

This article was downloaded by: [Browning, Melissa D.]

On: 9 September 2009

Access details: Access Details: [subscription number 914666137]

Publisher Routledge

Informa Ltd Registered in England and Wales Registered Number: 1072954 Registered office: Mortimer House, 37-41 Mortimer Street, London W1T 3JH, UK



## Journal of Poverty

Publication details, including instructions for authors and subscription information:

<http://www.informaworld.com/smpp/title-content=t792306947>

### Reexamining Our Words, Reimagining Our Policies: Undocumented Migration, Families, and the Moral Imagination

Melissa D. Browning<sup>a</sup>

<sup>a</sup> Loyola University Chicago, Chicago, Illinois, USA

Online Publication Date: 01 July 2009

**To cite this Article** Browning, Melissa D.(2009)'Reexamining Our Words, Reimagining Our Policies: Undocumented Migration, Families, and the Moral Imagination',Journal of Poverty,13:3,234 — 253

**To link to this Article:** DOI: 10.1080/10875540903163844

**URL:** <http://dx.doi.org/10.1080/10875540903163844>

## PLEASE SCROLL DOWN FOR ARTICLE

Full terms and conditions of use: <http://www.informaworld.com/terms-and-conditions-of-access.pdf>

This article may be used for research, teaching and private study purposes. Any substantial or systematic reproduction, re-distribution, re-selling, loan or sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden.

The publisher does not give any warranty express or implied or make any representation that the contents will be complete or accurate or up to date. The accuracy of any instructions, formulae and drug doses should be independently verified with primary sources. The publisher shall not be liable for any loss, actions, claims, proceedings, demand or costs or damages whatsoever or howsoever caused arising directly or indirectly in connection with or arising out of the use of this material.

## **Reexamining Our Words, Reimagining Our Policies: Undocumented Migration, Families, and the Moral Imagination**

MELISSA D. BROWNING

*Loyola University Chicago, Chicago, Illinois, USA*

*Through examining words and phrases being used to define U.S. immigration in popular speech and public policy, I argue that just speech is an essential component in the creation of just policy toward migrants. Particular consideration is given to the use of the word “illegal” to describe migrants and how the use of this word inhibits the moral imagination. Utilizing a justice framework in conversation with postcolonial ethics, I suggest that migrants and their movements can best be understood not primarily through the lenses of individual action, but through the lens of their communal and social relationalities and responsibilities. With this distinction in mind, I argue that an understanding of the particularity of persons rooted in particular familial structures can provide a more adequate lens for creating just policy for migrants and their families than can the paradigm of the individual as border crosser.*

**KEYWORDS** *migration, theology, Christian ethics, justice, moral imagination*

### INTRODUCTION

During the 2008 presidential primaries, Barack Obama argued that not only do we need “comprehensive immigration reform,” we need to “tone down the rhetoric” when we speak of immigration.<sup>1</sup> Early in the primaries, John

---

<sup>1</sup> Obama, January 21, 2008.

I would like to thank Maria Vidal de Haymes, Aana Marie Vigen, and Robyn Henderson-Espinosa who read and gave invaluable comments on an early draft of the paper. Any subsequent shortcomings are of my own.

Address correspondence to Melissa D. Browning, P.O. Box 803338, # 27485, Chicago, IL 60680-3338, USA. E-mail: mb@melissabrowning.com

McCain made a similar argument when he said, “I have never seen an issue that has inflamed the passions of the American people the way the issue of immigration reform has.”<sup>2</sup> As emotive language runs high on all sides of the issue, there is widespread agreement that something must be done to fix a system that is not working. But where do we start? When it comes to immigration, both public policy and popular speech may lack the imagination needed to envision compassion and justice.

When seeking to envision just policy, the rhetoric surrounding migration may be a good place to start. Words are part of the moral imagination. They can deliver or deny justice. They function descriptively when they articulate held beliefs, but can also function prescriptively when they determine our moral actions. Words can teach us to imagine a more just world. For this reason, deconstructing the rhetoric of the “immigration debate” may open up new space to imagine just policy.

This article is an exercise in linguistic imagination. Through examining words and phrases being used to define U.S. immigration in popular speech and public policy, I argue that just speech is an essential component in the creation of just policy toward migrants. I begin this article by looking at the word “illegal” in conjunction with migrants and migration. I then turn to public policy and ask how this naming has impacted both created policy and the ways in which policy is enforced. Utilizing a justice framework in conversation with postcolonial ethics, I suggest that migrants and their movements can best be understood not primarily through the lenses of individual action, but through the lens of their communal and social relationalities and responsibilities. With this distinction in mind, I argue that an understanding of the particularity of persons rooted in particular familial structures can provide a more adequate lens for creating just policy for migrants and their families than can the paradigm of the individual as border-crosser.

## REEXAMINING OUR WORDS: PUBLIC SPEECH ON MIGRATION

When news media announces stories about immigration, they often do so with the heading “immigration debate.” However, the actual “debate” seems to be not over immigration, but over what is most commonly referred to as “illegal immigration.” In looking at 36 recent immigration polls with a combined total of 102 questions on immigration, 75 (or 73%) dealt with “illegal immigration.”<sup>3</sup> These same polls also suggest that people on all sides of the

<sup>2</sup> McCain, August 15, 2007.

<sup>3</sup> This survey was done by the author of this article based on polls accessed at [Pollingreport.com](http://Pollingreport.com) ([www.pollingreport.com/immigration.htm](http://www.pollingreport.com/immigration.htm)). Polls surveyed span May 2006—January 2007. Retrieved March 28, 2008. Note: An additional 18 questions in these surveys deal with approval of current leaders and parties and their stands on immigration, and were not included in this count.

issue believe immigration reform is needed.<sup>4</sup> There is a general agreement that something must be done, but between “amnesty” and “mass deportation” there is no agreement as to what shape reform should take.

In the “immigration debate,” emotive language and proposed policy shifts seem to go hand in hand. Within popular speech, it could be argued that emotive words function by galvanizing opinion on public policy. As the following analysis of popular speech shows, a person who uses or is sympathetic to the term “illegal alien” will generally be in favor of some degree of deportation, whereas a person preferring the word “irregular” or “undocumented” rather than “illegal” when describing migrants would more likely advocate for a path to legalization. On all sides of the issue, examining and then deconstructing language can provide a space for imagining just policy and just speech.

### POLITICAL TALK: LOU DOBBS AND ANN COULTER

One of the most prominent anti-immigration voices in the United States is Lou Dobbs, a political analyst for CNN. Dobbs’s primary concern revolves around what he calls “illegal immigration” and border security. Dobbs claims his allegiance is to “middle-class Americans” and says he is concerned with “how illegal immigration is affecting their quality of life.”<sup>5</sup> Dobbs sees the problem as a failure to enforce immigration laws rather than as a problem with the current system.<sup>6</sup> In reflecting on the 2006 Senate bill, Dobbs says the words “comprehensive immigration reform . . . are simply code words for illegal alien amnesty, open borders and the national interest be damned.”<sup>7</sup> Dobbs’s language betrays a heavy dualism in his thought as he sees immigrants as either good and law-abiding, or bad and border-crossing.

When referring to migrants, Dobbs makes a sharp distinction between those he calls “legal” and those he calls “illegal” migrants. In speaking of the latter, Dobbs consistently uses the phrase “illegal aliens” to describe those who are undocumented. The language surrounding the issue of immigration is not lost on Dobbs. He accuses “national media” of “shamelessly playing with language” and says, “too often, the language of the national media describes illegal immigration as ‘migration; and illegal aliens as ‘undocumented immigrants.’” Dobbs condemns the media for using words such as “entrants” and “undocumented immigrant” instead of “illegal alien” as he makes the case for an individual’s legal status determining the justice they are owed. He laments that the Arizona Republic used the phrase “undocumented immigrant . . . more than 80 times” in 1 month while the term “illegal alien”

---

<sup>4</sup> Ibid.

<sup>5</sup> Dobbs, October 24, 2006.

<sup>6</sup> Ibid.

<sup>7</sup> Dobbs, September 6, 2006.

only appeared nine times during the same time span.<sup>8</sup> Dobbs also criticizes California governor Arnold Schwarzenegger by saying, “don’t call illegal aliens ‘immigrants.’ You insult legal immigrants when you do.”<sup>9</sup>

The language Dobbs chooses to use is not only emotive and evocative, but intentional. Preferring to evoke images of “invasion,” of the United States “becoming a third-world country,”<sup>10</sup> and of terrorists sliding through the borders, Dobbs appeals to a fear-filled imagination. These words and phrases are pejorative in that they disparage the subject—migrants who cross borders. No matter how multicultural your neighborhood, migrants can only be seen as part of an “invasion” if you devalue their presence. Terms like “invasion” provide an avenue for blame and scapegoating when times are tough economically. Dobbs draws heavily on this emotive language, yet does so while appealing to what he calls the “truth” about immigration.

Like Dobbs, Ann Coulter also isn’t winning any awards for embracing diversity. While her language is also emotive, Coulter draws more heavily on shock value and relies on her opinion being “right,” rather than being based on “truth.” Coulter states that “illegal aliens (are) choking our roads, schools and hospitals.”<sup>11</sup> Throughout her commentaries, her language illuminates her central concerns: economics and homogeneity. Coulter is not against prohibiting all immigrants from entering the United States; in fact, exotic or well-educated migrants could be welcomed. On her website Coulter puts it this way: “Why not use immigration the way sports teams use the draft—to upgrade our roster? We could take our pick of the world’s engineers, doctors, scientists, uh . . . smoking-hot Latin guys who stand around not wearing shirts between workouts. Or, you know, whatever . . .”

In Coulter’s opinion, the exotic “smoking-hot Latin guys” and the well-educated are welcomed. Here, Coulter also appeals to a particular kind of imagination as she asks her readers to imagine a world where the best are invited and the poor make no demands on the rich. In an article on Elvira Arellano<sup>12</sup> titled, “1 Down, 11,999,999 To Go,” Coulter argues that “America” doesn’t need to see “a weeping Mexican woman on TV” and calls Arellano “part of the advance wave of left-wing, Third-World colonization of America.”<sup>13</sup> As Coulter speaks of “third-world colonization” she conjures up the same image of “invasion” that Dobbs uses. Coulter asks her listeners to imagine the United States as a “third-world” country. A postcolonial critique would remind us that the creation of a so-called third world is a legacy of colonialism

<sup>8</sup> Dobbs, April 24, 2007.

<sup>9</sup> Dobbs, April 10, 2006.

<sup>10</sup> Dobbs, May 24, 2007.

<sup>11</sup> Coulter, November 28, 2007.

<sup>12</sup> Elvira Arellano lived in Chicago and took refuge in a church after receiving deportation orders. Arellano’s son was born in the United States and is a U.S. citizen.

<sup>13</sup> Coulter, August 22, 2007.

and its aftermath. Poverty in the two-thirds world has not always been, but came as the result of colonialism, imperialism, and globalization.<sup>14</sup>

Within Coulter's writing one also finds the repeated use of the word "America" rather than the more specific designation of "United States." Of course, geographically, "America" is a continent that encompasses both the United States and the home countries of many U.S. immigrants. In Coulter's usage, "America" functions emotively and imaginatively as it brings to mind the Star Spangled Banner and patriotism. This usage of "America" is contrasted with the highly charged phrase "third world."

### RELIGIOUS TALK: EAGLE FORUM AND THE CHRISTIAN COALITION

Phyllis Schlafly and the Eagle Forum espouse much of the same rhetoric as the political Right Wing when it comes to issues surrounding immigration. While Schlafly would consider herself Christian, and while her organization draws its name from a biblical passage in Isaiah, Schlafly is more likely to appeal to "traditional American values" than to Christian morality. Schlafly's primary concerns are "patriotic assimilation,"<sup>15</sup> the universal use of the English language,<sup>16</sup> and "protecting" the borders.<sup>17</sup> She, like Dobbs, creates a dualism between those she calls "legal immigrants" and those she calls "illegal aliens." Both Schlafly and Dobbs tend to use the term "immigrants" when referring to those with "legal" status, whereas using the term "alien" is reserved for those they call "illegal." Schlafly often uses the word "illegals" to describe people.

Like Dobbs, Schlafly also recognizes the power of words as she argues that words can be "destructive." Schlafly talks about the "fast moving battleground of the internet" and says that "words used as epithets can be powerful missiles to hurl at an enemy." She goes on to say, "among the arrows with poison tips designed to slay a political enemy are the words 'racist,' 'bigot,' 'fascist,' 'nativist,' and 'extremist.'" She says that in this "debate" good words (such as "protect") are redefined as bad words. Schlafly also says, "amnesty, guest-worker, and willing worker are all red-flag words that voters find offensive."<sup>18</sup> Yet in this same article she uses the phrase "invaded by illegals" to describe the current state of migration, without considering whether her own language could be destructive.<sup>19</sup>

<sup>14</sup> For a postcolonial critique on poverty and inequality between countries, see Dube, 2000, and Kwok, 2005.

<sup>15</sup> Schlafly, November 2005.

<sup>16</sup> Schlafly, December 12, 2007.

<sup>17</sup> Schlafly, November 7, 2007.

<sup>18</sup> Schlafly, November 2005.

<sup>19</sup> Ibid.

Both Coulter and Schlafly equate undocumented migrants with criminals, citing individual instances of criminality by those who are undocumented, and speaking about “imported crime”<sup>20</sup> Schlafly appeals to the courts and laws to “protect us from illegal aliens.”<sup>21</sup> Like Coulter and Dobbs, Schlafly also uses the emotive designation of “third-world” as she speaks of the need for U.S. citizens to be protected from “third-world diseases” like leprosy, malaria, or bedbugs.<sup>22</sup>

Schlafly also uses the language of “morality” to condemn amnesty and guest worker programs. Her primary opposition to guest worker programs is that “inviting foreigners” to the United States to “do menial jobs” is immoral, because they are not given the “hope of rising up the economic and social ladder.”<sup>23</sup> Here, Schlafly does not speak of a specific Christian morality, but more of a national morality where the teleological goal is the “American dream.” In speaking of the border, Schlafly argues that “the most moral and humanitarian thing we can do is to erect a fence and double our border agents in order to stop the drugs, the smuggling racket, the diseases, and the crimes.”<sup>24</sup>

The Christian Coalition is another voice that places enforcing borders high on its agenda. Like other conservatives on the issue, the Christian Coalition also uses the term “illegal aliens” almost exclusively. Roberta Combs, president of the Christian Coalition, appeals to scripture, saying, “Scripture teaches that for people to ignore or disrespect national boundaries was described as a sin in Deuteronomy 27:17, which says: Cursed is the one who moves his neighbors’ landmark.”<sup>25</sup> Ironically, Combs follows this up by noting that the United States is “by far the most compassionate and generous nation on earth... with hundreds of thousands of volunteers in the Peace Corps, among the ranks of missionaries and in countless charitable projects around the world.”<sup>26</sup> Here, the primary offense is not border crossing, but crossing without prior authorization. Travel is authorized for the good and generous who cross our neighbor’s borders—but travel is not authorized for all who wish to cross our borders.

For Combs and others, the underlying assumption behind a theology that enforces borders is based on the legality of border crossing. Permission must be given beforehand in order for border crossing to be “legal” or “moral.” A postcolonial critique turns this argument on its head by asking who authorizes travel.<sup>27</sup> Those in possession of a U.S. passport might notice

<sup>20</sup> Schlafly, March 5, 2008.

<sup>21</sup> Ibid.

<sup>22</sup> Schlafly, November 2005.

<sup>23</sup> Schlafly, December 14, 2005.

<sup>24</sup> Ibid.

<sup>25</sup> Combs, April 7, 2006.

<sup>26</sup> Ibid.

<sup>27</sup> Dube, 2000, pp. 52, 57–83.

how easily they can move in and out of countries, often without even requesting a visa in advance. This ease of movement for some and paralysis of movement for others must be interrogated if we hope to speak justly about migration. We must also question the ease with which consumer goods and commodities move across borders and look at the ways in which the movement of goods necessitates the movement of peoples.

While evangelicals such as Schlafly and Combs have spoken out against migration, many evangelicals who are typically political conservatives have been silent on the issue. Organizations such as Focus on the Family, National Association of Evangelicals (NAE), and Family Research Council have not issued any statements on migration.<sup>28</sup> World Relief, the development arm of the National Association of Evangelicals, signed the *Interfaith Statement in Support of Comprehensive Immigration Reform* in October of 2005, but the NAE was not a signee. This statement calls for both reform in policy and in popular speech as it asks for the “debate” to be conducted in a “civil and respectful manner, mindful not to blame immigrants for our social and economic ills or for the atrocities committed by the few who have carried out acts of terrorism.”<sup>29</sup>

#### RELIGIOUS SPEECH AND THE MORAL IMAGINATION: U.S. CATHOLIC BISHOPS

While religious conservatives draw upon the scriptures to enforce borders, others within the Christian church use scripture in support of migration and immigration reform. The *Interfaith Statement in Support of Comprehensive Immigration Reform* quotes Leviticus 19:33–34 and Matthew 25:35 to show the ethical imperative in Jewish and Christian scriptures to welcome the stranger as if they were a citizen.<sup>30</sup> The U.S. Catholic Bishops (who were also signees of the Interfaith Statement) take the same approach in their Pastoral Letter, *Strangers No Longer: Together on the Journey of Hope*.<sup>31</sup>

The language used within *Strangers no Longer* is worth noting, for it asks its readers to imagine something different. First, the word “migrant” replaces “immigrant,” noting that movement is never one-way. Second, the words “immigrant,” “emigrant,” and “migrant” are used according to their meanings, and “immigrant” or “immigration” is not used as catch-all words to refer to an issue. In addition, the word “newcomer” is also used when speaking of the Christian’s responsibility to act with hospitality. Third, “undocumented migrant” replaces “illegal immigrant” or “illegal alien,” as

<sup>28</sup> Macdonald, January 20, 2006.

<sup>29</sup> *Interfaith statement*, October 14, 2005.

<sup>30</sup> Ibid.

<sup>31</sup> United States Conference of Catholic Bishops, January 22, 2003.



the focus is moved away from individual border crossers to the human dignity of all peoples. Fourth, the document is co-written by bishops from both the United States and Mexico and the focus is on “America” as continent rather than as country.

This linguistic shift effectively opens space for conversation and “conversion.” As the bishops reframe the rhetoric, those who listen are asked to imagine a space of peace through the narratives of human experience. The document reads:

Part of the process of conversion of mind and heart deals with confronting attitudes of cultural superiority, indifference, and racism; accepting migrants not as foreboding aliens, terrorists, or economic threats, but rather as persons with dignity and rights, revealing the presence of Christ; and recognizing migrants as bearers of deep cultural values and rich faith traditions.<sup>32</sup>

In using the word “conversion,” the bishops rightly argue that this way of seeing migrants is countercultural. Xenophobia, racism, and ethnocentrism come more easily in our culture than cross-cultural conversion. *Strangers no Longer* shows us that the first place for conversion may be in reframing the words we speak about migrants and migration.

### MIGRATION, LANGUAGE, JUSTICE, AND IMAGINATION

A language system gives meaning to the reality that surrounds us, but also shapes that reality. It functions both as a way to give and express meaning, and as a way of creating meaning from experiences. As a component of language creation, naming is central to the moral imagination because it conveys a sense of identity, either real or perceived. We only need to think back to the elementary school playground to remember that not all names are accurate or self-chosen. When we came home from the playground with low self-esteem in tow, our parents would tell us “sticks and stones can break our bones, but words can never hurt us.” Of course, we now know they were lying! Words break deeper than bones and the wounds they can inflict are often harder to heal.

Giving and receiving names is formative to who we are as moral people because the names we give and take express relationality. Naming can define our felt moral obligation to the other as it includes or excludes groups of people. When the term “illegal alien” or “illegal immigrant” is used in popular speech and in public policy, a barrier is created that impedes compassion.

---

<sup>32</sup> Ibid., Chapter III, Pastoral Challenges and Responses (Para. 40).

Migration activists have reminded us that *people* are never illegal—their *existence* is not defined by their migration status. Kalid Koser points out that the use of the term “illegal” conjures up notions of criminality rather than a lack of paperwork.<sup>33</sup> In evaluating Koser’s claim, it is helpful to consider what other types of work or entry are considered “illegal.” Selling drugs comes to mind, as does prostitution, child pornography, human trafficking, theft, coercion, and blackmail. In the same way, those who enter a place “illegally” are those who trespass on private property. Rhetoric that focuses on “securing the border” often makes comparisons to securing one’s own house or property. Yet can undocumented migration really be equivalent to breaking and entering? Can a public state ever be considered private property?

The use of the word “illegal” to describe migrants functions within the fearful imagination. The word asks us to imagine those who cross borders without authorization as “criminals.” Even if we do not listen to Lou Dobbs, Ann Coulter, or Phyllis Schlafly, terms such as “illegal alien” and “illegal immigration” still shape the direction of the public discourse on migration. In addition, these words are written into public policies that federal agents and local law enforcement are asked to carry out. This language attempts to shape the moral imagination as it asks us to imagine that the U.S. laws that allow certain migrants to cross and keep others from crossing are completely fair. Or that “legal” entry is a possibility for all “law-abiding” people. This language assumes that those who cross without authorization would not be able to cross in a legal manner, and therefore must be criminals. However, one look at the backlogs for family or work visas, or at the inequalities on each side of the border, tells a different story.

Ann Coulter, Lou Dobbs, and Phyllis Schlafly all use examples of car wrecks or crimes committed by undocumented migrants as data to show reasons undocumented migration must be controlled and those they call “illegal” must be deported. Koser makes the point that “[m]isrepresenting the evidence criminalizes and demonizes all irregular migrants.”<sup>34</sup> It is important to note that being undocumented, or present without authorization, is not “a crime in itself,” and many of the laws broken in order to remain in the United States without authorization (such as using or creating fraudulent documents) are a violation of civil, not criminal, law.<sup>35</sup> The use of the word “illegal” is prejudicial toward migrants in that it associates their movements with dangerous crimes. When looking at the current migration backlogs, one could argue that entering a country without prior authorization

<sup>33</sup> Koser, 2007, pp. 56–62.

<sup>34</sup> *Ibid.*, 61.

<sup>35</sup> Garcia, September 5, 2006. According to Michael John Garcia, the “[u]nlawful presence is only a criminal offense when an alien is found in the United States after having been formally removed or after departing the United States while a removal order was outstanding.”

may have more to do with expediency and resources than with whether or not the person is eligible for legal entry.

Additionally, the use of the word “illegal” to describe all who cross without prior authorization can distract us from pursuing actual criminals on both sides of the border. Individuals who traffic drugs and people are lumped together with those who cross without prior authorization but have not committed dangerous crimes. There is a legitimate need to secure the border, but the border will not be secure until the issues that prohibit and delay border crossings are addressed.

## HETEROGENEITY AND MIGRATION SPEECH

In *Justice and the Politics of Difference*, Iris Marion Young defines “cultural imperialism” as “a group’s being invisible at the same time that it is marked out and stereotyped.”<sup>36</sup> Young argues that racism and other oppressions are less explicit today because they have gone underground and now manifest themselves in other forms. One form she suggests is respectability. Respectability involves “conforming to norms.” Young states, “the orderliness of respectability means things are under control, everything is in its place, not crossing borders.”<sup>37</sup> While Young speaks of borders on a metaphorical level, her argument has implications for our reaction to and naming of those who cross literal, physical borders as well. Young argues that cultural imperialism functions through the process of “abjection.” When an individual encounters the “other,” they respond to fear produced by the body’s security system. The body reacts with aversion because the identifiable “other” represents a threat to identity.<sup>38</sup> Young says, “The face-to-face presence of these others, who do not act as though they have their own ‘place,’ a status to which they are confined, thus threatens aspects of my basic security system, my basic sense of identity, and I must turn away with disgust and revulsion.”<sup>39</sup> Young calls this “border anxiety.”<sup>40</sup>

In applying Young’s understanding of “border anxiety” to our cultural reaction to literal “border crossers,” we can begin to understand some of the fearful rhetoric surrounding migration. Perhaps the heatedness of the “immigration debate” comes precisely from this “border anxiety,” which has naturally intensified in the wake of an attack on our borders. Young’s suggestion for dismantling this cultural imperialism is to become “comfortable” with the

<sup>36</sup> Young, 1990, p. 123.

<sup>37</sup> *Ibid.*, p. 136.

<sup>38</sup> *Ibid.*, p. 145.

<sup>39</sup> *Ibid.*, p. 146.

<sup>40</sup> *Ibid.*,

“heterogeneity within ourselves.”<sup>41</sup> Within this space of heterogeneity there is room for the moral imagination to create justice.

## RETHINKING OUR POLICY: MIGRATION AND FAMILIES

In seeking justice for undocumented immigrants, we are faced with two questions: How open or closed ought our border be? And what ought we do for those who are already in the country with undocumented status? The use of the word “illegal” answers this question for us, but the answer we are given is unjust. Arrest at the border and deportation once in the country seem legitimate in dealing with criminals who are a danger to others, but the punishment does not often fit the actions of those who cross the border to find work to ensure their own survival and the survival of their families. The use of the word “illegal” for undocumented migrants criminalizes entry and ties the solution for dealing with undocumented migrants to arrest and deportation.

This reality brings up the primary question of this article: How does our speech on the issue of migration create bridges or barriers to justice? Can the use of the word “illegal” to describe migration and migrants effectively limit the justice we can imagine? And if so, what other words or lenses can we use to imagine justice?

In engaging the moral imagination, one way of refocusing could be to decriminalize undocumented migration by taking the focus off of the individual border crosser and instead seeking to understand their actions within the context of their communal and social responsibilities and relationality. The Pew Hispanic Center notes that most undocumented migrants present in the United States are in families.<sup>42</sup> Even migrants not present in families here in the United States still send money home as they care for their families from abroad.<sup>43</sup> With these demographics in mind, the family can provide a new space for the moral imagination when seeking justice for migrants.

Viewing migration through the lens of the family is beneficial in several ways. First, it allows us to look specifically at the ways in which migration policy affects families. Since 1965, U.S. immigration policy has, at least in theory, prioritized family reunification by giving preference in migration quotas to family members of U.S. citizens and legal permanent residents. In

---

<sup>41</sup> Ibid., p. 153.

<sup>42</sup> *Unauthorized migrants*, June 14, 2005.

<sup>43</sup> Remittances, or money sent by migrants to friends and family in their home countries, are an indicator of the connection between migrants and their family members in their home countries. In 2006, 73% of all adult Latin American migrants living in the United States sent money home on a regular basis. Inter-American Development Bank, October 18, 2006.

thinking through just policy for migrants, using the family as a starting point will measure our own compliance with what we say we value.

Second, the use of the word “illegal” and its association with individual criminality separates the individual’s actions from their responsibilities to their families, which is often the motivation for unauthorized crossing. Putting the undocumented migrant in a particular familial context can give space for imagining justice as it pushes us to understand the complexities of border crossings and interdependency between countries across borders. And because so many migrants are in families with mixed status, families represent the paradox of balancing limited resources in communities with “mixed status.”<sup>44</sup>

Finally, a focus on families is a focus on children. In families where one or more parent has undocumented status, most children are U.S. citizens.<sup>45</sup> These children, both citizens and noncitizens, are made vulnerable by their parents’ undocumented status. Because of this vulnerability, seeking justice for these children and their families is one way of making sure those who are the most disadvantaged are protected.

### Policy and Justice: Migration Policy and Families

Since 1965, the United States has used a family preference system to decide who is allowed to immigrate to the United States. While U.S. citizens can (theoretically) sponsor immediate family members without their falling within an immigration cap, the process is more difficult for legal permanent residents.<sup>46</sup> Under current U.S. policy, for each country and for each category of family member, there is a cap on how many immigrants can be admitted each year. When an individual completes the paperwork to sponsor a family member, a priority date is given and then the waiting begins. According to the June 2009 visa bulletin, individuals in the second preference category (which includes spouses and minor children of legal permanent residents) had to have applied before December of 2004 to be granted a visa in June of 2009. The longest wait category is for siblings of U.S. citizens from the Philippines who have been on the waiting list for 22 years.<sup>47</sup>

<sup>44</sup> Mixed status is when different members of an immediate family have different immigration status. For example, one parent could be undocumented, another could be a legal permanent resident, and the two could have children who are U.S. citizens because they were born in the United States.

<sup>45</sup> The Pew Hispanic Center gives statistics that show that in families where one or both parents have undocumented status, 67% (or two-thirds) of children are U.S. citizens. Additionally, 13.9 million people are in “unauthorized families,” 4.7 million of which are children. “Unauthorized children” make up 14% of all unauthorized migrants. *Unauthorized migrants*, June 14, 2005.

<sup>46</sup> For a history of U.S. immigration and its focus on family reunification, see Daniels, 2002. For a thorough treatment of U.S. immigration policy and families, see Hing, 2006.

<sup>47</sup> U.S. Department of State, May 2008.

Five years, the shortest wait time for legal permanent residents, is not just a date on a visa bulletin, but five birthdays or five anniversaries. A 5-year wait can mean the loss of a parent during a child's formative years. And for a parent who is left behind with children, this can mean 5 years of being a single parent. Extreme backlogs and wait times such as these are a direct cause of undocumented migration. In reflecting on immigration backlogs and U.S. policy for families, a justice framework can help us explore the moral imagination.

John Rawls imagined justice by creating a scenario he called the "original position." Rawls believed taking a group of knowledgeable people and putting them behind a "veil of ignorance" would be a way to discern justice. Behind this veil, they would be asked to imagine a just society, but they would not know what position they would be in once the veil was lifted. In Rawls's "original position," the person would be unable to know whether she or he would be rich or poor, citizen or an undocumented migrant.<sup>48</sup> In this scenario, the person seeking justice for everyone would need to seek justice for the border-crosser as well.

In employing the moral imagination to create justice for families, our own familial starting points can assist us in our "original position." We can ask ourselves what it would be like to be separated from a parent or child, from a spouse or a sibling. For the migrant, current immigration policy requires a choice between a job in the United States that allows their family to survive physically, and being physically present, which could ensure psychological survival of the family. For family members of migrants who seek reunification, a choice has to be made to either wait for "legal" entry, or risk crossing without authorization. These dilemmas represent impossible choices. If we, as a society, value the worker and give her the opportunity to be present within our borders, but do not allow her family to accompany her, then we have treated her as a commodity to be traded and not as a person related to other people.

Feminist theorist Sharon Welch draws upon a Native American understanding of caring for "all my relations" as a way of seeking justice in our society.<sup>49</sup> This understanding has important implications for immigration policy. Migration policy is only humane if it considers not only our country's need for workers, but also workers' needs for their families. If we hope to end unauthorized migration, we must first ask what part we have played in creating the need to undertake a dangerous migration.

In the recent movie *La Misma Luna* (*Under the Same Moon*), the struggle of family reunification is played out as the main character, a 9-year-old boy, crosses the U.S. border without authorization to reunite with his

---

<sup>48</sup> Rawls, 1958.

<sup>49</sup> Welch, 2004, 29ff., 52ff.

mother. At the same time, his mother, an undocumented migrant, considers marrying a “legal” security guard in order to bring her son to the United States.<sup>50</sup> The movie stirs the moral imagination. It asks us to identify with the characters to imagine what it would be like to be separated from those we love.

In June of 2007, Senator Hillary Clinton introduced an amendment to the *Border Security and Immigration Reform Act of 2007* that would have eliminated visa caps and cleared backlogs for lawful permanent residents seeking to reunite with their minor children and spouses.<sup>51</sup> This amendment met the criteria for justice. If we put the amendment in the context of Rawls’s original position, we can imagine a society where relationality and responsibility are central to the social contract. If we remember the Catholic bishops’ understanding of justice, we see that the amendment gives attention to the particularity of persons in the midst of their life experiences and struggles. Yet, the amendment was defeated by a vote of 44 to 53.<sup>52</sup> Thinking back to Rawls’s original position, we can flip the scenario and ask if it is an inadequate or skewed moral imagination that keeps us from creating justice. Could a group of people in this country placed in Rawls’s “original position” really rely on a “veil of ignorance,” or could some people simply not imagine ever needing to cross a border to feed their family?

Sharon Welch argues that our ineffectiveness in speaking out against injustice could be due to our lack of creativity rather than a lack of options.<sup>53</sup> Welch argues that “injustice flourishes because those who love justice are singularly lacking in creativity, content to denounce the structures we see causing harm, inept in producing other forms of art, other economic structures, other political systems.”<sup>54</sup> When looking at families and migration, what images or words, what stories or songs, what memories or imaginations must we conjure to create just policy?

### Policy and Justice: Local Laws and Migrant Families

Not only is migration policy unjust at federal levels when families wait years to migrate, but injustices in migration policy are also found far away from the borders in local counties and small towns. Because local governments see federal policy in need of reform, some have created and enforced their own immigration policy. In Manassas, Virginia, and Waukegan, Illinois, local police officers have been given authority to check migration status

<sup>50</sup> Rikken, 2007.

<sup>51</sup> Clinton, June 7, 2007.

<sup>52</sup> Ibid.

<sup>53</sup> Welch, 2004, p. 115.

<sup>54</sup> Ibid., p. 19.

during routine traffic stops and other minor offenses.<sup>55</sup> Mayor Richard Hyde of Waukegan told the *New York Times* he was frustrated that the federal government has not controlled migration and reflected on his city's change in policy by saying, "illegal is illegal—period—end of sentence."<sup>56</sup> In reflecting on Mayor Hyde's comments, it is easy to see how the words we use to describe migration have affected public policy. When individuals are said to be "illegal," an element of criminality is assumed and physical presence in a community becomes an impetus for police regulation.

In Manassas, Virginia, the debate over immigration became a debate on how to define "family." When residents began to complain that houses in their neighborhoods were too crowded, the city imposed an ordinance that limited residents of "single-family homes" to immediate family members only, eliminating co-residence with extended family members.<sup>57</sup> The ordinance was repealed when Manassas was threatened by an ACLU lawsuit, but the city and county continues to use local police officers to enforce and report immigration violations.<sup>58</sup> Like Mayor Hyde of Waukegan, Corey Stewart, the Board Supervisor of Prince William County, defended the new policy by appealing to the "illegal" status of the county's residents. Stewart said, "The fact is, is that illegal aliens do commit crimes, they do have a negative impact on our schools, they do have a negative impact on our hospitals and other social services." In both Hyde's and Stewart's statements, a direct link can be made between the naming of migrants as "illegal" and the policies that were created to keep undocumented migrants out of Manassas and Waukegan.

These local laws affect not just individual migrants, but entire families. Many individuals with undocumented status are part of families with mixed status. This mixed status can place individual family members in vulnerable positions, especially in scenarios of domestic violence. In *The New York Times* report from Waukegan, Julia Preston interviewed a woman who in the past had reported her husband's domestic abuse, but now will no longer call the police for fear of being deported.<sup>59</sup> When there is unequal migration status in a marriage, there is also unequal power as one partner becomes more vulnerable.

Mixed status also affects children, many of whom are U.S. citizens. In a family with mixed status, one or both parents can be deported and children can be left behind. Because of the inadmissibility rules for undocumented migrants to return to the United States, the child's status as citizen seems to

---

<sup>55</sup> Normally, a federal offense has to be committed before migration status is checked. For both stories see Bolduan, 2008, and Preston, January 7, 2008.

<sup>56</sup> Ibid.

<sup>57</sup> Caldwell, February 26, 2006.

<sup>58</sup> Bolduan, 2008.

<sup>59</sup> Preston, January 7, 2008.



have little bearing on the parent's ability to remain in the country.<sup>60</sup> Additionally, immigration raids have left children without the care of their parents due to their parents being detained. Some cities have stepped in to care for children during immigration raids through familial and foster care networks, but children still fall through the cracks. There have been cases reported where children whose parents were arrested in raids have come home to empty houses with no one to care for them.<sup>61</sup>

When we consider children in mixed status and undocumented families, liberation theology lends a new perspective on justice. Children in these families could be considered the "poor" because of the vulnerability of their situation. Gustavo Gutierrez argues that poor can be defined as "vulnerability," or as those who are in "danger of death."<sup>62</sup> With Gutierrez's definition, children on both sides of the border are vulnerable and are owed an extended measure of justice. As liberation theology calls us to give a "preferential option to the poor," children can become a lens for measuring just policy toward undocumented families. If we see undocumented migrants within the context of their particular responsibilities and relationalities, then we must first ask how an immigration raid, deportation, or detention would affect children. In the same way, we can ask how children as a lens for the moral imagination would shape our policy on family reunification.

In U.S. policy, there is a precedent for just policy toward migrant children. Regardless of their migration status, all children in the United States are allowed to attend public schools. In many states, such as Illinois, all children are included in state health care programs, regardless of their migration status. The challenge in imagining justice is to realize that just policy toward children requires just policy for their parents and caregivers as well. In this way, seeing migration through the lenses of migrant children can be a way to engage the moral imagination.

In responding to local laws that have been created to exclude migrants, a precedent for just policy has been created. A federal court declared local laws created in Hazleton, Pennsylvania, unconstitutional because they would punish landlords and employers for doing business with undocumented migrants. The judge in the case responded to the Hazleton ordinance with the Fourteenth Amendment,<sup>63</sup> saying:

<sup>60</sup> Waivers are available if a minor child or elderly family member relies on your support, but these waivers are not guaranteed and are rarely given.

<sup>61</sup> Capps, Castaneda, Chaudry, & Santos, 2007.

<sup>62</sup> Sobrino, 2003, pp. 43, 67; see also Gutierrez, 1973.

<sup>63</sup> Section 1 of the Fourteenth Amendment reads: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

We cannot say clearly enough that persons who enter this country without legal authorization are not stripped immediately of all their rights because of this single act . . . The United States Supreme Court has consistently interpreted [the Fourteenth Amendment] to apply to all people present in the United States, whether they were born here, immigrated here through legal means, or violated federal law to enter the country.”<sup>64</sup>

This precedent can be used in helping local communities think through just law for migrants. The Fourteenth Amendment was written to set aside the 1856 Dred Scott ruling (*Scott v. Sandford*), which argued that a slave could never be a U.S. citizen. In thinking through the application of the amendment today, we must recognize the racism and tendencies toward homogeneity that have shaped our history and ask how this same racism factors into who is excluded or included within our borders.

As Sharon Welch argues, we can only find justice when we see our actions through a postcolonial lens that remembers both “cost of colonial domination” and the “resilience of Native peoples.”<sup>65</sup> Welch challenges the role of empire as she proposes a “collective, historical social contract”<sup>66</sup> and asks her readers to imagine a “democracy that is deep, inclusive, and creative.”<sup>67</sup> To participate in Welch’s social contract, we must know ourselves not only as a “nation of immigrants” but as a nation of immigrants who settled on this land without authorization. It is only in knowing ourselves as border-crossers that we will realize that the country we have placed borders around was simply not ours to inhabit, much less to fence off.

### JUST SPEECH AND JUST POLICY: AN EXERCISE IN MORAL IMAGINATION

In attempting to create just policy for migrants, we must seek to know ourselves and to know each other. Just policy will not be attained if in the process we do not interrogate the racism, ethnocentrism, classism, and xenophobia present in our own history, speech, law, and culture. With this interrogation as a starting point, the particularity of all persons rooted in particular familial structures can be a starting point for the moral imagination.

Iris Marion Young argues that only by embracing our own heterogeneity can we participate in an inclusive democracy. Young defines justice as “nothing other than what the members of an inclusive public of equal and

<sup>64</sup> Federal Court, July 26, 2007.

<sup>65</sup> Welch, 2004, p. 37.

<sup>66</sup> *Ibid.*, pp. 128ff.

<sup>67</sup> *Ibid.*, p. 33.

reasonable citizens would agree to under these ideal circumstances.”<sup>68</sup> Young argues that even beyond our borders, when we are connected by commerce, communications, international policies, and other interdependencies, we stand in “relations of justice.”<sup>69</sup> Young uses these relations of justice to speak of the importance of acknowledging that we live in a global society and therefore must become global citizens.<sup>70</sup> She argues that because of our interconnectedness, and because migration makes membership permeable, justice must be sought on a global, not local level.

In embracing our own heterogeneity, in seeing ourselves as colonized and colonizers, citizens and migrants, interconnected and together in the boundaries of one border, we can begin to create a social contract that assures human dignity and the space to work out relationality and responsibility for “all our relations.” Within our language and within our relationships are images and words, stories and songs, memories and imaginations that can lead us to justice. There is space for reexamining our words and reimagining our policies. This is the gift of the moral imagination.

## REFERENCES

- Bolduan, K. (2008). *CNN Newsroom*. Aired March 10, 2008. Transcript available from <http://transcripts.cnn.com/TRANSCRIPTS/0803/10/cnr.03.html> (Accessed May 2008).
- Caldwell, C. (2006, February 26). A family or a crowd? *The New York Times*.
- Capps, R., Castaneda, M., Chaudry, A., & Santos, R. (2007). *Paying the price: The impact of immigration raids on America's children*. Washington, DC: Urban Institute.
- Clinton, H. (2007, June 7). Senator Clinton delivers remarks on the Senate floor in introducing immigration amendment to help reunite immigrant families. *Statements and Releases*. Available from <http://www.senate.gov/~clinton/news/statements/record.cfm?id=275661> (Accessed May 2008).
- Combs, R. (2006, April 7). Christian Coalition. *Washington Weekly Review*.
- Coulter, A. (2007, August 22) 1 Down, 11,999,999 To Go. Available from [www.anncoulter.com](http://www.anncoulter.com) (Accessed May 2008).
- Coulter, A. (2007, November 28) NYT: An undocumented newspaper. Available from [www.anncoulter.com](http://www.anncoulter.com) (Accessed May 2008).
- Daniels, R. (2002). *Coming to America: A history of immigration and ethnicity in American life*. New York: Perennial, 2002.
- Dobbs, L. (2006, April 10). First, secure our borders. CNN.com (Accessed May 2008).
- Dobbs, L. (2006, September 6). Voters won't tolerate “axis of amnesty.” CNN.com (Accessed May 2008).
- Dobbs, L. (2006, October 24). Dobbs: Border fence will leave Texas-size hole. CNN.com (Accessed May 2008).

<sup>68</sup> Young, 2002, p. 33.

<sup>69</sup> Ibid., p. 246.

<sup>70</sup> Ibid.

- Dobbs, L. (2007, April 24). Dobbs: Big media hide truth about immigration. CNN.com (Accessed May 2008).
- Dobbs, L. (2007, May 24). Dobbs: Bush, Congress tell working folk to go to hell. CNN.com (Accessed May 2008).
- Dube, M. (2000). *Postcolonial feminist interpretation of the Bible*. St Louis, MO: Chalice Press.
- Federal court strikes down discriminatory anti-immigrant law in Hazleton. (2007, July 26). *American Civil Liberties Union of Pennsylvania*. Available from <http://www.aclupa.org/pressroom/federalcourtsrikesdowndis.htm> (Accessed May 2008).
- Garcia, M. J. (2006, September 5). Immigration-related document fraud: Overview of civil, criminal, and immigration consequences. *CRS Report for Congress*.
- Gutierrez, G. (1973). *A theology of liberation: History, politics, and salvation*. Maryknoll, NY: Orbis Books.
- Hing, B. O. (2006). *Deporting our souls: Values, morality, and immigration policy*. Cambridge, England: Cambridge University Press, 2006.
- Inter-American Development Bank. (2006, October 18). Migrant remittances from the United States to Latin America to reach \$45 billion in 2006, says IDB. Available from The William Davidson Institute: <http://www.wdi.umich.edu/Resources/2336>
- Interfaith statement in support of comprehensive immigration reform*. (2005, October 14). Available from [www.wr.org/whatwedo/immigrantservices/reform.asp](http://www.wr.org/whatwedo/immigrantservices/reform.asp) (Accessed May 2008).
- Koser, K. (2007). *International migration: A very short introduction*. Oxford, England: Oxford University Press.
- Kwok, P.-I. (2005). *Postcolonial imagination and feminist theology*. Louisville, KY: WJK.
- Macdonald, G. J. (2006, January 20). On immigration issue, big evangelical groups conspicuously mum. *Religion News Service*.
- McCain, J. (2007, August 15). Public Speech, Aspen Institute, Aspen, CO.
- Obama, B. (2008, January 21). Democratic Presidential Debate, Austin, TX. Partial transcript available from [http://blogs.chron.com/immigration/archives/2008/02/post\\_91.html](http://blogs.chron.com/immigration/archives/2008/02/post_91.html) (Accessed May 2008).
- Preston, J. (2008, January 7). Hiding in Waukegan. *The New York Times*. Available from [http://www.nytimes.com/packages/html/us/20080107\\_HIDE\\_FEATURE/index.html](http://www.nytimes.com/packages/html/us/20080107_HIDE_FEATURE/index.html) (Accessed May 2008).
- Rawls, J. (1958). Justice as fairness. *The Philosophical Review*, 67(2), 164–194.
- Riggen, P. (Director). (2007). *La Misma Luna (Under the Same Moon)*. [Motion picture]. United States: Creando Films.
- Schlafly, P. (2005, November). American citizenship is precious. *Phyllis Schlafly Report*. Available from [www.eagleforum.org](http://www.eagleforum.org) (Accessed May 2008).
- Schlafly, P. (2005, December 14). Amnesty/Guest-Worker is immoral. *Phyllis Schlafly Report*. Available from [www.eagleforum.org](http://www.eagleforum.org) (Accessed May 2008).
- Schlafly, P. (2007, November 7). Let's protect American jobs. *Phyllis Schlafly Report*. Available from [www.eagleforum.org](http://www.eagleforum.org) (Accessed May 2008).
- Schlafly, P. (2007, December 12). To assimilate or not to assimilate; That's the question. *Phyllis Schlafly Report*. Available from [www.eagleforum.org](http://www.eagleforum.org) (Accessed May 2008).
- Schlafly, P. (2008, March 5). Judges getting the message about illegal aliens. *Phyllis Schlafly Report*. Available from [www.eagleforum.org](http://www.eagleforum.org) (Accessed May 2008).

- Sobrinho, J. (2003). Central position of the reign of God in liberation theology. In J. Sobrinho & I. Ellacuria (Eds.), *Systematic theology: Perspectives from liberation theology* (pp. 38–74). Maryknoll, NY: Orbis Books.
- Unauthorized migrants: Numbers and characteristics*. (2005, June 14). Pew Hispanic Center. Available from <http://pewhispanic.org/reports/report.php?ReportID=46> (Accessed May 2008).
- United States Conference of Catholic Bishops. (2003, January 22). *Strangers no longer: Together on the journey of hope*. Available from <http://www.usccb.org/mrs/stranger.shtml> (Accessed May 2008).
- U.S. Department of State. (2008, May) *Visa Bulletin*. Available from [http://travel.state.gov/visa/frvi/bulletin/bulletin\\_4497.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_4497.html) (Accessed May 2008).
- Welch, S. (2004). *After empire: The art and ethos of enduring peace*. Minneapolis, MN: Augsburg Fortress.
- Young, I. M. (1990). *Justice and the politics of difference*. Princeton, NJ: Princeton University Press.
- Young, I. M. (2002). *Inclusion and democracy*. Oxford, England: Oxford University Press.