

**Don't Fence Me Out:
Immigration Creates Fierce Debate Throughout the World**
An Interview with Professor Hiroshi Motomura, University of Colorado School of Law¹

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Nothing is more fundamental to our way of life than deciding who "We the people" are.
Professor Hiroshi Motomura.

That's why immigration is one of the hottest topics in the media, in Congress, and in national, state, and local politics. In the classroom, studying the laws that determine who can come to a country and who can't gives students a chance to explore broader themes in the law, Motomura believes.

But anyone who thinks Americans have a monopoly on immigration problems needs to understand it's a worldwide problem.

"We have entered an age where we're seeing immigration around the world. I wouldn't regard the United States as particularly more beset or less beset by immigration problems," says Motomura, author of a casebook on immigration law that is widely used in law schools.

Even in countries where immigration traditionally is low — like Germany, where Motomura has taught and conducted research, and Japan, from which his parents emigrated when he was 3 years old — immigration is still an important issue.

Worldwide immigration flows are the result of refugee dislocations, the availability of transportation, and a complex set of global economic factors, he explains.

In Europe, immigration is a major domestic political issue in France, Germany and, recently, the former Soviet Union, where officials are not only dealing with people who want to move to the more wealthy areas, but also are trying to determine who is Russian or Kazakh.

Where refugee dislocations occur around the world, the displaced people usually end up in equally poor countries, he notes. "The Rowandans go to Zaire, and in the Afghan War most of the refugees ended up in

Pakistan. You definitely would have to call that an immigration problem," says Motomura.

Immigration is a process that begets immigration, he notes, adding that social scientists call immigration a process of successive network building.

"You can have two villages in Mexico with similar economic circumstances where one will have a long history of sending migrant labor to the United States and the other will not. The first person comes to this country and gets a relative job. First thing you know there are two people from that village working in a little factory," says Motomura.

"It is well-documented that this is a self-perpetuating social process. When this becomes part of the normal pattern in any society, we can say we have entered into an age of immigration," he says.

"That's not to say we can't control immigration. We certainly can exercise choices about whose entry to ease this country and whose entry to hinder," says Motomura, who grew up in San Francisco and earned a bachelor's degree from Yale and a juris doctor from the University of California at Berkeley.

After leaving law practice in Washington, D.C., Motomura joined the School of Law faculty in 1982 and has won acclaim for his teaching from students and colleagues in law and other disciplines.

Another part of the complex equation is how citizens view immigrants. "It's not just an objective increase in the number of immigrants that counts," he notes, "but a sense of scarcity in the welcoming countries to the extent that they are not so welcoming anymore.

"The phrase used in Germany is 'the boat is full,' and that's a common metaphor in Europe now. Part of

it is reality, but part of it is the *perception* of reality, and that's what you have in California with the passage of Proposition 187.

"In California, the economy has been weak enough that there is a real sense that immigrants are taking jobs and adding to overloaded school and health service systems," he says.

Motomura calls this country's dependence on foreign labor amazing, particularly in higher education. "Universities are very strong magnets for immigrants, whether it is for students who pay tuition for teaching assistants and faculty who teach courses."

When it comes to labor, it's hard for us to have it both ways, he says. "On one hand are people who think we haven't had enough of a policy of attracting skilled labor and rejecting the ditch diggers. On the other hand, when the skilled laborers are allowed in, a different quarter in American society says, 'We can train our own workers, but you're hiring people from Pakistan.'"

And there's no monolithic national self-interest when it comes to immigration laws, he points out. For politicians at all levels this is a constituent-sensitive area because elected officials hear from people who don't want "their nanny, their gardener, or for that matter, their rocket scientist, to leave."

Some of those who may be against immigration in the abstract have a different opinion when it comes down to the individual immigrant.

The broad trend since 1965 in this country has been a dramatic shift away from European immigration to Hispanics and Asians. The five top countries of last residence from 1981 to 1993 (in descending order) were Mexico, Philippines, China, Korea and Vietnam, while in 1993, the top five were Mexico, China, Philippines, Vietnam and the former Soviet Union.

Motomura notes that Soviet immigration to the United States has increased dramatically since the end of the U.S.S.R., but has slowed from Korea as that nation's economy has prospered and the country has become more democratic.

People born in Mexico accounted for 14 percent of those who legally immigrated in 1993, twice as many as

the next closest country, China, at 7.3 percent. "And, as you might expect," he notes, "there's a lot of illegal immigration from Mexico."

Many undocumented immigrants are students and others who show up illegally and delay their departure or never go home, although students who overstay their visas don't usually stay very long, he says. "However, there are plenty of people who came from Europe 20 or 30 years ago and never went home when their visas expired."

Motomura notes, "Until recent changes in border enforcement policy, lots of Mexican workers commuted illegally by rubber raft across the Rio Grande to jobs in El Paso, Texas, but went back home across the border every night. "Was this so illegal if it was official policy to tolerate it?," he asks.

"Much of the Hispanic population has been in this country longer than much of the Anglo population. In that sense, I don't think of Hispanics as particularly an immigrant population," he says.

"People of Hispanic origin were living here when parts of this country were Mexico, and this is true throughout the American Southwest. As these Hispanics say, 'We didn't come to the U.S., the U.S. came to us.'"

Motomura believes the demand for entry into the United States will continue to be strong. "Our whole history is based on immigration, so it's not as if all of a sudden people want to come. But we are going to see stronger enforcement measures for fighting illegal immigration coming out of Congress and the executive branch. Some of it will be in the form of more appropriations for enforcement by the Border Patrol."

As evidence, he cites the Clinton administration's backing of stronger enforcement and the fact that the Immigration and Naturalization Service has been one of the fastest growing federal agencies, receiving major budget increases in each of the last two or three years.

In addition, the current climate has forced a rush on naturalization all across the country. "It's a self-defense mechanism we've seen develop just in the last year and a half or so with respect to the entire immigrant mood."

In the 1993 federal fiscal year, 522,000 permanent residents applied to become citizens, while in 1995 the INS expected to receive 800,000 naturalization petitions.

In 1990, Congress began the process of developing some major revisions of the Immigration and Nationality Act by establishing the 11-member Commission on Immigration Reform. One of the commission's recommendations is to create a national computer data base that employers will be required to check before hiring to see if prospective employees are eligible to work in the United States.

Moreover, both houses of Congress are considering sweeping changes to immigration law not seen for several decades. The commission has recommended that certain categories of people who traditionally have been allowed to come be eliminated, for example, brothers and sisters of U.S. citizens. "That's a dramatic shift in policy," Motomura says.

If we could take the visa allocations for brothers and sisters and give them to the quick reunification of immediate families, I think that would be good. What I don't like is what seems to be happening, and that is eliminating the brother-sister category and not replacing it with anything. I would rather cut the waiting lists and give faster entry to spouses, and to children under the age of 21, of permanent residents."

He believes efforts to reduce illegal immigration are necessary, "although I think Proposition 187 is

absolutely the wrong way to go about it. To keep kids out of school, to deputize doctors and emergency room nurses, only leads to a lot of trouble down the road. But I'm in favor of the idea that we should have stronger control of the borders."

"Proposition 187 is a state law that, although it is not immigration law as such, definitely affects noncitizens. I'd also like to see more discussion of the interests of other states. Somewhat cynically, but not unrealistically, Proposition 187 is a way for California to foist its problems on Colorado, or on North Dakota," Motomura says.

"California has benefited for many years from immigration, both legal and illegal," he notes. "It may be that California shouldn't be allowed to resort to self-help unilaterally through state policy when this is something that is a national-level issue. Proposition 187 really is an issue of the constitutional rights of states as much as it is about the rights of aliens."

And it's an issue that will provide fuel for future debate in law classes as well as in the public arena.

Notes

1. Permission to reprint this interview was provided by Ms. Jeannine Malmsbury of the University of Colorado Office of Public Relations. This interview appeared first in *Summit Magazine*, a now discontinued publication of the University of Colorado.