

Legitimacy and Criminality

Given how much immigrants, the press, and government officials all knew about alien smuggling, as the above evidence suggests, it might seem surprising that smugglers managed to evade U.S. and foreign authorities as often as they did. In part, the alien smuggling business succeeded because it relied not just on the few leaders the government tended to pursue. Rather, alien smuggling was an extensive underground economy that depended on complex networks along every part of the route, and included prominent community members and government officials. The network also included ordinary people working regular jobs, who were involved with smuggling on the side: boarding house and hotel employees who might solicit business or serve as messengers, or train conductors and ship workers who would turn a blind eye to aliens illegally in transit.⁶⁹ Smuggling rings were elusive in part because they were intertwined with every element of the social spectrum. Even the trade's bigwigs often straddled the worlds of legitimate and criminal enterprise. As with the issue of ethnicity, the question of smugglers' legitimacy and criminality reveals the slipperiness of the categories themselves.

Both government officials and journalists had reason to be interested in painting smugglers as sinister gangster types—government officials because the smugglers were their antagonists, the press because they wanted to sell papers. The *Saturday Evening Post*, for example, portrayed “menacing” alien smugglers in the slangy language of pulp fiction: “As a lot they are distinctly bad hombres. Recruited from water-front rats, cutthroats and racial outcasts, the criminal riffraff of all nations, attracted by the big money rewards, the ringleaders in this human traffic trim their unfortunate victims going and coming, relieve them of their wads without rendering the slightest quid pro quo, and when caught in a jam with the law, jettison them without mercy.”⁷⁰

But many accounts suggest that alien smuggling could often seem a rather ordinary business, one in which people engaged because it offered decent, steady money. Like other industries during this era of corporatization, alien smuggling was becoming increasingly rational and efficient. As Weiss reported, the smuggling businesses that ran via large ships operated as clandestine versions of their legitimate counterparts, the shipping companies, with just as many middlemen performing the mundane labor of moving people from place to place. “The larger combinations of smugglers have regular representatives in the States just like a legitimate steamship enterprise has offices in various cities,” he wrote. “They also

69. Weiss Reports, Feb. 13, 1925, April 4, 1925.

70. “Smuggling Aliens Across Our Borders,” 25.

have responsible businessmen with post-office box addresses at their command, in whose care the smuggler fee is mailed by relatives of smuggled aliens."⁷¹ Similarly, in a 1931 story on the government's stepping up of its antismuggling efforts, the *New York Times* quoted Assistant Secretary of Labor Murray Garsson as saying that alien smugglers "have offices in the large American and European cities, retain able lawyers . . . and have considerable political influence."⁷²

Some smugglers were involved in an overlapping mix of legitimate and illicit businesses.⁷³ Dr. Jamieson, the American Jewish optician in Havana whom Weiss called a "smuggler king" of the Cuban trade and who specialized in transporting eastern European Jews, operated a perfectly proper optical store and moved in apparently respectable social and financial circles.⁷⁴ Of course, many smugglers probably used businesses merely as fronts. Reports on Joseph Rubinsky make it seem doubtful, for example, that he really intended to make his money exporting furs from interwar Poland, as he claimed, or that his colleague Weisstein had prospered in the mushroom trade, which he asserted was his business.⁷⁵ Rubinsky also claimed to represent the Russian American Relief Package Forwarding Company, which, government investigators discovered, had indeed existed, and even accepted packages in the United States for immigrants' friends and family in Russia. The company ceased operations in 1923, however, after people who had sent packages complained to the Kings County District Attorney that the shipments never reached their destinations.⁷⁶

Many employees of legitimate enterprises and institutions who were otherwise not working in the smuggling trade could become involved through bribery. Some rabbis and town officials in Poland could be persuaded—for a fee—to sign marriage certificates and fake birth certificates. Judges in Havana, Weiss learned, were similarly amenable.⁷⁷ Payments could take the form of assets other than cash, he explained: "On the Ward liners there is always between 50 and 200 cases of booze taken to New

71. Weiss Reports, Apr. 4, 1925.

72. *New York Times*, Sep. 28, 1931.

73. For an insightful exploration of the blurred boundaries between organized crime and legitimate business during this era more generally, see Ruth, *Inventing the Public Enemy*, chap. 2.

74. Weiss Reports, Feb. 6, 1925.

75. Report on "Joseph Rabinsky (Rubinski)," n.d., file 55423-414, entry 9, RG 85, NA.

76. Report of Immigrant Inspector Mintzer to Commissioner of Ellis Island, Jan. 14, 1924, file 55423-414, entry 9, RG 85, NA.

77. Weiss Reports, Feb. 10, 1925.

York to be used as bribe of all the officials on the dock from the lowest to the highest (I mean officials of the Line) and sometimes customs and immigration officials also, so that they do not interfere with the landing of the clandestine passengers.”⁷⁸ The businesses of liquor bootlegging and alien smuggling were thus further intertwined, as one valuable contraband commodity was offered in payment to smooth the entry of another, and both often were carried out through legitimate business channels.

Despite government officials’ insistence in their correspondence and reports that smuggling was something done by operators out there in a shadow world of their own, the networks of those enforcing the laws and those evading them often were linked. American officials who wanted to take advantage of the power afforded by their positions to cash in on the demand for smuggling services sometimes went beyond the relatively passive step of accepting bribes. A Havana correspondent for a New York Jewish newspaper told the U.S. consul general there about Bernard Kohn, a Jewish clerk who worked at the consulate and sold fraudulent visas on the sly.⁷⁹ And Warsaw Vice Consul Harry Hall (though ultimately released on probation in exchange for serving as the state’s witness at the 1930 trial of Jewish alien smuggler Morris Baskin) pleaded guilty to selling fraudulent visas to smugglers, albeit with the mitigating plea that he only agreed to the scheme because he was under the influence of the vodka with which the smugglers plied him.⁸⁰

Smuggling and government were interconnected in other ways too. Some smugglers lured clients by mimicking government personnel. “Morris Baskin,” the *New York Times* reported during the smuggler’s trial, “posed in the country districts of Poland as a high American official, and in order to impress his supposed dignity on the credulous people he wore a high hat and silk knickerbockers.”⁸¹ One immigrant who entered with forged documents recalled that he got his papers at what he thought was the American consulate in Warsaw, but which was in reality only an office smugglers were using in the consulate building.⁸²

78. Ibid., Feb. 19, 1925.

79. F. T. F. Dumont, U.S. Consul General, Havana, to Secretary of State, Feb. 14, 1933, file 150.069 (“Kohn, Bernard”), General Records of the Department of State, record group 59, National Archives (collection hereafter cited as RG 59, NA).

80. *New York Times*, May 28, 1930. See also file for case no. 26606, Eastern District Court, NY, National Archives and Records Administration, Northeast Region (New York City). Extensive documentation on the Baskin case also was kept on file by the State Department in Washington, DC. See file 150.069 (“Baskin, Morris”), RG 59, NA.

81. *New York Times*, Mar. 5, 1930.

82. House Committee on Immigration and Naturalization, *Private Relief Bills Regarding Irregular Admission Documents: Hearings*, 105.

However much of a con game these performances were, smugglers' impersonation of government officials rested on a certain truth about their similarity. Just as smugglers' shipping operations offered services comparable to those of the regular lines—albeit with much greater risk to immigrants—so alien smuggling rings functioned in some ways like government bureaucracies, issuing the papers that made travel possible and accepting fees for these services. In ironic acknowledgement of this, Jamieson's colleagues, Weiss reported, referred to him as “the Jewish Consul.”⁸³

The Disappearance of Jewish Illegal Aliens

In June 1930 the assistant U.S. attorney in Miami sent a letter to the U.S. attorney general, regarding the case of Chaim Josef Listopad. Charged with violating the law for his attempt to enter the country with Samuel Weisstein's naturalization papers, Listopad had disappeared after he was released on \$3,000 bond. The immigration inspector in charge at Miami conceded to the U.S. attorney's office that “I have heard nothing of his whereabouts and it is my opinion that the chances of his being apprehended are very remote.” In light of this, the Florida authorities agreed that the case should be dropped. There is nothing more on Listopad in the file after this.⁸⁴

I conclude with the story of the vanished Listopad because his disappearance evokes the erasure of European illegal immigration from our historical consciousness mentioned at the outset of this article. The history of Jewish alien smuggling, however, begs the question of how that erasure has happened—why, in other words, European immigration to the United States is so rarely associated with illegality in scholarship or in current discourse. Indeed, the phrase “Jewish illegal alien” sounds downright strange, for the idea of the “illegal alien” has become so strongly identified in the United States with other groups, notably Mexicans. I would like to suggest just two possible reasons why this is so. The first is the strong communal and historiographical investment in what one might call “the narrative of the good immigrants” of the late nineteenth and early twentieth centuries—the story of those who came by ship, worked hard in the nation's booming industries, became naturalized, and worked their way up the socioeconomic ladder. For the most part, historians of Jewish and other ethnic communities have worked to treat their subjects

83. Weiss Reports, Jan. 31, 1925.

84. B. R. Cisco, Assistant U.S. Attorney, Miami, to the Attorney General, Washington DC, Jun. 20, 1930, file 55423-414, entry 9, RG 85, NA.

with admiration and respect. Indeed, for many historians, myself included, immigration history is a project connected to family histories, and thus it is natural that historians are sympathetic to their subjects. In our contemporary culture, illegal aliens are not generally celebrated as heroic resisters of oppressive regimes. The most negative views in circulation today see them as racial, linguistic, cultural, and/or religious outsiders who become criminals by breaking U.S. immigration law, and among whose ranks there are some who threaten the fundamental well-being of the country. This notion of illegal aliens does not fit our collective image of earlier immigrants, and thus, for the most part, we have not looked at historical sources on immigration with illegality in mind.⁸⁵

The uncoupling of Jewishness and illegal immigration status was also the result of a complicated historical process that began while the quota laws were still in force. Not least important in this process were the strenuous political efforts of American Jews themselves, who feared being associated with illegal immigration precisely because, as we have seen, they sometimes were. American Jewish leaders, for example, responded to the increase in Jewish illegal immigration by walking a fine line between insisting on Jews' inherent law-abidingness and advocating for less stringent application of the quotas. They lobbied for clemency in individual cases, pleading that many of the Jewish immigrants caught violating the new laws were not criminals, but rather deserving people suffering great hardship, and

85. For an insightful critique of the generally celebratory nature of American Jewish history, see Tony Michels, *A Fire in Their Hearts: Yiddish Socialists in New York* (Cambridge, MA: Harvard University Press, 2005), 16–19. The literature on Jewish criminality in general is fairly slim, although it is growing. For example, on Jews and early twentieth-century racketeering, see Michael Alexander, *Jazz-Age Jews* (Princeton, NJ: Princeton University Press, 2001), part I. On Jewish involvement with trafficking in women, see Bristow, *Prostitution and Prejudice*. On Jews and liquor bootlegging, see Marni Davis, "'On the Side of Liquor': American Jews and the Politics of Alcohol, 1870–1936," (Ph.D. diss., Emory University, 2006). On Jewish gangsters, see Albert Fried, *The Rise and Fall of the Jewish Gangster in America*, rev. ed., (New York: Columbia University Press, 1993); Arthur A. Goren, *Saints and Sinners: The Underside of American Jewish History* (Cincinnati: American Jewish Archives, 1988); and Jenna Weissman Joselit, *Our Gang: Jewish Crime and the New York Community, 1900–1940* (Bloomington: Indiana University Press, 1983). For a discussion of Jewish criminals in literature, see Rachel Rubin, *Jewish Gangsters of Modern Literature* (Urbana: University of Illinois Press, 2000). On Jewish commercial smuggling in tsarist Russia and tsarist policies in response, see Salo W. Baron, *The Russian Jew under Tsars and Soviets*, 2d. ed., (New York: Macmillan, 1976), 33, 85. For the European context in an earlier era, see Otto Ulbricht, "Criminality and Punishment of the Jews in the Early Modern Period," in *In and Out of the Ghetto: Jewish-Gentile Relations in Late Medieval and Early Modern Germany*, ed. R. Po-Chia Hsai and Hartmut Lehmann (Washington, DC, and Cambridge: German Historical Institute and Cambridge University Press, 1995), 49–70.

thus deserving of leniency. Meanwhile, these leaders also battled against measures they saw as criminalizing immigrants and ethnic communities more broadly, such as legislative proposals to register all aliens in the country, and the government's increasing use of deportation.⁸⁶

Many Jews, however, though decrying discriminatory immigration policies in a general way, avoided expressing solidarity with groups such as Chinese, Mexicans, or Filipinos, who were targeted as aliens during these years in an extremely racialized fashion. This points to the ways in which the success of American Jews' struggles to dissociate themselves from the specter of the "illegal alien" relied, at least in part, on their ability to assert themselves as whites. Unfettered access, as whites, to naturalization and other kinds of political and financial resources, for example, also contributed to American Jews' eventual escape from a permanent association with illegal immigration.⁸⁷

Like other European ethnics, Jews were among the ranks of the immigrants whose journeys to the United States became "illegal" upon passage of the quota laws. The history of Jewish illegal immigration points to the impossibility of defining citizens and borders, insiders and outsiders, and national and ethnic identities as cleanly as states would like. Border control has always been an elusive goal, and likely will continue to be so, whatever policies a government tries to impose. Paying attention to the illicit networks that moved people from Europe to the United States—the business of immigration gone "underground"—highlights the fact that immigration did not stop with the quota laws, radically diminished though it was. The U.S. government never managed to "close the gates" entirely.

86. For more on these political efforts of American Jews, see Libby Garland, "Through Closed Gates: Jews and Illegal Immigration to the United States, 1921–1933," (Ph.D. diss., University of Michigan, 2004), chaps. 2 and 5. For a discussion of how the administration of immigration policy helped "unmake" European illegal aliens, see Ngai, *Impossible Subjects*, 75–89.

87. On the targeting of Mexicans (and Mexican Americans) as illegal immigrants during this period, see Francisco Balderrama and Raymond Rodriguez, *Decade of Betrayal: Mexican Repatriation in the 1930s* (Albuquerque: University of New Mexico Press, 1995); Abraham Hoffman, *Unwanted Mexican Americans in the Great Depression: Repatriation Pressures, 1929–1939* (Tucson: University of Arizona Press, 1974); George Sanchez, *Becoming Mexican American: Ethnicity, Culture and Identity in Chicano Los Angeles, 1900–1945* (New York: Oxford University Press, 1993), chap. 10. On the way Filipinos were increasingly defined as unwelcome racial outsiders during this period, see Ngai, *Impossible Subjects*, 107–126.