would be to deter U.S. employers from hiring less well-compensated foreign workers and, therefore, to produce further discrimination among immigrants on the basis of skill. First, the Commission proposes to replace the current labor certification process with a regime that would compel U.S. employers "to pay a substantial fee, that is, [to] make a substantial financial investment into a certified private sector initiative dedicated to increasing the competitiveness of U.S. workers, for example through education and training."⁷⁰ The level of the fee would be comparable to the considerable costs, running as high as \$10,000 for each worker hired, associated with the current "labor certification" process. In a bizarre reversal, by paying such fees, employers (and ultimately potential immigrants) would be assuming the

⁶⁷ *Id.*

⁶⁸ *Id.* at 103.

⁶⁹ *Id.*

⁷⁰ *Id.* at 112.

traditional functions of the state to the extent that these fees would be channeled toward advancing the general goal of developing a well-trained U.S. workforce,⁷¹ precisely because, as the Commission points out, there could be no way of ensuring *ex ante* that the fees would be directed towards curing the gaps in the U.S. labor market that resulted in the hiring of the foreign worker in the first place. However, in the Commission's view, the fees would also have "[t]he *appropriate effect on the different skill levels*: more meaningful to an employer of less skilled employees who pays \$35,000 for a computer scientist with a baccalaureate degree than for an employer paying \$60,000 for a chemist with a doctorate degree."⁷² Second, the Commission proposes to simplify the labor certification process by permitting employers to demonstrate that they have engaged in appropriate attempts to find qualified U.S. workers using normal company recruitment procedures that meet industry-wide standards and offering wages that are at least five percent above the current prevailing wage requirements.⁷³ Finally, the Commission proposes that the permanent resident status obtained by an employment-based immigrant subject to labor market testing should be conditional for a two-year period so that "businesses would be ensured that their investment has not been wasted as new immigrant employees seek other jobs once the green card is in hand."⁷⁴

If the Commission's reimagination of employment-based immigration appears less dramatic than its reimagination of family-sponsored immigration, this is only because the trend towards elevating productivity, skills, resources, and self-sufficiency to the status of organizing principles of legal immigration has long manifested itself within employment-based immigration. The Commission contents itself by engaging merely in refinements—eliminating the preference category for unskilled workers and proposing a reorganization of the labor certification process—which would have the effect of raising the "quality" of employment-based immigration.

⁷¹ *Id.* at 113.

⁷² *Id.* at 112 (emphasis added).

⁷³ *Id.* at 115.

⁷⁴ *Id.* at 119.

C. Diversity Immigration

The 55,000 admission spaces reserved for diversity immigrants represent an egregious manifestation of reactionary politics of difference written into U.S. immigration law. The abandonment in 1965 of a legal immigration regime organized around racist national origins quotas in favor of a legal immigration regime organized around preferences for family-sponsored and employment-based immigration was thought at the time not to have the effect of blocking nonpreference immigration from a more "diverse" (i.e., European) group of countries. However, as it became clear that preference-based immigration from Asia and Latin America was "crowding out" nonpreference immigration from Europe, the United States Congress began to engage in a series of experiments to correct "imbalances" in the immigrant pool. These efforts culminated in the creation of the ironically-named category of "diversity immigrants" pursuant to the Immigration Act of 1990.⁷⁵ The category of diversity immigrants, which is structured around an arabesque of determinations as to "high" and "low" "admission regions" and "admission states," permits the admission of a maximum of 55,000 citizens of principally European and African states simply because they happen to possess the right sort of passport. During the three years before the permanent diversity program went into effect, the 40,000 visas available each year went overwhelmingly to natives of Ireland and Poland.⁷⁶ In recent years, citizens of "high admission states" such as Canada, the Dominican Republic, El Salvador, India, Jamaica, Mexico, the People's Republic of China, the Philippines, South Korea, Taiwan, the United Kingdom and Vietnam have been barred from participating in the visa lotteries held annually for diversity immigrants. Because the basis for the admission of diversity immigrants is the pure fact of difference, individuals admitted under this category must meet only minimal qualifications consisting of the possession of "at least a high school education" and two years of work experience in an occupation "requiring minimal training within five years of the date

⁷⁵ 8 U.S.C. § 1153(c) (1997).

⁷⁶ THOMAS ALEXANDER ALEINIKOFF ET AL., IMMIGRATION: PROCESS AND POLICY 130 (3d ed. 1995). Of the 110,000 transitional diversity visas issued in fiscal years 1992-1994, forty percent were legislated to go to natives of Ireland. During this period, Ireland accounted for 35.3 percent of the diversity visas, second to Poland with 38.2 percent. SETTING PRIORITIES *supra* note 16, at 14.

of application for an immigrant visa.”⁷⁷ Diversity immigrants are subject neither to the income-based tests to which family-sponsored immigrants are now held nor to the market tests of employability to which employment-sponsored immigrants are held.

However, the very existence of a category of immigration based purely on difference is at odds with an emphasis on productivity, skill, resources, and self-sufficiency as organizing principles of legal immigration. Although the most reactionary might view European origins themselves as sufficiently representing superior “quality,” the Commission proposes a complete elimination of diversity immigration, albeit without offering any reasons for doing so. In fact, the only indication in the Commission’s report that diversity immigration is to be eliminated is contained in a table juxtaposing current categories and levels of immigration with the Commission’s recommendations.⁷⁸ The Commission’s erasure of diversity immigration in its reimagining of legal immigration, while pointing to the triumph of productivity, skill, resources, and self-sufficiency as organizing principles of immigration law, renders problematic those readings of official immigration discourses that represent immigration law as an unmediated enactment of identitarian politics.

D. Americanization and Citizenship

In the concluding section of its report, entitled “Americanization,” the Commission declares emphatically its support for “effective Americanization of new immigrants, that is the cultivation of a shared commitment to the American values of liberty, democracy and equal opportunity.”⁷⁹ If restricted to the inculcation of the procedural norms of liberal democracy, Americanization offers little immediate cause for alarm. However, lurking in discussions of Americanization is a certain drive to erase, or at least to domesticate, difference in the name of “civic unity.” After an incantation of the powerful myth of “[t]he United States [as] one of the most successful multiethnic nations in history,”⁸⁰ the Commission threatens:

In its further deliberations, the Commission will consider

⁷⁷ 8 U.S.C. § 1153(c)(2)(A)-(B) (1997).

⁷⁸ U.S. COMM’N ON IMMIGRATION REFORM, LEGAL IMMIGRATION: SETTING PRIORITIES 41 (Table 6) (1995).

⁷⁹ *Id.* at 175.

⁸⁰ *Id.*

other public policies that are believed by many to encourage ethnocentrism in the name of multiculturalism or to promote political separatism in the name of civil rights. It will evaluate policies regarding bilingual education and affirmative action as applied to immigrants and their children to make certain that they promote and do not detract from civic unity. Now that immigrants come from more than 160 nations and many more ethnic groups, it is profoundly important that public policies facilitate and not inhibit the Americanization of newcomers.⁸¹

The suppression of difference in the name of “civic unity” should undoubtedly be resisted if it translates into hostility toward programs such as multicultural education and affirmative action. Before embarking upon a programmatic critique afforded by the discourses of difference, however, it is important to examine the pedigree of Americanization itself.

The Commission obligingly embarks upon a rambling discussion of the history of the first Americanization movements around World War I. While it criticizes the aggressively assimilationist anti-Communist policies advocated by proponents of Americanization in the period immediately following World War I, the Commission lets slip, entirely without comment, a related use of Americanization programs:

The Americanization movement involved another aspect of wartime activities, the participation of manufacturers who employed immigrants. These manufacturers offered and sometimes, as in the case of Henry Ford, required their immigrant workers to attend courses in English and citizenship. The courses aimed to instill American values and habits among the immigrants and also to acquaint these immigrants, many from preindustrial backgrounds, with factory discipline.⁸²

In fact, a description of Ford’s Americanization program, which appears absurd to the contemporary reader, is worth reproducing in its entirety:

Working with his firm’s executives, Henry Ford recruited southern and eastern European immigrants for his auto plants. The company set up a “Sociological Department” with investigators who visited workers’ homes, providing strong advice on family matters and personal morality. In addition, the immigrant workers had to attend a “melting pot school,” where they learned English and certain Anglo-Protestant values of great concern to men like Ford. Remarkably, during graduation ceremonies, Ford’s employees, at first dressed as in their

⁸¹ *Id.* at 175.

⁸² *Id.* at 176-77.

home countries, walked through a big pot labeled "melting pot" and emerged in business suits holding American flags.⁸³

Viewed from this perspective, Americanization serves many purposes. But it can scarcely be said to affect all immigrants equally. The Commission's reimagining of legal immigration in terms of productivity, skill, resources, and self-sufficiency conjures up an image of the desirable immigrant as *homo oeconomicus*, a supremely rational actor poised to exploit to the fullest the opportunities opened up by the global economy, unencumbered by the weight of social disadvantage. Far from being a target of Americanization, such an individual—whether he possesses "extraordinary ability" in his field of endeavor, is an executive of a multinational corporation, or an investor dangling a tidy bank balance before various Western countries—is a beneficiary of an Americanization practiced upon others. The "others" are the vast numbers of grudgingly tolerated family-sponsored immigrants and refugees, coded in terms of a lack of productivity, skill, resources, and self-sufficiency, whose "difference" under global capitalism arises, one might surmise, precisely out of that lack of productivity, skill, resources, and self-sufficiency. The Commission's attack on difference itself might, therefore, be seen as standing for the contemporary equivalent of acquainting immigrants from "preindustrial backgrounds" with factory discipline. It is fascinating, but entirely beyond the scope of this paper, to speculate on the possible instantiations of such an attack on difference.

As a complement to Americanization, the Commission also proposes as a solution to the problem of difference a more aggressive encouragement of naturalization, which is represented as a legal channel for securing for immigrants the rich delights of national belonging:

Becoming an American citizen is about pledging allegiance to a country, to a people, to a belief. It is a confirmation of the past and a statement of hope for the future. Those of us who can, those who are responsible for the process, should reach out and assist those who are interested in embracing America.⁸⁴

However, because the desirable immigrant is imagined as *homo*

⁸³ Joe R. Feagin, *Old Poison in New Bottles: The Deep Roots of Modern Nativism*, in *IMMIGRANTS OUT!*, *supra* note 8, at 25-26.

⁸⁴ U.S. COMM'N ON IMMIGRATION REFORM, *LEGAL IMMIGRATION: SETTING PRIORITIES* 178 (1995).

oeconomicus, the emptiness of the romance of national belonging reveals itself immediately. The Commission itself acknowledges that the recent spate in applications for naturalization is attributable to four factors that have little to do with belonging. First, the trend across the United States to condition eligibility for federal aid programs upon citizenship has encouraged individuals to naturalize. Since the release of the Commission's report, this trend has been intensified dramatically with the passage of welfare reform legislation in 1996, with the consequence that citizenship has become reinvested with importance to the extent that it protects individuals in a climate of extreme anti-immigrant sentiment. Second, a new Immigration and Naturalization Service policy requiring legal permanent residents to renew their green cards at a cost of \$75 has caused immigrants to want to naturalize because, in the Commission's words, "the application for naturalization costs \$95, only \$20 more."⁸⁵ Third, undocumented aliens legalized under the Immigration Reform and Control Act of 1986 are becoming eligible for naturalization. Fourth, recent changes in other countries' nationality and land ownership laws have encouraged individuals to naturalize because they no longer have to fear losses of property upon acquiring American citizenship.⁸⁶

Whatever the reasons behind the current growth in applications for naturalization, the current facilities for processing applications for naturalization fall far short of the applications themselves. Among a host of recommendations for streamlining the application for naturalization, the Commission recommends that the Immigration and Naturalization Service work in conjunction with community-based organizations, non-governmental organizations, and other private sector entities. However, the Commission reports that, unlike in the earlier part of this century, corporations appear to be less interested in encouraging naturalization as a form of "Americanization" because "persons who are lawful permanent residents are already in the country and buying their products and services."⁸⁷

But that conclusion is somewhat hasty because global capitalism itself mandates a certain level of international mobility on the part of its managers. As far as citizens of industrialized coun-

⁸⁵ *Id.* at 182.

⁸⁶ *Id.* at 181-82.

⁸⁷ *Id.* at 190.

tries are concerned, this problem of mobility is resolved through the creation of economic unions, visa waiver programs, and the like. However, such arrangements do not typically assist managers of global capital whose nationalities necessitate obtaining visas, thereby creating a need among corporations for promoting naturalization among their employees. According to the Commission, several major corporations, including Farah Manufacturing, Levi Strauss, Tonka Toys and AT&T, have actively promoted naturalization among their employees through workplace programs conducted by the district offices of the Immigration and Naturalization Service. The Chairperson of AT&T's naturalization outreach program, Sarah Chan, summarized "the benefits of naturalization to the new citizens and their communities, and to AT&T" as follows:

Now our naturalized employees traveling with U.S. passports on company business experience no problems in obtaining visas to enter foreign countries. At home, they are finally able to participate in local & national elections. . . . The process itself can be viewed as a life changing experience for many of AT&T's new citizens who have contributed a great deal to the larger society by utilizing their highly technical skills in research and development. Therefore, U.S. citizenship becomes a catalyst for cultural interaction, making America more enriched and resilient, a country of immense cultural diversities.⁸⁸

The conflation of corporation and citizen, Americanization and labor, reaches a certain level of hilarity when the Commission concludes by noting, entirely without irony, that "[t]hese [AT&T] employees were especially grateful for the [naturalization] program because they did not have to leave their worksite for any part of the process."⁸⁹

III

THE NEW INTERNATIONAL DIVISION OF LABOR

The history of the desirable immigrant has always been inextricably intertwined with the history of capital, albeit in complex and contradictory ways inflected with nativism.⁹⁰ At various points over two hundred years of U.S. history, immigrants, par-

⁸⁸ *Id.* at 192.

⁸⁹ *Id.*

⁹⁰ See generally KITTY CALAVITA, U.S. IMMIGRATION LAW AND THE CONTROL OF LABOR: 1820-1924 (1984).

ticularly unskilled immigrants, have played a crucial role in the containment, accommodation, or coaptation of organized labor. Andrew Carnegie's estimation of immigrants, expressed in 1886, is worth reproducing in full for its unabashed economic valuation of seekers of the American Dream:

The value to the country of the annual foreign influx is very great indeed. . . . During the ten years between 1870-1880, the number of immigrants averaged 280,000 per annum. In one year, 1882, nearly three times this number arrived. Sixty per cent of this mass were adults between 15-40 years of age. These adults were surely worth \$1500 each—for in former days an efficient slave sold for that sum.⁹¹

Without engaging in an extended discussion of the history of U.S. immigration it is uncontroversial that Emma Lazarus' poetic welcoming of "huddled masses yearning to breathe free"—itself a cultural reference to unskilled labor—has never rung as false as they do today. The aggressive adoption of productivity, skill, resources, and self-sufficiency as organizing principles of U.S. immigration law signals the advent of an age of "designer immigration." Existing perspectives on immigration that deploy the undifferentiated category of "the immigrant" prove completely inadequate to the task of apprehending this latest development.⁹²

The reimagination of legal immigration in terms of productivity, skill, resources, and self-sufficiency within official immigration discourses may usefully be viewed in terms of its correspondences with discursive constructions of the emerging division of labor under conditions of global capitalism. According to these constructions, global capitalism, which by most accounts began to assume its current configurations after 1970, is best understood in terms of the dissolution of the "Golden Age"

⁹¹ *Id.* at 48-49 (quoting ANDREW CARNEGIE, TRIUMPHANT DEMOCRACY, OR FIFTY YEARS' MARCH OF THE REPUBLIC 34-35 (1886)).

⁹² An analysis somewhat similar to that contained in this paper is offered in the context of the Canadian Business Immigration Program by Trevor Harrison. See Trevor Harrison, *Class, Citizenship, and Global Migration: The Case of the Canadian Business Immigration Program, 1978-1992*, 22 CANADIAN PUBLIC POLICY 7 (1996). However, Harrison reveals a surprising nostalgia for untarnished liberal citizenship that is somewhat at odds with the philosophical underpinnings of his own analysis. At the end of his article, for example, he identifies as a negative consequence of the Canadian Business Immigration Program the fact that "[i]f being 'Canadian' has no more cachet than possessing an American Express Card, the entire notion of citizenship is called into question." *Id.* at 19.

preceding it. This period, lasting from the end of World War II until 1970, has been described as follows:

During the Golden Age, the memory of the Great Depression receded as the advanced capitalist countries were able to achieve macroeconomic stability, near full employment and high rates of growth. One would be mistaken to consider this remarkable achievement as the miracle of free markets. Rather, it was a result of a set of institutional (as opposed to market) mechanisms which made up a coherent regime of accumulation which we shall call 'Fordist.' At the core of the Fordist regime are the Fordist capital-labor relations which struck a deal between employers and workers in terms of how to organize production and how the fruits of production were to be distributed. Fordist production methods refer to the deepening of the Taylorist separation of conception from execution and the detailed division of labour achieved through the use of machine-paced control and special-purpose machines. Under the Fordist compromise workers accepted Taylorization and the authority of management in exchange for a certain degree of job security (seniority provisions) and increases in real wages commensurate with productivity gains (productivity sharing) institutionalized by collective bargaining. The coherence of this model lies in the fact that it realized productivity gains based on increasing returns to scale and that the productivity sharing ensured steady growth in consumption of standardized products which was necessary to realize the productivity potential. The robustness of Fordist capital-labor relations was bolstered by an activist state committed to providing a social safety net and maintaining high levels of employment and capacity utilization through Keynesian demand-management policies. These domestic institutional arrangements functioned well within a stable international order based on American hegemony which permitted relatively expansionary Keynesian policies everywhere.⁹³

The entire accommodation of labor during the "Golden Age," represented by the Fordist compromise with labor, the expansion of the welfare state, and Keynesian demand-management policies, was associated with a relative immobility of capital. Precisely because of this relative immobility, capital assumed a national character, as exemplified by the now thoroughly anachronistic assertion of the President of General Motors Corporation in 1953 that "what was good for our country was good for General Motors, and vice versa."⁹⁴ While it is unnecessary for

⁹³ Juliet B. Schor and Jong-Il You, *Introduction: After the Golden Age*, in *CAPITAL, THE STATE AND LABOUR: A GLOBAL PERSPECTIVE* (1995) 3-4 (Juliet Schor & Jong-Il You eds., 1995).

⁹⁴ U.S. Senate, Armed Services Committee, *Confirmation Hearings on Charles E.*

purposes of this paper to delve into accounts of the disintegration of the "Golden Age" over the past three decades, the dismantling of the major politico-economic configurations of the "Golden Age" in advanced industrial countries—rising real incomes of labor, growing consumption of standardized commodities, the Fordist compromise with labor, the welfare state and Keynesian demand-management policies—offers irreproachable testimony to its disappearance.⁹⁵

Global capitalism stands on the site of these ruins. The "anti-foundational" discourses of globalization, mindlessly celebrating the fantastic mobility of the "global" moment, are its language. However, it is in the first instance capital, detached from its national garb and unleashed onto the globe as never before, that has become truly mobile. Fredric Jameson, for example, speaks of:

the extraordinary mobility of what have become unparalleled amounts of capital sloshing around the globe, like water in a basin, at speeds that approach simultaneity at their outer limit. Its touchdown points are governed, however, by the prevailing rates of return, themselves geared and attuned to high-tech industry or postindustrial postmodernity: the most basic laws of capital—indeed its very definition—excluding investments in those older, purely modern forms of productivity that we associate with the old-fashioned industrial age itself. Not only are their rates of profit far lower than what obtains in high tech, but the velocities of the new international transfers make it much easier for mobile capital to escape these sluggish backwaters of the older factories and to teleport onwards to fancier arrangements.⁹⁶

What Jameson is describing is the crystallization of politico-economic configurations of global capitalism which include the deterritorialization of capital, the decline of the welfare state, the growth of "customized" or "high tech" production in advanced industrial countries, and the relocation of standardized manufacturing (often through subcontracting) to the export processing zones of the Third World. Furthermore, the new technologies associated with global capitalism, whether in advanced industrial

Wilson as Secretary of Defense, February 18, 1953, quoted in ROBERT B. REICH, *THE WORK OF NATIONS: PREPARING OURSELVES FOR 21ST-CENTURY CAPITALISM* 48 (1991).

⁹⁵ See generally GARY TEEPLE, *GLOBALIZATION AND THE DECLINE OF SOCIAL REFORM* (1995).

⁹⁶ Fredric Jameson, *Actually Existing Marxism* 14, 47-48 in *MARXISM BEYOND MARXISM* (Saree Makdissi et al. eds., 1996).

countries or the Third World, have enabled a so-called "flexible production" where "the location of production seems to be in a constant state of change, seeking maximum advantage for capital against labor, as well as to avoid social and political interference."⁹⁷ Although the description of global capitalism offered here is admittedly crude, the coherence of these politico-economic configurations is consistent with most diagnoses of its operations.

Associated with global capitalism is what has been described as a "new international division of labor" characterized by the growth of a transnational capitalist class,⁹⁸ an increasingly devalued laboring class in advanced industrial countries, and dispersed laboring classes throughout the Third World. The classic account of this "new international division of labor," albeit one that purports only to discuss the domestic division of labor, has been advanced by Robert B. Reich. A leading tract of the ideology of economic globalization, but also a highly perspicacious diagnosis of the division of labor under conditions of global capitalism, Reich's *The Work of Nations* is especially significant in light of Reich's appointment to the position of Secretary of Labor in the first Clinton Administration.

In a chapter significantly entitled "The Three Jobs of the Future," Reich outlines what he envisions as the three-fold division of work under global capitalism: (1) "routine production services," consisting of "the kinds of repetitive tasks performed by the old foot soldiers of American capitalism in the high-volume enterprise"; (2) "in-person services," consisting of routine services that "must be provided person-to-person and thus are not sold worldwide"; and (3) "symbolic-analytic services" consisting of "problem-solving, problem identifying, and strategic-brokering activities" that "do not enter [the] world [of] commerce as standardized things," but are instead "manipulations of symbols—data, words, oral and visual representations."⁹⁹ Of the providers of these three kinds of services, only providers of "symbolic-analytic services" rise fully to the challenge of a global capitalism imagined as flexible, variable, customized, and local. They include, *inter alia*, "research scientists, design engineers,

⁹⁷ DIRLIK, *supra* note 13, at 49.

⁹⁸ The term is that of Leslie Sklair. See LESLIE SKLAIR, *SOCIOLOGY OF THE GLOBAL SYSTEM* 70-72 (2d ed. 1995).

⁹⁹ ROBERT B. REICH, *THE WORK OF NATIONS: PREPARING OURSELVES FOR 21ST-CENTURY CAPITALISM* 174-77 (1991).

software engineers, civil engineers, biotechnology engineers, sound engineers, public relations executives, investment bankers, lawyers, real estate developers, and even a few creative accountants.”¹⁰⁰ Their services are described enthusiastically:

Symbolic analysts solve, identify, and broker problems by manipulating symbols. They simplify reality into abstract images that can be rearranged, juggled, experimented with, communicated to other specialists, and then, eventually, transformed back into reality. The manipulations are done with analytic tools, sharpened by experience. The tools may be mathematical algorithms, legal arguments, financial gimmicks, scientific principles, psychological insights about how to persuade or to amuse, systems of induction or deduction, or any other set of techniques for doing conceptual puzzles.¹⁰¹

According to Reich, this three-fold domestic division of labor is the true source of the growing income inequality in the United States under global capitalism. Rather than representing income inequality as relationally derived, which would necessitate an examination of the role of the state in creating it, Reich naturalizes the growth of income inequality by stating that “your real competitive position in the world economy is coming to depend on the function you perform in it [and that therein] lies the basic reason why incomes are diverging.”¹⁰² Providers of “routine production services,” coded as obsolete, are the clearest losers of the fracturing of the “core” into “global webs.”¹⁰³ They are “sinking rapidly” as a result of the real (or threatened) relocation of industry to the Third World. Providers of “in-person services” are shielded from the direct effects of global capitalism because the services they provide are not transportable, but stand to suffer from “spill-overs” from a declining manufacturing sector. Providers of “symbolic analytic services,” by contrast, are the true

¹⁰⁰ *Id.* at 177.

¹⁰¹ *Id.* at 178. Reich clearly situates symbolic analysts within his fantasy of the postmodern. For instance, we are told, with only the slightest trace of irony:

The physical environments in which symbolic analysts work are substantially different from those in which routine producers or in-person servers work. Symbolic analysts usually labor within spaces that are quiet and tastefully decorated. Soft lights, wall-to-wall carpeting, beige and puce colors are preferred. Such calm surroundings typically are encased within tall steel-and-glass buildings or within long, low, postmodernist structures carved into hillsides and encircled by expanses of well-manicured lawn.

Id. at 179 n.6.

¹⁰² *Id.* at 208.

¹⁰³ *Id.* at 209.

agents of globalization. Because they have effectively detached themselves from the shackles of an outmoded conception of the national economy, their potential for growth is apparently limited only by the confines of a global economy that they actively produce through their magical manipulations of infinitely replicable symbols. By naturalizing income inequality as a function of each individual's position in the global economy, Reich avoids any theorization of the decline of the welfare state in terms of the new mobility of capital, which makes his solution to the problem of division of labor—revamping educational systems to churn out more symbolic analysts—somewhat unconvincing.

In the dominant imagination, Reich's three-fold division of labor becomes a domestic microcosm of the "new international division of labor" under global capitalism. Thus imagined, the "new international division of labor" consists of an ascendant transnational capitalist class of symbolic analysts centered in the advanced industrial countries, a declining laboring class in advanced industrial countries (with a concomitant disintegration of the welfare state in the name of self-sufficiency, individual responsibility and social contractarian theories), a class of service providers in advanced industrial countries, and dispersed unskilled or semi-skilled laboring classes in the Third World engaged in standardized production. It is important to recognize that diagnoses of the "new international division of labor" under global capitalism that invest an imagined class of symbolic analysts with the dynamism of the global economy are highly partial insofar as the bulk of participants in the global economy are ultimately denied relevance. Saskia Sassen captures this partiality eloquently:

The master images in the currently dominant account about economic globalization in media and policy circles, as well as in much economic analysis, emphasize hypermobility, global communications, and the neutralization of place and distance. Key concepts in that account—globalization, information economy, and telematics—all suggest that place no longer matters and that the only type of worker that matters is the highly educated professional. This account privileges the capability for global transmission over the material infrastructure that makes transmission possible; information outputs over the workers producing those outputs, from specialists to secretaries; and the new transnational corporate culture over the multiplicity of work cultures, including immigrant cultures, within which many of the "other" jobs of the global information economy take place. In brief, the dominant narrative

concerns itself with the upper circuits of capital, not the lower ones; and particularly with the hypermobility of capital rather than place-bound capital.¹⁰⁴

Neither is it necessarily the case that immigrants are not needed to fill the jobs routinely relegated to the background within the dominant narratives of economic globalization because, as Nigel Harris argues in his important book, *The New Untouchables*, "migration is the evidence that unsatisfied demand for workers exists in the developed countries."¹⁰⁵

The point here is not to identify the substantive difficulties with influential accounts of the "new international division of labor" inspired by Reich and others, but rather to point to their contingency, their status as *imagination*. These imaginations of the global economy, and of the historical significance of labor performed within the global economy, thoroughly permeate the Commission's own reimagination of legal immigration around notions of productivity, skills, resources and self-sufficiency, as amply demonstrated by strategies of outright elimination (non-nuclear, family-sponsored immigrants, unskilled employment-based immigrants, and diversity immigrants), containment through cost-internalization (nuclear family-sponsored immigrants) and refinement on the basis of skill (employment-sponsored immigrants). While the haphazard structure of immigration law itself necessarily emerges through bitter contestation, the Commission's report, as an internally coherent official reimagination of that structure, decomposes the immigrant pool into something corresponding to an increasingly restrictively defined class of "symbolic analysts," on the one hand, and something corresponding to severely restricted classes of "routine production service" and "in-person service" providers on the other. The discourses of costs internalization that have already been written into immigration-related law, whether in the guise of welfare reform, the institution of income-based tests to determine the admissibility of family-sponsored immigrants or otherwise, indicate that this particular imagination of the global economy, labor and immigration should be taken very seriously indeed.

¹⁰⁴ Saskia Sassen, *Toward a Feminist Analytics of the Global Economy*, 4 IND. J. GLOBAL LEGAL STUD. 7, 15-16 (1996).

¹⁰⁵ NIGEL HARRIS, *THE NEW UNTOUCHABLES: IMMIGRATION AND THE NEW WORLD WORKER* 49 (1995).

Finally, in its enactment of this imagination, the Commission's report might be viewed as effecting a highly abstracted recoding of the First and Third Worlds themselves in terms of the "new international division of labor." The official imaginations at issue in the Commission's report form part of a complex web consisting of the totality of the multiple languages of global capitalism and through which terms such as "First World" and "Third World" acquire meaning. As Reich's account implies, however, these terms are not spatially coterminous with the First and Third Worlds themselves. Just as there is increasing talk of the emergence of the Third World "within" the United States (typically blamed on immigrants from the Third World, but really the consequence of capital flight, the decline of the welfare state and the disappearance of certain sorts of work),¹⁰⁶ there are spaces within the Third World that are thoroughly "high tech." The emergence of these specific non-spatial meanings of "First World" and "Third World" problematizes attitudes that immediately recognize immigrants from the Third World as victims.

IV

FORGETTING

The conventional historiography of U.S. immigration, accused of developing a distinctly "Whiggish" cast,¹⁰⁷ has come undone. Developed precisely *after* the triumph of immigration restrictions in the 1920's had relegated immigration to the sanctity of the archive, this historiography produced the following sanitized account of immigration:

That immigrants chose America confirmed the nation's secularized "errand into the wilderness" and reaffirmed its continuing place as the last best hope of mankind. That America attracted these particular immigrants affirmed their own status as the most energetic acquisitive freedom lovers of the last two centuries.¹⁰⁸

Although traces of this historiography, discernible in the Commission's view of "the United States [as] one of the most success-

¹⁰⁶ See generally, WILLIAM JULIUS WILSON, *WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR* (1996).

¹⁰⁷ John J. Bukowczyk, *Migration and Capitalism*, 36 INT'L LAB. AND WORKING-CLASS HIST. 61-75 (1989).

¹⁰⁸ Barry Goldberg, *Historical Reflections on Transnationalism, Race, and the American Immigrant Saga*, in 645 ANNALS OF THE NEW YORK ACADEMY OF SCIENCES 201, 202 (1992).

ful multiethnic nations in history,"¹⁰⁹ continue to survive in official immigration discourses, its unambiguous dethronement may be attributed in large part to the discourse of globalization as a cultural phenomenon and the discourse of difference.

In addition to retrieving questions of immigration from the archive, the discourses of globalization as a cultural phenomenon and difference have definitively dispelled triumphalist accounts of immigration to the United States by pointing out the silences that enable such accounts in two distinct ways. First, through their focus on "global ethnoscares," strains within the discourse of globalization as a cultural phenomenon severely limit outmoded nation-centered views of immigrant experience by uncovering the emergence of the "diasporic public spheres"—Chinese, Hindu and Islamic fundamentalist and so on—in which "the immigrant" is increasingly shown to participate.¹¹⁰ Second, through their focus on oppression inflicted on the basis of difference, strains within the discourse of difference highlight the ways in which "the immigrant" has always been, and continues to be, targeted on the basis of difference from hegemonic constructions of self. The sordid history of U.S. immigration law, fashioned through the struggles of Asian and Eastern European immigrants, places such interpretations beyond historical doubt.

Yet strains within the discourse of globalization as a cultural phenomenon and within the discourse of difference ultimately perpetuate pernicious forms of *forgetting*, attributable to their fetishistic "anti-foundationalism," insofar as they continue to deploy the undifferentiated analytic category of "the immigrant" in their celebrations of "global culture," "global ethnoscares," and difference. Because even the most cursory examination of official immigration discourses points toward the aggressive adoption of productivity, skill, resources, and self-sufficiency as organizing principles of legal immigration, these forms of forgetting point toward a certain lapse in current progressive academic discourses with at least three intimately intertwined consequences.

First, and most painfully obvious, they result in impoverished analyses of "global culture," "global ethnoscares," and differ-

¹⁰⁹ SETTING PRIORITIES, *supra* note 16, at 175.

¹¹⁰ APPADURAI, *supra* note 2, at 4, 10, 21-22, 147. The newness and the durability of "diasporic public spheres," as well as the precise quality of "the immigrant's" participation in them, remain unclear.

ence themselves. The trend towards reworking legal immigration around productivity, skill, resources, and self-sufficiency identified in this paper should make it impossible to celebrate "global culture," "global ethnoscapas," or difference in any intellectually satisfactory, let alone politically responsible, fashion without relating them *at all times* to the changing character of legal immigration reflected in official immigration discourses. If immigrants do indeed *produce* "global culture," "global ethnoscapas," and difference, we are ill-advised to speak of such matters without considering how legal immigration is itself being reimagined. The participation of the Indian physician in the "diasporic public sphere" of Hindu fundamentalist activity must be different from that of the Indian newspaper vendor in New York City, just as surely as the experiences of discrimination of affluent Hong Kong Chinese immigrants in the hills surrounding San Francisco¹¹¹ must differ from those of small Chinese restaurateurs across the United States. The changing face of immigration, determined through the reconfiguration of immigration law, will necessarily effect further changes in experiences of "global culture," "global ethnoscapas," and difference. If we are to move away from a fetishization of movement and phenotypical difference, these changes must be factored into mainstream discussions of "global culture," "global ethnoscapas," and difference.

Second, forms of forgetting perpetuate a certain "survivalist" view of immigration. This is most clearly a shortcoming of the discourse of difference when it combines the undifferentiated analytic category of "the immigrant" with the comfortably established "anti-foundationalist" categories of "race," "culture," "community," "work ethic," and "family values." By "survivalism," I am referring to the view, implicit in many interpretations of immigrant experience, that "the immigrant" is an escapee from, or survivor of, the Third World as a consequence of her arrival in the West such that the Third World can safely be transformed into a mere source of *origins* that "the immigrant" can then deploy, or have deployed against her, within the discourse of difference (of course, I am not suggesting that precisely such a view should not be strategically employed where necessary, such as in the realm of refugee law). Although the undesirability of

¹¹¹ See, e.g., Aihwa Ong, *Limits to Cultural Accumulation: Chinese Capitalism on the American Pacific Rim*, in 645 ANNALS OF THE NEW YORK ACADEMY OF SCIENCES 125 (1992).

this imperializing nation-centered view of immigration can, of course, be attacked for the massive obliteration of the Third World that it accomplishes, its hollowness is revealed most starkly when the category of "the immigrant" is decomposed, as it is in official immigration discourses, in terms of productivity, skill, resources, and self-sufficiency. If "the immigrant" under conditions of global capitalism is often a high-level executive of a multinational corporation, in what sense can he be invested with the (admittedly problematic) label of "survivor?" It seems more appropriate to investigate the ways in which legal immigration regimes, *inter alia*, limit the possibilities of Third World denizens coded in certain terms by dominant accounts of the "new international division of labor."

Finally, in their eagerness to claim "the immigrant" for "global culture," "global ethnoscares," or difference, strains within the discourse of globalization as a cultural phenomenon and within the discourse of difference fail to forge conceptual links between the declining laboring classes of the First World and the emerging laboring classes of the Third World. There are connections, as this paper has attempted to reveal, between dominant accounts of the "new international division of labor" that speak of the decline of laboring classes in industrialized countries and the real or threatened shifting of manufacturing to Third World countries, on the one hand, and the reimagination of immigration within official immigration discourses, on the other. In this regard, politico-legal phenomena, such as the passage in California Proposition 187, are admittedly difficult to read, but it may not be inappropriate to argue that phenotypical difference, let alone movement, might not afford the best interpretive lens for understanding the specific ways in which the state in industrialized countries is shrinking and the consequences of such shrinking for immigrants. Suffice it to state that, to the extent that legal immigration is being reimagined in terms of economic notions of "quality," "the immigrant" might prove unassimilable into the ranks of the disadvantaged in industrialized countries.

It should be apparent that the identification of these forms of forgetting, perpetuated by certain strains within the discourse of globalization as a cultural phenomenon and within the discourse of difference, is merely a call to enrich our discussions of "global culture," "global ethnoscares," difference, and immigration itself. It is only once our discussions take account of the economis-

tic politics of immigration that we will acquire a deeper awareness of new modalities of power, oppression, and inequality as we grapple with the minutiae of immigration law in our lives.