

Transcript of Fourth Emma Lazarus Lecture 2013

Delivered By Jagdish Bhagwati, University Professor, Economics, Law, and International Affairs, Columbia University

Given at Columbia University

Link: <https://www.youtube.com/watch?v=y75hu4GS-FI>

Jagdish Bhagwati:

I am delighted that the Provost, Professor Coatsworth is with us. He is very busy of course as you can expect; he's got to compete with other places like NYU that have more money than we do, but he's doing pretty well. He's doing pretty well, and it's awfully nice of you to accept our invitation, and he's going to basically inaugurate the lecture and the discussion. Unfortunately, he'll have to leave, but we're lucky to get 10 minutes of your time; that's worth a lot!

John Coatsworth: Thank you, Jagdish. That's a wonderful introduction. Yes, indeed, I am Provost of the University, John Coatsworth. I'm enormously busy... The good news is I have a job that no one else can describe. It's the best job in the university since the job description has not been well publicized, so if I don't do what I'm supposed to do, no one really knows.

I'm especially delighted to be here this evening to welcome you to the Emma Lazarus' Lecture. Now in its 10th year, this lecture began in 2003 with the formation of the interdisciplinary program which tonight's speaker, University Professor Jagdish Bhagwati leads. The Program on International Migration, Economics, Ethics, and Law is housed in the Law School and acts as an umbrella for faculty and students engaged in research in the multitude of analytical and policy-related issues raised by the international flows of humanity. Faculty affiliated with the program come from disciplines as diverse as economics, philosophy, sociology, political science, international relations, and law.

The first Emma Lazarus Lecture was given by former U.N. Secretary General Kofi Annan who lauded the introduction of this program dedicated, to the exploration of international migration and human rights. He stressed the importance of such an endeavor at a global institution such as Columbia located in the city of New York, a city that he said has been the archetypical success story of international migration. He also noted that we could not have chosen a better person to name it after than Emma Lazarus whose unforgettable lines are inscribed on the base of the Statue of Liberty. Audience members left that first lecture on international flows of humanity reminded about the relevance of Ms. Lazarus' words from more than a century ago: "Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your

teaming shore. Send these, the homeless, tempest-tossed unto me. I lift my lamp beside the golden door.” Lazarus’ poem permanently stamped on the statue, the role of unofficial greeter of incoming immigrants, and 10 years after the first Emma Lazarus Lecture, we return to the topic of immigration with tonight’s lecture on Rethinking Immigration Reform: Shifting to Human Rights.

Along with the Program on International Migration, tonight’s event is co-sponsored by the Center on Global Economic Governance at the School of International and Public Affairs, SIPA. I will now turn the podium to Michael Doyle, the Herald Brown Professor of International Affairs, Law, and Political Science, who will introduce tonight’s speaker and the discussants. He has a difficult job; introducing Jagdish Bhagwati is a little like introducing the Pope to the College of Cardinals. It makes for a nice ceremony, but it’s hardly necessary. Michael...

Michael Doyle (3:54):

Thank you, John, for those wonderful words. I want to join John in welcoming you all to the fourth Emma Lazarus Lecture in addition to my former boss, Kofi Annan, who gave the first one, George Rupp, the president of Columbia and distinguished president of the International Rescue Committee, gave the second lecture. The third was given by the equally distinguished historian of science Gerald Holton, and now we have the great pleasure of the fourth lecturer in the Emma Lazarus Program. We live in a strange world, a world where there is a fundamental and quite well-established right to emigrate with an ‘e’, first enunciated in an article XIII of the Universal Declaration of Human Rights, but there is not a right to immigrate in any particular country, at least not one established internationally unless you have a well-founded fear of persecution—that is, you qualify under the 1951 Refugee Convention. So, we live in a non-correlative world; it is very striking; you have a right to leave, but not a right to enter. So as a result, every country sets its own rules of immigration driven by a whole range of factors, some having to do of course with labor demand, specific or general others having to do with family unification for existing citizens by ethnic, national, religious and other solidarities by concerns for national security and cultural homogeneity and many other factors enter into a mix all of which are shoveled through the broken funnel of political aggregation which then produce the laws that countries like the United States live within. Now, they often produce restrictions that have very large human costs and they do not always serve the purpose for which at least they have been publicly justified.

And this evening, we have a chance to rethink immigration reform, shifting to human rights, and that is the title by our eminent colleague, Jagdish Bhagwati. We’ll have discussions from Guillermina Jasso and Peter Spiro. I will not give them the introductions they deserve. This is the Pope, at least in Jagdish’s case before the College of Cardinals, but I just want to note that Jagdish is—I think we all here would agree—the preeminent defender of the positive contributions associated with globalization and predominantly focused on his work in international trade, but many, many other issues. ___?___ noted once that Paul Samuelson described Jagdish as the Haydn of Economics, referring to the fact that he had produced so much

that was so good like Haydn's symphonies and other compositions have been; that's an honorable attention. One might want to ask Paul Samuelson who he had in mind for Mozart and Beethoven, but it was probably Paul, right? But, in any case you are the Haydn of Economics, and that a very distinguished attribution.

We are equally fortunate, I think, in the commentators. Prof. Guillermina Jasso is the Silver Professor of Sociology and a widely experienced, productive researcher in sociology with real world experience as an advisor to INS and to the famous Select Commission on Immigration and Refugee Policy, the author, somewhat recently of a new book, "The New Chosen People: Immigrants in the United States", and we're also very happy to welcome here Prof. Peter Spiro, the Charles Weiner Professor of Law at Temple University. He's also the author more recently, of "Beyond Citizenship: American Identity after Globalization" and "Dual Citizenship in America and the World". Please join me in welcoming them, and Jagdish, the floor is yours. Jagdish will speak for twenty or thirty or thirty minutes or however long he likes, and then we'll have our two discussants, and then we'll have questions and answers: questions from you, answers from them in the audience afterwards for about twenty to thirty minutes. Jagdish.

Jagdish Bhagwati (8:44):

Thank you very much Michael for those exaggerated remarks about me. I hope to be able to live up to them. Michael himself is, of course, a major authority on migration. He was the advisor to Kofi Annan actually when the immigration commission was being set up by the Swedes and by CIS, and so I think he bears some responsibility for what's going on at the U.N. right now, but it's a pleasant responsibility, and it is something you can be quite proud of.

I decided to use this occasion to talk about immigration reform because that was the original intention of the lectures. Of course we had George Rupp talk about refugees which actually has become a very big issue right now and dwarfing the kinds of things we're going to talk about today in terms of the numbers that are involved. And then we had... people talking about Gerald Holton about the refugee children escaping from the Nazis and how they managed to achieve it, and in fact we had Eric Kandel and Fritz Stern, two hugely famous figures who themselves were among the subject matter of this particular immigration. And, we had a variety... we've cast our net pretty wide, but right now, the immigration reform on illegals is clearly the big thing in front of the U.S... I'm going to lecture from the U.S. perspective, not, from the international perspective which people can (resent?), but I think essentially you need to focus on something that's particularly relevant, and even as we talk, the President is busy trying to get the immigration reform going. Now, it's called—before I forget—I've been working on this with Francisco Rivera Batiz with whom I have this lecture and my young R.A. May Yang who's also sitting in the audience, so I would like to thank them for helping me over the years to think about these issues.

So, it is called comprehensive immigration reform, but it's comprehensive in a way which isn't really compelling because when you think of comprehensive, you should mean refugees; you should mean legal immigration quotas across the board not just for the skilled immigration, and you should talk about illegal immigration. If you look at the history of American immigration legislation, by and large it's divided into these three: how do you allocate legal quotas, how do you manage illegal immigration and refugees. So, in no sense is the current thing before Congress comprehensive. It is focused basically on illegal immigration. You have one particular element there that might make it quasi comprehensive, and that is H1B visas for skilled immigration. Now you might ask "why is this big buck here", and the reason, of course, is purely political. They wanted additional bodies, particularly of skilled gigantic size like Bill Gates, to be in favor of H1B visas because they're always running out of quotas for this, and around the world, countries are beginning to compete for skilled labor. So why put it in here? Because as soon as you put it in here—guys like us who would qualify for H1B, are not really going to do it illegally; the cost is too high if we get caught, right? You can really get your way out—it has nothing to do with illegal immigration at all, but you want more people with clout to come in and be the cheerleader for the reform which is basically that, illegals.

So that is basically that, ; they've actually admitted that they want the Gates and "Intel", all these people to come in with their troops and say: "Look, if you give us more H1B visas, then we will give you our support. The problem is somewhat like international trade where you bring in a new issue, and that helps you to do tradeoffs among that issue and some other thing, but with immigration, whatever you bring in, has its own divisions; so, against the "Intel" and Bill Gates are a whole lot of engineering lobbies which say: "no, no we actually don't want that", so you're actually incorporating more dissent; it's not really helping you at all, mind you, but anyways, that's the only element, and that has nothing to do.

When we were doing IRCA in 1986, at that time we were in fact explicitly discussing guest workers, and bringing in legal labor so that that would cut in into the illegal demand, right? But that was clearly aimed at affecting a set of policies, incentives, and punishments to reduce the inflow, so this was an incentive policy, but, of course, it didn't really work, so I think the first thing to learn is don't buy the word 'comprehensive; I mean, that's a misnomer. We're so used to calling things by names which don't really belong to them.

The other main point I wanted to make before I get on to the thesis of what I have is that the problem with illegal immigration is of course another element of the American approach to life which is to use euphemism and to use phrasing which really obfuscates the problem rather than solve it. So, when it comes to illegal immigration, I'm going to be fairly forthright. I've discussed this with Francisco with whom I wrote the paper because as you can imagine, he's Puerto Rican and Hispanic. So, I say we should call a spade a spade. The problem arises with illegal immigration because there are two sides to it.

(15:49)

One is as Americans, we like the fact that these are immigrants, so our right brain tells us that this is a good thing; we should support them, but the left brain is for the rule of law, and then these are illegals, so you got a real problem here of how to set about doing it, and I'm going to develop that theme to see why comprehensive immigration from the top-down in Washington is not going to be an easy phenomenon, and then, I'm going to argue that even if it was easy, it doesn't really address any real problems which we need to worry about, so it's going to be a two-part thesis. The first one of course is to say a lot of people get into politically correct ways of describing the illegal immigrants. Many groups don't like the word 'illegal immigrant'; you can't say the world 'illegals', that's more pejorative, but 'illegal immigrants', they are illegal, so we're supposed to call them according to many politically correct people 'undocumented'. So when it comes to 'tell-call', calling them by the two names which will then reveal to you the fact that it's because they're illegal that the problem arises in the first place, therefore, in the political domain. If they would come in legally, we wouldn't have this problem, so this is why I say that it obfuscates the problem. The other point, of course, is that they're often called, when it comes to the stock of immigrants and giving them amnesty, the politically correct thing is to say: call it 'legalization process' rather than an 'amnesty'. It is an amnesty of course. I've never heard of an amnesty—maybe there are some where you don't have to fulfill certain criteria; you can't just walk in and say 'I'm fine', a new start with a clean slate, but we have to call it 'legalization process'. We have two 'pc' things which are opposed to each other. First, you can't call them 'illegal immigrants'; on the other end, when it comes to giving amnesty, you call it a 'legalization process', so you're supposed to be 'legalizing people'. You can't call it 'legal'... well... you can... but this is America, and that's the way we discuss these things.

So let me now come to the substance of the problem which is how we look at this phenomenon and what we can do by way of immigration reform. Immigration reform has two problems, forgetting about the comprehensive points I was making. The real problem there is that when we come to Washington and the bottom-down process, meaning legislation in Washington to address immigration reform; the problem there is that this right brain-left brain problem becomes a very difficult one because typically, the world divides in Washington and then elsewhere, where it becomes contentious into two sets of people: those who really want to focus on the fact that these are immigrants; then, there are people on the other side, the opponents of reform who are of treating immigrants differently, more favorably; they're on the other side. So, it's a bit like schizophrenia in the sense that these are two different set of groups, so we basically have a situation where today the Democrats are the proponents of reform. The Republicans, by and large, are on the other side. This hasn't always been the case, and as a Democrat, I have to be honest: when you look at the unions' approach to illegal immigration, there are books written on the subject where the unions were behind the employer sanctions—Peter, you remember that—and so, they've now changed on the grounds that these guys are here to stay, and we're better off putting them on our side because there's no way we can keep them out. So earlier on at the time

of IRCA, the Immigration Reform and Control Act, the unions thought these sanctions would work to keep these guys out; well it hasn't worked, so they have changed their position, so whenever you look at these things you have to take into account that the political interests are not so good on one side and so bad on the other side. And so, I think that is one thing we'll need to remember. So today, certainly, the good guys are, from my point of view, the ones who are actually Democrats, and the bad guys, meaning guys who want to be tough, are the ones who focus on the rule of law. The trouble is that every time the proponents, the Democratic proponents like Bill Clinton, President Obama, and so on have wanted to get reform through, they have had to make concessions to the anti-immigration people so as to get the legislature through, or at least attempt to get it through. So, good guys are in the game of having to appease the bad guys to bring them onboard. Now the effect then there is, is that you wind up making concessions to the opponents of reform which are actually deplorable. Because, what does it do? What did President Clinton do—just to give out... After the IRCA in 1986 the largest numbers of helicopters amounted; the border was militarized. There were operations listed at typical entry points. They were actually called operations like if it were a war being fought and so on; fences were built; trenches were dug; the Republicans started some of it, but a lot of it was done by President Clinton. He had to carry credibility with the guys to have the reform go through from Washington.

You take President Obama, now that's much more current: he too had to do some of that, but he shifted also to deportation, not self-deportation under Mitt Romney, but deportation. The largest number of deportations, if you draw a chart, you will see that the largest number of deportations were by President Obama historically. Now, why does he do that? I don't think he has an interest in deportation as such, but he has to get the legislation through, and so, if you're going to look at what has in fact been passed in the Senate: huge numbers of concessions being made to people who want border enforcement and tunnel enforcement to the point where you actually disrupt people's lives, and the result of all these fences and trenches and so on is that a lot of people started crossing the desert, and there are large numbers of people being killed, so you actually worsen the position for the immigrant without actually affecting the inflows, and that's going to be my next point, that you are losing a lot by view of human rights, and getting little impact on what is called controlling the border, which is the way the opponents put it, so the main problem is that when you try to do it from the top-down, because you got to carry the opponents onboard, and they are by God, vociferous and articulate and they demand all sorts of guarantees like you got to prove that you're actually controlling the border; "you're enforcing it." You have to look at the detail in the Senate Bill to find out—I don't want to bore you with them—but take my word for it: it is really rough stuff, really rough stuff, so you are getting actually a situation where you're ruining the lives of these people but are you getting any results in terms of controlling the border? Because otherwise, it becomes a game where you lose and you don't gain. You lose on Human Rights with the way you're treating people both at the border and once their inside, through the raids and so on because you can't deport people without

raids etc. So you get deterioration of that value which I think is an American value of treating people well, immigrants, and you are actually gaining nothing as far of control of the border.

You have to look at what has happened to the numbers which were supposed to be reduced in terms of the stock of illegal immigrants and the inflow. That was the intention of the IRCA legislation of 1986; at that time, I'd written an article in The Wall Street Journal saying that it wasn't going to work, and it's one time I wish I'd been wrong, but it didn't work, and it didn't work, and we're going to have the same thing again because you have more people coming in; we have no control over the border at all, and that's another thing I wanted to add a little bit on, further down.

So basically the approach I'm taking is that the top-down thing given this division, between the people who believe in the rule of law, or at least say so, and people who believe in treating people like immigrants and as people to support, it is a play which you cannot rule out. It's part of the American political scene, so we have to worry about going down that route, and why it will not work at all is because in the end what has happened today compared to even 1986 is that a number of things, factors, a number of developments have happened which make it impossible to prevent the inflow

One thing the unions, for instance, if you want a guest worker program that means the amount of legal immigrants would have to be substantial to have an impact on the illegal inflow, but the unions have now taken charge under the Obama administration, and they're part of the process by which the numbers that are going to be admitted have to be determined. In fact, this is also what the Germans had under the guest worker system under Gerhard Schröder. But since they have the control of it, they're never going to agree to large numbers coming in. If large numbers don't come in legally, how are you going to have an impact on the illegal flows? No way. I mean, you're just crying for the moon on that one.

Secondly, in terms of internal enforcement, trying to enforce something against one ethnic community, say Hispanics, to just take one ethnic community which is important; they're already so many ethnics here compared to before; who will... bad for you... they'll bundle you out of power which is what happened to Republicans to some extent in the last election. So that's cover protection, politically, which they didn't have before, and of course in my view, you don't have that kind of situation where people feel exposed and feel like an underclass; they don't anymore. I mean, there's an old joke about how bad people were when they didn't have these protections from the political process and the joke is about Chinatown and someone walks in to a Chinese Restaurant, a Jewish couple, and they find the waiter speaking perfect Yiddish, so they start complimenting him, and so the manager comes out and says: "don't tell him anything; he thinks he's learning English." Now that's a kind of situation where they did not have any real rights of any kind. They had to be completely protected all the time, and they lacked protection. Today, that's not true. Today, they're coming out openly, and even on the amnesty, they're not going to settle for a situation because the amnesty earlier, three million out of six million go the amnesty.

Today I don't think it'll be less; it'll be more than thirty percent or something because a lot of them are not the underclass in the sense they were before because they have these protections and so on, so they can openly march, which they do. It was sort of unthinkable that people would dare to take that public position because you would be in big trouble if you did that.

So I think given all that, I don't expect, even the stock of illegals whether it be legalization or amnesty will really be very much. And President Obama has made it very clear that you can overturn everything through executive action, right? I mean, you know, it's a legal question as to how long he can keep doing that. But if that is so, and because of the Republican intransigence, it's going to be spread out: maybe 10 years before you get your legalization, what is that going to mean? The Congress can change its mind. Nobody can tell the Congress "you can't change your mind" So if I'm not doing that badly—right?—am I going to expose myself to possible executive action nullifying the process or even the Congress changing or the Republicans coming in—you never know. I mean, that's what politics is—we say it in English: "Politics is like cricket"; I don't know what they say here, if you know what I mean, and so I think this is why I don't expect any real pact through the top-down process.

So we've been thinking about it, and this is where Peter Spiro has also written quite a bit and quite independently of us. So we were thinking about how do we get at treating immigrants better? The people will keep coming in, and that's one analogy often used which is that we sometimes think in terms of people coming in through Rio Grande who really, more than half are coming in legally and staying in illegally, but basically, whatever is the reason why the amount of immigration across the Rio Grande is stabilized, you've got about three billion people between India and china, and I challenge anyone of you to go and put your hand on the shoulder of a Chinese guy or an Indian guy and say "do you want to go to America?" What do you think the answer will be? The guy's going to say: "where's the visa, and where's the plane?" Right? They all want to come here if they all want to come here or most of them, then we can't afford to pat the company as we were saying using that phrase because we can't afford to dismantle great barriers because whether we like it or not, we're both blessed by the fact that everyone wants to get here, and we are also cursed by that fact. So, we have to worry about keeping restraints on, and if you keep restraints on, then there's going to be an internal premium gained from being able to get in. imagine another scenario where you send any number of feds to get rid of Al Capone in Chicago. As long as Prohibition is there, the trucks will keep coming across the border, and I think that's really the issue: that we're never going to be able to... and that's what I mean by the curse; to be able to think of a set of policies no matter what punishments which are, of course, themselves constrained by the politics and so on, or incentives, meaning bribes and so on: none of it will ever manage to eliminate illegals from our midst, so that's my first proposition that we have to learn to live with these people. If we're going to have to learn to live with these people, how do we treat them with humanity? Because that's the only thing we can do; we don't have any real control over the border.

Saskia Sassen, I met Saskia Sassen following me. She wrote a book and I wrote an article. Economists write shorter pieces usually; sociologists go on and on, you know. Basically, it was called “Borders Beyond Control”—I’m sorry really, you’re more like an economist in terms of the length; it’s easier to read you really. And, so what you have is a situation where you are not able to—borders are beyond control is the phrase we use. You can’t control the borders. People will come in whether you like it... They’re going to come in anyway, so controlling the border is not a valid option, but treating people who are here with humanity is.

Now, if you say “look I’m going to treat them with humanity, how do I do it?” because you’ve been talking about how Republicans want to do unspeakable things to these guys and Democrats want to do good stuff to them; so, how do we get Washington to do anything? Forget about Washington. That top-down approach is shot-through with these problems, and it didn’t work in ’86; it is unlikely to work now, and even if you it enacted, it’s not going to make any real difference to the situation in terms of how illegals are to be treated, so then we say: “think of a way in which you could actually facilitate the doing better, and this is where if you ask Washington, it is highly unlikely to happen at least in a stable way, all right? For the reasons that I’ve mentioned

So, this is where what Peter has been writing and we have been writing also comes in which is: we think taking it to the state level and having the bad states compete with the good states in terms of the way they treat illegal immigrants, becomes a viable option, and this, I don’t call it “race to the top” because that suggests you go all the way, but “race towards the top”, so Arizona, Alabama loose labor because they’re not treating well, and these guys come up to New York and Vermont and whatever, you know, all these good states, and if that begins to happen, the political equilibrium begins to shift because the people who are losing the labor—business groups and so on—will begin to go and try to change the legislation, and they’ll try and work at it. And, if that begins to happen, then people are going to be paying attention, so it may mean a convergence over time, and I hope Peter will pick up this much because you know much more about it, of the legal side as well. If this begins to happen, you begin to get the bad states changing their laws gradually towards what the good states have, and that’s how you begin—so Washington never gets involved in this. Washington only gets involved in Federal legislation which has to do with who gets in and stuff like that. I mean, legal allocation of quotas, and the Supreme Court also has to be brought in to the act and allow this—you know like drivers’ licenses and all the other things California is doing right now; that’s another good state with the drivers’ licenses and a variety of things like that—so that is basically the one possible which would improve matters, and the fact that people need this labor is obvious from an economic analysis. In the book that I’m writing, I’m going to have a cartoonist draw a fun jacket where they’re digging trenches and building a wall and they’re complaining that we can’t build this wall because there’s no illegal labor available, right? So it’s a building contradiction, an oxymoron, but that is actually true; that is actually true, and that we can count on.

Of course, there are many problems with this solution also, but it's still a way out. It will I think improve the wellbeing which is the one thing we can actually think about carefully, so there are some people who are cynical and say Americans don't believe in doing things like that. I'm a first generation immigrant, and I walk on my own two feet because I do think America has these values, and so I think this is something we need to work on, and I think it offers a promising approach to the way we think about these problems.

I will also say one final thing because I think it's something on which both of you have written, and I came to Columbia before your time in 1980. In fact I got an immigrant visa in 1968, your predecessor, the Provost, gave me—I think it was a visa for visiting professors. I had no intention of coming here, but somehow they worked it so that I got an immigrant visa. So for years I had an immigrant visa because after that I did come, but I didn't come to Columbia; I went to MIT instead using the Columbia-procured visa; there are no loyalties in this game. So, that was something where you really were able to essentially use the green card I had, and then I did a lot of work on immigration at that time from a different angle, and then the human rights' professors like Newman who was the early human rights' guy. So, I was discussing with him, and he said that essentially “there's no reason that one would need to worry about human rights on these kinds of issues”, and of course he made the point Michael was also making, so at that time I went through a lot of literature on what is it that green-card holders can do in serving citizens... and over time the Supreme Court narrowed down the distinction between the two in a very significant way, so you're as good as citizens except you don't have to go and be on jury duty; now unless you're of perverse character, which I'm not, I mean that's an advantage, not a disadvantage. And so, I would just say right now, we could really help illegal immigrant on the journey towards better treatment and so on. As a Democrat, I would not say that I'm going to insist on full legalization and naturalization; I would simply say you can get most of what you want by just getting the green cards, but that's not what the Democrats are interested in because they want the vote; the vote means you've got to be naturalized citizens, and the Republicans are opposing it because they don't want the vote to be given to these guys , so the two parties are fighting for their own interest rather than the welfare of these poor guys who are in the middle.

So I will just say that in the end, one of the things we need to worry about is we can get some more mileage not just through inter-state competition, but there's many things we can look at and, you know, advance the agenda where we look at the welfare of these guys and work at it in my opinion, and so that's where I want to leave it. I think we need a rethink along these and other related lines.