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Volume 31

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Recognition of Former Editors

A special thank you to the former editors of the Harvard Kennedy School Journal of Hispanic Policy, whose legacy continues to be a source of inspiration for Latinx students Harvard-wide.

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Editors' Note

The year 2018 both started and ended with a contentious government shutdown over various aspects of US immigration policy, with Congress and the Presidency negotiating over who gets to benefit from legal status in this country—and who gets teargassed, separated from their family, and put into detention camps. While the focus of federal lawmakers turned to physical barriers along the US–Mexico border, Latinx community organizers and activists saw beyond this single policy issue, recognizing that policies produce ripple effects that impact our community in a variety of different ways.

The theme of the 31st volume of the *Harvard Kennedy School Journal of Hispanic Policy* (HJHP) is “Behind the X: Intersectional Latinx Perspectives,” seeking to highlight the various ways in which policy impacts the Latinx community across our different intersecting identities. Each piece in this volume analyzes a different intersection of the Latinx community and policy, from environmental racism and Latino farmworker health in California’s Central Valley to the effects of respectability politics on Latina public figures from Cardi B to Alexandria Ocasio-Cortez. In aiming to look “behind the x,” the articles featured offer a deeper analysis, for example, by examining how teachers’ awareness of immigration policy can impact outcomes for undocumented students in the public K–12 education system, bringing together immigration policy, undocumented youth, public school teachers, and educational outcomes. We are thrilled to uplift the voices of our community by featuring original research, commentary, and artwork related to Latinx policy, including an exclusive interview with award-winning Latina journalist and media executive Maria Hinojosa written by one of our Co-Editors-in-Chief, Leticia Rojas. Together, the work in the 31st volume captures some of the most pressing policy issues of the past year as experienced by the Latinx community, offering both critiques as well as a path forward.

After celebrating our 30th volume as the longest-run student journal at the John F. Kennedy School of Government at Harvard University, JHP leadership reflected on what is the most appropriate terminology to describe our ethnicities, races, and communities. We realized that there are diverging opinions on Hispanic, Latino/a, and Latinx. Representation matters, and because our communities are not monolithic, no term holistically captures everyone’s experiences.

Our team recognizes the importance of gender inclusivity, affirming that gender identity is a spectrum, and that is why our theme intentionally uses “Latinx” as a gender-neutral version of “Latino/a” to describe policy and social issues. Our underlying value is self-determination for everyone to self-identify in a way that empowers themselves.

In the 29th volume, our predecessors in 2017 wrote, “It is our firm belief that, in the difficult work of naming the policy needs of our community, no singular term may ever be comprehensive enough for the complexity at hand.” We agree, and we look forward to continuing conversations with each other on what best captures our communities’ voices, whether you prefer Latinx, Latino, Hispanic, or your country of origin.

We are thankful for the Executive Advisory Board members for their continued

dedication to the Journal Staff, and we would like to give a special thank you to Gail Smith, who succeeded Genoveva Arellano as Chair of the board. Both Genoveva and Gail have contributed so much to the sustainability and strength of the Journal. We would also like to thank Martha Foley, Assistant Director of Student Services, and Professor Richard Parker, our faculty advisor, for their guidance through the publishing process and their continued dedication to student-run policy journals. We would like to give a heartfelt thank you to our team. You all have poured your heart into this journal, whether as contributors, editors, or thought partners. We are sincerely grateful for your strength and dedication in serving Latinx and Hispanic communities.

Lastly, thank you to our dedicated readers and to our communities. Many of our livelihoods are threatened by our political climate, but we have hope in our resilience and in each other.

Please find more information about the *Harvard Kennedy School Journal of Hispanic Policy* on our website: <http://hjhp.hkspublications.org/>.

Pa'lante,

Leticia Rojas & Amanda R. Matos
Co-Editors-in-Chief, 2018–2019

Cover Artist

Bethany Adamski



Bethany Nicoli (Adamski) has been a freelance artist for nearly ten years. Soon she will have a bachelor of science in art. Based in the Chicagoland area, Bethany has an unparalleled versatility across many mediums. Her most recent creations explore the diversity of depth in video and film,

graphic design, three-dimensional art, and one of her favorites, special effects makeup. Her art appreciates the inspiration of whimsical characters reminiscing Japanese and Korean culture to more at-home heritage honors. Bethany brings the everyday pleasures and annoyances to life, from a paper cut gone wrong—think horror and gore—to melancholy with a twist. In her spare time, she also loves to teach and share her artistic joy with other professionals and youth. Her dream job is to become a professional film and television director and special effects makeup artist with a focus on prosthetic design. Instagram: @bethanynicoliart



Title: Lasting Latinx (Front Cover)

Description: The strong reds represent the passion and love that *la familia* has for one another. A traditional calavera reminds us of our Latinidad. For some of us, it might invoke a tension of two or more worlds in an Americanized and fast-changing world. The white throughout represents inner peace that comes once we join our family members in the afterlife. Perhaps only then are we able to embrace our truest self *sin vergüenza*.



Title: SOL (Back Cover)

Description: Traditionally, *las calaveras* are a representation of the dead in the Mexican celebration of the *Día del los Muertos*. In our nation's current context, this piece draws on the conflicting feelings we might have after the loss of a loved one or the loss of our brothers and sisters at the perilous borders decade after decade. It challenges us to celebrate their lives too because every life deserves a living memory. The internal and external celebrations of *Día de los Muertos* transcend borders and are detailed in the mix of light and dark colors: yellows, oranges, and blacks that complement the striking golds within *la muerte*.

A Path Forward for Arizona: Amending the In-State Tuition Policy to Include Undocumented Students

Rodrigo Dorador

In Arizona, 68 percent of jobs will require at least an associate degree by 2020. However, the Morrison Institute for Public Policy claims that Arizona's policies and education practices put the state "at risk of becoming a second-tier state, educationally and economically."¹ To counteract the trend, Governor Doug Ducey created the Achieve60AZ alliance, a group of more than 60 community, business, philanthropic, and education organizations that seek to increase the number of Arizonans earning a job certification or degree from 42 percent to 60 percent by 2030.² Despite these efforts, more than 105,000 Arizona high school students and graduates are denied access to affordable tuition rates, thwarting their ability and will to work toward obtaining a degree from a higher education institution solely because they lack lawful immigration status.³ From a public-policy perspective, Arizona is losing out on the talent of thousands of students who could help Arizona meet the Achieve60AZ goal and help create a more prosperous economy. The current policy, ARS 15-1803, bans anyone without a lawful status from receiving in-state tuition rates. In April 2018, the Arizona Supreme Court ruled that DACA beneficiaries are banned from in-state tuition rates.

Amending the current in-state tuition policy is not straightforward. Even though tuition is an issue in desperate need of a solution, it's a thorny issue. Some groups in Arizona view this as an issue about economics and fiscal viability, others argue that this is an issue of belonging and immigration, others claim that it is an issue of electoral politics, and finally, others see it as an education issue. The truth is that this is a complex issue. This paper argues that in-state tuition is first and foremost an education and economics issue and that solving this issue will help Arizona reach the Achieve60AZ goal by 2030 and keep the state economically competitive. One of the most important places to start, with any issue, is understanding the extent of the issue.

Population Impacted

In 2012, Barack Obama, upon pressure from immigrant activist groups, enacted the Deferred Action for Childhood Arrivals (DACA) program through an executive order. DACA allows some individuals who were brought to the United States as children before 2007 to receive a renewable two-year period of deferred action from deportation and become eligible for a work permit in the United States. In Arizona, the Migration

Policy Institute (MPI) estimates that there are more than 52,000 undocumented youth who are eligible for the program. According to statistics from US Citizenship and Immigration Services (USCIS), there are currently more than 28,000 DACA beneficiaries in Arizona.⁴ In 2017, President Donald Trump attempted to end the DACA program entirely, but a court order allowed current beneficiaries to renew their work permits until a final decision is reached on the case. New applications for DACA are not currently permitted. So many young students that were waiting to meet program requirements are now unable to apply for DACA. If DACA is reinstated as a result of court proceedings, MPI estimates that 6,000 youth would be eligible to apply for DACA upon turning 15 and that another 11,000 youth would be eligible to apply upon completing their GED. According to MPI estimates, there were about 7,000 DACA-eligible youth who did not apply for the program. In terms of the DACA population, there are about 52,000 students who are affected by the DACA immigration policy. There are also more than 11,000 undocumented youth under the age of 16 and 42,000 undocumented youth ages 17–34 who did not qualify for DACA because they came to the US after 2007.⁵ In total, there are 53,000 undocumented youth under the age of 34 who are not eligible for DACA. Combining the 52,000 DACA beneficiaries

and potentials, and the estimates of undocumented youth who do not qualify for DACA, there are a total of 105,000 youth, students, and high school graduates who are affected by the in-state tuition policy, ARS 15-1803.

Yet, most policy advocates, journalists, and education leaders have been mainly concerned with the 2,000 DACA students that are currently enrolled in higher education institutions like the Maricopa Community Colleges or the three public state universities. The in-state tuition issue is much bigger than 2,000 students who are currently enrolled.⁶ There are thousands of students in high school who will be affected by ARS 15-1803 when they graduate and seek enrollment in a college or university. This population can play an important part in achieving Arizona’s educational and economic potential, if the right policies are put in place.

Policy Background

At its core, ARS 15-1803, the in-state tuition ban, is about economics. Dean Martin, the state senator who sponsored the law in 2006, claimed that immigrants were draining state resources. He reasoned that US citizens could repay the in-state tuition subsidy when they entered the workforce as college graduates through higher income taxes. He claimed that because undocumented students were ineligible for work, they could not repay the subsidy.

Table 1. Population Estimates: Undocumented and DACA-Eligible Youth in Arizona

Type of Student	DACA				Total Youth (<34 years of age)	Undocumented Youth*
	Eligible (approved)	<16 years old	Need GED	Total	DACA and Undocumented	Undocumented Youth
<16 years	0	6,000	0	6,000	17,000	11,000
≥17 years	35,000 (28,000)	0	11,000	46,000	88,000	42,000
TOTAL	35,000	6,000	11,000	52,000	105,000	53,000

*Subtract Total DACA students from Total Youth

Opponents of ARS 15-1803 claimed that the law was misguided. For one, it would leave a substantial number of Arizona's high school graduates without a future. It was unfair to hamper their ability to become college graduates in the only place they knew as home. Someday, these students could become US citizens. Opponents of the tuition ban recognized that Arizona's future depended on an educated population. They argued that in the era of the information economy and globalization, education is the economic engine of the future. As Arizona's children become more knowledgeable and skilled, they become more productive, they build new businesses, and they attract more businesses to Arizona. Therefore, subsidizing college tuition benefits the state. Denying some students access to college was the same thing as condemning Arizona to a less prosperous future.

From 2015 to 2018, the Maricopa Community Colleges accepted work permits issued under DACA as proof of residency for tuition purposes and began to grant students access to in-state tuition. As the opponents of the ban correctly predicted, students eventually earned the right to work, and as they earned their degrees, they were able to become taxpayers and pay back the subsidy. Unfortunately, in 2018, the Arizona Supreme Court ruled that work permits issued under DACA were not valid proof of residency, and DACA beneficiaries lost access to in-state tuition. The fact that DACA students have the right to work but are not eligible for in-state tuition does not make economic sense.

Dean Martin was wrong to ban undocumented students from in-state tuition because they eventually earned the right to work and contribute to the economy. Worth noting here is his failure to separate immigration policy from education policy. Education policy should increase access to higher education for all capable high school graduates, especially if they will eventually earn the right to contribute to the economy. Whether or not students will earn

the right to work is an immigration issue, not an educational one. And immigration policy with regard to work eligibility is under the purview of the federal government, not the state. However, the state does have the ability to set educational policy regarding tuition eligibility. In fact, states like Texas, California, New Jersey, and many others have enacted legislation that enables DACA and undocumented youth who graduate from a local high school to access in-state tuition. These states recognize the economic benefit of investing in all of their high school graduates, without regard to their immigration status. This paper argues (1) that the economic investments already in place encourage DACA and undocumented students to excel in school and (2) that the economic benefits of providing in-state tuition to this population will increase economic activity.

Investment in Early Education

First, there is the 1982 US Supreme Court (SCOTUS) decision in *Plyler v. Doe*. The court was deciding whether or not a public elementary school district in Texas could charge tuition for undocumented students to enroll. The district was charging a tuition rate that was prohibitive, and so

the court noted that, under current laws and practices, 'the [undocumented person] of today may well be the legal [person] of tomorrow,' and that, without an education, these undocumented children, "Already disadvantaged as a result of poverty, and undeniable racial prejudices, . . . will become permanently locked into the lowest socio-economic class."⁷

The court decided to grant undocumented youth the right to a free K-12 education because they reasoned that the benefits of educating students far outweighed the costs of condemning them to a low class. This decision marked the official inclusion of undocumented students into the US education system. Since then, the US has invested in the education of undocumented immigrants at

public K–12 schools. Every year, about 65,000 undocumented students graduate from high schools throughout the US.⁸ But only about 10 percent of those students enroll in higher education institutions.⁹ The *Plyler v. Doe* decision did not extend educational benefits to students pursuing higher education. SCOTUS did not want to interfere with the state’s right to set their own laws, so it allowed the states to decide their higher education policies. Because Arizona does not provide in-state tuition benefits to undocumented students, thousands of high school graduates cannot afford to continue their education beyond high school. Arizona invests around \$6,000 per pupil per year (or about \$102 million per year) in the early education of undocumented and DACA students.¹⁰ But once these talented students are ready to pursue higher education to increase their contribution to society, that state disincentivizes them from enrolling in higher education.

Economic Benefits

The state is losing out on the talents of thousands of qualified students. And it is failing to maximize the investment that state has made in the early education of these students. ScholarshipsA-Z, an Arizona non-profit supporting undocumented students to access higher education, studied the economic benefits from providing access to in-state tuition for the 52,000 DACA population,

given their ability to work. ScholarshipsA-Z estimates that providing in-state tuition to the DACA-eligible population would increase overall economic activity by \$5.5 billion (21 percent increase) and increase federal and state tax revenues by \$2 billion (27 percent increase) over the course of students’ lifetimes.¹¹

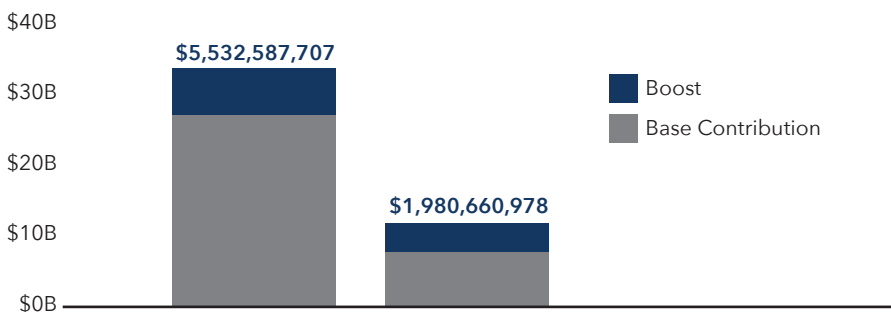
From a purely economic perspective, it is beneficial to support DACA students and undocumented students as well. Even though undocumented students are not currently eligible to work, federal immigration policy could shift in the coming years, providing access to work and citizenship to the 105,000 undocumented and DACA-eligible youth who are under thirty-four years of age. Arizona cannot get a return on its investment from undereducated people. Investing in all of Arizona’s high school graduates, regardless of their federal immigration status is one of the ways that Arizona can achieve a more prosperous future. Since education policy is under the purview of the state, Arizona legislators and the electorate can make the difference in helping the state reach the Achieve60AZ goals.

A Path Forward

This paper recommends that the in-state tuition policy be amended to maximize the economic contribution of undocumented and DACA youth. The policy should permit any student who has attended an accredited

Figure 1. Potential Lifetime Earnings of Students Affected by ARS 15-1803

Lifetime amounts reported in nominal values (growth rate = 3.5%).



Arizona high school for two or more years, has graduated from high school or received their GED, and enrolls in a public Arizona community college or university to receive the benefit of in-state tuition. In addition, students should sign an affidavit stating that they have DACA or will adjust their immigration status in order to be able to work legally as soon as they are able to do so. In addition, to support any students who may have been disincentivized from finishing their high school education due to restrictive in-state tuition policies, a policy should be crafted to enable any person that has resided in Arizona for two years or more to access free GED classes that enable them to continue on to college and toward applying for DACA or any other immigration remedy to adjust their status.¹²

The Process

Amending the current in-state tuition policy is not straightforward. ARS 15-1803 became law as part of Proposition 300, and as such, it is a voter-protected statute. This means that to amend ARS 15-1803, the issue would have to be put up to another referendum in the 2020 election or a bill would need to pass in the legislature by a three-quarters majority, which is highly unlikely given the current political climate. There are two ways to include an amendment to in-state tuition on the 2020 ballot. Option one requires gathering 237,645 signatures before June 2020.¹³ This is a massive undertaking that requires significant volunteer and staff capacity. The other way to put the issue on the ballot is for the legislature to refer a bill to the ballot by a simple majority, which is the way that Dean Martin placed the issue on the ballot in 2006.

Amending in-state tuition requires a vote by the public, and thus, the process becomes somewhat of a public relations battle that requires a tactful approach. As mentioned before, this issue is multifaceted and touches on issues of demographics, electoral politics, and immigration. Because in-state tuition was passed as part of Proposition 300, it also

makes this issue very polarizing (see Figure 2). A 2010 study authored by Edward Vargas that was printed in this journal, found that when a state's Latinx and undocumented popula-

Figure 2. The Story behind Proposition 300

Prop. 300 passed into law at a time when xenophobic attitudes were pervasive. Politicians were using immigrants as political scapegoats to mobilize their base. In this moment, Arizona legislators created Prop. 300 as a way to institutionalize the anti-immigrant fervor that was sweeping the nation. In this burst, legislators like Russell Pearce, who would go on to write SB 1070, were emboldened to create a package of laws that made life more difficult for immigrants. The proposition prohibited undocumented parents from seeking public benefits for their children who were citizens, it prohibited undocumented immigrants from accessing adult education certificates, and it banned undocumented high school graduates from accessing in-state tuition and state-based financial aid. Interestingly enough, Prop. 300 also established the department of adult education. The 2006 legislature referred the package of laws to the ballot as Proposition 300, and it passed with 70 percent of the vote. The message was very clear: Immigrants do not belong in Arizona.

tions increase, the odds that a state will ban in-state tuition for undocumented students increases.¹⁴ This might sound counterintuitive, but it makes sense. One could argue that an increase in the Latinx population should increase the probability that an in-state tuition ban is amended, but that is not necessarily true if the number of non-Latinx voters is higher than the number of Latinx voters. As the Latinx and undocumented populations increase, voters may be more likely to vote for laws that are framed as anti-immigrant or anti-Latinx because they perceive that their culture is being attacked or that their electoral power is decreasing. So framing an issue around immigration and identity could

be polarizing and could ultimately backfire (see Figure 3).

Framing

This paper recommends that legislators and advocates do not attempt to repeal Proposition 300 as a whole, because it could be perceived as an issue regarding immigration and identity and thus be very polarizing. Instead, advocacy should focus on dismantling the prohibitive policies piece by piece. For this reason, this paper recommends that the issue over in-state tuition be framed explicitly and solely as an education issue and be placed on the ballot as a stand-alone issue. Framing the issue as an education policy also improves the chances that the bill passes because it avoids identity politics, places responsibility to act on the state government, and can bring key stakeholders into the discussion.

Avoiding identity politics is not to say that they are not important but that a winning messaging strategy accounts for the increased likelihood that messaging around immigration and identity is not without risk (see Figure 3). Like in 2006, when Proposition 300 was originally passed, the United States is undergoing another anti-immigrant wave that could polarize voters. As the 2020 presidential election approaches, the issue can become more polarizing than has been seen in the past.

In addition, as the paper argued before, immigration policy is under the purview of the federal government. So discussing immigration as part of a state initiative is futile. But in-state tuition issue *does* fall under the purview of state education policy. The state has the power to change the education policy to include immigrants, even if the federal government has not fixed the broken immi-

Figure 3. The Increase in the Latinx Population Is Not Necessarily a Slam Dunk for Liberals

If we suppose that in-state tuition is a liberal issue, then the voting patterns of Latinxs do not necessarily prove that higher Latinx voters will lead to more liberal policies or politicians. Take as evidence the 2018 general election. When looking at electoral politics by race and party, Latinxs were more likely to vote Democrat, and their electoral power showed, but their might was not all powerful. Latinxs helped Kyrsten Sinema squeeze out a win against Martha McSally. At the same time, more Latinxs voted for Governor Doug Ducey, who ultimately won the race. This can be seen in Figure 4, where 44 percent of Latinxs voted for the Republican gubernatorial candidate, but only 31 percent voted for McSally. This means that about 13 percent of Latinxs voted Sinema-Ducey¹⁵. So the supposition that Latinxs always vote liberal is not true, and the supposition that more Latinxs will lead to more liberal policies and politicians is also not true.

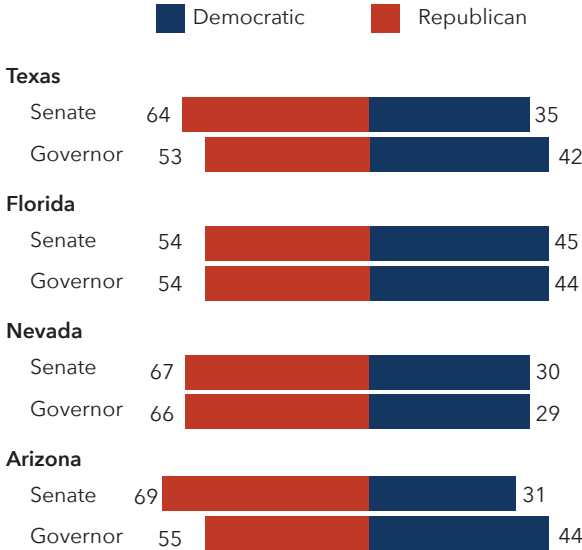
For the purposes of in-state tuition, a relevant metric to understand the odds that a referendum will pass in 2020 is the composition of the state congress. Although there are more Latinxs in the state since 2006, when Prop. 300 was passed, the 2018 state senate and house are controlled by Republicans. Although the Latinx vote narrowed the Republican house advantage to two votes, the senate remains firmly in the hands of Republicans.

gration system. Advocates should focus their messaging on the educational and economic factors that make in-state tuition policy a benefit for the state.

Finally, there are several statewide stakeholders that advocate for increased access to college education. While these organizations might not have a specific position on access for undocumented youth, they already understand the benefit of an educated workforce and could be key allies for influencing public opinion because of their large networks. There are organizations like the Arizona Chamber of Commerce and Industry, the Achieve60AZ Alliance, Expect More Arizona, ScholarshipsA-Z, the Arizona Dream Act Coalition, Aliento, Undocumented Students for Education Equity, and the Arizona Students' Association that advocate for college

How Hispanics voted in key races for U.S. Senate and governor in 2018

% of Hispanics who say they voted for the _____ candidate



Source: Based on exit polls conducted by Edison Research for the National Election Pool, as reported by CNN, accessed Nov. 9, 2018

Pew Research Center

Figure 4. Latinx Vote in Arizona’s Midterm Election¹⁶

access. As not all organizations may agree with this paper’s recommendations, this paper suggests that the legislature create a public forum where stakeholders, like the ones mentioned above, can discuss how to approach amending the in-state tuition policy and take part in crafting strategy and messaging to create more access to college.

Conclusion

The Arizona governor and many key stakeholders like the Achieve60AZ Alliance have made a commitment to steward Arizona toward a more prosperous future through inclusive education policy. But the future they have conceived does not include the more than 105,000 undocumented and DACA students who could be condemned to a less-than-prosperous future if they are not

provided with some support to enroll in college. This paper recommends a path forward for successfully increasing access to college for undocumented youth so that they can be included and can contribute to the vision of a more prosperous Arizona.

Author Bio

Rodrigo Dorador serves as a board member for ScholarshipsA-Z, an Arizona nonprofit that supports undocumented students to attend college. In his early career, Rodrigo helped the state of California implement the CA Dream Act. He is currently pursuing an MPA/ID at the John F. Kennedy School of Government at Harvard University. He is a US Latinx Leadership Fellow at Harvard's Center for Public Leadership. Twitter: @rodorador7



Endnotes

¹ Paul Perrault, The Case for Accelerating Student Success in Arizona, Helios Education Foundation, July 2016 [PDF file].

² "ACHIEVE60AZ Launched," College Success Arizona, 16 September 2016, <https://collegesuccessarizona.org/achieve60az-launched/>.

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Environmental Racism and Latino Farmworker Health in the San Joaquin Valley, California

Magali Flores Núñez

Poor working-class Latinos are dying from pollution due to environmental racism. Latinos in California are more likely to live and work in areas that have higher concentrations of pollutants and are more likely to be exposed to harmful chemicals for longer periods of time. Public health research indicates that environmental contaminants like particulate matter, nitrogen oxides, organochlorine compounds, organophosphate, polychlorinated biphenyls, flame retardants, lead, and mercury are directly linked to higher incidences of cancer, asthma, and heart disease.¹ Public health experts have made strides by moving past what Link and Phelan call, “an emphasis on individually-based risk factors” to a more contextualized analysis of the root causes of risk factors and the effect that people of color experience as a consequence of discriminatory practices on the environment that their communities are situated in.² This paper will focus on one example of environmental racism, the San Joaquin Valley in California, and contextualize this example within environmental health literature. The paper concludes with recommendations for a comprehensive intervention aimed at mitigating the effects of environmental racism in the San Joaquin Valley.

Background

Racialization of the poor, agricultural, working class in the Central Valley has been a 70-year process. The San Joaquin Valley in California is one of the most fertile regions in the world. Located in the middle of two mountain ranges, the San Joaquin Valley produces more fruits, vegetables, and livestock than any other state in the United States and has a steady annual sales total of about \$25 billion.^{3,4} In the United States, 88 percent of farmworkers are Latino.⁵ This high-producing, high-earning food supply chain is also home to some of the highest concentrations of environmental toxins in the state, including some of the worst water contamination scores in the United States.⁶

Historical Snapshot: California's Environmental Health

During World War II, UC Davis and UC Berkeley introduced new technologies (fertilizers, pesticides, GMOs, advances in mechanization) that promised to increase agricultural yields.⁷ For California growers and policy makers, who were mainly White Americans, new technology became an economic-growth opportunity. In order to maximize this economic potential, the natural landscape had to be altered to suit the new machinery.

From 1946 to 1955, California lived “the

second American agricultural revolution,” which required an intensification of land and water use. State policy initiatives like the Central Valley Project and the State Water Project created one of the largest water transport systems in the world. Water from Lake Shasta, the Feather River, and the Sacramento–San Joaquin River Delta was, and still is, diverted through canals and levees, dams, and aqueducts to irrigate America’s produce basket.^{8,9}

The California Land and Conservation Act of 1965 guarded agricultural land from being urbanized by providing compensation to farmers in exchange for giving up the right to develop for at least ten years.¹⁰ A reaction to rapid population growth and urbanization, this land-use policy helped finance the agricultural boom in California.

Over the years, water transportation to the valley caused environmental devastation. Every day, this massive water transportation project brings the equivalent of forty railroad cars filled with salt, which collects at the water table, contaminating plant life, and the groundwater aquifer.^{11,12} In addition, one of the effects of intense crop and animal farming

has been the development of chemical-resistant pests and bacteria. These pests and bacteria seriously harm crop yields and provide a health threat to animals and humans. Aside from the antibiotic-resistant bacteria, waste from cows produces large amounts of methane and cesspools, which contribute to the runoff that contaminates the water and air. In a vicious cycle, the poor health of this environment has also contributed to global climate change—another factor exacerbating negative effects on the ecosystem.¹³

Historical Snapshot: Latino Workers’ Health
In addition to significantly restructuring the natural landscape, growers and policy makers needed to prepare for the anticipated economic growth by accounting for more labor hands. In 1942, the United States initiated the Bracero Program, which recruited 4.6 million

contracted workers from Mexico to do short-term agricultural labor.¹⁴ Although the legal agreement guaranteed a minimum wage of 30 cents per hour and humane treatment, workers were discriminated against, underpaid, and subjected to poor living conditions.

Farm owners used braceros as scapegoats when existing farmworkers demanded fair wages.¹⁵ Instead of increasing everyone’s wages, farm owners only negotiated with existing farmworkers, leaving braceros with scant income. As braceros’ contracts ended, many of them continued to work for farm owners. The “wetback situation” caused public and political outrage, and in June 1954, the US Immigration and Naturalization Service (INS) began Operation Wetback to remove 1.1 million Mexicans who were considered illegal.¹⁶ Many of those removed were US citizens.

While this Mexican worker “cleansing” was going on, growers in the valley reaped the benefits of the braceros’ hard work. California became the largest producer of fruits, vegetables, and nuts in the nation.¹⁷

In a timeline delineating agriculture growth, the editors of *California Agriculture* note that “although braceros accounted for only 30% of the total seasonal work force in California in the peak year 1959, they contributed more than 80% of the labor for the tomato harvest.”¹⁸

The tomato crop was not the only crop production that the braceros helped increase. The accessibility of cheap labor that the braceros brought was pivotal to the growth of this multi-billion dollar industry and to California’s economic prosperity. However, research shows that accessibility of this cheap source of labor also caused overall farmworker wages to stagnate. While farmworkers earned \$0.85 an hour in 1950 and \$1.20 in 1960, a 41 percent increase, factory workers earned \$1.60 an hour in 1950 and \$2.60 in 1960, a 63 percent increase.¹⁹ Even today this disparity exists; the median earnings per year for a farmworker are between \$10,000 and \$12,499 with little to no benefits.²⁰

In the last 70 years, amid activists led by Cesar Chavez and Dolores Huerta, the Latino farmworkers' physical and financial health has not significantly improved. Instead, Latinos living in the highest-producing cities like Fresno, Modesto, and Bakersfield have the highest rates of poverty in the United States.²¹ In fact, the Central Valley was found to be poorer than Appalachia.²² The sustained economic growth of the Central Valley has been maintained on the exploitation of both the natural resources and of Latino farmworkers, and yet, both are living the negative health effects of this government- and farm owner–led system.

Present-Day Environmental Health of Latinos in the Central Valley

Environmental health literature suggests that indicators of race have a stronger association to environmental exposures than indicators of poverty. Environmental health literature describes concentrated and long-term exposure to environmental toxins as largely associated with negative health outcomes. A 2018 report by the Hispanics in Philanthropy quotes a health equity leader, “Stockton has one of the highest levels of toxic air issues which were created by design to keep factories and other pollutants situated in communities of color.”²³ The occurrence that this leader is describing is one that a recent study by the National Center for Environmental Assessment also highlights; regulations and business decisions that increase the magnitude of pollution are strongly dependent on whether communities of color are present.²⁴ Stockton’s less-stringent regulations and enforcement attract more factories, thereby increasing the amount of toxins the community is exposed to. This is a result of communities of color having less political power to stand against these polluters.

The CalEnviroScreen scores, created by the Office of Environmental Health Hazard Assessment, measure “pollution and the potential vulnerability of a population to the effects of pollution.”²⁵ The scores capture six exposure

indicators: ozone levels, diesel particulate matter, PM2.5, drinking water contaminants, pesticide use, toxic chemicals from facilities, and traffic density. It also captures six environmental effect indicators: clean-up sites, groundwater threats, hazardous waste, impaired bodies of water, and solid-waste sites. For the counties that make up the Central Valley—San Joaquin, Kings, Stanislaus, Merced, Kern, and Fresno—all of them ranked in the highest percentiles (71–100 percent), signaling high rates of all pollution indicators measured. An analysis of the CalEnviroScreen scores in the context of race, ethnicity, and age highlights that Latinos and African Americans disproportionately reside in communities that are highly impacted by pollution exposures. Disparities seen for Latino and African American children under the age of ten are also prominent. This analysis also listed all major cities in the San Joaquin Valley as holding some of the highest density of non-White or Latino populations, all composing of at least 38.9 percent within their demographics. A broader examination of data shows that one in three Latinos living in California live in the top 20 percent census tracts carrying California’s pollution burden. The fraction of African Americans was also 1 in 3, compared to 1 in 7 for Native Americans, 1 in 8 for Asians, 1 in 9 for other/multirace, and 1 in 14 for Whites.

As CalEnviroScreen scores indicate, Latinos living in the Central Valley are exposed to multiple pollutants and environmental health hazards. All of these hazards are associated with poor health outcomes. For example, prolonged exposure to particulate matter, which comes from automobile fumes, smog, soot, oil smoke, ash, and construction dust, was identified to be a carcinogen and a contributor to several lung conditions, heart attacks, and premature death.²⁶ In addition, the Environmental Protection Agency (EPA) has connected high particulate matter presence to prevalence of asthma, low birth weights, and high blood pressure.²⁷

The rise in birth defects seen in Kettleman City exemplifies the harm that environmental contaminants have on Latinos living in the Central Valley. In 2009, Kettleman City environmental justice advocates filed a statement inculpatory Waste Management, Inc. for a rise in birth defects.²⁸ With a population of 1,439 primarily foreign-born rural farmworkers, residents experienced 14 cases related to cleft lip, infant mortality, and developmental defects.²⁹ Along with a 96.1 percent Latino demographic makeup, 43.9 percent of families live under the national poverty line. This region is also considered unincorporated, meaning they do not have a formal local government structure, and political decisions defer to Kings County government.

The community still struggles to obtain proper representation. After hearing of the declarations, then-governor Jerry Brown mandated the California Department of Public Health to investigate the issue. Although EPA reports documented 16 spills of hazardous waste from 2002 to 2003 and the state investigation on the issue found high rates of environmental hazards, they did not find any substantiated evidence that would point to the waste facility being a source of the birth defects.³⁰

Proposed Intervention

Having multiple sources of pollution, like Kettleman City, makes source mapping difficult, which would provide data-driven evidence for policy makers to reduce pollution in targeted neighborhoods. Regardless of this barrier, creating scientific-based interventions to reduce the effects of environmental racism is urgent. Methodology for these interventions should focus less on the connections between environmental exposures and single diseases and focus more on targeting the multiple mechanisms that shape social factors, which facilitate exposure. Given the high exposures to pollutants and poverty levels, a policy intervention in Kettleman City, among other areas

in the Central Valley, is necessary for Latino communities to survive.

A community-based policy action plan includes building on existing evidence-based environmental health interventions, like the Center for the Health Assessment of Mothers and Children of Salinas (CHAMACOS) and Farmworker Intervention studies, focused on Latinos living in the Central Valley. The intervention should utilize existing research and pesticide exposure prevention trainings from the California Department of Education migrant education program to bring together mothers living in Kettleman City and help them mobilize for policy action on the community and state levels. The target audience for this group of mothers should be the Kings County Board of Supervisors and California State Representatives for this region. The stakeholders involved should include community organizations, academic institutions researching environmental health among Latinos in the Central Valley, policy makers, community members, and the Mexican consulate. Although the policy action group of mothers will decide on their own policy agenda, they should be connected to existing advocates in California working on programs to improve the built environment. Built environment initiatives include creating recreational parks and mixed-use public spaces, reducing pesticide use, and designing health-promoting buildings.

Conclusion

One of the most important health equity issues impacting Latinos in California is that of concentrated and prolonged exposure to environmental toxins such as pesticides, air pollution, water contamination, and dangerous chemicals.³¹ Examples like the San Joaquin Valley in California demonstrate how historic structural inequalities based on race drive the social determinants of health, including environmental pollutant exposures, and, consequentially, drastically shape health

outcomes. The exploitation and manipulation of natural resources were a pivotal part of the racialization process of food production in California. Interventions looking to address issues of environmental racism in the San Joaquin Valley must also consider the health of the environment that is part of the food-production ecosystem. Public health research must continue to develop an evidence base for environmental racism. As NewKirk asserts:

“The idea of environmental racism is, like all mentions of racism in America, controversial. Even in the age of climate change, many people still view the environment mostly as a set of forces of nature, one that cannot favor or disfavor one group or another. And even those who recognize that the human sphere of influence shapes almost every molecule of the places in which humans live, from the climate to the weather to the air they breathe, are often loathe to concede that racism is a factor.”

Author Bio

Magali Flores Núñez is a first-generation Xicana, daughter of Mexican immigrants, granddaughter of farmworkers, and sister to four. She was born and raised in the East San Fernando Valley and will proudly proclaim herself as a valley girl. Her passion for racial, gender, and health justice issues began when she was a student and community organizer in the Bay Area eight years ago, where she worked with students, labor unions, and community organizations. She led multiple campaigns, workshops, and demonstrations focused on gender, economic, and educational empowerment. After moving back to the San Fernando Valley, Magali worked on connecting low-income, immigrant families to direct health services. She did this work through community outreach and program development. When the opportunity arose, she decided to use her community organizing skills and public health experience to

inform institutional change as a staffer for a councilmember and later on as an advocate in children’s policy.

Magali is a graduate of the University of California, Berkeley, where she earned a BA in ethnic studies and a BS in society and environment. Currently, she is working on her Master of Public Health. At the Harvard Chan School, Magali is a leader with the Women of Color Collective and the Latinx Students in Public Health. When she is not organizing for low-income communities of color, Magali enjoys hosting dinner parties, gardening, running through beautiful Boston, and diving deep into philosophical debates.



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Guiding Hand of Counsel

Juan Rocha

On 1 August 2013, an 18-year-old woman calmly walked into a local drug store, made her way over to aisle two, picked up two cans of baby formula, placed them in a large diaper bag, and quietly walked out without paying for them. Outside, an undercover police officer, who had watched her every move, patiently waited for her to come through the sliding doors to arrest her. After confiscating the merchandise, the officer asked for and was given permission to search her car. In it, he found a small plastic bag he believed contained traces of meth, although no tests were ever conducted to determine whether in fact there was meth in the bag. Within days, the State of Arizona charged “Sasha” with one count of shoplifting and one count of possession of drug paraphernalia.

Sasha was indigent and undocumented. At her first and only court hearing before the criminal court, the State offered her a plea agreement requiring her to plead guilty to both criminal counts in exchange for a probationary sentence and a fine. Her court-appointed counsel advised her to accept the State’s plea offer. Sasha had no previous experience with the criminal justice system, and the offer seemed innocuous to her, given the light consequences, so she accepted. Her court-appointed counsel, however, never explained

the immigration consequences to her or even asked Sasha whether she had lawful status in the United States. The only consequences her defense counsel considered were direct ones (i.e., the maximum prison term and the fine for the offenses charged), not the immigration consequences.¹ A month later, the US Department of Homeland Security (DHS) filed a Notice to Appear—a charging document issued to a non-citizen that is equivalent to a criminal complaint or indictment—charging her as removable due to her drug paraphernalia conviction.

At her initial immigration hearing, the immigration judge (IJ) advised Sasha that she had the right to counsel, but not at government expense. (She did not understand why in criminal court she had a right to court-appointed counsel but did not in removal proceedings, and the IJ never explained it to her.) Because her drug paraphernalia conviction subjected her to mandatory detention, she was also ineligible for an immigration bond, and worse, her drug paraphernalia conviction was automatic grounds for removal.² Though she was born abroad, Sasha had lived all but one year of her life in the United States. She now faced the possibility of permanent expulsion from the United States. With no assistance of counsel, and only a high-school education, the government’s

deportation laws were against her. Had Sasha been appointed an immigration attorney during her criminal case, in addition to her court-appointed criminal defense counsel, she might have avoided removal proceedings altogether.

Origin Story: The Right to Court-Appointed

In the landmark case of *Gideon v. Wainwright*, the US Supreme Court ruled that indigent defendants had a constitutional right to court-appointed counsel in criminal proceedings.³ Writing for the Court, Justice Hugo Black explained that a defendant unskilled in the ways of the law needed the “guiding hand of counsel at every step in the proceeding against him” because without it “he faces the danger of conviction.”⁴ Counsel was needed, Justice Black said, to defend himself against the government’s vast “machinery” ready to prosecute defendants accused of a crime and avoid a conviction.⁵

Before *Gideon*, indigent defendants had a constitutional right to court-appointed counsel but only in federal capital cases.⁶ Since *Gideon*, the Supreme Court has extended this right to any criminal prosecution in which a defendant faces an actual prison sentence.⁷ In all the cases extending the right to court-appointed counsel, the High Court underscored the importance of warding off the pernicious consequences of a criminal conviction. Describing the penal consequences of misdemeanor convictions, Justice William O. Douglas explained that “[t]he consequences of a misdemeanor conviction, whether they be a brief period served under the sometimes deplorable conditions found in local jails or the effect of a criminal record on employability, are frequently of sufficient magnitude not to be casually dismissed by the label ‘petty.’”⁸ The Court subsequently crystallized the rule by holding that anytime the state sought to punish a person with imprisonment, the defendant was entitled to court-appointed counsel.⁹ What these cases have in common is the Court placing a high value on liberty, whenever there is a threat of punishment, to

trigger the right to court-appointed counsel.

But the Supreme Court has never extended such a right to indigent noncitizens in removal proceedings. To the contrary, federal law explicitly states that immigrants have no right to court-appointed counsel in removal proceedings.¹⁰ A key reason for this prohibition has to do with the nature of the proceedings. Whereas criminal proceedings involve some form of punishment, “[a] deportation proceeding is a purely civil action to determine eligibility to remain in this country, not to punish . . .”¹¹ The IJ’s “sole power is to order deportation; the judge cannot adjudicate guilt or punish the respondent . . .”¹² Because the sole purpose of deportation proceedings is to look “prospectively,” and not retrospectively, at an immigrant’s right to remain in the United States, deportation is not punishment; it is, at most, a collateral consequence to violating the laws of this country.¹³ Without exception, criminal courts adopted the Supreme Court’s reasoning by finding that in the criminal context, a trial court was not required to inform a noncitizen defendant of the immigration consequences of his criminal conviction.¹⁴

Deportation: Collateral Consequence or Punishment?

In 1922, Justice Louis Brandeis wrote that deportation results in the “loss of both property and life; or of all that makes life worth living.”¹⁵ If deportation results in the loss of liberty, then it is difficult to see how deportation is not equivalent to punishment. By small degrees, the Supreme Court and other federal courts are beginning to acknowledge that deportation is not purely a civil action or a collateral consequence but rather an actual punishment, akin to probation and incarceration, and sometimes the most egregious punishment for a noncitizen.

In *Padilla v. Kentucky*, the Supreme Court laid out a road map for advocates and defense counsel asserting the right to court-appointed immigration counsel in criminal proceedings. Though the holding of *Padilla* was limited to the duty of criminal defense counsel to explain

the immigration consequences of criminal convictions to noncitizens, the opinion landed like a bomb. For the first time, the Supreme Court recognized that “deportation is an integral part—indeed, sometimes the most important part—of the *penalty* that may be imposed on noncitizen defendants”¹⁶ The Court tacitly acknowledged that deportation is punishment and “intimately related to the criminal process.”¹⁷ The Court’s poignant observation revealed the symmetry between criminal and immigration consequences and placed deportation on the same level as a prison sentence, if not worse.

Before *Padilla*, federal and state criminal courts considered immigration consequences as collateral to, not a direct consequence of, a defendant’s criminal case. But the *Padilla* Court blew up this distinction—federal “law has enmeshed criminal convictions and the penalty of deportation for nearly a century.”¹⁸ In other words, the Court was not announcing a new principle; it was merely stating what had been true for almost a hundred years—that deportation is punishment. Moreover, because immigration law made deportation “nearly an automatic result,” it was difficult to divorce the penalty from the criminal conviction in the immigration context.¹⁹ By recognizing that deportation is a form of punishment—oftentimes a worse punishment than incarceration—the Court had created an opening for advocates to argue the need for court-appointed immigration counsel in criminal proceedings. Indeed, the Ninth Circuit expanded the reach of *Padilla* by holding that it is defense counsel’s duty, not the court’s or the government’s, to warn his client of certain immigration consequences of criminal conviction.²⁰

Elizabeth Rodriguez-Vega was a long-time lawful permanent resident. In 2012, she pleaded guilty to “alien smuggling.”²¹ Fifteen days after her guilty plea, DHS issued a Notice to Appear, alleging she was removable because her conviction qualified as an aggravated felony.²² Rodriguez-Vega filed a habeas corpus

petition to vacate her conviction, alleging her defense attorney had been ineffective in failing to explain the immigration consequences of her criminal conviction. While recognizing that her defense attorney had advised her of the “potential” of removal, the Ninth Circuit Court of Appeals found that his advisement was insufficient because he was required to inform her that her conviction “rendered her removal virtually certain.”²³ In other words, because alien smuggling was identified as a ground for removal, noted the Court, her removal was virtually certain.

In holding that her criminal defense attorney was ineffective, the Ninth Circuit concluded that deportation was a worse punishment than imprisonment—it is “often reasonable for a noncitizen facing nearly automatic removal to turn down a plea and go to trial risking a longer prison term, rather than plead guilty to an offense rendering her removal virtually certain.”²⁴ Echoing the words of Justice Brandeis, the Court highlighted that Rodriguez-Vega “made a concerted effort to avoid separation from her family, all of whom reside in the United States.”²⁵ A noncitizen “may rationally risk a far greater sentence for an opportunity to avoid lifetime separation from her family and the country in which they reside,” opined the Court.²⁶ By demonstrating her desire to remain in the United States, Rodriguez-Vega signaled her preference for a short prison sentence over expulsion in perpetuity from the United States. Given the increasing demands and responsibility the Ninth Circuit is placing on criminal defense counsel, i.e., plea bargain to avoid deportation and advising noncitizen defendants of criminal consequences when deportation is “virtually certain,” *Rodriguez-Vega* illustrates the importance of having a court-appointed immigration counsel in criminal proceedings.

Legal Defense for Noncitizens: Court-Appointed Immigration Attorneys Representing Defendants in Criminal Court

The Supreme Court has held that any time a defendant faces a loss of liberty—namely, the punishment of imprisonment—he is entitled to court-appointed counsel.²⁷ Because “deportation is intimately related to the criminal process” even when there is no risk of actual imprisonment, an indigent noncitizen defendant should also be assigned a court-appointed immigration attorney to assist his criminal defense attorney during his criminal case.²⁸ Appointing immigration counsel from the inception of the criminal case would help ensure that noncitizen defendants have all relevant information, i.e., whether his or her criminal charge is a deportable offense, whether he or she qualifies for a waiver, before deciding whether to accept a plea or take their chances at trial to avoid deportation. Given the Supreme Court’s decision in *Padilla* and the Ninth Circuit’s holding in *Rodriguez-Vega*, the legal landscape is fertile for defense attorneys to argue for a constitutional mandate requiring the appointment of immigration counsel for noncitizens during criminal proceedings; for public policy makers, like Mayor Eric Garcetti in Los Angeles, to fund initiatives to provide immigration attorneys to noncitizens in criminal proceedings; or for city council to pass a law affording immigration counsel to noncitizen defendants or state legislatures.²⁹ In fact, some cities have begun doing so through public–private partnerships.

Indeed, through public–private partnerships, cities like Los Angeles and New York City have provided money to afford legal representation for immigrants in deportation proceedings.³⁰ Noncitizens in New York City facing deportation are also provided with an attorney at no charge to defend against their deportation from the United States through the New York Immigrant Family Unity Project,³¹ which is funded by New York City.³² The program is considered a public defender office for noncitizens in immigration proceedings. But neither city’s initiative provides the right to court-appointed immigration counsel in criminal proceedings.³³ Having represented clients

in criminal and immigration court, I know that any noncitizens arrive in immigration after pleading guilty to an offense in criminal court.³⁴ As the Family Unity Project’s attorneys have explained, for “people with many criminal convictions there is no viable legal argument to stay.”³⁵ So, while those programs in New York City and Los Angeles provide a needed service for individuals in immigration court, they do not reach criminal defendants like Sasha.

Still, in Maricopa County, Arizona, there is an attorney in their public defender offices who advises defense counsel about how a criminal charge impacts a noncitizen’s immigration status.³⁶ Defense counsel uses this information to craft a plea agreement to mitigate immigration consequences. But the attorneys advising their colleagues are not immigration lawyers *per se*; they are public defenders researching immigration law. The Maricopa County Public Defender “created” this quasi-immigration role after the Supreme Court’s ruling in *Padilla v. Kentucky*. While this is a good start, any advice dispensed by the staff attorney is limited to public defenders within the defender office. But noncitizens are often represented by contract attorneys, who are criminal defense attorneys in private practice contracted by the county to represent indigent defendants, and they may not have access to this resource.³⁷ Moreover, this immigration resource is limited to Maricopa County. Prior to *Padilla*, the State Bar of Arizona had funded a position for an immigration attorney to assist defense attorneys in the entire state. But the State Bar pulled its funding in 2009 due to the economic recession. The position was funded for three more years by a non-profit before they, too, pulled their funding. The State never filled in the gap, though the position was needed just as immigration enforcement ratcheted up in Arizona.³⁸ In short, while cities like New York and Los Angeles are providing funding for attorneys to assist noncitizens in immigration court, in Maricopa County, the public defender has had to convert one of its attorneys into an immigration attorney

to satisfy the Supreme Court's mandate.³⁹

Moreover, there is a tension between what federal courts are mandating state criminal defense attorneys to do, namely, advise the non-citizen of the immigration consequences of a criminal conviction, and how states pay for and execute this mandate. As discussed, Maricopa County turned one of their attorneys into an immigration attorney—the office has over 200 lawyers—to satisfy *Padilla's* mandate.⁴⁰ The Arizona Legislature, in fact, has never introduced legislation to fund court-appointed counsel in criminal proceedings.⁴¹ On the contrary, the legislature has been taking funds out of public defender office and applying them to the public-safety fund.⁴² Short of a constitutional mandate, like the 1963 *Gideon* case, Arizona is not inclined to fund immigration defense counsel in criminal proceedings. One of the lessons of New York City's Family Unity Project is that the money used to fund the program is offset by savings to the State of New York by spending less on health care and foster care for children of deported parents.⁴³ Yet no elected official in the Arizona Legislature has introduced a bill to fund a similar program.⁴⁴

Rodriguez-Vega and *Padilla* are two examples in which federal courts are attempting to harmonize the friction: a right to immigration counsel in criminal proceedings.⁴⁵ The reason it has been difficult to solve is because, before *Padilla*, deportation was considered a collateral consequence and not a penalty. *Padilla* now requires criminal defense counsel to advise the defendant of the immigration consequences of a criminal conviction.⁴⁶ If federal and state governments are unwilling to provide court-appointed immigration counsel in criminal proceedings, then governments should consider reforming their criminal statutes and converting some of their felonies to misdemeanors. Generally speaking, many felonies, in particular aggravated felonies, can lead to automatic deportation from the United States or make it difficult to qualify for various forms of relief.⁴⁷ Not only would misdemeanor offenses increase the likelihood of

a noncitizen's ability to remain in the United States, it would alleviate some of the burden placed on criminal defense counsel to advise a noncitizen of the immigration consequences.

The Conclusion to Sasha's Story

Had Sasha's defense attorney had the assistance of a court-appointed immigration attorney, she would have known that pleading guilty to a drug paraphernalia offense was automatic grounds for removal.⁴⁸ She also would have avoided six months of custody in an immigration detention center, which was longer than any criminal sentence she would have received under the criminal charges. Like *Rodriguez-Vega*, had Sasha known that pleading guilty would mean losing her family, she never would have pleaded guilty to the charges. As the Ninth Circuit recognized, an immigrant "may rationally risk a far greater [prison] sentence for an opportunity to avoid lifetime separation from her family and the country."⁴⁹

Author Bio

Juan Rocha is an immigration and criminal defense lawyer in Phoenix, Arizona. He is the author of numerous articles on criminal-immigration law and has appeared in television and radio to discuss immigration policy. He received a bachelor of science degree in justice studies from Arizona State University, received a master of public policy from the University of Chicago, and earned his law degree from the UCLA School of Law. He was also an adjunct faculty at the ASU School of Transborder Studies. In 2016, he was named one of the top pro bono attorneys by the State Bar of Arizona.



Endnotes

¹ *United States v. Parrino*, 212 F.2d 919, 921 (2d Cir. 1954). Deportation is a collateral consequence of conviction.

² *Luu-Le v. INS*, 224 F.3d 911 (9th Cir. 2000), overruled by *Madrigal-Barcenas v. Lynch*, 797 F.3d 643, 644 (9th Cir. 2015). The Ninth Circuit found that possession of drug paraphernalia was no longer an offense related to a controlled substance.

³ *Gideon v. Wainwright*, 372 U.S. 335, 345 (1963).

⁴ *Gideon*, 372 U.S. at 345.

⁵ *Gideon*, 372 U.S. at 344.

⁶ *Powell v. Alabama*, 287 U.S. 45, 72 (1932).

⁷ *Argersinger v. Hamlin*, 407 U.S. 25, 33 (1972).

⁸ *Argersinger*, 407 U.S. at 48 (internal quotations omitted).

⁹ *Scott v. Illinois*, 440 U.S. 367, 374 (1979).

¹⁰ *Immigration and Nationality Act (INA) Title 8 U.S.C. § 1229a(b)(4)(A)* (“the alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien’s choosing who is authorized to practice in such proceedings”).

¹¹ *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1038 (1984).

¹² *Lopez-Mendoza*, 468 U.S. at 1038.

¹³ *Lopez-Mendoza*, 468 U.S. at 1038.

¹⁴ *United States v. Amador-Leal*, 276 F.3d 511, 517 (9th Cir. 2002). The Ninth Circuit held that a trial court did not need to inform defendant of immigration consequences.

¹⁵ *Ng Fung Ho v. White*, 259 U.S. 276, 284 (1922).

¹⁶ *Padilla v. Kentucky*, 559 U.S. 356, 364 (2010) (emphasis added).

¹⁷ *Padilla*, 559 U.S. at 364.

¹⁸ *Padilla*, 559 U.S. at 366–67.

¹⁹ *Padilla*, 559 U.S. at 366.

²⁰ *United States v. Rodriguez-Vega*, 797 F.3d 781, 787 (9th Cir. 2015).

²¹ *Rodriguez-Vega*, 797 F.3d at 785.

²² *Rodriguez-Vega*, 797 F.3d at 785.

²³ *Rodriguez-Vega*, 797 F.3d at 785.

²⁴ *Rodriguez-Vega*, 797 F.3d at 789.

²⁵ *Rodriguez-Vega*, 797 F.3d at 789.

²⁶ *Rodriguez-Vega*, 797 F.3d at 789.

²⁷ *Argersinger v. Hamlin*, 407 U.S. 25, 35 (1972).

²⁸ *Padilla*, 559 U.S. at 365.

²⁹ “Mayor Garcetti Announces Legal Fund to Fight for Immigrant Rights,” Office of the City Mayor of Los Angeles, 19 December 2016, <https://www.lamayor.org/mayor-garcetti-announces-legal-fund-fight-immigrant-rights>.

³⁰ Alex Daniels, “California Foundations Move \$40 Million for Immigration Response Fund,” Southern California Grantmakers, 23 January 2018, <https://www.socialgrantmakers.org/news/california-foundations-move-40-million-immigration-response-fund>.

³¹ “We Defend the Bronx,” The Bronx Defenders, last

modified in 2015, <https://www.bronxdefenders.org/programs/new-york-immigrant-family-unity-project/>.

³² “We Defend the Bronx.”

³³ “Mayor Garcetti Announces Legal Fund to Fight for Immigrant Rights.”

³⁴ The defendants in *Padilla* and *Rodriguez-Vega* started in criminal court before having their status revoked by an immigration court. See *Padilla*, 559 U.S. at 359 and *Rodriguez-Vega*, 797 F.3d at 781.

³⁵ “Poor Immigrants Get Free Legal Defense in New York City Program,” NBC News, 25 June 2014, <https://www.nbcnews.com/feature/in-plain-sight/poor-immigrants-get-free-legal-defense-new-york-city-program-n139781>.

³⁶ Todd Romero, email message to author, 22 January 2019.

³⁷ Personal knowledge of the author.

³⁸ Kara Hartzler, email message to author, 21 January 21 2019.

³⁹ Lisette Lopez, General Counsel for the Senate Democratic Caucus, Arizona State Legislature, email message to author, 21 January 2019.

⁴⁰ “Public Defender,” Maricopa County Administration, <https://www.maricopa.gov/558/Public-Defender>.

⁴¹ Lisette Lopez, email.

⁴² Lisette Lopez, email.

⁴³ “New York Immigrant Family Unity Project - The Report,” The Center for Popular Democracy, last updated 2019, <https://populardemocracy.org/news/new-york-immigrant-family-unity-project-report>.

⁴⁴ Lisette Lopez, email.

⁴⁵ *United States v. Bonilla*, 637 F.3d 980, 984 (9th Cir. 2011). “A criminal defendant who faces almost certain deportation is entitled to know more than that it is possible that a guilty plea could lead to removal; he is entitled to know that it is a virtual certainty.”

⁴⁶ *Padilla*, 559 U.S. at 364.

⁴⁷ *Lopez v. Gonzales*, 549 U.S. 47 (2006). “[A] state offense constitutes a ‘felony punishable under the Controlled Substance Act’ only if it proscribes conduct punishable as a felony [for which the term of imprisonment exceeds one year] under that federal law.”

⁴⁸ Sasha filed a petition for post-conviction relief based on ineffective assistance of counsel under *Padilla*; the state court granted her petition, and her conviction was later vacated. As a result, the Department of Homeland Security terminated removal proceedings against her, resulting in her release from custody. She later reapplied for Deferred Action for Childhood Arrivals (DACA), which US Citizenship and Immigration Services (USCIS) granted.

⁴⁹ *Rodriguez-Vega*, 797 F.3d at 789.

Examining Teachers' Awareness of Immigration Policy and Its Impact on Attitudes toward Undocumented Students in a Southern State

Sophia Rodriguez, with William McCorkle¹

Abstract

This study investigates teachers' awareness of federal and state immigration policy and how it impacts their attitudes toward undocumented students using an explanatory mixed-methods design in a focal state in the New Latino South, i.e., South Carolina. Data were collected in 2016–2018 during the height of post-Trump anti-immigrant rhetoric and a flurry of xenophobic initiatives. The article shares descriptive survey data results ($n = 101$) that reveal an insignificant correlation between teachers' awareness and attitudes but illustrate an alarming lack of awareness of policies related to immigration and a range of attitudes regarding these policies. Qualitative interviews showcase more deeply teachers' attitudes about immigrants/immigration policy. The paper argues for increasing teacher awareness in the form of sociopolitical knowledge of policy contexts and a nuanced conceptualization of teacher empathy. The significance of this study is that to date there has not been a large-scale study that examines teachers' awareness of federal and state immigration policy and how that awareness shapes attitudes toward undocumented students specifically, yielding practical knowledge for teacher preparation programs and professional development. Implications

suggest that teachers who lack sociopolitical awareness are more likely to believe in false or inaccurate narratives about immigrants, which negatively impacts undocumented students.

Introduction

This timely study acknowledges that undocumented immigrant students face significant challenges in schools and US society. This study speaks directly to such challenges as it examines the anti-immigrant policy climate in the focal state of South Carolina. This anti-immigrant policy climate that recently arrived undocumented youth navigate positions them as “criminals,” “risks,” and “threats” to society^{2,3} (Rodriguez, 2017). As undocumented immigrants are negatively positioned in public and political discourse, it is imperative to investigate how this social and political context shapes their school experiences. To this end, this study contributes to the growing body of literature about K–12 teachers' experiences working with undocumented immigrant youth.^{4,5,6} The study creates new knowledge about high school teachers' awareness about the federal and state immigration policies and their attitudes toward undocumented students in a constrained and hostile policy context in the New Latino South, specifically South Carolina.

This study investigates teachers' awareness of federal and state immigration policy⁷ and how it impacts their attitudes toward undocumented students using an explanatory mixed-methods design⁸ in a focal state in the New Latino South,⁹ specifically South Carolina. Data were collected in 2016–2018 during the height of post-Trump anti-immigrant rhetoric and the flurry of racist and xenophobic initiatives from the Trump administration. This political context shaped undocumented immigrants' lives around the country. In states with restrictive, anti-immigrant policies, such as South Carolina, fears for undocumented students were magnified. This in turn increased teachers' encounters with new challenges to understanding their undocumented immigrant students' lives.¹⁰ The hypothesis for the larger mixed-methods study suggests that teachers' individual levels of awareness correspond with their personal attitudes toward such students. Given the gap in the literature on teachers' awareness of federal and state policy relating to undocumented students, the project reveals a need for increasing teacher awareness in the form of sociopolitical knowledge and teacher empathy—a concept drawing on Zembylas's work on sociopolitical empathy.^{11,12} The findings reveal teachers' lack of awareness about immigration policies that impact undocumented students.

Significance

In the last decade, the Latinx immigrant population has rapidly increased and, thus, so has their public-school attendance. Southeastern states like South Carolina, the focal state here, have witnessed more recent increases in their Latinx population¹³ as approximately 5.1 million children 18 years or younger are either undocumented or have undocumented parents.¹⁴ For instance, from 2000 to 2010, South Carolina witnessed a 148 percent increase in

Approximately 5.1 million children 18 years or younger are either undocumented or have undocumented parents

this specific population,^{15,16,17} which indicates the largest percentage growth in the United States over that time period. Relatedly, the teachers in this study work with recently arrived undocumented high school youth from Central America within the last two years.¹⁸ These newly arrived undocumented students face limited access to resources, and their rights and access vary depending on when they arrived and how they are arbitrarily labeled by government agencies.¹⁹ Even though South Carolina restricts access to public and social resources and educational opportunity, undocumented students all have a right to K–12 education.²⁰ Yet, that right is comprised the lack of institutional supports in public schools that are low resourced and whose teachers are ill informed about the political and social context shaping undocumented students' experience.²¹ While previous scholarship addresses immigrant youth experiences in schools broadly, including ability to achieve academically and the role of teachers in supporting such achievement, it primarily focuses on teachers' beliefs toward English-language learners (ELLs) and their efficacy for teaching ELLs rather than teachers' knowledge of immigration policy and how it impacts the educational trajectories and social mobility of immigrant youth, which is the focus of the current study.

The significance of this study addresses two specific gaps in previous research: (1) There exists limited research that examines teachers' awareness of federal and state immigration policy and how that shapes teachers' attitudes toward undocumented youth. (2) To date there has not been a large-scale, state-wide study that examines teachers' awareness of federal and state immigration policy and how that awareness shapes attitudes toward undocumented students specifically. This study informs scholarship on teachers' awareness of federal and state immigration policy and

how that awareness shapes their attitudes toward undocumented youth, yielding practical knowledge for teacher-preparation programs and professional development.

The map for the rest of the article includes a discussion of three interrelated bodies of scholarship: (1) teachers' attitudes toward immigrant students, how dehumanizing learning environments for language learners impacts their educational trajectories, and teachers' attitudes toward immigration and immigrants' rights; (2) budding research on how teachers and schools are responding to the policy shifts and contexts related to undocumented students—this literature focuses on teachers' efficacy toward teaching language learners and how language learner becomes a proxy for undocumented status—and (3) how contexts of reception, including anti-immigrant states like South Carolina, limit educational opportunity and social mobility.

After the review of literature, I discuss how the conceptual framework on teacher empathy guided this mixed-methods study. Returning to the importance of state context, the New Latino South and South Carolina are described since this state policy context is highly restrictive toward undocumented students and immigrants broadly.^{22,23}

Then, the explanatory mixed-methods design that employed quantitative and qualitative data sources, a description of the sample, and analysis procedures is described.

Findings from the descriptive survey data (n = 101) reveal no significant correlation between teachers' awareness and attitudes but illustrate the alarming lack of awareness of educational policies related to immigration and a range of attitudes regarding these policies with more restrictive views on in-state tuition and financial aid and yet inclusive views toward access to resources. Given the high percentage of teachers who had wrong answers related to policies affecting undocumented students,

the qualitative interview data revealed teachers' perspectives in the state, shedding light on teachers' attitudes about immigrants and immigration policy in South Carolina. Integrating the quantitative and qualitative data allowed for the opportunity to expand upon the statistically insignificant but perplexing quantitative results related to attitudes of teachers and their sociopolitical awareness in both data sets.²⁴ Implications of the data suggest that teachers who lack sociopolitical awareness are more likely to believe in false or inaccurate narratives about immigrants, and this is negatively impactful for undocumented students.

Review of Literature

This article's research is at the intersection of dialogues about teachers' attitudes toward immigration, immigrant students, and encounters with newly arrived undocumented immigrants and how policy contexts in which teachers are key agents shape their lives and belonging. This research specifically connects to previous literature about teacher attitudes and how attitudes impact expectations²⁵ of cultural and linguistic minorities, research about contexts and reception of immigrants, and the more

recent conversations about teachers managing relations with undocumented students in schools. Combining interrelated discussions of immigrants' experiences in schools, policy contexts, and

teachers' awareness and attitudes is a necessary next step for understanding how teachers' awareness of policy impacts their attitudes toward newer populations of undocumented students.

Teachers' Attitudes toward Immigrant Students

Patel argues that there remains a systemic need for teachers to understand how policies govern the everyday experiences of newcomer immigrant youth, specifically undocumented

Findings illustrate the alarming lack of awareness of educational policies related to immigration

youth.²⁶ The challenge is that schools, curricular projects, and programs often employ assimilationist approaches to immigrant mobility and make generalizations about immigrant groups that do not speak to the variation in Latinx immigrant experiences. Similarly, Amthor and Roxas and Rodriguez have argued that a decontextualized desire to help or a compassionate need to pathologize, label, and over-test language-learning immigrants for special education is dehumanizing and does not reflect the brand of critical empathy with a sociopolitical awareness of immigration policy context.^{27,28} Such unreflective help and uncritical compassion reinscribes racial hierarchies and, in the case of undocumented youth, neglects the realities of differing immigration status and how anti-immigrant policy contexts shape their everyday lives and sense of belonging.

This is significant because teachers' beliefs and attitudes inform their pedagogical approaches and actions in the classroom along with their perceptions of students' ability to achieve in school.²⁹ And previous research tells us that immigrant students feel discriminated against by their teachers, especially in relation to educational achievement.³⁰ To this point, Mellom et al. argue, "Monolingual biases, exacerbated by misunderstandings about bilingualism, language learning and cognition, inform teachers' attitudes about language learners in their classrooms and may blind these teachers to opportunities to cultivate and capitalize on their students' strengths."³¹ To this point, teachers in the present study encounter undocumented youth who not only need to acquire English-language proficiency in many cases, but they arrive undocumented into policy contexts that specifically seek to limit their access to resources, hindering their ability to participate in many daily activities such as driving a car or acquiring a living-wage job.

Teacher Attitudes toward Immigration and Immigrants' Rights

The beliefs that teachers have regarding the

larger issues of immigration and immigrant rights can have an effect on their attitudes toward immigrant students.³² The scholarship on implicit bias^{33,34} reveals how teachers can inadvertently treat students differently based on subtle prejudices and preconceived notions. This implicit bias can have a detrimental effect on student success.³⁵ There is also a significant correlation between teachers' attitudes toward students and expectations of them.³⁶ These attitudes and expectations affect overall academic achievement,^{37,38,39,40} retention rates,^{41,42} and self-esteem.^{43,44}

While this literature at the very least addresses teachers' attitudes toward immigrants and immigration, there is limited discussion of how teachers develop a sense of sociopolitical awareness and empathy that could positively impact immigrant and more recently undocumented immigrant student experiences. For instance, McAllister and Irvine found that teachers' empathy was associated with positive interactions and a supportive classroom environment.⁴⁵ This empathy was associated with a more student-centered environment that allowed teachers to "connect content to students' interests, backgrounds, and developmental needs."⁴⁶ However, the authors argue that this empathy is not sufficient by itself as it can often be superficial. The goal is for empathy to lead to a critique of social injustice.

Teachers' Encounters with Undocumented Students

With an estimated 5.5 million children in the United States living in families with undocumented immigrants,⁴⁷ there has been a burgeoning body of qualitative research on how teachers and schools are responding to the influx of undocumented students and the policy shifts impacting their everyday lives. This literature is framed around teachers' attitudes toward immigration policy, general knowledge of immigration status of students, and how teachers navigate the immigration status of children and/or children from mixed-status families.^{48,49,50,51,52} For instance, Jefferies

and Dabach's article was one of the first pieces of scholarship to raise questions about teacher knowledge of undocumented status.⁵³ Similarly, Gallo and Link recently argued that understanding immigration status of students is important because the anti-immigrant policy context and increased deportations along with the threats of deportation force children to grapple with fear and anxiety for themselves and their family members.⁵⁴ The more-recent research on teachers' encounters with undocumented students points to the necessity of how policy context and immigration issues result in pedagogical challenges for teachers.^{55,56,57}

Gallo and Link's study traces the experiences of elementary school teachers working with undocumented elementary-age children to illustrate how these teachers create critical spaces for interrogating immigration issues in relation to teacher practice. And yet, teachers in their study still fall on a continuum of whether or not they chose to advocate for undocumented students, avoid the difficult conversations related to immigration and status, and move beyond their comfort zones,⁵⁸ suggesting the need to more deeply understand what shapes teachers' attitudes in relation to the policy contexts they work within. Moreover, a series of recent articles explore how social studies teachers are politically aware of citizenship in civics classes with undocumented students or students from mixed-status families.⁵⁹ Dabach points to the variation of teachers' perspectives toward undocumented students and builds knowledge about how social studies teachers develop civic knowledge in mixed-status classrooms. Dabach highlights the way that social studies educators can break the silence around sensitive issues such as deportations with students.⁶⁰ In this study, a teacher moves beyond just teaching to serve in an alternative advocacy role, which is informal and ad hoc.⁶¹

Furthermore, scholars examine how social studies educators can effectively teach civics classes with students who are undocumented

by focusing on giving these students a sense of political legitimacy and letting the students know they are safe to share their stories and struggles with their teachers. The authors point out the difficult balance between having undocumented students openly share their stories and the need for safety and anonymity that students may feel, especially in the increasingly xenophobic environment particularly due to the changes under Trump. However, they also point out the need to allow undocumented students' voices to be heard in the classroom and not just in extracurricular activism. In this way, the undocumented population go from merely being objects discussed in civics to individuals with agency for making changes in the society despite the limitations of their civic rights.

While each of these studies is critical to building a body of knowledge around teachers' encounters with undocumented students, the current study contributes in two critical ways. First, while these previous studies^{62,63} only have sample sizes of between one and seven teachers, the survey data here are from a statewide sample of 101 teachers and speak to this survey data with anecdotal evidence of two rich case studies of teachers from one school district in a focal state. Second, these previous studies have not occurred in anti-immigrant states such as those in the New Latino South. While the broad hostile, racist, and xenophobic rhetoric cuts across state borders, the focal state of South Carolina offers a unique perspective on how teachers' attitudes and awareness are shaped by the state context. The focal teachers in the qualitative data illustrate that even the teachers more likely to support immigrants' rights and undocumented students still express troubling perspectives toward immigrants in South Carolina. This ultimately speaks to the need to integrate policy knowledge as context for teacher practice.

Teachers and Contexts of Reception

Teachers' attitudes are shaped by the policy context. Previous literature addresses the

importance of contexts of reception, generally referring to the larger structurally stratified aspects of society⁶⁴ and how contexts of reception shape political activism for college-aged undocumented students.⁶⁵ This study suggests here that teachers are powerfully shaped by societal and more local, state contexts of reception. Thus, scholarship needs to address the intersection of teachers' awareness of policy and attitudes toward undocumented students in state contexts.⁶⁶ This is significant because teachers act as key institutional agents and resource brokers in schools, particularly for immigrant students broadly.⁶⁷

To build knowledge about the importance of context and policy knowledge within particular contexts, Crawford highlights how one local schools' personnel, not just teachers, reacted to immigration enforcement officers' increased surveillance based on their limited knowledge of undocumented immigrants' rights. Crawford illustrates how depending on school personnel's role, limits exist related to how they advocate for undocumented students, highlighting the dire need for policy knowledge as part of educator roles. Crawford suggests that previous research points to the lack of belonging and safety that undocumented students experience in K–12 schools.⁶⁸ Drawing on Jefferies, who argues that school personnel learn about immigration status of students, there were limited interventions or plans for ensuring that schools remain safe spaces despite *Plyler*, even when "school administrators were sympathetic toward the rights of undocumented youth."⁶⁹ Crawford's study further demonstrates the piecemeal planning and limited policy knowledge of school personnel and educators in protecting and advocating for undocumented students in increasingly hostile contexts of reception.⁷⁰

In sum, this literature provides a significant move toward breaking the silence on teachers' experiences working with undocumented students. And yet, a limitation of this important

previous work is that in each of these studies, the authors have small sample sizes that range from one teacher participant,⁷¹ seven teacher participants,⁷² and four teachers of 14 participants.⁷³ The mixed-methods approach utilizes a survey of 101 teachers in an anti-immigrant southern focal state, South Carolina, and provides anecdotal qualitative data to deepen our analysis of the survey data and to make sense of two rich cases of teachers' experiences.

Conceptual Orientation

Previous scholarship that focuses on teacher beliefs and attitudes notes that teacher empathy is a desirable disposition to have when working in diverse settings,⁷⁴ specifically that empathetic teachers embody the perspective of those from a different cultural background and "feeling with" an individual rather than a judgmental way.⁷⁵ And while some of the aforementioned literature note the importance of trust in teacher-student relations,⁷⁶ there is an insufficient conceptualization of teachers' attitudes and empathy. As such, teacher empathy as previously argued in the literature manifests in caring relationships. Rodriguez has argued that these caring relationships can be dangerous because they often focus too much on how much or how persistently a teacher "cares" for his/her students and "knows" them.⁷⁷ The "danger of compassion" often shadows other systemic or institutional discrimination against culturally, linguistically, or racially diverse students such as unequal school resources, lack of language support services in schools, or in-school mechanisms that reproduce inequality in schools, disproportionately impacting students of color and immigrants.^{78,79,80} Even when empathy emerges in the previous literature, it is not directly interrogated in the way that speaks explicitly to teacher attitudes about policies that impact undocumented immigrants. This is an important step: to reorganize and foreground a brand of teacher empathy that encompasses sociopolitical awareness and names directly

the types undocumented students rather than the colorblind or safer terms such as “diverse learners” or “language learners” that we so often see in the previous scholarship.

The present study uses the framework of teacher empathy and awareness of sociopolitical contexts.^{81,82} Empathy is used to interrogate teacher awareness of policies that impact undocumented immigrants and how that shapes their attitudes. This conceptual framework foregrounds a brand of teacher empathy that encompasses sociopolitical awareness. Zembylas argues that empathy “occurs in social contexts governed by social interactions and linked to matters of policy issues.”⁸³ This study employs two dimensions of teacher empathy: moral and political. The study emphasizes that empathy is “linked to matters of interests” (political dimension) and “values” (moral dimension).⁸⁴ This study seeks to understand the extent to which teachers’ awareness of immigration policy (political dimension of empathy) impacts teachers’ attitudes (moral dimension of empathy) toward immigrant students. This conceptual orientation guided the survey development, interview protocol development, and data analysis to draw out these themes of teacher empathy and sociopolitical awareness.

Context of New Latino South and South Carolina

This study examines teachers in the unique context of the New Latino South, which bears mentioning because it provides nuanced circumstances to examine teachers’ attitudes toward undocumented youth and their knowledge of immigration policy in a state context.^{85,86} The South saw an increase in Latino immigrants following the passage of the North American Free Trade Agreement (NAFTA).⁸⁷ Mellom et al. explain that unlike other states that have had historically sizeable Latino populations, like California⁸⁸ and Texas,⁸⁹ only post-NAFTA did an aggressive private-sector recruitment campaign bring Latino

This is an important step: to reorganize and foreground a brand of teacher empathy that encompasses sociopolitical awareness and names directly the types undocumented students

agricultural laborers to the South in significant numbers.⁹⁰ The South grappled with how to accept Latino communities into the fold of a racially segregated social structure.⁹¹ Given the racialized labor and social structure in the New Latino South, the context of support is limited at best and hostile in many cases, posing significant barriers to educational achievement and social mobility.⁹²

This study was conducted in one of these New Latino states, South Carolina, which is arguably the most restrictive state in the nation in regard to access to educational opportunity. South Carolina is also one of two states that completely bans undocumented students from studying in state colleges and universities and led the nation in this policy.^{93,94,95} Roth notes⁹⁶ how South Carolina prohibits these students from receiving in-state tuition at public colleges and universities and bans access so that even when some state universities find ways to subvert undocumented students’ admission, the financial burden is too great.⁹⁷ South Carolina maintains restrictive education and social policies toward undocumented students that comprise having the right (and, to some extent, a safe space of K–12 *viz-a-viz Plyler*) to a position of illegality and minimal opportunities for educational and social mobility beyond K–12.

Research Methods

Based on the gaps in the literature, this study sought to understand teachers’ awareness of policy and attitudes toward undocumented students using an explanatory mixed-methods design^{98,99} in a focal state with anti-immigrant policies: South Carolina. Three research

questions guided the study:

1. What overall awareness and attitudes do teachers have regarding federal and state immigration policy and the educational rights of undocumented students? (quantitative, descriptive)
2. To what extent does teachers' awareness of federal and state immigration policy correlate with teachers' attitudes toward undocumented immigrant youth? (quantitative)
3. How do focal teachers in South Carolina talk about their encounters with undocumented students in their high schools and the policies impacting them? (qualitative)

Study Design

This mixed-methods study aimed to investigate teachers' awareness of immigration policies and how their awareness impacts attitudes toward undocumented youth in South Carolina. The explanatory mixed-methods design occurred in two phases. The rationale for this design was to be able to "expand upon an aspect that was identified by the quantitative data, specifically the perplexing results."^{100,101} In this study design, quantitative data are collected and analyzed first, and then qualitative data are collected to explain or elaborate on the quantitative results.¹⁰²

In the first phase, survey data were collected and analyzed. The results revealed an insignificant correlation between teachers' awareness of policy and attitudes toward undocumented students. However, the survey data showed an alarming amount of misinformation that teachers held about policies and undocumented students' access to resources and an overall lack of policy awareness. In phase two, semi-structured interviews with teachers were conducted.

Sample

The participants (n = 101) for the quantitative portion of the study were high school teachers at ten randomly selected South Carolina Title I public schools. Given the study is the

first to include a statewide survey of teachers' awareness of policy and attitudes toward undocumented students, teachers in all subject areas, including special education and English as a second language (ESL), were selected to participate. To recruit participants, an email was sent to publicly available emails from the webpages of South Carolina public high schools. A list of all the South Carolina public schools was gathered and then put into a randomizer application in order to ensure a randomized sample. The first ten high schools with publicly available teacher emails were chosen to be part of the sample. These were traditional public high schools, not charter schools, with all students qualifying for free or reduced lunch. Emails from all teachers within these schools were gathered. In total, there were 778 teacher emails gathered and included in this random sample. The survey was sent to these teachers in the fall of 2016. There was an additional reminder email sent out to all of the teachers. There were 101 teachers who took the survey. There were no incentives for participants to take the survey.

Demographically, 60 percent of the survey respondents were female and 40 percent were male. The overwhelming majority of the respondents were White (87 percent). Only 2 percent were from Hispanic/Latino background, and 7 percent were African American. The immigration background of the respondents revealed that the majority of the individuals said both of their parents were born in the United States, with only 3 percent of the respondents having one or more parent born outside the United States. Only 4 percent stated that they themselves were born outside of the United States. 29 percent stated that they spoke a second language, with 71 percent stating that they were monolingual.

The teacher participants for the qualitative, semi-structured interview portion were recruited from two of the Title I public schools in South Carolina as part of the author's larger longitudinal study.¹⁰³ These teachers

overall reflected the characteristics of the survey sample in that they were White, monolingual females. I selected educators with some Spanish-language background, which ranged from conversational to fluent. The qualitative interview participants were purposively sampled (n = 10), and then three focal teachers for this article were chosen to flesh out the survey data results for two reasons. First, the author spent two years observing the three focal teachers and engaged in five semi-structured interviews with them and co-planned lessons in their ESL classes. Their insights to teachers' encounters with undocumented students provided a strong foundation for building knowledge about the concept of teacher empathy despite their propensity to believe in false narratives about immigrants.

Second, the explanatory sequential design allows researchers to explore an aspect of the quantitative data. The survey data analysis below reveals that teachers largely held inaccurate views about undocumented immigrants. The teachers were either unaware of policies impacting undocumented students or held inaccurate views of these students and their ability to acquire citizenship status or access to public and social resources. I was interested in teachers I thought would have more inclusive and accurate views, so focal teachers were selected because they taught ESL, had Spanish-language speaking abilities, and worked with undocumented populations at their high schools. Yet as the data show, these focal teachers still had complicated views of immigrants and at times inaccurate views, which were ultimately shaped by the anti-immigrant ideologies and policies in South Carolina.

Data Collection Procedures, Instrumentation, and Analysis

Survey Instrument

The survey was developed by the author and graduate student based on the extant literature. The survey was piloted with two

different groups of undergraduate preservice teachers in 2016 and was distributed September 2016. The purpose of this survey was to understand the larger correlation between teachers' awareness of policy and how that shaped their attitudes toward immigrant students and rights.

The first section measures teachers' awareness of policies impacting undocumented immigrant students, specifically policies related to education and in-state tuition, rights to college enrollment, and access to resources and educational opportunity based on parental immigration status. The construct of awareness is based on concept of sociopolitical empathy.¹⁰⁴ In order for teachers to possess the moral dimension (measured in the survey) of empathy,¹⁰⁵ they must first be aware of the actual sociopolitical situation and potential struggles of the students.^{106,107}

In the first section, participants were given three response options: "true," "false," and "I have no idea." This distinction was meant to show the variance between teachers who were unaware of the subject and those who believed that the state was more inclusive than it truly is. The items in the first section included:

- Any student who graduates from a South Carolina high school, regardless of immigration status (legal or illegal), and has lived in the state for at least two years is eligible for in-state tuition.
- Any South Carolina high school graduate, regardless of immigration status, is permitted to enroll in public state colleges and universities.
- All immigrants who have legal status or visa, graduated from a South Carolina high school, and have lived here for at least two years qualify for in-state tuition.
- For US citizens, a student's parent's immigration status has no legal impact on one receiving in-state tuition.

The second section of the survey measured teachers' attitudes toward these policies that

impact immigrant students in the state. These items relate to the moral dimension of teacher empathy because items were trying to assess teachers' values and beliefs about the educational rights of immigrants.¹⁰⁸ The items were as follows:

- Students who graduated from a South Carolina high school and are illegal/undocumented immigrants should be able to study at state colleges and universities.
- Students who graduated from a South Carolina high school and are illegal/undocumented immigrants should be allowed to receive in-state tuition.
- Students who graduate from a South Carolina high school and are illegal/undocumented immigrants should be able to receive in-state scholarships and grants (Life scholarship, Hope Scholarship).
- US-born children of undocumented/illegal immigrants who graduated from a state high school should be allowed to receive in-state tuition at colleges and universities.
- Students who graduated from a South Carolina high school and are DACA students (undocumented students that under the 2012 Deferred Action Plan are granted a temporary work visa) should be able to receive in-state tuition.

This section had a five-point Likert scale of strongly disagreeing to strongly agreeing with the statements. These items measure teachers' overall empathy, specifically the moral dimension, toward undocumented immigrant students and the immigrant families they come from by understanding their views on policy issues that relate to the issues of justice within the educational system.

The reason for using these items about policy instead of asking directly about teachers' views of immigrant students is because it could reveal more substantial implicit attitudes^{109,110} toward immigrant students. This form of indirect questioning illuminates some trends that may be more obscured with more

explicit items, which respondents may be less likely to answer honestly.¹¹¹

Semi-structured Interview Procedures

The qualitative data derive from a longitudinal study at two Title I high schools in South Carolina.¹¹² As mentioned in the sample description above, three rich cases were selected to delve deeper into some of the results from the survey. The semi-structured interview protocol for educators was designed to understand how teachers talked about and came to understand immigration policy in the state. The ten participants were all interviewed one time in person between 2016 and 2018, and then three in this article were interviewed multiple times with additional questions related to their knowledge of the immigrant student background, border stories, and trauma; their perceptions of their ability to advocate for undocumented students; and their knowledge of immigration policies at the federal and state levels.

Data Analysis and Integration

Analysis occurred in four phases. First, survey data were transferred from Qualtrics to SPSS to conduct descriptive statistical analysis on all constructs: teachers' awareness and attitudes toward immigrant students. Second, a Pearson's *r* correlation test was conducted to determine the strength of the correlation between awareness and attitudes. Third, qualitative interview data were coded in two phases. The first phase included open coding, with emergent codes such as teachers' awareness of policies, conceptualization of immigration (assimilationist perspectives), and linked oppressions between race and immigration. The second phase was analytic coding in conjunction with the conceptual framework of teacher empathy, which Zembylas defines as awareness of sociopolitical contexts in order to advocate.¹¹³ From the analytic coding in relation to the framework of teacher empathy, three themes emerged. First, teacher empathy meant "hearing their [student's] stories"

to understand the experiences of undocumented students such as their border stories, family separation, and desire for better lives in the United States. Second, teacher empathy meant “knowing their rights,” which directly connected to teachers’ understanding (or not) of the sociopolitical context, including the policies impacting undocumented students. Third, the three focal teachers had budding moral and political empathy but still at times articulated false narratives about immigrant students and their families. This code was “believing in false narratives” to show that part of empathy development also meant exposing these teachers’ false narratives.

From the qualitative data analysis, I generated a typology of teacher empathy that builds upon Zembylas’s previous conceptualization that foregrounds sociopolitical awareness and moral dimensions as part of teacher empathy.¹¹⁴ Figure 1 demonstrates how the themes in the qualitative data analysis contribute to a typology of teacher empathy, which is significant for teachers to understand in order to advocate for undocumented students.

Data Integration

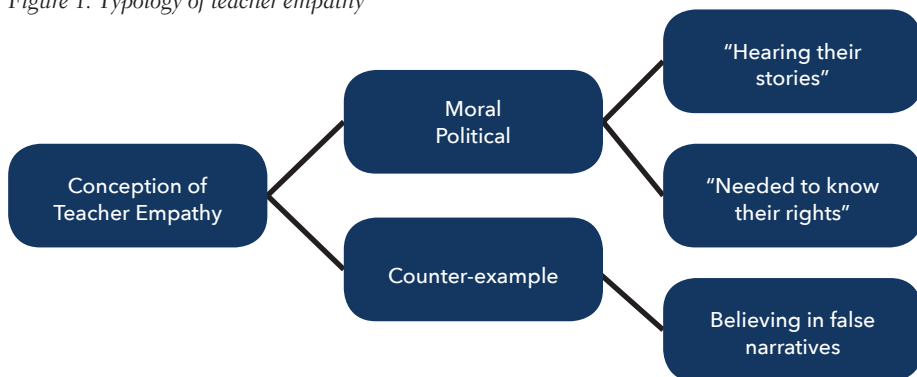
The final phase of analysis in this mixed-methods approach was to integrate the data and compare and contrast them to deepen the understanding of the survey data with three focal teachers. While the survey data yielded an insignificant correlation between awareness

and attitudes, the descriptive survey results reveal an alarming lack of awareness of policies impacting undocumented students and the tendency for teachers—even those with more positive and inclusive views toward undocumented students—held false narratives about immigrants. Three case studies of teachers Ava, Amelia, and Sam¹¹⁵ helped flesh out the descriptive results to deepen our understanding of teachers’ perceptions of undocumented students in relation to their policy awareness in South Carolina.

Quantitative Results

The results of the survey regarding teachers’ awareness showed a significant lack of policy knowledge among public school teachers in the sample. This unawareness was apparent in all of this first section’s items, with an overall mean score of 16.85 out of 100 across the four questions. This means that teachers selected the wrong answer most of the time. Table 1 shows that the majority of respondents selected wrong answers on items related to specific policies that impact college access and eligibility for in-state tuition for undocumented students. There were also two questions about the restrictions for in-state tuition for US citizens with undocumented parents and students on certain legal visas (such as the U visa for victims of domestic violence or other nonimmigrant visas). Both of these groups

Figure 1. Typology of teacher empathy



Question	False (Correct Answer)	True (Incorrect Answer)	I have no idea
In-state tuition regardless of immigration status	25.7% (26)	25/7% (26)	48.5% (49)
Allowed to enroll in state colleges and universities regardless of immigration status	22.8% (23)	47.5% (48)	29.7% (30)
All students with legal visas ability to receive in-state tuition	9% (9)	64.4% (65)	26.7% (27)
The impact of immigration status of one's parents on in-state tuition	9.9% (10)	61.4% (62)	26.7% (28)

Table 1. Awareness of Immigration Restrictions

of students have also been denied in-state tuition in the State of South Carolina. Overall, none of the items in section one showed an awareness level above 26 percent.

Moreover, the lowest levels of awareness were on the items regarding the eligibility of US citizens with undocumented parents and students with certain legal visas to obtain in-state tuition. Aside from the question on in-state tuition for undocumented students, the teachers most frequently selected the wrong choice (as compared to the correct response or the “I have no idea” option). The majority of respondents believed that the policies of South Carolina are more inclusive toward immigrant students than they actually are. This lack of awareness is a barrier to teacher-empathy development because if teachers hold inaccurate beliefs about the policies impacting undocumented students, then their advocacy efforts will be distorted or nonexistent. It can also prevent teachers from gaining a sociopolitical consciousness if they already believe they are aware, which is indicated by the fact that they chose the wrong answer more frequently than selecting “I have no idea.”

The second section of the survey—measuring teachers’ attitudes toward policies regarding immigrant students—revealed a

more complex and nuanced picture of teachers’ attitudes (see Table 2). For these items, 1 was the most exclusive position and 5 was the most inclusive. For two of the items about in-state tuition and state scholarships and grants for undocumented students, teacher respondents had a more exclusive position overall (with means of 2.93 and 2.64 out of 5, respectively). The questions about students with Deferred Action for Childhood Arrivals status receiving in-state tuition and the right of undocumented students to study at state colleges and universities had more inclusive responses (with means of 3.51 and 3.47 out of 5, respectively). Finally, the question regarding how parental immigration status of US-citizen children affects their ability to receive in-state tuition had the most inclusive response, with a mean of 3.87 out of 5. There was a Cronbach’s alpha of .848, which indicates a strong similarity in levels of inclusivity/exclusivity among the different items.

These results show that there are differing levels of support regarding these issues. The first finding was that even though most teachers had a more inclusive position when it came to issues like children of undocumented parents (i.e., that immigrant youth ought to have access to rights and financial aid even

with undocumented parents), this positive/inclusive attitude did not transfer to undocumented students having access to in-state tuition or state financial aid or access to grants. The level of negative teachers' attitudes toward inclusive rights for undocumented immigrant students in these results are somewhat surprising as many of these teachers have undocumented students in their K–12 classrooms and seem to be aware of the barriers these students face to access to higher education.¹¹⁶ These scores of teachers' attitudes reveal a lack of empathy among many teachers toward the situations that their undocumented students face.

While the Pearson's *r* correlation test was conducted to investigate the relationship between awareness and attitudes, there was no significant correlation found. One of the limitations of this portion of the study was the relatively small sample and the more categorical nature of the awareness questions (which were recoded into a 1–3 scale for the correlational analysis). Despite this limitation of the sample, these results still show a troubling lack of teacher awareness of policies and the range of attitudes toward immigrants in the state.¹¹⁷

Qualitative Results

As noted earlier, survey data revealed an alarming number of false answers from teachers, which is concerning because it showed that teachers thought they knew policies and did not as indicated by the fact that they opted out of choosing "I have no idea." This led to exploring teachers' attitudes toward immigrant student in semi-structured interviews to develop a deeper understanding of the false narratives and lack of awareness they held. The three focal teachers, Ava, Amelia, and Samantha, worked in the district for between five and nine years and had strong relationships with the undocumented community. Additional criteria included years teaching/involved in education (5+), having English as a second language (ESL)/Spanish-language background with the assumption they would have more inclusive views toward immigrants, and work with undocumented populations in their high schools. The dimensions of empathy that emerged in the qualitative data analysis include "hearing their stories," "I needed to know their rights," and "believing in false narratives." These themes provide additional

Table 2. Attitudes toward Immigration Restrictions

Item	Mean 1 (Most Exclusive)- 5 (Most Inclusive)	Standard Deviation
Undocumented students' right to study at state colleges and universities	3.47	1.4
Undocumented students receiving in-state tuition	2.93	1.53
Undocumented students receiving state scholarships and grants	2.64	1.43
DACA students receiving in-state tuition	3.51	1.23
Parents' immigration status affecting in-state tuition	3.87	1.2

insight for understanding the complexity of survey results, including more information about teachers' perspectives about undocumented immigrants in the state.

Moral Dimensions of Teacher Empathy

Many conversations with Ava involved her briefing me on events that youth were encountering related to their immigration status. All of the students in her ESL classes were undocumented newcomers with significant challenges integrating into the community and feeling safe.¹¹⁸ Ava talked about how other teachers expect that they “speak English on their first day here” without considering “all they’ve been through.” Additionally, Sam noted, “There’s a lot of forced immersion here—a sink-or-swim mentality toward the newcomer Latino immigrants without much thought.” Due to this budding awareness from teachers, the importance of “hearing their stories” emerges in order to build rapport and empathy. Related to developing teacher empathy for undocumented newcomer youth, Ava said,

Hearing the stories, teachers here, people in the community have negative comments about immigration and how we need to stop letting immigrants in. Some of the teachers here feel that way, too, or they just don’t know. I don’t know what can be done to remove blinders from teachers. Teachers refuse to acknowledge the trauma that some of our recently arrived students have faced.¹¹⁹

Similarly, Amelia shared how teachers and district employees often do not understand the plight of undocumented immigrant children. Amelia said,

I think there is often this deficit mentality on the part of some teachers and leaders. Latino students are not necessarily looked at as bilingual or almost bilingual—their less-than-perfect

English is seen as an impediment to good test scores. There’s an overall lack of understanding.

Both of these teachers point to how undocumented students are often misunderstood and their experiences and potential needs are ignored. Amelia explained,

There is very much an emphasis on assimilation here rather than embracing different cultures, exploring or learning about other cultures. In the South, the dominant culture/community in power does not make a big effort to reach out to the Latino community (except for money-making purposes) or even really acknowledge it as part of the city’s identity. Latinos.¹²⁰

This understanding of systemic isolation that undocumented immigrants face in this southern community is not something that all educators are aware of or acknowledge to be a significant barrier and challenge to their everyday experience. This emotional and moral understanding connects to the next emergent theme of sociopolitical awareness as part of empathy.

Political Dimensions of Teacher Empathy

The interviews point to understanding the larger sociopolitical context. For instance, Ava commented on how the narrative about immigrants is that they “come here for a better life. These kids hear that school will help them. They are told to get an education,” but then the “schools don’t help them.” Ava explained that she did not know the political immigration policy context when she first started working with students. However, “all of the new students come to my room, and I needed to know their rights so that I could help them know their rights, especially after the election.” Ava’s responses speak to her belief that teachers need to learn about the legal aspects of immigration beyond just the personal experiences and emotional labor embedded in hearing their stories and understanding that these undocumented immigrant youth are

socially isolated.

Similarly, Sam explained the aspects of her job that do not involve teaching but rather push her to understand the rights and services that undocumented immigrants need. Amelia acts as an “institutional agent,” helping students to access social capital and resources. She explained,

Helping students with questions about the community (i.e., researched pro bono legal agencies for a student whose mom wants to divorce her husband), organizing some social events for students, but things like that always vary according to need. I feel like my colleagues and I are often the students’ connection (at least initially) to local services, culture, and resources, and we need to help them get their bearings as best as possible.¹²¹

In both Ava and Sam’s work, they embodied the emotional, moral, and political dimensions of empathy by understanding the oft-held deficit mentality among other teachers, the discrimination toward Latinos in the communities, and the need to engage in advocacy work beyond the traditional role of being an educator, i.e., delivering curriculum and supporting academic achievement. To this end, they expressed the ad hoc ways that they came to understand and learn about the rights of undocumented students in order to advocate for them, which was common among teachers across this district and others in South Carolina.¹²²

Believing False Narratives

While on the one hand educators like those in this study exhibited awareness of the lives of undocumented immigrants in the district, at times their views and perceptions of undocumented immigrants’ experiences of discrimination were skewed in that they reflected the larger racialized social structure of the South.^{123, 124} I share this because it relates to the critical role that teachers’ attitudes

play in the academic achievement of undocumented immigrants when their awareness is skewed or inaccurate; even the most progressive or morally and politically empathetic educators like Ava, Amelia, and Sam maintain the propensity to believe in false narratives about immigrants. Below, Amelia and Sam articulate a problematic perception of the relationship between African Americans and Latinos in the southern community, and a false narrative about the experiences of both groups.¹²⁵ Amelia said,

I think there is some tension between African Americans and Latinos here because you have a community that has endured systemic disenfranchisement (both in term of participation in the labor market and in education) for generations and generations, and to this day have a very hard time making it to the middle class. There are flaws in the system, gatekeeping mechanisms built to keep African Americans separate and out. Hispanic immigrants—and the majority here *are* undocumented—moved in within the past 10–15 years, and again, because of flaws in the system, they have very quickly attained many of the things that are out of reach (or may seem) out of reach to the African American community—jobs, housing, cars, accumulation of wealth. This is because there is an industry and employers in the industry who benefit greatly from the underground (undocumented) labor market. These employers have a compliant labor force who will work for a set wage many hours above a standard business day. Employers don’t have to comply with a minimum or even labor-market-determined wage, they don’t have to pay overtime, they don’t have to pay taxes, they don’t have to pay sick leave/benefits, and they have a labor force that is not going to fight for their

rights because they are undocumented. So this benefits employers, it benefits the undocumented labor force because it's better than no job at all back home, but it hurts the African American community. I think there is resentment because it is not fair. Again, these are flaws in the system that create these conditions, but it plays out among the people who are fighting to make a living wage.

Sam contributed to this discussion regarding racial tensions and the perceived labor opportunities in the community:

One thing the Latinos have going for them is their language. We need to be honing that. I had this idea to start a service learning program where the Latino kids could read or tutor the younger grades at the middle school, creating a bridge. We need to create workers for the district. They can use their Spanish for good use.

On the surface, Sam's idea was to promote access and equity for the Latinx students, but her comments were laden with an ideology that the "immigrant kids" needed to be "workers" in order to be useful.

In these excerpts, Amelia's perspectives of Latinx undocumented immigrants is that they compete for jobs and acquire more opportunities than African Americans in this southern community. Despite the fact that previous research shows this to be inaccurate,^{126,127} it is a troubling insight into the ways in which the context of the New Latino South shapes awareness (or lack of) about immigrants' lives and how policies, including governmental recruitment efforts to secure the undocumented Latinx workers in the South, configured the labor structure. Additionally, Sam's argument that the newcomers' language ability ought to be seen as an asset was still misguided in that they should provide a service to the district rather than advocating that the district provide ESL or other services for the students, which it currently fails to do.¹²⁸

Data Integration and Discussion

Part of the endeavor in this mixed-methods study has been to consider the emergent narrative from interrelated data sets. Fetters, Curry, and Creswell argue, "With embedding, data collection and analysis link at multiple points. Integration at the interpretation and reporting level occurs through narrative, data transformation, and joint display. The fit of integration describes the extent the qualitative and quantitative findings cohere."¹²⁹ This section shares the insights gleaned from integrated data analysis through a "narrative approach" that allows for a thematic discussion of teacher empathy and specifically how awareness shapes attitudes toward immigrant students.¹³⁰ The results of the survey data analysis indicate that teachers in South Carolina were highly unaware of educational restrictions toward immigrants. The results of the qualitative data analysis suggest emergent themes related to a new conceptualization of teacher empathy. This integration is important because it shows why both types of data were used to explore the problem. While the quantitative data revealed both the strong lack of awareness among educators regarding educational policies for undocumented immigrant students and more nuanced results in regard to their attitudes toward these policies, the qualitative data suggested that the lack of awareness about immigrant students sustains damaging attitudes in classrooms even for educators who I thought would hold more inclusive views and have an increased sociopolitical awareness of policies and conditions impacting undocumented students.

Upon the integrated data analysis, key insights about teacher empathy and specifically the sociopolitical awareness of teachers in the unique context of the New Latino South emerge. Qualitative data showed that there exist layers of awareness to be acquired and maintained. In other words, data demonstrated the dimensions of awareness related to K-12 policies (i.e., how the schools do/do

not serve the undocumented students, lack ESL and other services, take English-only/assimilationist perspectives), higher education, and general policy knowledge for immigrants (i.e., legal services/rights). And yet, despite a baseline level of awareness for teachers in the qualitative dataset, none of the teachers could name a single policy that impacted undocumented immigrants (i.e., *Plyler v. Doe* or Deferred Action for Childhood Arrivals). While teachers in this study may appear to have baseline knowledge or awareness that their students receive paperwork from immigration and fear deportation, they still lacked the ability to name policies and pointed to how their colleagues lacked basic understanding of accommodations for language learners. All this is to say that even in this sample, teachers with likely more knowledge of immigration issues maintained a frightening lack of policy knowledge and the impact of educational policies on the undocumented immigrant community. They pursued knowledge in some cases and engaged in ad hoc advocacy as needed.¹³¹

Teachers like Amelia, despite her inclusive views and sociopolitical awareness of the community and district issues, still offered false and inaccurate narratives of labor relations and employment opportunities for the undocumented community. This was evidenced with the theme of believing in false narratives. In this theme, I detailed the example of Amelia believing that undocumented immigrants are taking away jobs from African Americans in the community, a group that is/has been marginalized in the South, and at times have more benefits than African Americans because they are illegally employed. This is not to criticize teachers' lack of awareness given how much work they do in the community and district, but to point to the power of false narratives and their impact on attitudes toward this population even when the most "caring" and compassionate educators are involved. The implications of this speak to the need for strategic empathy that includes moral and

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political dimensions rooted in accurate policy knowledge. Exposing these false narratives as part of the conceptualization of teacher empathy is critical to unpack teachers' views and build a type of teacher empathy that supports undocumented students.

Furthermore, the data here expand our understanding of teacher empathy and often how a lack of awareness enables teachers to buy in to false narratives saturating the current political and public discourse. The teachers express generally positive attitudes toward immigrant students and recognize the plight that accompanies their immigration status. However, they also elucidate that sociopolitical awareness (i.e., awareness of immigrants' rights afforded through policies and other resources available in the community) enables them to become advocates for their students even though their advocacy was ad hoc or on a case-by-case basis. While the moral and political dimensions of empathy reflected here in the themes of "hearing their stories" and "I needed to know their rights" are significant, there is still work to be done to dispel false narratives about (un)documented immigrants and the perceptions of immigrants' access to resources and opportunities in and beyond school.

Moreover, even though the teachers held inclusive views on immigration generally and in attitudes toward immigrant students in their schools, some of the data revealed the complexity of immigrant relationships with other racial minorities in the district and community. The data showed that these educators' perspectives on issues like

multicultural education and the economic effects of immigration-enforcement regimes and anti-immigrant policies were shaped by the context and fraught history of the South. They are products of the South and teacher-education programs in the focal state that maintain both anti-immigrant sentiments and a racialized history, which inform the programs, policies, and practices.

Connecting back to Zembylas,^{132,133} empathy in teacher practice needs to include moral and political dimensions. He argues that teachers must use this brand of empathy in strategic ways that embrace the discomfort that ensues from expanding empathetic orientations to include awareness of power dynamics that intersect with race, class, immigration status, and policy. Likewise, I found that these teachers acknowledged their need to better understand their students by recognizing the intersections of power, including the process of racializing newcomers in the New Latino South, and the oppression that mediated the experiences of the newcomers they taught. This acknowledgement reflects the strategic empathy involving power dynamics in social practices and interactions.¹³⁴ However, the teachers in this study were still operating in ad hoc rather than strategic ways in their advocacy efforts.

The narrative from data analysis and integration is complicated and troubling at best. For instance, even the more enlightened and inclusive educators in this study still hold inaccurate or false views about the undocumented experience and yet are able to point out, as Amelia did, that “teachers don’t notice or chose not to notice the discrimination in the schools toward undocumented students.” This reality could be even more problematic for undocumented students as discrimination and antagonism toward them is entangled with the language of legality. Thus, it is imperative that educators become more aware and expose the false narratives and discrimination, and this is off to a slow start in South Carolina.

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Implications, Limitations, and Future Research

This study reveals the need for teachers to be aware of the policies impacting undocumented students and the social and economic situations they confront. There needs to be greater exploration for why this lack of awareness exists among educators and practical steps for helping teachers gain sociopolitical awareness and empathy. Perhaps if schools of education, school districts, and individual schools would stress the importance of this awareness and empathy with the same vigor as an awareness of proper pedagogy for achievement on standardized tests, important change could result. As Ladson-Billings stresses, sometimes being a good teacher is less about doing and more about “an ethical position they need to take,”¹³⁵ and teaching must go beyond the role of being a tutor during class to one that looks at the social situations and futures of the students. Related to undocumented students, to be effective, teachers must not only know about the pedagogy of teaching language-learning students or those from multicultural backgrounds but also be willing to enter the more tedious political and policy arena, become aware of what their students face, and ideally become advocates.

Though there was not a correlation between awareness and attitudes in this statewide study in South Carolina, it remains the first of its kind at the state level. Future research should address state-level attitudes and awareness of teachers. Additionally,

investigating teachers' perspectives of borders and nationalism could prove an effective way to uncover and mitigate bias and expand strategic empathy. In southern states such as South Carolina where assimilationist ideologies and racism are deeply rooted, uncovering teachers' biases might help transform teachers' attitudes toward immigrant students as they start to understand and critique migration in general. Though it may be possible to be compassionate toward an immigrant child who you feel has no right to be in the country, it may be hard to actually advocate for them and understand their rights.

The limitations in the study relate to the relatively small sample in the survey and the weak correlation. I argue, though, that a sample size of 101 in a statewide survey is still important and telling of broader sentiments in the state. And despite the insignificant correlation, the descriptive statistics revealed that teachers were highly unaware of policies impacting undocumented students and in many cases selected wrong answers on the survey rather than just selecting "I have no idea," which is extremely troubling in that it reveals teachers think they know policy. Another limitation relates to the fact that I collected qualitative data at two high schools in a larger district because that is where my research and faculty position was located. The school district is allegedly more progressive than the more rural districts, so future research ought to address a broader qualitative sample to understand sentiments in more rural parts of the South.

Conclusion

This article was concerned with teachers' awareness of policies that impact undocumented immigrant students. I argue that awareness can influence these attitudes, especially in the way that the teachers there have a baseline awareness and still hold false narratives about immigrant populations' access to resources and employment in the state. The findings demonstrate teachers' lack of awareness about

I hope that this data will provide the wakeup call necessary for educators and school-based leaders in particular to support teachers so that they can better advocate and provide the rightfully safe space for undocumented students.

immigration policies, especially those that create educational restrictions for undocumented youth. The findings illustrate the various levels of awareness that teachers hold. I argue here that it is critically important to support educators in developing this policy knowledge—what I called sociopolitical knowledge as part of strategic teacher empathy—given that the one place that undocumented students are supposed to be safe is school. I situated this argument within the context of the teacher-student relationship and the specific focus on teacher empathy. Although empathy has emerged in previous scholarship, this article expands an understanding of the concept by considering its moral and political dimensions as part of teacher attitudes and awareness in this project. The article also presented the counter-examples of believing in false narratives to show how critical it is for teachers to unpack their views about immigrants as a step toward developing accurate understandings of policies and conditions that impact immigrant students.

To date, there has not been a study on this particular aspect of teacher attitudes and awareness toward the educational rights of undocumented students. Given the timeliness of undocumented youth experiences of racism and nativism, it is imperative to continue to interrogate how educators are falling into traps of larger anti-immigrant sentiments at state and national levels. Within the larger political climate, the changing and often contradictory positions held by the Trump administration, it is even more critical that educators in particular are attuned to the effects of policies on

undocumented students' lives. I hope that this data will provide the wakeup call necessary for educators and school-based leaders in particular to support teachers through professional development on the topic so that they can better advocate and provide the rightfully safe space for undocumented students.

Author Bio

Sophia Rodriguez is an assistant professor of educational foundations at the University of North Carolina at Greensboro. As a sociologist of education, she examines the social and cultural contexts of education policy and practice and teaches graduate courses related to immigrant youth and education, critical and social theory, and research methodology. Her two current longitudinal projects, funded by the Spencer Foundation (2018–20) and the Institute for Museum and Library Services (2016–19), utilize mixed-methods and ethnographic designs to investigate how community-school partnerships, teachers, and school-based mental health professionals promote equity and advocate for migrant youth. Her work has appeared in the peer-reviewed journals *Educational Policy*, *Education Policy Analysis Archives*, *Educational Studies*, *The Urban Review*, and *The Journal of Latinos and Education*. Rodriguez received her PhD in cultural and educational policy studies from Loyola University Chicago.



Endnotes

¹ The author acknowledges the contribution of graduate student William McCorkle, specifically related to survey data collection and analysis.

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⁸ Jessica DeCuir-Gunby and Paul A. Schutz, *Developing a Mixed Methods Proposal: A Practical Guide for Beginning Researchers* (Thousand Oaks, CA: SAGE Publications, 2017).

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results is that the respondents overall tended to be more politically liberal, with under 30 percent identifying as Republican. Given these two factors, it is likely that the attitudes toward these items could be even lower among the general teacher population and the state residents as a whole.

¹¹⁷ Despite the insignificant correlation between attitudes and awareness, I examined the relationship to the demographic information of teachers in the sample. On all five items related to teacher attitudes, there was a significant difference ($p < .05$) between male and female respondents, with female respondents having more inclusive responses. There was no significant difference based on gender for the questions regarding awareness of state policies. Given the size of the study and the relatively small number of teachers from racial or ethnic minorities, no meaningful analysis could be conducted based on race or ethnicity. Not surprisingly, political party, political ideology, and choice of presidential candidate in 2016 were all significant factors with regard to teachers' attitudes.

¹¹⁸ Rodriguez, Monreal, and Howard, "It's about hearing and understanding their stories."

¹¹⁹ Interview with Ava, Sophia Rodriguez, in person, 26 January 2017.

¹²⁰ Interview with Amelia, Sophia Rodriguez, in person, 19 December 2017.

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¹²⁵ While it is beyond the scope of the paper to delve into the race relations in the southern state, previous policy analysis shows that African American and Latinx groups are significantly marginalized in this southern state due to the racialized social structure, legacy of Jim Crow segregation, and the criminalization of immigrants in the South. See Rodriguez, "Good, deserving immigrants' join the Tea Party."

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Abolishing the Toxic “Tough-on-Immigration” Paradigm

Felipe Hernández

“The greatest purveyor of violence in the world today [is] my own government.” – Dr. Martin Luther King (1967)¹

Abstract

This article contextualizes and examines the tough-on-immigration paradigm that has driven both Republican and Democratic immigration policies. First, this article traces the evolution of the sociopolitical construct of the undeserving criminal alien, a non-White person deemed a threat to White free personhood, to demonstrate how this construct legitimizes tough-on-immigration policy prescriptions. Second, the article demonstrates how elected officials since the Reagan administration have crafted immigration policies solely through the tough-on-immigration paradigm as a tactic to obtain political power. Third, this article illustrates how both political parties leading up to the 2020 presidential election continue to preserve the tough-on-immigration paradigm even in opposition to the Trump administration. Finally, the article proposes a new reparative justice paradigm for immigration policy that follows the lead of organizers and those directly impacted in order to address the root causes of human displacement.

Introduction

In October 2018, a caravan of about 7,000 people from Central America seeking refuge from extortion, state and gang violence, femicide, and the effects of climate change were violently met with hundreds of Federal Mexican Police forces on the Guatemala–Mexico border armed with tactical gear and training largely provided by the United States.^{2,3} As if preparing for war, Trump mobilized nearly 6,000 troops on the US–Mexico border, issued an executive order authorizing military personnel to use “force [including lethal force, where necessary],”⁴ and issued a proclamation suspending asylum rights for all people on the caravan because “the mass migration of aliens with no basis for admission . . . precipitated a crisis.”⁵ When the caravan arrived at San Ysidro, Customs and Border Patrol (CBP) shut down the border and fired rubber bullets and tear gas to prevent them from crossing. Meanwhile, on the US side of the border, nearly 15,000 children and thousands of adults, a majority of whom are from Central America, were held in cages, often up to 20 people in one, causing abuse, trauma, and the deaths of two children.^{6,7,8} In the backdrop, the government was shut down over Trump’s border wall by falsely declaring that

immigrants were flooding the border bringing crime, drugs, and violence.⁹

While Trump's actions against immigrants have been overwhelming, they are not new. Rather, they stem from the toxic cycle of tough-on-immigration policies built across multiple administrations. This cycle uses state-sanctioned violence such as military force, caging, and policing to separate families and control displaced people as an ordinary practice to maintain the dominant law-and-order system of subordination to divide social and political mobility on a global hierarchy by race, class, gender, sexuality, and citizenship status.^{10,11} The tough-on-immigration toxic cycle, a global phenomenon, begins with the false—but powerfully persuasive—dehumanizing narrative that “illegal (criminal) aliens,” particularly from non-European “shithole” countries, are invaders threatening the economic, social, moral, and political interests of the country's citizens. Once designated as threats and undesired populations, immigrants are systematically linked to criminality to facilitate their permanent exploitation and marginalization, positioned against a struggling poor White class.¹² This positioning then moves those with political power, i.e., poor White class, to legitimize the use of the police, prisons, and the criminal legal system to control or eliminate the “criminal alien.”^{13,14,15} Throughout this entire process, corporate shareholders, politicians, and social elites reap massive benefits from investing in the law-and-order system that punishes and removes the “criminal alien” as a means to regulate a stable global supply of labor to exploit from predominantly non-White people with little to no legal and political powers to resist, i.e., factory workers, farm laborers, and domestic workers.¹⁶ In doing so, elite corporate and political classes facilitate a global social stratification by creating a race to the bottom and social death of undesirable groups through state violence like private prisons or militarized borders, for example.^{17,18,19,20} At the

center of this toxic cycle are the millions of human beings whose dreams, hopes, and bodies are bruised, abused, and disposed as if they were meaningless byproducts of the law-and-order system of subordination.^{21,22}

Historically, despite state repression coalitions of multiethnic, immigrant, and working-class peoples, particularly along border states, immigrants have successfully organized to challenge the law-and-order system to secure labor, immigrant, and civil rights and liberties.²³ Such movements, often led by women and queer folk of color, have recognized that struggles against prisons, police, state violence, capitalism, imperialism, and military occupations are inextricably linked

The tough-on-immigration toxic cycle... begins with the false — but powerfully persuasive — dehumanizing narrative that “illegal (criminal) aliens,” ... are invaders threatening the economic, social, moral, and political interests of the country's citizens.

to the global immigrant struggle.^{24,25} Yet the dominant discourse for immigration reform is often presented as a binary that supports the deserving immigrant while punishing the undeserving “criminal alien” via increased border security and detention policies.²⁶ Such binary organizing has led to some temporary, and important, wins, such as the Deferred Action for Childhood Arrivals (DACA) program, the 1986 Immigration Reform and Control Act, stopping the 2005 Sensenbrenner Immigration Bill (H.R. 4437), suspending Sessions's zero-tolerance policy, sanctuary bills, and various state wins. However, as legal scholar Angelica Chazaro recently outlined, the binary framing has also widened who qualifies as the undeserving “criminal alien” and strengthened the deportation machine.²⁷ Today, both parties operate solely within the dominant binary evident by their immigration

policy proposals: both call for tougher border security, more funds for detention and deportation, and prioritized removals of the criminal alien, despite rejecting President Trump's demand for a physical border wall.²⁸ Ultimately, as immigrant-rights groups like United We Dream have recognized, tough-on-immigration politics only marginally help the small portion of immigrants characterized as deserving at the expense of feeding more and more people designated as criminal aliens through the deportation machine.²⁹

This article has three aims. First, it traces the evolution of the sociopolitical construct of the undeserving criminal alien to demonstrate how it serves as the basis for the tough-on-immigration paradigm and, thus, toxic immigration policies. Second, this article demonstrates how the tough-on-immigration paradigm continues to shape immigration policy across both parties today. Third, this article calls for the abolition of the tough-on-immigration paradigm and highlights the calls of organizers for a new reparative justice paradigm. This new paradigm must reconcile how the US law-and-order capitalist system continues to produce mass global human displacement, violence, and instability, primarily from communities of color in the global south, for exploitative labor practices as well as how the criminal and immigration legal systems are used as a social death "purgatory" for people designated as undesirable or criminal aliens.³⁰

Constructing the Threat of the Alien Invader

In 1790, as a European settler-colonial state, Congress established citizenship as "free White persons of good character" who had resided in the United States for at least five years.³¹ This definition was designed to exclude Native Americans and Africans who were freed or enslaved as well as Asian and Latinx peoples, all deemed threats to freed White personhood. The state's role was to

protect and advance all economic, civil, and political interests of White citizens while denying, or at the expense of, noncitizens (i.e., non-Whites).^{32,33} Rooted in the historical practice of European conquest-violence and under the doctrine of Manifest Destiny, the myth of Anglo-Saxon superiority, embedded in US citizenship, was created by political and economic elites to convince a majority poor White populace that they were entitled to the lands, and fruits from those lands, they occupied by eliminating Native Americans and non-White Mexican peoples—both characterized as sub-species invaders who were inherently vicious and criminal without any right to land—as well as by subjecting Black people to slavery and bondage.^{34,35,36} Accordingly, in 1798, Congress passed the Alien and Sedition Acts, which made aliens "liable to be apprehended, restrained, secured, and removed" during wartime under orders of the president—a precursor to Trump's emergency powers.³⁷ By the 1820s, as the United States occupied western Mexican and Native lands, US settlers developed a complex and profitable system of leased convict labor in which those labeled as noncitizens or aliens, overwhelmingly Native, African, mulatto, and mestizo people, were imprisoned on public charges (e.g., sleeping on the street, requiring public assistance) or as enemies of war. This included criminalizing habits of immigrants that were deemed to threaten White people, like the Chinese Exclusion Act of 1882, which criminalized opium smoking on the notion that it threatened the moral system of Whites but also as a tactic to protect White laborers.³⁸ Once imprisoned, criminal aliens were forced to build and maintain new Western cities.³⁹ As more White citizens occupied these lands, entire classes of people who posed a challenge to this system were labeled as criminals and/or aliens and excluded from citizenship and state protection.^{40,41} This included anarchists, communists and/or socialists, the poor and illiterate, racial minorities, LGBTQ people, and

laborers from China, Southeast Asia, India, and the Middle East.⁴²

At the turn of the 20th century, as the growing capitalist society required more bodies to exploit for profit, vast numbers of immigrant groups were granted admission to fill the necessary role for White citizens to achieve a newly fabled American Dream mobility into a White middle class subsidized by high tax rates and redistributive policies.^{43,44,45,46} Specifically, the Immigration Act of 1924 created restrictive racial quotas, ensuring that over 90 percent of new arrivals were White Europeans, prevented immigrants from the global south countries to enter—with the large exception of noncitizen Mexican laborers—and created the border patrol to deport non-White immigrants through nearly 100 years of brutality and impunity.^{47,48} Accordingly, the United States subsidized the construction of White-flight cities for White citizens from the profits generated by exploited immigrant, Black, and Native labor while also creating local borders that segregated immigrants and non-White people to guarantee their legal and physical exclusion from the American Dream.^{49,50} As demonstrated by the Bracero Program and Operation Wetback, the constant threat of physical removal, or elimination, was the main state strategy to control an immigrant labor force and prevent labor unionizing.⁵¹ When immigrant groups were deemed undesirable or a threat to Whiteness, political and economic elites—some of whom were openly segregationist and White supremacist—characterized immigrants as hyper-violent, diseased, drug addicted, and criminal. This weaponized racial animus and economic instability to stir a panic of White extinction and, thus, legitimize state control or elimination of the criminal alien.^{52,53} Specifically, the War on Drugs, created by the Nixon administration in the 1960s, masterfully developed a massive military/police, prison, and legal apparatus to control/eliminate the non-White criminal alien under the veil of national security while never addressing the

root causes of drug addiction. During Cold War efforts, the United States intervened in Latin America, the Middle East, and East and Southeast Asia to advance US corporate interest (then extracting wealth to build White US cities) through supporting brutal dictatorships and police and prison infrastructures and controlling financial and monetary policies that created the conditions for civil wars, gang/cartel violence, human rights violations, corrupt governance, and human displacement.^{54,55,56,57} As displaced people sought refuge in the United States, the tough-on-immigration paradigm became the ordinary state practice cemented into law with the goal of creating a permanent class of human capital to exploit to sustain US capitalist and imperialist goals.^{58,59,60}

In all, the criminal alien invader is a racialized sociopolitical construct to facilitate subjugating non-White immigrant bodies.^{61,62} This construct is the foundation for the tough-on-immigration paradigm that causes immigrants to experience three major subjugations: (1) they experience poverty, violence, and displacement in their home countries largely created by interventionist policies that serve capitalist interests; (2) once forced to relocate to the United States through violent routes, immigrant labor is exploited to build wealth for predominantly White middle and upper classes, while immigrants are systematically denied the fruits of their labor; (3) if deemed unnecessary, immigrants are vilified for the economic, cultural, and social woes of the United States as a method to forcibly remove them and to draw attention away from how governance structures and policies overwhelmingly serve an elite class that pit working-class people against one another in a global race to the bottom.^{63,64} Today, this is best exemplified by Amazon, the fastest-growing and one of the most profitable companies in the world, whose business model relies on exploitative labor practices of undocumented immigrant and temporary

low-income workers worldwide while also demanding mass government corporate welfare that drains public resources intended to help the poor and investing millions to deport immigrants, prevent workers from unionizing, and segregate cities.^{65,66,67,68,69}

The Tough-on-Immigration Paradigm

Trump's "Make America Great Again" presidential campaign was a logical extension of centuries of the same law-and-order politics—specifically, the 1950s brand of conservatism.⁷⁰ Staying true to the principles of Manifest Destiny, Trump painted America as being invaded by Mexicans who were "rapists, criminals," and responsible for America's economic demise and positioned himself as its only savior.⁷¹ He then enlisted his voters—the "forgotten [White] citizen"—to join him in the war to save America, build a wall, and reap the benefits of their future wins.⁷² Leading up to the 2018 midterm as his voters struggled financially, despite a \$1.5 trillion welfare subsidy for the rich, Trump and Republicans reignited the threat narrative, manufacturing a crisis that Central Americans were criminals "invad[ing] the US" to drain public resources and vote for Democrats.⁷³ Invoking the spirit of the Alien Enemies Act of 1798, Trump vowed to declare a national emergency to construct a wall that would secure America by apprehending and removing immigrants.

While Trump represents an explicit use of the tough-on-immigration paradigm, the tactic of rallying up voters by stirring fear that criminal aliens are invading to harm the United States is not new. Historically, the criminal alien threat has been used as a persuasive political tool by both parties to pass draconian tough-on-immigration measures harming *all* immigrants.⁷⁴ The paradigm is sustained by two major forces: (1) a nihilistic capitalist system that influences the political process to provide a steady stream of vulnerable non-citizen people to exploit for profit and (2) a two-party system that amasses political power

The paradigm is sustained by two major forces: (1) a nihilistic capitalist system that influences the political process to provide a steady stream of vulnerable non-citizen people to exploit for profit and (2) a two-party system that amasses political power by appealing to the "forgotten" free White person

by appealing to the "forgotten" free White person by promising that they will achieve the fabled American Dream—built by the "deserving" immigrant.^{75,76,77}

Reaganomics, IRCA, and IIRIRA

Following decades of cyclical economic crises, Reaganomics revitalized the law-and-order system by providing mass subsidies to multinational corporations and increasing military and border patrol for interventions in Latin America and border wars against immigrants. Reagan's goal was to extract wealth globally, through multinational corporate sharecropping, and redistribute a small percentage of profits to "forgotten" White citizens.^{78,79} However, in a race to the bottom, Reaganomics led to mass wage cuts/stagnation and job insecurity through anti-union initiatives that positioned immigrants to replace workers for increasingly low-quality jobs while destabilizing Latin American and South Asian countries, causing mass displacement.^{80,81} In response to mass displacement, immigrant rights groups called for comprehensive immigration reform. As a result, the Immigration Reform and Control Act (IRCA) provided amnesty to three million "deserving" undocumented immigrants with no more than three misdemeanors, such as drug offenses or public intoxication, or a felony with proof they resided in the United States since 1982.^{82,83} IRCA also established that immigrants who would be public charges, meaning people who could become "primarily dependent on the government for subsistence," be denied

legal status.⁸⁴ Concurrently, the law strengthened border security, expanded border patrol powers, made it illegal to hire undocumented laborers, and expanded the “illegal” category to all those who entered after 1986—over six million people.⁸⁵

From 1980 to 1996, as Republicans gained more seats from Democrats, particularly in southern border states, Reagan established the modern legal and political architecture of the tough-on-immigration paradigm, often veiled within the War on Drugs. This became the dominant political tactic for both parties to obtain power from a base of White voters while serving corporate interest.^{86,87} For example, George H.W. Bush signed the Immigration Act of 1990, which prioritized admission to deserving high-skilled laborers who could contribute to economic development while stiffening border security, expanding border patrol, and immigration prisons. Similarly, in 1994, California passed Proposition 187 with a multiethnic coalition that banned undocumented immigrants from accessing public services and required that Californians report anyone suspected of being undocumented.^{88,89} The nativist campaign blamed immigrants for California’s economic troubles to divert attention from years of corporate subsidies and tax cuts for the wealthy, which led to historic cuts to public services.^{90,91} Proposition 187 was used by wealthy elites to “terrorize the low-wage workforce [overwhelmingly Latinx] into accepting even worse working conditions and even lower wages” because they could not unionize, know their rights, or demand better work conditions with the threat of deportation.⁹²

Building from Reagan’s welfare cuts and national nativist sentiment, Bill Clinton campaigned on a tough-on-crime platform to win over moderates and nativists in California, stating that he promised to “stiffen[] border patrol, . . . sanctions on employers who knowingly hire illegal immigrants, . . . get illegal immigrants out of the workforce, [and] deport

people who have committed crimes who are illegal immigrants.”^{93,94} Clinton delivered by signing the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996, which created expedited removal proceedings, expanded mandatory detention for more offenses (including nonviolent drug offenses), increased border patrol, reduced welfare benefits available to immigrants, restricted asylum procedures, and established procedures to verify an employee’s immigration status.⁹⁵ Notably, IIRIRA created the 287(g) program, which allowed local police to enforce immigration law and set the foundation SB 1070 in Arizona, SB 4 in Texas, and Georgia House Bill 87, all notorious for racially profiling Latinx people.⁹⁶ IIRIRA, which was heavily lobbied by private interests, ultimately passed with bipartisan support because it included language that further criminalized and deported immigrants.^{97,98} Rep. Lamar Smith (R-Texas), a staunch anti-immigrant conservative, lauded IIRIRA because it ensured that “the forgotten Americans—the citizens who obey the law, pay their taxes, and seek to raise their children in safety—will be protected from the criminals and terrorists who want to prey on them.”⁹⁹ Later, Clinton similarly boasted: “We must not tolerate illegal immigration. Since 1992, we have increased our Border Patrol by over 35%; deployed underground sensors, infrared night scopes and encrypted radios; built miles of new fences; and installed massive amounts of new lighting.”¹⁰⁰

War on Terror and Obama, “Deporter in Chief”

After September 11, a bipartisan Congress and President Bush expanded the racialization of the criminal alien to include Arab and Muslim communities. Congress ratcheted up state surveillance, which included a mandatory registration tracking system,¹⁰¹ border militarization, expanded immigration detention to black sites, and created the largest federal police force: Immigration and Customs Enforcement (ICE).^{102,103} The criminal alien invader now

legally included anyone *suspected* of terrorism or threats to national security and expanded the executive branch's power to neutralize them.¹⁰⁴ In the backdrop, Bush instituted mass tax cuts to the wealthy and sought to provide a steady stream of cheap labor from immigrants. In a State of Union in 2008, Bush stated: "America needs to secure our borders—and with your help, my administration is taking steps to do so. We're increasing worksite enforcement, deploying fences and advanced technologies to stop illegal crossings . . . Yet we also need to acknowledge that we will never fully secure our border until we create a lawful way for foreign workers to come here and support our economy. This will take pressure off the border and allow law enforcement to concentrate on those who mean us harm."¹⁰⁵

When President Obama entered office, he had virtually unchecked powers to further expand the tough-on-immigration paradigm at home and abroad in light of more displacement people and unaccompanied children migrating to the United States, particularly from Central America, fleeing civil wars, gang violence, and poverty largely caused by US interventions. Obama declared a crisis and campaigned on a "felons not families" strategy to garner the support of White voters and corporate interests.^{106,107} Congress instituted a bed quota in immigration prisons as well as expanded ICE and technology for the border wall.¹⁰⁸ Obama expanded his enforcement authority to deport people, including for a newly created "significant misdemeanors" category that included offenses such as DUIs.^{109,110} After Congress failed to pass the DREAM Act, the immigrant community organized to pressure Obama to scale back the deportation machine. However, since the deserving immigrant category was substantially narrowed, DACA became the only politically viable option, providing deferred deportation relief, limited work and education authorization, and some legal protections to 7.2 percent of the entire undocumented population.¹¹¹ In all,

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Obama earned the label of "deporter-in-chief" by leading the most deportations and by increasing prisons and militarized borders, particularly between Mexico and Guatemala.¹¹²

A Global Paradigm

US foreign policies and politicians have actively exported the tough-on-immigration toxic cycle, often folded into drug, trade, and security policies.¹¹³ In Europe, both burgeoning wealth inequality and US/European interventions in the Middle East—with legacies of colonization—have led to mass civil wars and regional instability, causing human displacement and migration to Europe through deadly routes.¹¹⁴ Because of the high demand to enter Europe illegally, trafficking cartels have risen across Europe, leading to abuses and death.¹¹⁵ However, state responses developed within a tough-on-immigration paradigm, from rightwing and moderate neoliberal politicians, have created drastic anti-immigrant policies, leading to militarized borders, immigrant police forces, imprisonment (and abuses), and deportations of predominantly non-White immigrants. Immigrants in Europe now account for over a quarter of the prison population.¹¹⁶

In Mexico, US foreign policies have exported the tough-on-immigration paradigm that overwhelmingly targets Central Americans, Native people, and those globally displaced who enter through Mexico, causing migrants to use violent routes when heading toward the United States.^{117,118} Notably, under the Obama administration, Mexico received substantial financial and technical support to militarize its Guatemalan southern border and train federal police forces as a method to

prevent people from migrating to the United States.¹¹⁹ Since 2008, the United States has ramped up hundreds of millions of dollars to security assistance through the Central American Security Initiative (CARSI). Most recently, Mexican nationalists, including some militia members, violently protested and called for the removal of Central Americans in the caravan, characterized as vagrant potheads by the mayor of Tijuana and as criminal illegal alien invaders by other protestors.^{120,121,122} Since migrating into the United States via safe ports is made virtually impossible by the United States, drug-trafficking organizations monopolize migration routes, leading to kidnappings, extortion, forced labor, and abuse.¹²³ These conditions, caused by the tough-on-immigration paradigm, are what forced migrants to mobilize to the United States via a caravan.

Across all cases, immigrants are characterized as alien invaders and demonized as interest-based threats (i.e., economic and security) and identity-based threats to the dominant White citizen culture and institutions protecting that identity.¹²⁴ The threat narrative is purposeful, persuasive, and effective at maintaining our current system at the expense of human suffering. Yet this same system also causes economic, social, and environmental instability globally, leading to mass displacement abroad.¹²⁵ These politics create policies that set up violent infrastructures that make it difficult for displaced people to seek refuge or reject an exploitative economic order by forcing people to choose either to stay or to traverse through some of world's deadliest and most violent borders.¹²⁶ If they do decide to seek a better life and survive the journey, they are subject to punishment through mass incarceration, policing, and deportation.¹²⁷

Preserving the Tough-on-Immigration Paradigm

Per the plenary power doctrine, Congress has the absolute and unqualified power to determine the manner in which it legally and

physically admits and removes immigrants—or whether it does so at all.^{128,129} It also has the power to bestow immigrants with as many social, political, and legal rights as it desires.¹³⁰ In essence, Congress can abolish the current system and build a humane and reparative alternative. However, Congress has maintained an inhumane, punitive, exploitative, and exclusionary system for the purposes of preserving a status quo law-and-order system that uses the deserving immigrant for their labor and punishes the criminal alien.¹³¹ Members of Congress are indebted—through massive corporate campaign financing from groups profiting from this paradigm—to preserve such a system because it is the platform upon which both parties build their political power.¹³² Since the 18th century, and with Reagan's revitalization, the tough-on-immigration paradigm has been core to appealing to the White voting base and corporate interests. Both parties develop immigration and economic policies within the tough-on-immigration paradigm, even in rhetorical rebuke to Trump, that include more militarized borders,¹³³ family separations,¹³⁴ policing,¹³⁵ mandatory detention, and deportation as well as economic instability via massive transfers in wealth.^{136,137}

The Democratic National Committee's

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position on immigration is “comprehensive immigration reform that fixes our nation's broken immigration system, improves border security, prioritizes enforcement so we are targeting criminals - not families,[sic] keeps families together, and strengthens our economy.”¹³⁸ The Democratic Congressional Campaign Committee (DCCC) position is the same. DCCC Chair Rep. Ben Ray Lujan

(R-New Mexico) articulated their position—reminiscent of Rep. Lamar Smith’s 1996 floor speech—as “tough and fair and that encourages people to come forward but that makes sure that they get in line. That they are paying taxes. We also know that a strong comprehensive immigration reform would be positive for America’s economy. That also includes investments in border security. Our candidates have been clear from the very beginning that they support strong policies that lead to strong, smart, and fair border security policies.”¹³⁹

2020 Democratic presidential candidates align with the tough-on-immigration paradigm by calling for more border security, technology, and mass surveillance programs (e.g. ankle monitors for asylum seekers), as well as prioritizing criminal

aliens or people who pose a “real threat” and offering limited relief only for deserving immigrants.^{140,141,142} For example, Julian Castro’s “keep families together” policy is a replica of Obama’s “families not felons” approach.

Similarly, the Republican National Committee’s official stance is that “immigrants have undeniably made great contributions to our country, but any national immigration policy must put the interests of our existing citizens first. To start, our border must be absolutely secured and illegal immigration must be stopped. Then, and only then, can we begin reforming our system in a way that lets new immigrants experience the American Dream without causing economic hardships to American citizens.”¹⁴³

While the Democratic and Republican parties differ in how they brand their policies, both operate only within the tough-on-immigration paradigm.¹⁴⁴ For example, by using language such as “improves border security, prioritizes enforcement so we are targeting criminals . . . and strengthens our economy,” Democrats are signaling a decades-long commitment to maintain the deportation regime

in the same way as Republicans. For example, Rep. Chuck Schumer (D-New York) and Rep. Nancy Pelosi’s (D-California) counteroffer to Trump’s border wall, included in the \$1.6 billion budget bill they passed on their first day, called for tougher (virtual) border security, funding for more ICE personnel and equipment, and more immigration judges. The bipartisan support to preserve the deportation machine is best illustrated by H.R. 4796 (2018), introduced by Rep. Hurd (R-Texas). H.R. 4796 would increase immigration judges,

protect DACA, and provide conditional permanent resident status only to those who arrived before age 18 and resided since 2013. It also calls on DHS to deploy the most practical and effective

technology available along the border and creates Operation Stonegarden in DHS to provide border security grants to law enforcement agencies involved in border protection operations.¹⁴⁵ In all, both Democrats and Republicans differ little in the substance of their immigration policies—with the key exception of Trump’s border wall.

Currently, the Democratic Party is minimally divided on how to approach immigration between those who want limited relief only for Dreamers and temporary protected status (TPS) recipients and those who want more pathways to citizenship.¹⁴⁶ All proposals are within the tough-on-immigration paradigm. For example, while the Justice Democrats, a new progressive Democrat wing, campaigned on abolishing ICE, these members voted to fund it on their first day in office and at most want to replace ICE by expanding the reach of the criminal legal system, including state and local policing powers, to detain and deport immigrants.¹⁴⁷ They also offer a limited pathway to citizenship to a limited pool of deserving immigrants (replicating Reagan’s amnesty).¹⁴⁸ Meanwhile, Democrats in state legislatures, rather than outright ban the use of private

All [Democratic Party] proposals are within the tough-on-immigration paradigm.

prisons, only want to improve prison conditions, meanwhile other states ramp up baby jails.^{149,150} In this context, Trump’s counteroffer to end the shutdown by offering limited relief to DACA and TPS recipients in exchange for a \$5.7 billion border wall makes sense. Without any substantially different proposals from the Democrats outside the tough-on-immigration paradigm, both sides are only refining who is deserving of relief while bolstering the deportation machine—which both agree in principle should exist but differ in how to do it: physical border wall versus a modern, virtual one.¹⁵¹

There are fragmented steps toward a new paradigm addressing root causes of displacement. For example, the progressive Congressional Caucus call for reforming US trade policies that have contributed to forced migration and to providing aid to Central American countries for community-led sustainable economic development.^{152,153} Sen. Kamala Harris (D-California) introduced a bill to prohibit the expansion of new federal immigration prisons.¹⁵⁴ Rep. Lou Correa (D-California) has called, but never introduced legislation, for a new Marshall plan to “stabilize Central America.”¹⁵⁵ Finally, some Democrats have suggested that an open border policy would allow people to move toward better wages.¹⁵⁶

Democrats and Republicans are choosing to amass political power by preserving the toxic cycle of tough-on-immigration politics. Such nihilistic concept of political power lacks accountability for how their politics and policies perpetuate human suffering. If Congress actually wants to address the root causes of human displacement, they must move to a new paradigm.

Toward a New Paradigm

Our current immigration system is morally bankrupt. It is meant to maximize human suffering as the sole deterrent and punitive strategy to minimize, or entirely prevent, displaced peoples from seeking refuge.¹⁵⁷ In developing an alternative paradigm, policy makers must

be guided by those most directly impacted and organizations working to uplift those voices through a reparatory justice model, such as the one recently articulated by the California Immigrant Youth Justice Alliance.¹⁵⁸ As many scholars, organizers, and immigrants argue, a new paradigm must abolish the deserving–undeserving binary and fully defend the “criminal alien” by challenging the underlying moral presumptions embedded in this system while still holding those who commit harms in our communities accountable through non-carceral and anti-violent ways.

Criminalizing, segregating, and persecuting immigrants by placing them in cages and subjecting them to state-sanctioned abuses is antithetical to life, liberty, and happiness

Recently, Michelle Alexander added that in order for the United States to move toward an actual humane immigration system, we must grapple with the moral contradictions embedded in the mythical notion of US exceptionalism, which claims that *all* people, not just White men with property, are “‘created equal’ with ‘inalienable rights’ including ‘life, liberty and the pursuit of happiness.’” As Alexander continues to say, “[but] [i]f this is true, on what moral grounds can we greet immigrants with tear gas and lock them in for-profit detention camps, or build walls against the huddled masses yearning to breathe free?” Criminalizing, segregating, and persecuting immigrants by placing them in cages and subjecting them to state-sanctioned abuses is antithetical to life, liberty, and happiness. One need only listen to the screams of children as their parents are torn away from them, to the cries of mothers sleeping on frigid concrete floors of prisons, or to the shouts of families waking up from nightmares of trauma to know that the US immigration system has been, and is, inhumane.

The United States will never be able to fully create an actual humane immigration system, let alone achieve its mythical exceptional moral vision for itself, if it does not first fully address these inherent contradictions. It must come to terms with its role in destabilizing regions across the world and in creating conditions leading to mass violence, environmental degradation, genocide,¹⁵⁹ capitalist exploitation, fractured political systems, and human displacement.¹⁶⁰

While there are various specific policy proposals necessary to create a humane immigration system, this article seeks to provide the framing for a new paradigm. First, we must imagine a world beyond politically and economically constructed borders. We must reject a status quo where human beings are subject to criminalization, detention, and abuse but capital and profits flow unrestrained. Second, we must work toward a world where workers can collectively bargain internationally and own means of their own production in order to self-determine their life as they best see fit. Interestingly, it was the Trump administration who demonstrated that such policy prescriptions are possible as evidenced in the United States–Mexico–Canada Agreement (USMCA), which in an effort to protect jobs for US workers, included minimum-wage provisions and the right for Mexican workers to unionize. Congress must take the bolder step by moving toward an international human right of free movement for all people, not just those from Western hegemonies. Such a system must guarantee basic human, labor, legal, and civil rights and liberties, including the right to vote, legal counsel, and due process. Third, all must work toward replacing our current economic world order, which maintains global caste systems of exploitation, dehumanization, and elimination for the self-interests of an elite few who are increasingly concentrating more wealth and political power in their hands. We need to fundamentally question whether the global capitalist system as it exists today, where

an increasingly small elite of corporate board members make decisions affecting billions of people, is truly democratic, just, or the best method to produce and redistribute wealth. The answer is likely no. Fourth, we must recognize that criminal legal and prison systems, and the for-profit industries connected to it, must be abolished not only as an economically better alternative but as a moral imperative. As many scholars, activists, and survivors have demonstrated, these are systems not designed for justice or to hold people accountable for the harms they committed but rather designed to control, dehumanize, and eliminate undesired peoples. As many groups have historically recognized, we must acknowledge that holding people accountable for the harms they commit and placing someone in a cage are two different things. We must look toward non-carceral and anti-violent reparative practices, like those developed by Survived & Punished and Common Justice, who have models for addressing interpersonal violence, repairing pain, and rehabilitating those who cause harm by also addressing systemic conduits to violence. Moreover, Congress must reject the influence of for-profit prisons or special interests who continue to peddle tough-on-immigration policies as a business strategy. Fifth, Congress must stop supporting policies that militarize the border, forcing people to traverse violent paths, and must instead create humane physical pathways of migration supported by humanitarian aid, health services, and legal services. Finally, Congress needs to entirely abolish the caste system created by the legal and political construct of citizenship, which alienates noncitizens from basic human rights of life, liberty, and pursuit of happiness as well as basic legal, political, and labor rights—calling into question the current form of American democracy. Instead, we must view that in order to call ourselves a true democracy—a system where the people self-determine their destiny—we must allow those most marginalized, as a precondition to truth,

to be heard and participate in shaping our destiny. A real democratic dialogue requires the basic affirmative ethical commitment to recognizing the citizenship and humanity of those most at the margins—the more than 11 million undocumented immigrants and those currently held in immigration prisons.

Although Congress has demonstrated an unwillingness to substantially change the status quo, history has shown its willingness to respond when pressured. Evoking such a response from Congress will require a large-scale intersectional, intergenerational, global, and multiethnic social movement led by those most marginalized. Even in the face of constant state repression in the form of constant surveillance, policing, and detention, the peoples' *movimiento* will never stop.¹⁶¹ For example, the national mobilization against the 2006 Sensenbrenner Immigration Bill (H.R. 4437) and increased work raids, deportations, and hate crimes demonstrates both the effectiveness of mass organizing but also the pitfalls of not sustaining the movement beyond a legislative or electoral campaign, as undocumented people were arguably more under attack after the mass marches as anti-immigrant sentiment escalated.¹⁶²

The fact remains that as long as people are kept at the margins as a necessary means to preserve a law-and-order capitalist system, human suffering will continue. But so will organized efforts to change it. If Congress truly wants to appeal to its exceptionalist moral principles, then it must abandon the tough-on-immigration paradigm. Ultimately, Congress has a choice to make in exercising the full limits of its plenary power: do they remain complicit in preserving the toxic tough-on-immigration paradigm for the purpose of preserving political power, or do they create an alternative humane and reparative system?

Author Bio

Felipe is a second-year law student at Harvard Law School (HLS). He is originally from

Paramount, California. As a first-generation xicano, he completed a double BA in political science and music performance from UC Irvine. In post-grad, he worked as a Fulbright scholar in Colombia and legislative aid in the California State Senate and obtained dual master's degrees in education from the University of Bristol and in evidence-based social intervention and policy evaluation from the University of Oxford, both as a Marshall Scholar. He spent his 1L summer working with MALDEF on immigration policy advocacy and impact litigation as well as working with Improve Your Tomorrow (IYT) to abolish zero-tolerance policies and implement restorative justice practices across Sacramento. At HLS, Felipe is also a member of the Harvard Legal Aid Bureau, Harvard Defenders, Harvard Immigration Project, *Harvard BlackLetter Law Journal*, and *Harvard Civil Rights-Civil Liberties Law Review*. Felipe is interested in prison and police abolition and dismantling the crimmigration system through social-movement building and community lawyering.



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¹¹ Pooja Gehi, “Gendered (In)security: Migration and Criminalization in the Security State,” *Harvard Journal of Law and Gender* 35 (2012): 357–85. Examines how the 2014 Secure Communities Memo, which ordered ICE and DHS to prioritize deportations, disproportionately impacted queer and transgender undocumented immigrants.

¹² César Cuauhtémoc García Hernández, “The Perverse Logic of Immigration Detention: Unraveling the Rationality of Imprisoning Immigrants Based on Markers of Race and Class Otherness,” *Columbia Journal of Race and Law* 1, no. 3 (2012): 353. “White workers are

positioned against non-white workers, the multi-axis category in which most immigrants are initially placed even if they later “become” white, in a battle for pieces of the figurative, and sometimes literal, pie.”

¹³ Justin Ankers Chacon and Mike Davis, *No One Is Illegal: Fighting Racism and State Violence on the U.S.–Mexico Border* (Chicago: Haymarket Books, 2006).

¹⁴ García Hernández, “The Perverse Logic of Immigration Detention,” 364. “Our nation’s passion for surveilling and jailing nonwhite bodies today has turned with renewed vigor toward immigrants. In a society that embraces mass imprisonment, as does ours, imprisonment is not merely an understandable component of sorting the desirable from the undesirable.”

¹⁵ Per-Olof H. Wikström, “Individuals, settings, and acts of crime: situational mechanisms and the explanation of crime,” in *The Explanation of Crime: Context, Mechanisms and Development*, ed. Per-Olof H. Wikström and Robert J. Sampson (Cambridge, UK: Cambridge University Press, 2006): 61–107.

¹⁶ Chacon and Davis, *No One Is Illegal*, 174. “In a capitalist economy, the most wealthy and powerful interests exert the most influence and control over the official institutions of the state, and can therefore use the state as a labor supplier and regulator. Since the primary desire of capitalist is to make maximum profit, they seek the cheapest and most controllable human material to do their labor. Immigration laws, are therefore, necessarily contradictory. Initially, immigration proposals derive from economic imperative: that is, the ratio of existing workers to expected job growth determines whether there will be a walls-up or doors-open policy. They take further political shape on the basis of how imported labor can be separated, controlled, or used as a wedge against existing labor organization. Once basic core elements are established and codified, secondary issues are negotiated with the representatives of civil society, which creates the illusion of a pluralistic approach, as does the fact that capitalist work through interest groups and political representatives to meet their labor needs and ensure labor passivity.”

¹⁷ Geoff West and Alex Baumgart, “‘Zero-tolerance’ immigration policy is big money for contractors, nonprofits,” *OpenSecrets.org*, 21 June 2018, <https://www.opensecrets.org/news/2018/06/zero-tolerance-immigration-is-big-money-for-contractors-nonprofits/>.

¹⁸ Chacon and Davis, *No One Is Illegal*, 195: “Immigration policy, influenced by issues of race, class, and proximity to Mexico, ultimately reflects a two-track system by which Mexican workers become segregated and separated from the rest of the working class through the designation of some Mexicans as ‘illegal.’ Couched in the language of legality, it remains a means of division of exclusion to better sustain the hegemony of capital over labor.”

¹⁹ Danny Dorling, *Inequality and the 1%* (New York:

Verso, 2014). “In the UK the groups most blamed for our current woes are not the 1 per cent, but immigrants. Increasingly the poorest of newly arrived immigrants fall into the ‘human trash’ category.”

²⁰ Lisa Marie Cacho, *Social Death: Racialized Rightlessness and the Criminalization of the Unprotected* (New York: New York University Press, 2012). Traces the criminalization of bodies of color, particularly African American, Southeast Asian, and Latinx, by labeling them as suspected terrorists and enemies of the state while decriminalizing Whiteness to demonstrate the political, legal, and social strategies used to bring about a social death of these marginalized groups in an effort to protect Whiteness.

²¹ Nick Miroff and Robert Moore, “7-year-old migrant girl taken into Border Patrol custody dies of dehydration, exhaustion,” *The Washington Post*, 13 December 2018, https://www.washingtonpost.com/world/national-security/7-year-old-migrant-girl-taken-into-border-patrol-custody-dies-of-dehydration-exhaustion/2018/12/13/8909e356-ff03-11e8-862a-b6a6f3ce8199_story.html?fbclid=IwAR00e7N9h9n3AKhhF-wgFJssHC08Rmd8kwPsrGBf5gmdSuU_ru4JdJphCsY&noredirect=on&utm_term=.438f00b70a0.

²² John Washington, “Here Is Just Some of the Hateful Abuse Immigrants Face in Detention Centers,” *The Nation*, 27 June 2018, <https://www.thenation.com/article/just-hateful-abuse-immigrants-face-detention-centers/>.

²³ Justin Akers Chacón, *Radicals in the Barrio: Magonistas, Socialists, Wobblies, and Communists in the Mexican-American Working Class* (Chicago: Haymarket Books, 2018).

²⁴ Laura Pulido, *Black, Brown, Yellow, and Left: Radical Activism in Los Angeles* (Berkeley, CA: University of California Press, 2006).

²⁵ Vicki L. Ruiz, *From Out of the Shadows: Mexican Women in Twentieth-Century America*, Tenth Edition (Oxford: Oxford University Press, 2008).

²⁶ Daysi Diaz-Strong et al., “Commentary: Organizing Tensions — From the Prison to the Military-Industrial Complex,” *Social Justice* 36, no. 2 (2009–2010): 73–84. “Strategies for legalization offered by the state and embraced by many vulnerable communities, such as the DREAM Act, trade on tropes of ‘innocence’ and ‘merit,’ thus reinforcing the idea that there are ‘real’ criminals and undeserving or guilty immigrants who should legitimately be denied access to pathways for legalization.”

²⁷ Angélica Cházaro, “Challenging the ‘Criminal Alien’ Paradigm,” *UCLA Law Review* 63, no. 3 (2016): 594–664.

²⁸ Niv Elis, “Senate DHS bill includes \$1.6 billion for ‘fencing’ on border,” *The Hill*, 19 June 2018, <https://thehill.com/policy/finance/appropriations/392974-senate-dhs-bill-includes-16-billion-for-fencing-on-border>.

²⁹ Adrian Reyna, “To: Members of Congress, United States Congress: Protect Immigrant Youth: Pass Dream Act

Now!” *United We Dream*, accessed 9 December 2018, <https://action.unitedwedream.org/petitions/keep-the-deferred-action-for-childhood-arrivals-daca-program>.

“Passing permanent protection for immigrant youth in the form of a Dream Act that stays true to our values: no border wall, no more detention, no more deportations for the protections of those impacted. Congress needs to pass the Dream Act that does not include funding for enforcement that would endanger other immigrants. I will not put a target on my mother or others members of my community in order to get relief for immigrant youth.”

³⁰ García Hernández, “The Perverse Logic of Immigration Detention,” 358. “Prisons, then, are immigration law’s necessary purgatory, the physical in-between space that must exist to facilitate the welcoming embrace of the “good immigrant” and DHS’s concerted efforts to remove unwanted immigrants.”

³¹ 1790 Naturalization Act, 1 Stat. 103 (1790).

³² Martha S. Jones, *Birthright Citizens: A History of Race and Rights in Antebellum America*, (Cambridge, UK: Cambridge University Press, 2018).

³³ Harris, “Whiteness as Property,” 1707–79.

³⁴ Carey McWilliams, *Factories in the Fields: The Story of Migratory Farm Labor in California* (Berkeley, CA: University of California Press, 2000).

³⁵ Roxanne Dunbar-Ortiz, *An Indigenous Peoples’ History of the United States* (New York: Beacon Press, 2014).

³⁶ Reginald Horseman, *Race and Manifest Destiny: The Origins of American Racial Anglo-Saxonism* (Cambridge, MA: Harvard University Press, 1986).

³⁷ The National Archives and Records Administration, *Our Documents: 100 Milestone Documents from the National Archives* (New York: Oxford University Press, 2003), 10.

³⁸ Diana L. Ahmad, “Opium smoking, anti-Chinese attitudes, and the American medical community, 1850–1890,” *American Nineteenth Century History* 1, no. 2 (2000): 53–68.

³⁹ Robert M. Buffington, *Criminal and Citizen in Modern Mexico* (Lincoln, NE: University of Nebraska Press, 2000).

⁴⁰ Mae M. Ngai, “The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924,” *The Journal of American History*, 86, no. 1 (1999): 67–92. 70: Demonstrates how “the Immigration Act of 1924 comprised a constellation of reconstructed racial categories, in which race and nationality which ranked those of European descent in a hierarchy of desirability and constructed a white American race, in which persons of European descent shared a common whiteness that made them distinct from those deemed to be not white. Meanwhile non-European immigrants—among them Japanese, Chinese, Mexicans, and Filipinos—acquired ethnic and racial identities that were one and the same. The racialization of the latter groups’ national origins rendered them unalterably foreign and

unassimilable to the nation.”

⁴¹ J. David Cisneros, “Contaminated Communities: The Metaphor of ‘Immigrant as Pollutant’ in Media Representations of Immigration,” *Rhetoric and Public Affairs* 11, no. 4 (2008): 569–601.

⁴² “Major U.S. Immigration Policies, 1790 - Present,” Migration Policy Institute, March 2013, <https://www.migrationpolicy.org/research/timeline-1790>.

⁴³ The 1917 Immigration Act established literacy tests and taxes on immigrants to prevent undesired migrants from entering. However, as farmers and manufacturers needed more laborers, they lobbied Congress to allow Mexican immigrants into the United States. A cotton company executive wrote President Woodrow Wilson, “Personally, I believe that the Mexican laborers are the solution to our common labor problem in this country. Many of their people are here, this was once part of their country, and they can and they will do the work.” Then after the Great Crash of 1929, nearly 2 million Mexican people were deported by city, state, and federal governments to Mexico by President Hoover’s “American jobs for real Americans” program until about 1936; see Melissa Block, “Remembering California’s ‘Repatriation Program,’” *All Things Considered*, podcast audio, 2 January 2006, <https://www.npr.org/templates/story/story.php?storyId=5079627>.

⁴⁴ Mike Davis, *Prisoners of the American Dream: Politics and Economy in the History of the US Working Class* (London: Verso, 1999).

⁴⁵ Anna Diamond, “The Original Meanings of the ‘American Dream’ and ‘America First’ Were Starkly Different From How We Use Them Today,” *Smithsonian Magazine*, October 2018,

<https://www.smithsonianmag.com/history/behold-america-american-dream-slogan-book-sarah-churchwell-180970311/#KSi3dK32ssRHQcxY.99>. “The American Dream’ has always been about the prospect of success, but 100 years ago, the phrase meant the opposite of what it does now. The original ‘American Dream’ was not a dream of individual wealth; it was a dream of equality, justice and democracy for the nation. The phrase was repurposed by each generation, until the Cold War, when it became an argument for a consumer capitalist version of democracy. Our ideas about the ‘American Dream’ froze in the 1950s. Today, it doesn’t occur to anybody that it could mean anything else.”

⁴⁶ Richard Fry and Rakesh Kochhar, “America’s wealth gap between middle-income and upper-income families is widest on record,” *Pew Research Center*, 17 December 2014, <http://www.pewresearch.org/fact-tank/2014/12/17/wealth-gap-upper-middle-income/>.

⁴⁷ Kelly Lytle Hernández, *Migra! A History of the U.S. Border Patrol* (Berkeley, CA: University of California Press, 2010), 103–24.

⁴⁸ Gren Grandin, “The Border Patrol Has Been a

Cult of Brutality Since 1924,” *The Intercept*, 12 January 2019, <https://theintercept.com/2019/01/12/border-patrol-history/>.

⁴⁹ Rick Su, “Local Fragmentation as Immigration Regulation,” *Houston Law Review* 47, no. 2 (2010): 367.

⁵⁰ Terry Gross, “A ‘Forgotten History’ Of How the U.S. Government Segregated America,” *NPR*, 3 May 2017, <https://www.npr.org/templates/transcript/transcript.php?storyId=526655831>.

⁵¹ Alex Wagner, “America’s Forgotten History of Illegal Deportations,” *The Atlantic*, 6 March 2017, <https://www.theatlantic.com/politics/archive/2017/03/americas-brutal-forgotten-history-of-illegal-deportations/517971/>.

Throughout the 1920s and 30s, the United States carried out a series of mass removals in the interest of protecting employment of White Americans. In 1955, President Eisenhower ordered Operation Wetback, which forcefully removed 1.3 million Mexicans, most of whom were laborers who came through the 1942 Bracero Program. The Walter-McCarren Act of 1952 made it a felony to import or harbor, but not to employ, “illegal aliens” which allowed agribusinesses to deport any immigrant at its will; see also Erin Blackmore, “The Largest Mass Deportation in American History,” *History.com*, 23 March 2018, <https://www.history.com/news/operation-wetback-eisenhower-1954-deportation>.

⁵² Charles M. Blow, “White Extinction Anxiety,” *The New York Times*, 24 June 2018, <https://www.nytimes.com/2018/06/24/opinion/america-white-extinction.html>.

⁵³ Brian Resnick, “White fear of demographic change is a powerful psychological force,” *Vox*, 28 January 2017, <https://www.vox.com/science-and-health/2017/1/26/14340542/white-fear-trump-psychology-minority-majority>.

⁵⁴ Juan Gonzalez, *Harvest of Empire: A History of Latinos in America* (New York: Penguin Group, 2001).

⁵⁵ Mark Tseng-Putterman, “A Century of U.S. Intervention Created the Immigration Crisis,” *Medium*, 20 June 2018, <https://medium.com/s/story/timeline-us-intervention-central-america-a9bea9ebc148>.

US conducted interventions in Central America from the 1920s to 2006 to support authoritarian regimes and protect corporations like the United Fruit Company.

⁵⁶ Chacón, *Radicals in the Barrio. The Porfiriato Dictatorship in Mexico in the late 19th and early 20th century used to protect U.S. investors who owned up to 80% of Mexico’s capital interests.*

⁵⁷ Michelle Chen, “How US ‘Free Trade’ Policies Created the Central American Migration Crisis,” *The Nation*, 6 February 2015, <https://www.thenation.com/article/how-us-free-trade-policies-created-central-american-migration-crisis/>.

⁵⁸ Chacón, *Radicals in the Barrio.*

⁵⁹ Ruth Gomberg-Munoz and Laura Nussbaum-Barberena, “Is Immigration Policy Labor Policy?”

Immigration Enforcement, Undocumented Workers, and the State,” *Human Organization* 70, no. 4 (2011): 366–75.

⁶⁰ Mary Jo Dudley, “These U.S. industries can’t work without illegal immigrants,” CBS News, 10 January 2019, <https://www.cbsnews.com/news/illegal-immigrants-us-economy-farm-workers-taxes/>.

⁶¹ Ian F. Haney-Lopez, “The Social Construction of Race: Some Observations on Illusion, Fabrication, and Choice,” *Harvard Civil Rights and Civil Liberties Law Review* 29, no. 1 (1994).

⁶² Kevin R. Johnson, “‘Aliens’ and the U.S. Immigration Laws: The Social and Legal Construction of Nonpersons,” *The University of Miami Inter-American Law Review* 28, no. 2 (1996/1997): 263–92.

⁶³ Melissa Jeanette Pujol, “The Neoliberal Construction of Immigration as Crisis” (master’s thesis, Eastern Kentucky University, 2015), 307, <https://encompass.eku.edu/etd/307>.

⁶⁴ Sally Davison and George Shire, “Race, migration and neoliberalism: How neoliberalism benefits from discourses of exclusion,” *Soundings* 59 (2015): 81–95.

⁶⁵ Krishna Andavolu, “Permanently Temporary,” *Vice News*, 13 December 2013, https://www.vice.com/en_us/article/av4w4/permanently-temporary-0000176-v20n12.

⁶⁶ Karen Hao, “Amazon is the invisible backbone behind ICE’s immigration crackdown,” *MIT Technology Review*, 22 October 2018, <https://www.technologyreview.com/s/612335/amazon-is-the-invisible-backbone-behind-ices-immigration-crackdown/>.

⁶⁷ Bryan Menegus, “Amazon’s Aggressive Anti-Union Tactics Revealed in Leaked 45-Minute Video,” *Gizmodo*, 26 September 2018, <https://gizmodo.com/amazons-aggressive-anti-union-tactics-revealed-in-leake-1829305201>.

⁶⁸ Alexandra Staub, “Amazon’s move will gentrify neighborhoods – at what social cost?” *The Conversation*, 21 November 2018, <https://theconversation.com/amazons-move-will-gentrify-neighborhoods-at-what-social-cost-107264>.

⁶⁹ Emily Jane Fox, “How Amazon’s new jobs really stack up,” *CNN Business*, 30 July 2013, <https://money.cnn.com/2013/07/30/news/companies/amazon-warehouse-workers/index.html>. Amazon ranked 12 as the most profitable company in the world with CEO Jeff Bezos net worth of \$160 billion and a median warehouse employee salary of \$24,300.

⁷⁰ Ta-Nehisi Coates, “The First White President,” *The Atlantic*, October 2017, <https://www.theatlantic.com/magazine/archive/2017/10/the-first-white-president-ta-nehisi-coates/537909/>. “It is often said that Trump has no real ideology, which is not true—his ideology is white supremacy, in all its truculent and sanctimonious power. . . . To Trump, whiteness is neither notional nor symbolic but is the very core of his power. In this, Trump is not singular. But whereas his forebears carried whiteness like

an ancestral talisman, Trump cracked the glowing amulet open, releasing its eldritch energies.”

⁷¹ Rupert Neate, “Donald Trump announces US presidential run with eccentric speech,” *The Guardian*, 16 June 2015, <https://www.theguardian.com/us-news/2015/jun/16/donald-trump-announces-run-president>.

⁷² Peter Schrag, “The Forgotten American,” *Harper’s Magazine*, August 1969, 27–34. The “forgotten man,” coined by Peter Schrag, is the lower-middle-class White citizen “who watches the tube, plays the horses, and keeps the n***** out of his union and his neighborhood. Who might vote for [Gov. George] Wallace (but didn’t). Who cheers when the cops beat up on demonstrators. Who is free [and] white”

⁷³ CNN, “Trump on campaign ad: ‘Just telling the truth,’” *CNN video*, 2018, <https://www.cnn.com/videos/politics/2018/11/02/trump-reaction-racist-ad-sot-west-virginia-rally-vpx.cnn/video/playlists/this-week-in-politics/>.

⁷⁴ Leo R. Chavez, *The Latino Threat: Constructing Immigrants, Citizens, and the Nation* (Stanford, CA: Stanford University Press, 2013).

⁷⁵ Cornel West, “Nihilism in America,” in *Democracy Matters: Winning the Fight Against Imperialism* (New York: Penguin Books, 2004).

⁷⁶ Thomas B. Edsall, “White Identity Politics Aren’t Going Anywhere,” *The New York Times*, 20 December 2018, <https://www.nytimes.com/2018/12/20/opinion/trump-race-immigration-democrats.html>.

⁷⁷ John Sides, Michael Tesler, and Lynn Vavreck, *Identity Crisis: The 2016 Presidential Campaign and the Battle for the Meaning of America* (Princeton: Princeton University Press, 2018). Authors argue against the prevalent idea that Trump attracted White voters who felt victimized by loss of jobs and worries over economic insecurity, instead mounting abundant evidence for their contention that group identities mattered more to voters than perceptions of economic hardship or inequality. “Divisions centered on how voters felt about groups they did not belong to, including blacks, Muslims, and immigrants.”

⁷⁸ Frank Ackerman, *Reaganomics: Rhetoric vs. Reality* (Boston: South End Press, 1982).

⁷⁹ Richard E. Feinberg, “Central American Stability,” *The New York Times*, 26 February 1982, <https://www.nytimes.com/1982/02/26/opinion/central-american-stability.html>. “The newly announced Caribbean Basin Initiative demonstrates the Administration’s conceptual boldness. The proposals seek to create a favorable climate for private investment in Central America and the Caribbean islands through trade preferences, incentives for foreign investment, and increased economic assistance.”

⁸⁰ Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge, MA: Harvard University Press, 2016).

⁸¹ James North, “How the US’s Foreign Policy Created an

Immigrant Refugee Crisis on Its Own Southern Border,” *The Nation*, 9 July 2014, <https://www.thenation.com/article/how-uss-foreign-policy-created-immigrant-refugee-crisis-its-own-southern-border/>.

⁸² Immigration and National Act of 1952 § 245A (a) (4)(B), 8 U.S.C. § 1255a (a)(4)(B). Under IRCA, a felony is defined as a crime punishable by over one year imprisonment, and a misdemeanor as a crime punishable by one year or less, with the following exceptions: (1) a crime punishable by five days or less is an infraction; and (2) if a state designates an offense as a misdemeanor and the sentence actually imposed was one year or less, the offense will be treated as a misdemeanor, regardless of the maximum punishment allowed under state law. A sentence has been imposed where execution of sentence is suspended, but not where imposition of sentence is suspended. See 8 C.F.R. § 245a.1 (o), (p) and Comments, published in 53 Fed. Reg. 9, 862-4 (28 March 1988).

⁸³ Special to the *New York Times*, “Amnesty: Who Is Eligible,” *The New York Times Archives*, 3 November 1986, <https://www.nytimes.com/1986/11/03/us/amnesty-who-is-eligible.html>.

⁸⁴ A specific statutory provision for immigrants seeking legalization under IRCA establishes a special rule for such individuals even if they are found, under the totality of the circumstances test, to be public charges. 8 U.S.C. § 1225a(d)(2)(B)(iii). This special rule focuses on a prospective determination that includes the “past acceptance of public cash assistance within a history of consistent employment.” *Id.*, see also 8 C.F.R. § 245a.3(g) (4)(iii). Non-cash benefits were explicitly excluded from this assessment. 8 C.F.R. § 245a.1(i).

⁸⁵ Marcel Paret, “Legality and exploitation: Immigration enforcement and the US migrant labor system,” *Latino Studies* 12, no. 4 (2014): 503. “The day-to-day experience of ‘illegality’ consists of a number of exclusions, from denied access to public spaces and services to the absence of various legal protections. But perhaps the most important effect is the perpetual possibility of deportation. Though in practice the vast majority of migrants are never deported, they must live and work under the surveillance of immigration officials and the threat of removal. Illegalization refers to the sum of these various effects, which constitute migrants as vulnerable outsiders within the space of the US nation-state.”

⁸⁶ John F. Cogan and David Brady, “The 1996 House Elections: Reaffirming the Conservative Trend,” Hoover Institution, Stanford University, 1 March 1997, <https://www.hoover.org/research/1996-house-elections-reaffirming-conservative-trend>

⁸⁷ Clyde Hughes and Danielle Haynes, “Nancy Pelosi quotes Ronald Reagan in return as House speaker,” UPI, 3 January 2019, https://www.upi.com/Top_News/US/2019/01/03/Pelosi-quotes-Reagan-in-return-to-House-

speakership/6241546526410/. In her speech, Speaker Pelosi said, “He [Reagan] said, ‘If we ever close the door to new Americans, our leadership role in the world will soon be lost.’ Our common cause is to find and forge a way forward for our country. Let us stand for the people to promote liberty and justice for all as we pledge every day. And always, always keep our nation safe from threats old and new, from terrorism and cyber warfare overseas and here at home to protect and defend.”

⁸⁸ Ruben J. Garcia, “Critical Race Theory and Proposition 187: The Racial Politics of Immigration Law,” *Chicano-Latino Law Review*, 17 (1995): 118–54.

⁸⁹ “Prop. 187 Approved in California,” *Migration News* 1, no. 11 (1994), <https://migration.ucdavis.edu/mm/more.php?id=492>. White (64% in support), Hispanic (31%), Asian (57%), and African-American (52%) voters. Exit poll data showed that only 40% of voters believed the measure was racist or anti-Latinx.

⁹⁰ Michael J. New, “The Tax Revolt Turns 25,” *CATO Institute*, 29 May 2003, <https://www.cato.org/publications/commentary/tax-revolt-turns-25>. “Indeed, after California’s expenditure limit was raised in the early 1990s, spending soared, nearly doubling between 1990 and 2001. As a result, California has had to raise the income tax, the sales tax, and taxes on beer, wine, gasoline, and cigarettes to keep pace with these rising expenditures. In fact, during the early 1990s, Gov. Pete Wilson even proposed hiking taxes on snack foods. This cycle of spending and taxing is the root cause of California’s current fiscal problems.”

⁹¹ Robert Reinhold, “California Forced to Turn to I.O.U.’s,” *The New York Times*, 2 July 1992, <https://www.nytimes.com/1992/07/02/us/california-forced-to-turn-to-iou-s.html>.

⁹² George Lipsitz, “Immigrant Labor and Identity Politics,” in *The Possessive Investment in Whiteness: How White People Profit from Identity Politics* (Philadelphia: Temple University Press, 2006), 48–69.

⁹³ “Prop. 187 Approved in California,” *Migration News*.

⁹⁴ Mary Pilon, “How Bill Clinton’s Welfare Reform Changed America,” *History Stories*, 26 April 2018, <https://www.history.com/news/clinton-1990s-welfare-reform-facts>.

⁹⁵ “Major U.S. Immigration Laws, 1790 - Present,” *Migration Policy Institute*.

⁹⁶ A. Elena Lacayo, “The Impact of Section 287(g) of the Immigration and Nationality Act on the Latino Community,” *National Council of La Raza*, Issue Brief no. 12, 12 August 2010, <http://publications.unidosus.org/handle/123456789/1067>.

⁹⁷ Donald Kerwin, “From IIRIRA to Trump: Connecting the Dots to the Current US Immigration Policy Crisis,” *Journal on Migration and Human Security*, DOI: 10.1177/2331502418786718.

⁹⁸ Margaret H. Taylor, “The Story of Demore V. Kim: Judicial Deference to Congressional Folly,” in

Immigration Stories, David A. Martin and Peter H. Schuck, eds. (St Paul, MN: Foundation Press, 2005).

⁹⁹ Congressional Record, vol. 142, H. 3605, 3617, 104th Congress, 2nd Session, April 18, 1996 (Mr. Smith.)

¹⁰⁰ Bill Clinton, *Between Hope and History* (New York: Random House, 1996), 134.

¹⁰¹ The National Security Entry-Exit Registration System (NSEERS) operated as a tracking program that set forth registration requirements for noncitizen males 16 years and older—specifically those who were nonimmigrants, such as visitors, students, green card holders, and asylum/refugee status seekers (67 Fed. Reg. 52584 [12 August 2002]). This only applied to individuals from Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen.

¹⁰² Louise A. Cainkar, *Homeland Insecurity: The Arab American and Muslim American Experience After 9/11* (New York: Russell Sage Foundation, 2009).

¹⁰³ Matt Ford, “Dismantle the Department of Homeland Security,” *The New Republic*, 21 February 2018, <https://newrepublic.com/article/147099/dismantle-department-homeland-security?fbclid=IwAR1KZlqfmgpYQw9KGH-B5xRWCBpOvB9DAO3Q06b8E3M71XeIwGv7KSijDA>.

¹⁰⁴ Randy Capps et al., *Rewving Up the Deportation Machinery: Enforcement under Trump and the Pushback* (Washington, DC: Migration Policy Institute, 2018).

¹⁰⁵ George W. Bush, President of the United States, *State of the Union Address* (28 January 2008).

¹⁰⁶ Jonathan Chait, “Dan Pfeiffer’s Exit Interview: How the White House Learned to Be Liberal,” *New York Magazine*, 8 March 2015, <http://nymag.com/intelligencer/2015/03/dan-pfeiffer-exit-interview.html>. In a 2015 interview with *New York Magazine*, Dan Pfeiffer, a top advisor to Obama for seven years, said: “Whenever we contemplate bold progressive action, whether that’s the president’s endorsement of marriage equality, or . . . on immigration . . . you get a lot of hemming and having in advance about what this is going to mean: Is this going to alienate people? Is this going to hurt the president’s approval ratings? What will this mean in red states?”

¹⁰⁷ Steve Phillips, *Brown Is the New White: How the Demographic Revolution Has Created a New American Majority* (New York: The New Press, 2016): 60–77.

¹⁰⁸ “Immigration Detention Bed Quota Timeline,” National Immigrant Justice Center, January 2017 [PDF file]. In 2010, Congress enacted a bed quota that required the DHS to “maintain a level of not less than 33,400 detention beds” per year, despite opposition from the immigrant community.

¹⁰⁹ Lazaro Zamora, “Comparing Trump and Obama’s Deportation Priorities,” Bipartisan Policy Center,

27 February 2017, <https://bipartisanpolicy.org/blog/comparing-trump-and-obamas-deportation-priorities/>.

Priority 1: Persons engaged in or suspected of terrorism or espionage, or who otherwise pose threat to national security; Convicted gang members; Persons apprehended at the border attempting to unlawfully enter the country; Persons convicted of a felony (other than offenses related to person’s immigration status) or aggravated felonies. Priority 2: Persons convicted of three or more misdemeanors (other than minor traffic offenses or offenses related to person’s immigration status); Persons convicted of a significant misdemeanor (domestic violence, sexual abuse/exploitation, burglary, unlawful possession or use of a gun, drug distribution or trafficking, DUI); Persons who entered or reentered unlawfully after January 1, 2014; Persons who have significantly abused visa programs. Priority 3: Persons with a final order of removal issued on or after January 1, 2014.”

¹¹⁰ Jeh C. Johnson, Secretary, U.S. Department of Homeland Security, “Policies for the Apprehension, Detention and Removal of Undocumented Immigrants,” Memorandum to Thomas S. Winkowski, R. Gil Kerlikowske, Leon Rodriguez, and Alan D. Bersin, 20 November 2014 [PDF file]. Categorizing the second-highest priority individuals for deportation for ICE: “aliens convicted of a ‘significant misdemeanor,’ which for these purposes is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or driving under the influence; or if not an offense listed above, one for which the individual was sentenced to time in custody of 90 days or more (the sentence must involve time to be served in custody, and does not include a suspended sentence). . . .”

¹¹¹ “Consideration of Deferred Action for Childhood Arrivals (DACA),” U.S. Citizenship & Immigration Services, last updated 13 September 2016, <https://www.uscis.gov/archive/consideration-deferred-action-childhood-arrivals-daca>. In creating the application process for DACA, DHS created a new crime-based category disqualifying applicants for the immigration benefit: the significant misdemeanor. Consideration of Deferred Action for Childhood Arrivals (DACA). Conviction of a felony offense, significant misdemeanor offense, or three or more other misdemeanor offenses not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct precludes DACA consideration.

¹¹² Marisa Franco and Carlos Garcia, “The Deportation Machine Obama Built for President Trump,” *The Nation*, 27 June 2016, <https://www.thenation.com/article/the-deportation-machine-obama-built-for-president-trump/>.

¹¹³ Patrick Wintour, “Hillary Clinton: Europe must curb immigration to stop rightwing populists,” *The Guardian*, 22 November 2018, <https://www.theguardian.com/>

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¹¹⁴ Reece Jones, *Violent Borders: Refugees and the Right to Move* (New York: Verso, 2016), 1–38.

¹¹⁵ Louise Shelley, “Human Smuggling and Trafficking into Europe: A Comparative Perspective,” Migration Policy Institute, February 2014, <https://www.migrationpolicy.org/research/human-smuggling-and-trafficking-europe-comparative-perspective>.

¹¹⁶ Marcelo F. Aebi and Natalia Delgrande, Council of Europe Annual Penal Statistics: SPACE I – Prison populations. Survey 2013 (Strasbourg: Council of Europe, 2014) [PDF file].

¹¹⁷ Jared P. Van Ramshorst, “Anti-Immigrant Sentiment, Rising Populism, and the Oaxacan ‘Trump,’” *Journal of Latin American Geography* 17, no. 1 (2018): 253–256.

¹¹⁸ Jones, *Violent Borders*, 29–47.

¹¹⁹ Jeff Abbott, “Keep Out! How the U.S. Is Militarizing Mexico’s Southern Border.” *The Progressive*. 2 October 2017, <https://progressive.org/magazine/keep-out-how-the-us-militarizes-mexico-southern-border/>.

¹²⁰ Antonio Heras and Mireya Cuéllar, “Vecinos se enfrentan a golpes con migrantes en Playas de Tijuana,” *La Jornada Baja California*, 15 November 2018, <https://www.jornada.com.mx/ultimas/2018/11/15/vecinos-se-enfrentan-a-golpes-con-migrantes-en-playas-de-tijuana-7243.html>.

¹²¹ Aly Valenzuela Ávila, “Alcalde de Tijuana llama ‘vagos y marihuanos’ a la caravana de migrantes.” *Tribuna*, 17 November 2018, <https://www.tribuna.com.mx/mexico/Alcalde-de-Tijuana-llama-vagos-y-marihuanos-a-la-caravana-de-migrantes-20181117-0052.html>.

¹²² VICE News, “Wildfire Body Count & School Shooting Theater,” *VICE News Tonight*, HBO, aired 19 November 2018.

¹²³ Luis Gómez Romero, “Dozens of migrants disappear in Mexico as Central American caravan pushes northward,” *The Conversation*, 15 November 2018, <https://theconversation.com/dozens-of-migrants-disappear-in-mexico-as-central-american-caravan-pushes-northward-106287>.

¹²⁴ Jackie Hogan and Kristin Haltinner, “Floods, Invaders, and Parasites: Immigration Threat Narratives and Right-Wing Populism in the USA, UK and Australia,” *Journal of Intercultural Studies* 36, no. 5 (2015): 520–543.

¹²⁵ Chen, “How US ‘Free Trade’ Policies Created the Central American Migration Crisis.”

¹²⁶ Jones, *Violent Borders*, 12–28, 48–69.

¹²⁷ Charis E. Kubrin, Marjorie S. Zatz, and Ramiro Martínez, eds., *Punishing Immigrants: Policy, Politics, and Injustice* (New York: New York University Press, 2012).

¹²⁸ Fong Yue Ting v. United States, 149 U.S. 698 (1893).

Justice Gray holding “The right to exclude or expel all aliens, or any class of aliens, absolutely or upon certain conditions, in war or in peace, [is] an inherent and

inalienable right of every sovereign and independent nation.”

¹²⁹ *Nishimura Ekiu v. United States*, 142 U.S. 651, 662 (1892). Justice Gray wrote, “It is an accepted maxim of international law, that every sovereign nation has the power, as inherent in sovereignty, and essential to preservation, to forbid the entrance of foreigners within its dominions, or to admit them only in such cases and upon such conditions as it may see fit to prescribe.”

¹³⁰ Natsu Taylor Saito, “Asserting Plenary Power Over the ‘Other’: Indians, Immigrants, Colonial Subjects, and Why U.S. Jurisprudence Needs To Incorporate International Law,” *Yale Law & Policy Review* 20, no. 2 (2002): 427–80.

¹³¹ Fong 149 U.S. at 698.

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¹³⁹ “DCCC Chair Emphasizes Democrats Position On Immigration | Morning Joe | MSNBC,” YouTube video, posted by “MSNBC,” 6 November 2018, <https://www>.

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¹⁴³ "Immigration," Republican National Committee, last updated 2019, accessed 10 December 2018, <https://gop.com/issue/immigration/>.

¹⁴⁴ William Finnegan, "The Deportation Machine," *The New Yorker*, 29 April 2013, <https://www.newyorker.com/magazine/2013/04/29/the-deportation-machine>.

¹⁴⁵ USA Act of 2018, H.R. 4796, 115th Cong. (2018).

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Open Borders: A Progressive Immigration Guide Star

Drew Heckman

Abstract

Beyond the chaos of our present historical moment, what is the positive, progressive vision for our immigration system? This paper argues that open borders should be the normative goal guiding advocates' work in the immigration space. It first examines what proponents have meant by open borders and the most frequent types of arguments made for and against freer migration. It proceeds with a brief overview of the world's closest current approximation to an open borders regime: the Schengen Area. Finally, the article considers potential paths forward if progressive immigration movements were to fully embrace open borders as their long-term vision.

Immigration advocates in the United States have lost control of the narrative.¹ Where promotional Immigration and Naturalization Service videos in the 1980s showed smiling newcomers waving American flags and warmly referred to our cultural heritage as a nation of immigrants,^{2,3} today conservative narratives—conflating all types of immigration⁴ as clandestine entry by masses of Black and brown people with nefarious intentions—control airwaves and the growing populist imagination. Whether contributing to crime, stealing nationals' jobs,

depressing wages, or sucking social safety nets dry, immigrants become the politically silent canvas for our country's most pressing anxieties.⁵ In such a noxious environment, even those leading the nation's largest immigrants' rights NGOs are hard-pressed to answer what seems like a basic question: "In an ideal world, what would immigration policy look like to you?"⁶ Their energy and resources, commendably, concentrate on defeating the most invidious legal and policy developments targeting immigrants. Still, the normative underpinning of the immigration dialogue, and arguably the policy and legal framework, is "Why anyone at all?"⁷ This is not the only possible, and definitely not the natural, configuration for human movement on the surface of the Earth. In examining how arguments for freer movement have operated in the United States and other global contexts, the concept of open borders emerges as a useful normative guidepost for immigration advocates to help imagine alternatives to the current immigration system.

The Debate around Freer Immigration in the US Context

A detailed history of the global immigration system is far outside the scope of this paper, but there are a few historical contours

that advocates of open borders often cite. In the United States, there was effectively unrestricted immigration until 1885, when growing xenophobia and a perception that Chinese immigrants were stealing American jobs and adulterating its culture prompted the Chinese Exclusion Act.⁸ Since then, the United States has occasionally approved of guest worker programs to meet labor shortages,⁹ adopted the 1980 Refugee Convention,¹⁰ and even granted undocumented young people temporary relief from deportation.¹¹

However, the present moment marks one of mounting populism and anti-immigrant rhetoric and legislation. This animosity may be provoked in part by the reality that the United States is, now more than ever since its inception, a nation of immigrants. The United States was home to 46.6 million migrants in 2015, approximately one-fifth of the global migrant population and more than in any other country.¹² Further, around 17 percent of the total workforce in the United States consists of migrants, and approximately “5 percent of migrants in the U.S. workforce are in an irregular status; having either entered the country without authorization or after initially entering with an authorized status that later expired.”¹³

As some scholars on both sides of the ideological spectrum argue,¹⁴ the United States effectively has some form of an open borders regime right now. A recent, groundbreaking study found that half of the attempts to enter the United States without inspection are successful.¹⁵ Further, approximately 400,000 people overstayed their visas in 2016 alone, effectively crossing the legal border between regular and irregular status.¹⁶ Antonia Darder (2011) argues that the approximately 12 million undocumented people in the United States are essential to the functioning of the economy as we know it and comprise a “de facto guest worker” program.¹⁷ Some versions

of the open borders paradigm, including Darder’s, are not so much about creating a wildly divergent new system but instead recognizing the reality we currently inhabit.

“Open Borders:” What Does It Mean?

But what would an open borders regime actually entail? Though certainly some scholars dream of a globalist future that has moved beyond the nation-state, few propose such a megastate as a useful conception of open borders. Rather, under various names, including “the Migration without Borders (MWB) scenario,”¹⁸ “relatively open borders,”¹⁹ “managed migration,”²⁰ or “free movement,”²¹ scholars and theorists have proposed a spectrum of policies. On one end (rarely endorsed)

is the elimination of border controls altogether, allowing anyone to enter a territory without inspection. Security concerns usually prevent this option from gaining traction.

On the other end are approaches that seem only slight modifications of the current system: for example, allowing a large quota of first-come, first-serve permanent entry visas each year with few to no restrictions. “Open borders” represents a concept not tied to any one package of laws or policies, but a normative commitment to freer human movement through geopolitical borders.

What are the arguments in support of this normative posture, which advocates freer movement of people into (and out of) the United States? Proponents generally frame them as responses to the most common criticisms of immigration writ large, organized below under: Moral and Ethical Arguments; Domestic Wages, Unemployment, and the Economy Generally; Housing, Education, and Welfare; Crime and Security; and Cultural Integrity.

Moral and Ethical Arguments for Freer Migration

Most arguments in favor of unrestricted immigration contain moral and ethical rationales, if

In the United States, there was effectively unrestricted immigration until 1885

not entirely comprise them. One of the largest themes under this heading relates to the vast inequality in wealth and resources among countries that send and receive migrants. Under one theory, the inequality itself is a reason to allow migrants to enter, as those who were randomly born into a wealthy society have “greatly enhanced life chances”²² that they did nothing to earn, and restrictive immigration policies morally amount to “hoarding an unfair share of resources,” violating liberal egalitarian principles.²³ Such arguments are bolstered by claims that countries such as the United States have not only contributed to the instability fueling migration in many parts of the world but have directly benefited from that instability.²⁴

Others argue that free movement is a human right in and of itself, pointing to the Universal Declaration on Human Rights’ explicit inclusion of the freedom to emigrate. Advocates quickly point out that without a right to immigrate, such a freedom is nominal only.²⁵ Carens (1987) discusses the absurdity that would result from California restricting immigration of Oregonians,²⁶ which raises questions about why we do not feel similarly about adjacent US and Mexican political subdivisions that would more logically be considered a single metropolitan area but instead are arbitrarily divided along invisible political lines. Many advocates seek to change the normative baseline of the immigration debate from zero, where it currently rests (each additional immigrant being forced to justify their entry), to all, in which the state would need to justify its exclusion of each person.²⁷

The ethical debates around freer migration and open borders contain all of the more topical arguments considered below, just at a higher level of abstraction. And as Zolberg highlights, these larger debates often “cut across the usual left–right divide, making for strange political bedfellows.”²⁸ The ideological contours thus look something like this:

Leaving aside outright xenophobes, the debate often entails a contest of

Many advocates seek to change the normative baseline of the immigration debate from zero to all, in which the state would need to justify its exclusion of each person.

“right” versus “right.” Immigration pits free-market advocates who view it as increasing the labor supply and lowering its price and welcome it as a stimulus to economic growth against others concerned with protecting the job market for indigenous workers, and particularly those who are already the most deprived. It also pits “humanitarians” who believe affluent democracies have a moral obligation to provide asylum for refugees in need against “realists” who contend this obligation cannot be discharged because too many refugees are being produced in the world at large and that a country has the right—and, some would argue, even the obligation—to use immigration to better itself by acquiring valuable manpower, notably trained scientists and health providers.²⁹

Zolberg’s summary provides a helpful frame for the arguments that follow, arguments that are likely to gain more traction than efforts framed solely in ethical or moral terms.

Domestic Wages, Unemployment, and the Economy Generally

Opponents of freer migration frequently claim that immigrants depress nationals’ wages, steal their jobs, and generally put a strain on the economy;³⁰ unrestricted migration would thus, from this view, send these negative forces into overdrive. However, social scientists are beginning to produce harder evidence that these accusations might not only be misinformed but may state the opposite of the reality we live in. With regard to wages and employment, Harris (2007) provides a powerful review of the literature:

A large number of studies using data from the U.S. have found that increased immigration has no impact or an insignificant impact on native wage and employment levels. Where there are small negative effects, they tend to affect earlier cohorts of immigrants rather than the historical poor of the U.S. . . . There is . . . much evidence that unskilled immigrants do the jobs that natives, even if unemployed, are unwilling to do; rather than compete with the native population, new low-skilled immigrants compete with earlier low-skilled immigrants. Immigrants fill places not because they are cheaper—in general, they seem not to be—but because they are the only workers available.³¹

Other authors have backed these claims.³² Harris goes on to that stress immigration likely *creates* jobs for the native population, whether “supervisors and managers, skilled workers and technical staff, truck drivers” or those involved in the “accommodation, furnishings, foodstuffs, [and/or] transport” industries.³³ Immigrants also start businesses at a higher rate than the native-born population³⁴ and in this way directly create jobs themselves.

Economists of various ideological bents agree that restrictive immigration harms the economy, with some calling migration controls “the world’s biggest economic distortion.”³⁵ This leads many to the conclusion that “free movement is not only feasible, but also more efficient than restrictive/protectionist policies.”³⁶ Ugur (2007) identifies three categories of costs that a restrictive immigration regime imposes on the United States: “Direct exclusion costs” represent the “non-productive activities” such as border patrols and controls, interior immigrant monitoring and management, and enforcement; he further argues that the system of “[e]xclusion becomes less effective as it absorbs more resources.”³⁷ He categorizes the reduced incentive for native-born residents to enhance

their skills and invest in human capital—caused by the lack of competition for their jobs—as the “indirect costs of exclusion.”³⁸ The final category involves large-scale, off-the-books employment of immigrants without work authorization, which entails both the employers’ disincentive for capital investment and the employees’ forfeited contributions to welfare schemes.³⁹ Eliminating these “shadow economies”⁴⁰ would help migrant workers and allow them to more fully contribute to the economy and society.⁴¹

The most common economic argument in favor of free migration, dating back to at least 1919,⁴² is that the free movement of capital cannot be fully realized without the free movement of labor.⁴³ Harris reports economic estimates, recently reconfirmed with harder data, that the gross world product could increase by at least 50 percent and perhaps even triple if migration controls were lifted.⁴⁴ Darder (2011) agrees that there is much to be gained economically by eliminating the border, including “investment opportunities that support the democratization of the economy by way of cooperative economic ventures rooted in the material and social needs of all people, rather than the narrow accumulative pursuits of transnational corporations.”⁴⁵ Her view embraces a rosier outlook in which everyone wins⁴⁶ from this new, untethered development potential. It also recognizes that the United States could not have achieved its current level of development without its “exploitative de facto guest worker system, integral to the US wage-labor system.”⁴⁷

Housing, Education, and Welfare

In the areas of housing, education, and welfare, Fetzer’s (2016) examination of three waves of “virtually unrestricted immigration” in Miami, Marseille, and Dublin proves illuminating. The only city that registered a rent increase from the burst of immigrants was Marseille, which Fetzer’s research seems to indicate owes to its status as the least-segregated city.⁴⁸ In cities like Miami and

Dublin, however, where there is significant residential segregation, immigrants typically live in neighborhoods with high proportions of immigrants, creating a “dual-housing market” in which even rapid immigration produces little to no effects on most nationals’ housing prices.⁴⁹ Darder highlights that not only do immigrants not compete with nationals for housing but that they also “stimulate tremendous economic revitalization in blighted communities,”⁵⁰ which could, in the long run, create a larger stock of housing.

Fetzer’s comparison of the three cities also found no effects on native students’ learning nor a significant change to class size.⁵¹ Of course, these results are dependent on the capacities of the relevant school districts and the sizes of the flows under study. However, there are also arguments that a diverse classroom is beneficial for student learning. A fuller review of language access in schools is outside the scope of this paper, but it bears noting that the wave of immigrants in the Miami case study were from Cuba and had limited to no English proficiency.

When it comes to accusations that immigrants are draining welfare systems, there is a bit of ideological dissonance: how can it be that immigrants are making such heavy use of social services if they’re comfortably employed in nationals’ jobs? Migrants are more likely to be employed than the native born,⁵² which immediately raises questions about who is more dependent on social programs such as unemployment benefits. Many authors stress that figures about migrants’ utilization of public services in isolation are meaningless without a concurrent comparison of what they put into such systems. Fetzer, looking at the total public expenditures of the localities faced with unexpected migration, found that the “overall fiscal impact . . . was effectively nil in Miami and Marseille, but *positive* in Dublin.”⁵³ It’s true that many benefits regimes are not administered at the local level, but other

scholars insist that writ large, “migrants are net contributors and . . . receiving countries benefit from their presence.”⁵⁴

Crime, Security, and the US–Mexico Border Militarization

The threat of crime and terrorism is usually the most common and vehement objection to any version of the open borders paradigm. Numerous scholars have documented the linking of immigration itself and criminality in the American imagination.⁵⁵ Yet there are reasons to question these logics:

The relevant issue is not so much immigration as “alien entries,” most of which are temporary, and much more numerous. It is worth noting, for example, that none of the 9/11 perpetrators were immigrants and that despite vastly increased surveillance since then, only a handful of immigrants have been suspected of involvement in terrorism.⁵⁶

Further, there is compelling evidence to suggest that immigrants have a lower overall crime rate than the native-born population.⁵⁷ And though Fetzer did find higher rates of burglary in the three cities he studied, he noted that immigrants themselves were the victims of at least some of these crimes, which the data do not disaggregate.⁵⁸ The most troubling statistic is Fetzer’s finding of a higher homicide rate in Miami as a result of the wave of immigrants from Cuba, but he suggests that this population was disproportionately likely to have criminal pasts and were for that very reason allowed to leave (or were expelled) from Cuba.⁵⁹ In all, then, there is no reason to think that immigrants as a class are disproportionately criminal.

A system of free migration, according to some scholars, could “increase the government’s respect for the civil rights of racial minorities and allow law-enforcement authorities to focus on true threats to public safety.”^{60,61} And though some maintain that “under a regime of free movement, international criminal gangs are likely to have an

easy run across countries,”⁶² many argue that borders and visa regimes provide little security benefits now:

The extent to which border checks are actually an effective way to reduce different forms of criminal activity is questionable, given that transnational criminal networks have sophisticated means of evading such controls. Police practitioners often claim that frontier controls alone are of limited use in detecting crime, suggesting that the link between crime prevention and border control needs to be questioned, and even decoupled.⁶³ . . . Moreover, visa requirements alone do not combat transnational crime effectively; it would make much more sense to replace crude distinctions between countries in visa policies with closer cooperation to target criminal activity across and within countries, if combating transnational crime is really the object.⁶⁴

Further, militarization and violence of border practices are not only ineffective as security measures; they directly produce harm. Though many US border and enforcement practices are designed for “deterrence,”⁶⁵ most people at the border should not⁶⁶ or cannot⁶⁷ be deterred from entering the United States,⁶⁸ and these practices thus, unsurprisingly, fail.^{69,70} Instead, migrants rely more heavily on smugglers,⁷¹ take more dangerous routes that contribute to rising migrant deaths,⁷² and become more vulnerable to sex and labor trafficking.⁷³ According to some estimates, over 3,000 migrants died attempting to enter the United States between 2006 and 2011.⁷⁴ Ironically, the consequence of tougher migration policies may thus be to increase migrants’ contact with transnational criminal networks and the value of these groups’ services.⁷⁵ As Darder suggests, “the irrepressibility of movement seems a powerful argument against state efforts to suppress it;”⁷⁶ Wihtol de Wenden (2007) urges remembrance of

the consequences of US prohibition in the 1920s.^{77,78} However, so long as migration is viewed with a “war-like mentality,”⁷⁹ militaristic border practices will remain “a new armoury to supplement military means of defence.”⁸⁰

Cultural Integrity

Many who support the idea of open borders from a free-market perspective nonetheless oppose it out of a fear that it will dilute if not destroy the cultural integrity of the United States. This anxiety reflects a nativist ideology well defined by Zolberg:

A cultural construction that views “normal” national societies as essentially self-contained population entities with a common and fairly homogeneous ancestry, perpetuating itself exclusively by natural reproduction. In relation to this, immigration came to be regarded as an essentially pathogenic disturbance.^{81,82}

Taking seriously for a moment the idea that the United States has one national culture that is somehow free of international influences, it remains hard to fathom the scale at which immigration would need to occur to fundamentally change the character of a nation.

Yet the belief, ethnocentric that it may be, that most people worldwide are itching at the opportunity to move permanently to the United States is a common (and mistaken) one.⁸³ Scholars generally agree with the United Nations High Commissioner for Refugees (UNHCR) that “a person would not normally abandon his home country without some compelling reason.”⁸⁴ Further, many people who do have compelling reasons to leave nonetheless remain in their country of origin due to “administrative, financial, cultural, linguistic, and mental barriers,”⁸⁵ as well as family ties and the various other factors that keep all US citizens from moving to Los Angeles, New York, or Chicago.⁸⁶ Instead, Darder and others argue, “most people would much prefer to remain in their own countries, on their own land, in familiar surroundings, providing their children and families a decent quality of life.”⁸⁷

Perhaps counterintuitively, free migration could be the best way to achieve that ideal.⁸⁸ This realization comes by addressing a second widespread misconception around immigration: that all those who do come to the United States want to stay here permanently. However, “[l]ow skilled workers who travel without families have always tended to return [to their country of origin]; they work abroad primarily to strengthen their position at home.”⁸⁹ Strict border controls then essentially trap people in the United States once they successfully enter (or overstay a visa), making entry a “one-way bet”⁹⁰ that compels people to stay who would otherwise circulate.⁹¹ Most any version of an open borders scenario would recognize the complex and temporal nature of people’s migration patterns and avoid these sorts of perverse incentives. It would probably also deflate some of the aggressive calls for assimilation that seem to operate under the assumption that people want to remain here. An open borders regime that allows immigrants to return home and decreases the between-country inequality that pushes people to immigrate should do much to soothe nativist fears of cultural overrun. This is to say nothing of the incalculable positive cultural, artistic, and scientific contributions that immigrants make to the United States daily.⁹²

Open Borders in Practice: International Examples

Though the exit of the United Kingdom from the European Union has caused some to question the future of free-movement regimes, a broader focus reveals an ongoing commitment to open borders despite the amplified voices of certain populist segments in Western countries. For example, a number of South American states have been working toward a regime of free movement, notably centering as their goal not economic development⁹³ but the end of irregular migration.⁹⁴ Similarly,

the Economic Community of West African States (ECOWAS) has also been entertaining motions for free movements of people, with some limited implementation.^{95,96} In addition to Fetzter’s examination of essentially unrestricted immigration in Marseille, Miami, and

Strict border controls then essentially trap people in the United States once they successfully enter

Dublin, others have drawn attention to the UK’s pre-1962 regime, which allowed anyone from the former British Empire to move to the UK (including South Asians and Caribbeans),⁹⁷ to show that

such regimes have existed in the past, often to the benefit of receiving societies.

Still, even today “it remains that the European experience is the most comprehensive attempt to establish free movement in a large supranational space.”⁹⁸ The best overview of this regime, known as the Schengen Area, comes (perhaps unsurprisingly) from the European Commission on Migration and Home Affairs:

The free movement of persons is a fundamental right guaranteed by the EU to its citizens. It entitles every EU citizen to travel, work and live in any EU country without special formalities. Schengen cooperation enhances this freedom by enabling citizens to cross internal borders without being subjected to border checks. The border-free Schengen Area guarantees free movement to more than 400 million EU citizens, as well as to many non-EU nationals, businessmen, tourists or other persons legally present on the EU territory.⁹⁹

However, critiques of the Schengen Area from an open borders perspective highlight that it has not eliminated borders but rather pushed outward the now “sharp[er] edges of Europe.”¹⁰⁰ Countries on the edges of Schengen at any given moment find themselves the gatekeepers of Europe and are expected to expend the resources necessary to actuate that responsibility.¹⁰¹

Many of the anxieties that plague the US imagination when it comes to freer migration—the headings listed in the previous section—were present before the adoption of the Schengen agreement and reappear with each successive round of additions of new states.¹⁰² Despite ill-informed anti-immigrant rhetoric surrounding the Brexit vote, scholars note that where short-term work stints may increase after these accessions, “EU enlargements generated only relatively limited migration despite wide disparities in employment and income between the poorer Mediterranean states and richer northern Europe.”¹⁰³ This tends to support the idea of non-legal barriers discussed above that generally keep people in place. Some scholars even find that permanent migration from newly added states declines just after accession,¹⁰⁴ which supports the circulation hypothesis discussed in the previous section. However, nativist fears of cultural threat are still present, “where the ‘invasion’ is largely identified as the intrusion of Islam.”¹⁰⁵

Free Migration as a Normative Goal for Progressive Immigration Policy in the United States

The United States in 2016 spent \$3.8 billion on the US Border Patrol, \$13.2 billion on Customs and Border Protection (CBP), and \$6.1 billion on Immigration and Customs Enforcement (ICE).¹⁰⁶ In an entirely open borders scenario, nearly all of this combined \$23.1 billion could be redirected to other purposes, including orientation and integration of new arrivals. Still, such total elimination of borders seems a distant (un)reality. However, it can serve as the normative goal for pro-immigrant groups in the United States to work toward, and it has the economic, moral, and other argumentative backing discussed at length above to recommend it. The most promising avenues for freer migration can be categorized as globally multilateral, regional, and unilateral.¹⁰⁷

Globally Multilateral Steps toward Open Borders

The historical calls¹⁰⁸ for a multilateral approach to address migration (similar to gatherings to address climate change) have received an answer: in 2016, the International Organization for Migration officially affiliated with the United Nations¹⁰⁹ and is currently leading the drafting of the Global Compact for Safe, Orderly, and Regular Migration.¹¹⁰ It builds upon a number of previous treaties and conventions concerning migration,¹¹¹ but as Costa and Martin highlight, many of the cited authorities have fewer than 50 signatories.¹¹² Still, the Compact brought together 164 countries in December 2018 to discuss their “common understanding, shared responsibilities, and unity of purpose” guiding a coordinated response to international migration.¹¹³ Though the Compact doesn’t explicitly endorse freer movement as a normative goal, some see such “multilateral coordination as a temporary step towards free movement that would smooth the transition.”¹¹⁴ However, the Compact isn’t legally binding, and the United States has withdrawn from the process, prompting several other states to do the same.¹¹⁵ Given this climate, it may be more promising to explore regional and unilateral strategies for freer migration.

Regional Approaches to Open Borders

Another approach to open borders in the US context could be a regional agreement between the United States, Canada, and Mexico akin to the EU’s Schengen Area. However, it seems that such a “North American Union” has so far been raised primarily by anti-immigrant political actors as a liberal bogeyman threatening American sovereignty.¹¹⁶ Still, former President of Mexico Vicente Fox did say in a 2001 interview that he hoped for a future in which the United States and Mexico could “open up that border for [the] free flow of products, merchandises, [and] capital as well as people.”¹¹⁷ Similar to a single-payer health care system, perhaps progressive pro-immigrant forces could reclaim the

concept of a North American Union, as it has much to recommend it.

Engineers of such an arrangement could address the predominant nativist fears by looking to the formation of the EU's Schengen Area; other models of regional cooperation also exist.¹¹⁸ For states to join the emergent Schengen, they were required to meet certain conditions including “stable democratic institutions, a functioning market economy, and competitiveness in the single market.”¹¹⁹ Whereas countries in Europe often share borders with multiple other countries, the continental United States has only one contiguous neighbor to the north and one to the south. As such, the formation of a North American Union could proceed (and perhaps should proceed, given that most nativist fears concern Spanish-speaking southerners¹²⁰) in two steps: the United States and Canada, and then United States–Canada and Mexico. Notably, Schengen allows states to reinstate internal borders “where public policy or national security so require,”¹²¹ an allowance states have utilized in the wake of terrorist attacks or in preparation for large sporting events,¹²² and one that a North American agreement could include.

However, the critique of Schengen would also apply to a hypothetical North American Union, namely that borders have not been eliminated, but shifted, threatening to “break socioeconomic and political ties”¹²³ between Mexico and its neighbors. Yet, this is a potential strength of the approach, as an emerging North American Union could motivate diverse domestic and international actors in Central America to invest in meeting its inclusion criteria in hopes of future membership. This is undoubtedly better than the proposed Safe Third Country agreement between the United States and Mexico, which seeks to keep migrants as far as possible from US soil.¹²⁴

Unilateral Steps toward Open Borders in the United States

A final approach involves the United States

The proposed Safe Third Country agreement between the United States and Mexico, which seeks to keep migrants as far as possible from US soil

taking unilateral actions to admit more foreign-born people into its territory. Immigration laws and public policies may benefit from recognition that regardless of a wall, or more CBP/ICE agents, or harsher political rhetoric, people will continue to come to the United States without authorization. A compassionate policy that helps to integrate new arrivals rather than position them for economic (and other types of) exploitation would likely be better for everyone.¹²⁵

A tactic of this approach that also applies to the multilateral and regional action involves rethinking the relationship between presence, residence, and the “political, civil, social, family, and cultural” components of citizenship.¹²⁶ Though some pro-immigrant authors vehemently oppose this approach as inherently and inescapably discriminatory,¹²⁷ others see an orderly and sequential granting of these rights (with “civil . . . and fundamental social rights” as baseline) as a more inclusive and explicit version of the system we now have:¹²⁸

Such a system would ensure that migrants are not “rightless” (as undocumented migrants tend to be), while enabling high mobility and addressing the fears of nationals . . . who are reluctant to share their privileges with newcomers. . . . [N]ewcomers would not have to pay for the benefits to which they initially have no access, which would lower their labor costs and foster their integration in the labour market.¹²⁹

Pécoud and Guchteneire acknowledge the risk that such a piecemeal system of inclusion could easily be repurposed for systematic exclusion from important rights but see it as the

most workable compromise between fiercely opposed interests.¹³⁰ Some have named such a system of in-between citizenship “denizenship.”¹³¹

Under such a regime, the border could become, instead of a site of exclusion, a site of orderly inclusion, whereby all migrants—barring some exceptional circumstance¹³²—are admitted, registered, and provided with identification¹³³ that can allow them to work legally as well as information and resources that will help them succeed in their new environment. This scenario eliminates the incentive for inspection without entry and speaks more to Carens’s idea of “relatively” open borders,¹³⁴ Ghosh’s “managed migration,”¹³⁵ Ugur’s “free entry of migrants with legitimate purposes,”¹³⁶ or Zolberg’s “automobile traffic control” ethos.¹³⁷ In such a world, checkpoints at land borders would more closely resemble those for tourists at airports. Though some lament the lost distinction between asylum seekers and other migrants that could result from such an approach, others question the utility of a such a rigid binary at all and lament the increasing tendency for receiving states to treat asylum claims as presumptively fraudulent.¹³⁸

As in a regional strategy, borders could first be relaxed at the US–Canada line to build political will for free movement and allay critics’ fears. Such a regime could also allow for (and perhaps should be preceded by) large-scale status regularization of existing undocumented residents. Other countries’ experiences in this domain¹³⁹ would prove instructive. Open access to regularization and work authorization would also make punishment of employers who exploit undocumented workers more politically and operationally feasible.¹⁴⁰

Though controversial, some pro-immigrant advocates argue for wages for temporary migrant workers that are lower than domestic workers’ wages but higher than what undocumented workers make now, and likely much higher than wages (if any) attainable in the sending country. It’s possible to imagine a

progressive wage scheme where new arrivals first receive such a wage but eventually achieve entitlement to wage parity with nationals (which may be at achievement of citizenship, permanent resident status, or some other milestone of “denizenship.”) Another controversial but potential policy compromise could be some form of taxes on these wages that support infrastructure, services, and/or cultural exchange in host localities; such a measure could help nationals recognize migrants as the assets they are and lead communities to seek more newcomers. Other proposals specifically targeting migrant workers in a free-migration system include “paying part of the wage in a cumulative sum in the home currency on their return (or possibly adding a bonus and/or refunded social security funds)” and “aid programmes financing training and offering business start-up funds on return.”¹⁴¹ An imaginative approach to any version of open borders can generate countless possibilities.

Conclusion

For most of human history, there have been no impermeable political borders. Even now, the United States has a border that is, for all intents and purposes, already somewhat open. However, rather than attempt to stem an unstoppable flow of people and waste billions of dollars in the process, the United States could embrace what immigrants have to offer and facilitate their orderly inclusion into society. According to some, the United States has a moral and ethical obligation to allow more foreign-born people to enter. The research that exists on unrestricted migration shows little to no negative effects on the citizens of receiving countries—neither through wages, nor housing costs, unemployment, or strain on public goods such as welfare or education. In fact, an embrace of immigrants could bring economic prosperity for all. Major challenges to those seeking freer migration include delinking security and immigration in the popular imagination, as well as addressing

the cultural-integrity concerns undergirded—sometimes explicitly—by racial anxiety.

Despite the current administration’s blanketly xenophobic attitudes,¹⁴² there are large swaths of the US population committed to Zolberg’s “cosmopolitanism”¹⁴³ and to the many benefits that freer migration could bring. Though open borders may now sound like an unachievable utopia in the United States, the successes of free movement in the Schengen Area and emerging developments in other parts of the world remind us that we get to decide how our society—and our societies—are configured. Given the strength of arguments supporting open borders and the increasing global interest in freer migration, Zolberg may have been prescient in asking “Why not the whole world?”¹⁴⁴ As we gain greater empirical evidence of the benefits of freer migration in the not-so-distant future, we may look back and ask, “Why not the whole world [sooner]?”¹⁴⁵ Some of us have already begun to do so.¹⁴⁶

Author Bio

Drew Heckman is a joint-degree student between Harvard Law School and the John F. Kennedy School of Government at Harvard University (HKS), where he is pursuing both a JD and a master in public policy. Drew's work before coming to graduate school centered upon the needs of the LGBTQ community: he founded the Queer Nebraska Youth Network and served as the Nebraska Field Organizer for the Human Rights Campaign in his home state, and he later worked with governmental and nonprofit LGBTQ initiatives in Spain. In graduate school, he's focusing on expanding his knowledge around immigrants' rights and racial justice, issues that affect countless members of the LGBTQ community. Through work with the Black Policy Conference at HKS, former president of the Boston City Council Michelle Wu, the Mexican American Legal Defense and Education Fund, and the Harvard Immigration and Refugee Clinic, he's gaining a greater appreciation of the complex web of laws and policies that determine the daily lived experiences of people of color, immigrants, and the deeply intersectional LGBTQ population. He hopes to translate this learning into action after graduation through some combination of legal, policy, and organizing work. (He's open to suggestions.)



Endnotes

¹ Eva Malone, "Current Immigration Issues," Class lecture, Immigration Law: Policy and Social Change, Harvard Law School, Cambridge, MA, 21 February 2018.

² United States Immigration and Naturalization Service, "History of INS and Immigration – Part One," YouTube video, posted by "danieljbmtchell," 28 July 2007, <https://www.youtube.com/watch?v=jMLydt9r2YQ>.

³ USCIS recently removed this language from its mission statement. Richard Gonzales, "America No Longer A 'Nation of Immigrants,' USCIS Says," NPR, 22 February 2018, <https://www.npr.org/sections/thetwo-way/2018/02/22/588097749/america-no-longer-a-nation-of-immigrants-uscis-says>.

And though inclusion of "nation of immigrants" in government agency mission statements may seem preferable to its erasure, it bears emphasis that the phrase ignores, as usual, the inconvenient facts that (a) hundreds of thousands arrived to this country from Africa as human chattel and (b) millions of Native Americans inhabited this land before any Europeans arrived. See also Henry Louis Gates, Jr., "How Many Slaves Landed in the US?" *The Root*, 6 January 2014, <https://www.theroot.com/how-many-slaves-landed-in-the-us-1790873989>; William N. Denevan, ed., *The Native Population of the Americas in 1492* (Madison: University of Wisconsin Press, 1992).

⁴ Legal/irregular, economic/asylum-based (to the extent this distinction even makes sense), temporary/permanent, etc.

⁵ Never mind that many of these very anxieties are rooted in the same commitment to neoliberal economics and global capitalism that often creates the need for migrants to leave their home countries in the first place.

⁶ I asked this question of multiple presenters during the Harvard Law School Spring 2018 course "Immigration Law: Policy and Social Change," taught by Deborah Anker and Andrea Meza. Presenters in this course included representatives from the Mexican American Legal Defense and Educational Fund, the ACLU Immigrants' Rights Project, and the National Immigration Law Center.

⁷ Aristide R. Zolberg, "Why Not the Whole World? Ethical Dilemmas of Immigration Policy," *American Behavioral Scientist* 56, no. 9 (2012): 1204, 1209

⁸ Zolberg, "Why Not," 1210.

⁹ Zolberg, "Why Not," 1210.

¹⁰ Zolberg, "Why Not," 1210.

¹¹ "Consideration of Deferred Action for Childhood Arrivals (DACA)," US Citizenship and Immigration Services, last modified 13 September 2016, accessed

- 19 January 2019, <https://www.uscis.gov/archive/consideration-deferred-action-childhood-arrivals-daca>.
- ¹² Daniel Costa and Philip Martin, "The UN Global Compact and labor migration: What can we expect?" Economic Policy Institute: Working Economics Blog, 18 July 2017, <https://www.epi.org/blog/the-un-global-compact-and-labor-migration-what-can-we-expect/>.
- ¹³ Costa and Martin, "UN Global Compact and labor migration."
- ¹⁴ Louise I. Gerdes, *Should the US Close Its Borders?* (Detroit: Greenhaven Press, 2014).
- ¹⁵ Edward Alden, "Is Border Enforcement Effective? What We Know and What It Means," *Journal on Migration and Human Security* 5, no. 2 (2017): 481.
- ¹⁶ Jeffrey S. Passel and D'Vera Cohn, "Homeland Security produces first estimate of foreign visitors to U.S. who overstay deadline to leave," Pew Research Center, 3 February 2016, <http://www.pewresearch.org/fact-tank/2016/02/03/homeland-security-produces-first-estimate-of-foreign-visitors-to-u-s-who-overstay-deadline-to-leave/>.
- ¹⁷ Antonia Darder, "Radicalizing the Immigrant Debate in the United States: A Call for Open Borders and Global Human Rights," *Counterpoints* 418 (2011): 279, 281.
- ¹⁸ Antoine Pécoud and Paul de Guchteneire, "Introduction: the migration without borders scenario," in *Migration Without Borders: Essays on the Free Movement of People*, eds. Antoine Pécoud and Paul de Guchteneire (New York: UNESCO Publishing, 2007), 1.
- ¹⁹ Joseph Carens, "Aliens and Citizens: The Case for Open Borders," *The Review of Politics* 49, no. 2 (1987): 251, 252.
- ²⁰ Bimal Ghosh, "Managing migration: towards the missing regime?" in *Migration Without Borders: Essays on the Free Movement of People*, eds. Antoine Pécoud and Paul de Guchteneire (New York: UNESCO Publishing, 2007), 97.
- ²¹ Nigel Harris, "The economics and politics of the free movement of people," in *Migration Without Borders: Essays on the Free Movement of People*, eds. Antoine Pécoud and Paul de Guchteneire (New York: UNESCO Publishing, 2007), 33.
- ²² Carens, "Aliens and Citizens," 252.
- ²³ Joel Fetzer, *Open Borders and International Migration Policy: The Effects of Unrestricted Immigration in the United States, France, and Ireland* (New York: Palgrave Macmillan, 2016), 4.
- ²⁴ Fetzer, *Open Borders and International Migration Policy*, 6.
- ²⁵ Pécoud and Guchteneire, "Introduction," 1; Catherine Wihlto de Wenden, "The frontiers of mobility," in *Migration Without Borders: Essays on the Free Movement of People*, eds. Antoine Pécoud and Paul de Guchteneire (New York: UNESCO Publishing, 2007), 51, 61; Zolberg, "Why Not," 1213.
- ²⁶ Carens, "Aliens and Citizens," 267.
- ²⁷ Zolberg, "Why Not," 1209, 1218.
- ²⁸ Zolberg, "Why Not," 1212.
- ²⁹ Zolberg, "Why Not," 1211–12.
- ³⁰ Fetzer, *Open Borders and International Migration Policy*, 6.
- ³¹ Harris, "The economics and politics," 42.
- ³² Pécoud and Guchteneire, "Introduction," 12.
- ³³ Harris, "The economics and politics," 42–43.
- ³⁴ Adam Bluestein, "The Most Entrepreneurial Group in America Wasn't Born in America." Inc., 12 January 2015, <https://www.inc.com/magazine/201502/adam-bluestein/the-most-entrepreneurial-group-in-america-wasnt-born-in-america.html>.
- ³⁵ Pécoud and Guchteneire, "Introduction," 12.
- ³⁶ Mehmet Ugur, "The ethics, economics, and governance of free movement," in *Migration Without Borders: Essays on the Free Movement of People*, eds. Antoine Pécoud and Paul de Guchteneire (New York: UNESCO Publishing, 2007), 65.
- ³⁷ Ugur, "The ethics, economics, and governance," 74–75.
- ³⁸ Ugur, "The ethics, economics, and governance," 74–75.
- ³⁹ Ugur, "The ethics, economics, and governance," 74–75.
- ⁴⁰ Pécoud and Guchteneire, "Introduction," 17.
- ⁴¹ Fetzer, *Open Borders and International Migration Policy*, 5.
- ⁴² Zolberg, "Why Not," 1206.
- ⁴³ Unfortunately, complex human beings seem always to be reduced to their productive capacities in these narratives.
- ⁴⁴ Harris, "The economics and politics," 38. For a sense of scale, the original 1977 calculations (at which time the gross world product was US\$7.8 trillion) estimated gains to the GWP between \$4.7 trillion and \$16 trillion.
- ⁴⁵ Darder, "Radicalizing the Immigrant Debate," 292.
- ⁴⁶ Perhaps counterintuitively, many scholars agree that allowing unrestricted migration would benefit sending countries as well, as remittances would increase and workers would be allowed to return more easily to homes where they often have family and social networks, putting their new wealth and skills to use in the home country. Ugur, "The ethics, economics, and governance," 66; Harris, "The economics and politics," 44.
- But since the well-being of sending countries is unlikely to be persuasive to nativist critics of the open-borders scenario, it is not discussed at length here.
- ⁴⁷ Darder, "Radicalizing the Immigrant Debate," 281, 285.
- ⁴⁸ Fetzer, *Open Borders and International Migration*

Policy, 16.

⁴⁹ Fetzer, *Open Borders and International Migration Policy*, 16.

⁵⁰ Darder, "Radicalizing the Immigrant Debate," 281.

⁵¹ Fetzer, *Open Borders and International Migration Policy*, 16.

⁵² Costa and Martin, "UN Global Compact and labor migration," 2.

⁵³ Fetzer, *Open Borders and International Migration Policy*, 15.

⁵⁴ Pécoud and Guchteneire, "Introduction," 12.

⁵⁵ Walter Ewing, Daniel Martínez, and Rubén Rumbaut, "The Criminalization of Immigration in the United States," American Immigration Council, 13 July 2015, <https://www.americanimmigrationcouncil.org/research/criminalization-immigration-united-states>.

⁵⁶ Zolberg, "Why Not," 1211.

⁵⁷ Ewing, Martínez, and Rumbaut, "Criminalization of Immigration."

⁵⁸ Fetzer, *Open Borders and International Migration Policy*, 17.

⁵⁹ Fetzer, *Open Borders and International Migration Policy*, 17.

⁶⁰ Fetzer, *Open Borders and International Migration Policy*, 5.

⁶¹ Violent White nationalist militias and neo-nazi groups, perhaps.

⁶² Ghosh, "Managing migration," 106.

⁶³ Heather Grabbe, "The Sharp Edges of Europe: Extending Schengen Eastwards," *International Affairs* (Royal Institute of International Affairs 1944-) 76, no. 3 (2000): 519, 523–4.

⁶⁴ Grabbe, "Sharp Edges of Europe," 534.

⁶⁵ Such as putting women and children in freezing cages in for-profit immigrant detention centers, which migrants call "pereras" or "neveras." Lukasz Niparko, "The Right to Asylum: Detention and Legal Counsel," ACLU of Ohio blog, 19 October 2017, <https://www.acluohio.org/archives/blog-posts/the-right-to-asylum-detention-and-legal-counsel>.

⁶⁶ i.e., people with claims under the Refugee Convention or the Convention Against Torture.

⁶⁷ i.e., people with family members in the United States or whose economic situations at home are unlivable.

⁶⁸ Alden, "Is Border Enforcement Effective?" 482.

⁶⁹ Pécoud and Guchteneire, "Introduction," 5.

⁷⁰ Admittedly, there has been a decline in attempted entries to the United States, but this may largely owe to migrants' perceptions of a hostile political environment. Alden (2017) does attribute at least some of the decline to enforcement efforts.

⁷¹ Pécoud and Guchteneire, "Introduction," 5.

⁷² Wihtol de Wenden, "The frontiers of mobility," 56.

⁷³ Wihtol de Wenden, "The frontiers of mobility," 56.

⁷⁴ Darder, "Radicalizing the Immigrant Debate," 280.

⁷⁵ Wihtol de Wenden, "The frontiers of mobility," 61.

⁷⁶ Darder, "Radicalizing the Immigrant Debate," 291.

⁷⁷ Wihtol de Wenden, "The frontiers of mobility," 61.

⁷⁸ Which, it bears mentioning, was soundly rejected by the 21st Amendment to the US Constitution after it led to the flourishing of urban gangs and massive losses of tax revenues.

⁷⁹ Darder, "Radicalizing the Immigrant Debate," 279.

⁸⁰ Grabbe, "Sharp Edges of Europe," 520.

⁸¹ Zolberg, "Why Not," 1209.

⁸² Zolberg characterizes the culture debate as one between "cosmopolitans" and "communitarians":

"cosmopolitans . . . believe borders violate the unity of humanity . . . 'communitarians' (at root 'nationalists') . . . believe the world's division into distinct national communities is a sine qua non for liberal democracy, and that the viability of these communities would be jeopardized by a very large influx of immigrants, particularly if they are culturally very different from the receivers and hence likely to actively or passively resist integration." Zolberg, "Why Not," 1212.

⁸³ Zolberg himself seems to believe so: "in the absence of border controls, the world's affluent and relatively affluent countries would be quickly overwhelmed by truly massive flows of international migrants in search of work and safety. Although this is a counterfactual, there can be little doubt of its very high degree of plausibility, as indicated by the long lines that form wherever a possibility of legal admission exists, as well as the proliferation of surreptitious entries. The likelihood that in the absence of borders a major redistribution of the world's population would take place is suggested also by theoretical models of migration founded on current and prospective income differentials, to which one must add political conditions as an additional major source of emigration 'push.'" Zolberg, "Why Not," 1218.

⁸⁴ Pécoud and Guchteneire, "Introduction," 16.

⁸⁵ Pécoud and Guchteneire, "Introduction," 24.

⁸⁶ A compelling anecdote on this topic can be found in a recent episode of *Radio Ambulante*, in which a woman in Honduras who is run over by a random taxi driver attempting to prove his readiness to join a gang dismisses the idea of moving to America, or even any other part of Honduras: her family is there. Daniel Alarcón, "No Country for Young Men," trans. Patrick Mosely, NPR: *Radio Ambulante*, 27 February 2018, <http://radioambulante.org/en/audio-en/translation/translation-no-country-for-young-men>.

⁸⁷ Darder, "Radicalizing the Immigration Debate," 285.

⁸⁸ Pécoud and Guchteneire, "Introduction," 12.

⁸⁹ Harris, "The economics and politics," 44.

⁹⁰ Ugur, "The ethics, economics, and governance," 76.

⁹¹ Ugur, "The ethics, economics, and governance," 76;

Darder, "Radicalizing the Immigration Debate," 291;

Pécoud and Guchteneire, "Introduction," 16.

⁹² Fetzner, *Open Borders and International Migration Policy*, 120; Bluestein, "Most Entrepreneurial."

⁹³ Though the idea seems to have first been articulated in the MERCOSUR agreement, or Mercado Común del Sur (Southern Common Market). Wihtol de Wenden, "The frontiers of mobility," 53.

⁹⁴ Diego Acosta, "Free movement in South America: the emergence of an alternative model?" *Migration Policy Institute*, 23 August 2016, <https://www.migrationpolicy.org/article/free-movement-south-america-emergence-alternative-model>.

⁹⁵ "ECOWAS – Free Movement of Persons." United Nations Economic Commission for Africa, accessed 19 January 2019, <https://www.uneca.org/pages/ecowas-free-movement-persons>.

⁹⁶ But see Pécoud and Guchteneire, "Introduction," 24: "economic uncertainty and inter-state conflicts, along with the political strategies sometimes developed by ECOWAS governments, threaten the West African version of the MWB scenario by exacerbating tensions and fueling nationalism and xenophobia, sometimes leading to expulsion of foreigners."

⁹⁷ Pécoud and Guchteneire, "Introduction," 2.

⁹⁸ Pécoud and Guchteneire, "Introduction," 24; Wihtol de Wenden, "The frontiers of mobility," 53.

⁹⁹ "Schengen Area," European Commission on Migration and Home Affairs, accessed 30 April 2018, https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen_en.

¹⁰⁰ Grabbe, "Sharp Edges of Europe," 519.

¹⁰¹ Grabbe, "Sharp Edges of Europe," 527.

¹⁰² Grabbe, "Sharp Edges of Europe," 521.

¹⁰³ Grabbe, "Sharp Edges of Europe," 522.

¹⁰⁴ Ugur, "The ethics, economics, and governance," 75.

¹⁰⁵ Zolberg, "Why Not," 1212.

¹⁰⁶ "The Cost of Immigration Enforcement and Border Security," American Immigration Council, 25 January 2017, accessed 30 April 2018, <https://www.americanimmigrationcouncil.org/research/the-cost-of-immigration-enforcement-and-border-security>.

¹⁰⁷ Though a full discussion is outside the scope of this paper, Zolberg identifies three "principal policy questions" that will be relevant to any of these approaches: (1) "level of admission," (2) determining priorities for groups of migrants if demand for entry outpaces ability to accept, and (3) "modalities of incorporation." Zolberg, "Why Not," 1215.

¹⁰⁸ Ghosh, "Managing migration," 109; Ugur, "The ethics, economics, and governance," 66.

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¹¹⁴ Pécoud and Guchteneire, "Introduction," 22.

¹¹⁵ Shoshana Fine, "Global Compact: Can it build a new story about migration?" *European Council on Foreign Relations*, 21 December 2018, https://www.ecfr.eu/article/commentary_global_compact_can_it_build_a_new_story_about_migration.

¹¹⁶ Drake Bennett, "The amero conspiracy," *The New York Times*, 25 November 2007, <https://www.nytimes.com/2007/11/25/world/americas/25iht-25Amero.8473833.html>.

¹¹⁷ "Commanding Heights: Vicente Fox," PBS, 4 April 2001, https://www.pbs.org/wgbh/commandingheights/shared/minitext/int_vicentefox.html.

¹¹⁸ Grabbe identifies the German-Polish border as "a model . . . to overcome the legacies of history by encouraging confidence-building at multiple levels: local, regional, civilian, military, public and private sector." Grabbe, "Sharp Edges of Europe," 531.

¹¹⁹ Grabbe, "Sharp Edges of Europe," 522.

¹²⁰ This is not to say that Canadians have entirely escaped racist xenophobia: "when the United States adopted a highly restrictive immigration regime in the 1920s, it was not applied to the Western Hemisphere, allowing for largely unregulated freedom of movement from . . . Canada, whose Quebecers were regarded as "Mexicans of the north," working largely in grain-producing and forest industries of the Northeast." Zolberg, "Why Not," 1210.

¹²¹ Anaïs Faure Atger, "The Abolition of Internal Border Checks in an Enlarged Schengen Area: Freedom of movement or a web of scattered security checks?" (paper produced as part of *The Changing Landscape of Liberty and Security: A Sixth EU Framework Programme March 2008*), 5.

¹²² Atger, "Abolition," 6.

¹²³ Grabbe, "Sharp Edges of Europe," 522.

¹²⁴ Jason Markusoff, "Trump's crew wants to declare Mexico a safe third country. That could be a death sentence for refugees," *Maclean's*, 5 April 2018, <https://www.macleans.ca/news/world/trumps-crew-wants-to-declare-mexico-a-safe-third-country-that-could-be-a-death-sentence-for-refugees/>.

¹²⁵ Except of course, those currently exploiting this very vulnerability of both legal and undocumented

immigrants.

¹²⁶ Pécoud and Guchteneire, "Introduction," 20.

¹²⁷ Costa and Martin, "UN Global Compact and legal migration."

¹²⁸ Pécoud and Guchteneire, "Migration Without Borders Scenario," 20; Carens, "Aliens and Citizens," 270.

¹²⁹ Pécoud and Guchteneire, "Migration Without Borders Scenario," 20.

¹³⁰ Pécoud and Guchteneire, "Migration Without Borders Scenario," 20.

¹³¹ Pécoud and Guchteneire, "Introduction," 18.

¹³² Those who consider exclusion criteria often propose past criminal history as a bar, but to the extent that marginalization in the home country may force gang recruitment or other criminal activity, I'm uncomfortable doing so here. Some of the authors cited here go into a more detailed discussion of determining entry/exclusion priorities; see e.g., Zolberg, "Why Not," 1219–20.

¹³³ An open borders regime would create unique opportunities to involve new sectors in the immigration conversation, such as tech. Speaking fancifully, what if each person entering the country for the first time was assigned a magnetic card that was used for identification, employment verification, and payments and came preloaded with a resettlement stipend financed through taxes on or contributions of previous migrants?

¹³⁴ Carens, "Aliens and Citizens," 252.

¹³⁵ Ghosh, "Managing migration," 109.

¹³⁶ Ugur, "Ethics, Economics, and Governance," 85.

¹³⁷ Zolberg, "Why Not," 1214.

¹³⁸ Pécoud and Guchteneire, "Introduction," 23.

¹³⁹ Andrew Convey and Marek Kupiszewski, "Keeping up with Schengen: migration policy in the European Union," *The International Migration Review* 29, no. 4 (1995): 939, 952.

¹⁴⁰ Pécoud and Guchteneire, "Introduction," 3; Convey and Kupiszewski, "Keeping up with Schengen," 951.

¹⁴¹ Harris, "The economics and politics," 46.

¹⁴² For example, bans on entire countries' populations from entering the United States on explicitly Islamophobic grounds.

¹⁴³ Zolberg, "Why Not," 1212.

¹⁴⁴ Zolberg, "Why Not," 1204.

¹⁴⁵ Zolberg, "Why Not," 1204.

¹⁴⁶ Farhad Manjoo, "There's Nothing Wrong With Open Borders," *The New York Times*, 16 January 2019, <https://www.nytimes.com/2019/01/16/opinion/open-borders-immigration.html?action=click&module=Opinion&pgtype=Homepage&fbclid=IwAR1O4OO3gc6x5JYsY2Ea69zDGe3zkD-ZOcfAISy1LGWmf1nDzR-ZHMLPyAM>.

Being Our Authentic Selves, An Interview with Maria Hinojosa

Leticia Rojas

Subject Bio

Maria Hinojosa is a Latina journalist who has dedicated her trailblazing, 30-year career to television and radio reporting that elevates the stories of people of color. Hinojosa's contributions across media platforms such as NPR, PBS, CBS, WNBC, and CNN have been recognized with dozens of awards, including four Emmys and a Peabody Award. As anchor and executive producer of the radio show *Latino USA*, as well as co-host of the political podcast *In The Thick*, Maria Hinojosa informs a wide audience about the country's changing cultural and political landscape. During the 2018–19 academic year, Hinojosa served as the Walter Shorenstein Media and Democracy Fellow at the Shorenstein Center on Media, Politics and Public Policy. While on campus, she sat down with the *Harvard Kennedy School Journal of*



Hispanic Policy for an interview to discuss topics at the intersection of immigration, journalism, politics and power, and the Latinx community. In it, Hinojosa challenges the

Latinx community to lead with authenticity and without self-doubt.

HARVARD KENNEDY SCHOOL JOURNAL OF HISPANIC POLICY: What does a Latina in power look like to you? As one yourself—and after speaking to so many leaders such as Sonia Sotomayor and Alexandria Ocasio-Cortez—what does she do differently? How does she lead differently?

MARIA HINOJOSA: We have to be deeply authentic. The most honest response to these attacks against Latinas in particular these last few years is to be our authentic selves. In that sense, someone like a Sonia Sotomayor, who is clearly ridiculously smart and can manage her way out of any situation; there's something about her authentic self, as a Bronx-raised Puerto Rican woman, that she carries with her as she's answering those super tough questions. In terms of Alexandria [Ocasio-Cortez], there's something about her authenticity of just being a young woman who is prepared to take on huge risks. From my own life, part of what I understood was that I was not going to be able to compete with my colleagues at being more controlled and put together and coiffed and all of those things you need to be—so what I'm going to do is be the opposite of that, which

means I'm not going to blow out my hair, I'm going to be real, I'm going to speak in a real voice, I'm going to say "um," there might be a sentence might not get finished. I went deep into the core of who I am as much as possible.

I think that that's part of what we're seeing, and that's an important part of the conversation: really being authentic in who we are as Latinas, critical of our dear United States of America, critical of our dear home countries wherever they may be. As Latinas, we can attempt to create community. We do that with our families, and we're going to try to expand that to create a broader community.

Bringing other people in by being our authentic selves. In other words, see me: I'm not a threat to you; like, c'mon, let's hang out together, and let's talk about these things. We're not very used to wanting to talk about our egos or talking about our power, but in fact, as Latinas we have to own our power, own our capacity to talk about being strong and powerful.

HJHP: A lot of your work focuses on highlighting stories and issues that aren't covered in other places. From a policy perspective, what impact do you want these stories to make? What do you want policy makers to have in mind when they hear your stories?

HINOJOSA: As journalists, when we sit around our editorial room and we talk about stories, we don't actually say, "Well, let's do this story so we can change the policy." The first thing that we're doing is looking at the story as raising an issue that we haven't heard of or thought about, one that's going to be a great narrative piece with great characters.

Our starting point is not policy. If you're doing a story about policy, then often times it can become really analytical and cold, and that's the last thing that we want to do. The biggest impact I want to have is I want to try to create a sense of humanity of the people who I'm reporting on, who are fellow Americans, to

elevate a sense of humanity and to make people feel something with my reporting. We hope that the policy is affected tangentially because of the humanity we brought up with the story. But not that we look to change policy in a specific way.

HJHP: Your reporting on immigration exposes the ways in which political messaging, language, and even policy work criminalize and dehumanize immigrants. In the past decade, we've seen a lot of "compromise" solutions that often grant citizenship for some subset of immigrants in exchange for tightening restrictions for others. Do you think that the policy proposals we have seen so far include that regard for humanity?

HINOJOSA: No, I don't believe that they have a long-term human element in them. It has been a quid pro quo and using human beings as kind of political fodder. And if there really was a human element, then we would understand that we're talking about here is not piecemeal immigration reform but rather comprehensive [reform]—and we have gotten so far away from that. Ultimately, you're going to get to the point where it's "You, yes" and "You, no." "You can stay" and "You can't" and "Sorry, Mom, you're going to have to leave your kids." And it's just like, we can't even, so in that sense the broadest answer is no.

The entirety of the way immigration has been dealt with in this country has been manifested in its *increased* perception of dehumanization of these people, not a decrease. If there was an understanding of humanity, then we would say we understand that there is no security crisis at the border—that this is a fictitious argument. We have not experienced any kind of terrorist attack from the southern border. Sorry, but no—there has been no humanity in these immigration policies.

HJHP: One of the things I admire most about you is your willingness to call out other journalists when you see something that they're

not covering right or that you feel is wrong. Thinking about the Latinx community, how can we have tough conversations within our community, call each other out for being complicit, and push ourselves to do better when it comes to things like racism and homophobia?

HINOJOSA: The only way that that's going to happen is by having these conversations, being critical of the racism and the homophobia and the sexism and the anti-Semitism and the anti-queer realities that exist among and within the Latino communities—us bringing those conversations into our homes, into our communities, into our friend circles, and by social media. For example, I follow Tanya Saracho, who is the showrunner for *Vida*. Tanya put up a posting on Instagram where she was like, “Let me just talk to you about Latinos and Latinas and being racist.” She was like, “There’s this misconception that if you’re Latino or Latina you can’t be racist. But no, we can be and this is how and this is why.” That was just an Instagram posting, but I’m like thank you, Tanya, for putting it out there because nobody else is going to be putting that stuff out unless it’s us—and yeah, it can be a little uncomfortable.

The cool thing that we’re seeing now, in this iteration of Latinos and Latinas in power, is that because it’s a new generation and because of social media—*como te puedo decir*—it’s like the filter is off in that sense. The positive side of this horror that we’ve been living through is that more of us are talking about [our stories]. We are having to talk about our own immigrant stories when we’re talking about seeing children being ripped from their parents’ arms; we are talking about our own stories as we hear this president talk about “shithole” countries.

In some ways, what this president and this moment have done is that they have allowed us to open up this bag of worms—at least that’s what we’re doing at *Latino USA*. Like yeah, it’s not pretty. It’s really complex and it’s going to become increasingly more complex. Having

just returned from Mexico where I was able to pick up on an increasingly nationalistic tide in Mexico, of Trumpists in Mexico—who are like, “build a wall and keep the Central Americans out”—I am deeply concerned, and we as Latinos and Latinas have to own this dialogue.

HJHP: How have you navigated often being the Latina in a space? How do you make those connections and get authentic allyship from others?

HINOJOSA: There’s a lot of humility that comes with that. For example, Nicco Mele, who runs the Shorenstein Center, knows that I’m critical of White supremacy and that I’m taking on White men. But while I’m doing that, I’m actually extending my hand as I’m saying these things because I need him to understand that, at least in this moment, he’s brought me here. He is giving me a voice, and he is my ally.

In a way, it’s like I’m manifesting in a public way, this is what allyship looks like. It looks like him asking me to be here, asking me tough questions, but him also having the capacity to listen to me when I am raising this large critique of everything he represents as an entitled White man of privilege. And yet him not freaking out about it. I’m having these conversations all the time, a lot of the time with White men, not expecting them to be my allies necessarily. But I become very personal with them. I don’t want to appear to be a threat—which is kind of crazy, I know. I’m not a threat to anybody. But in the political context of this precise moment, this is part of what’s happened: a Latina immigrant woman is somehow perceived to be a threat. So head on, I’m trying to be disarming of that.

HJHP: So, what you’re saying is, allyship is personal?

HINOJOSA: Deeply, deeply, deeply personal. And again, with many of the men that

I'm talking to on a plane or a train or a bus or whatever, what I am saying is "I want you to look at me." And I'll turn to them, and I'll face them—so if I'm on a plane, I'll actually turn my body, and I'll look at them—and I'll say, "I want you to look at me because I want you to understand that the Mexican immigrant that Donald Trump sees as a threat is me. It is me; it is my family." And then they'll be like, "No no no," and I'm like, "Sir, I want you to remember me when the talk is about Mexican immigrants; they're talking about me," and it's not like I'm expecting a response at that moment like "Yes, of course"—it's more just this kind of "look at me," which is what you were saying. Allyship is absolutely personal.

HJHP: A lot of us felt very disheartened on Election Day 2016. But it's been two years now, and you've been covering a lot of stories. What have you covered in the last two years that gives you the most hope for the future of the Latinx community in this country?

HINOJOSA: Well, I've interviewed so many fascinating people. I did just interview Sonia Sotomayor—again. I did just interview Rubén Blades—again. I did just interview Fat Joe. I'm interviewing so many people, and all of them give me hope. Whether it's Sonia Sotomayor or whether it is someone like Laura Monterosa, who is a survivor of sexual assault in an immigrant detention facility and is speaking out about it. Who am I most inspired by? I don't know if it's just one person. You know, Latinas and Latinas in the US, we're not going anywhere. And I feel like we're taking our spot. We're owning our voices *con más ganas*. And in that sense, what I see is really exciting, whether I'm seeing it at Harvard with the young people here who have all kinds of ideas or I'm at DePaul in Chicago or whether I'm with my staff. There's a lot of excitement and things that are invigorating right now.

The other side of that, which we have to deal with, is that many of us feel like we're

imposters and that we don't belong and that this is a battle that we have to take on. Even in a place like Harvard, you have my fellow Latinas and Latinas questioning whether or not this is the place for them. And that questioning is something we don't have time for.

Author Bio

Leticia Rojas is a master in public policy student and Presidential Scholar at the John F. Kennedy School of Government at Harvard University (HKS). Prior to graduate school, Leticia worked in her parents' home country of Mexico in the Ministry of Energy, guiding the investments of the country's research and development funding toward climate change solutions. Through work with the Harvard Climate Solutions Lab and the California Governor's Office of Planning and Research, Leticia has applied a lens of environmental justice to her climate and energy work, ensuring that policies and programs are directed toward those most burdened by the impacts of climate change. At HKS, Leticia serves her community as the co-chair of the Latinx Caucus and co-editor-in-chief of the *Harvard Kennedy School Journal of Hispanic Policy* as well as a mentor through the Institute of Politics and the First-Generation Alumni Alliance. Leticia holds an AB from Harvard College and is the first in her family to attend graduate school. She was born and raised in Texas, where she plans to return upon graduation, working to uplift the voice of the Latinx community by building electoral power. Twitter: @let_rojas



Latinas Are Equipped for the Cooperative Movement

Kateri Gutiérrez

I started Collective Avenue Coffee, Los Angeles's first worker-owned cooperative coffee shop based in Lynwood, California. A working-class, Latino community in South East Los Angeles, Lynwood is independently spirited with ample opportunities for economic growth. Each morning at the cafe, a small concession stand located in the community center with outdoor seating facing the park, you come for the coffee but stay for the conversations with the barista. I ask my peers, my customers, and folks who know about our cooperative movement: "What is Community to you?" This intends to spark constructive conversation among Lynwood's residents to create change beyond our cooperative coffee shop.

These conversations can inspire additional grassroots movements that help redefine who we are as America's working class and turn our shared struggles into opportunities that benefit our communities through cooperative efforts. As the American Dream has failed many in the promise of ownership, worker-owned cooperatives offer an opportunity to secure economic self-determination and security for everyone through cooperatively owned businesses and democratic practices.

As a Latina born from working-class immigrant parents, I became aware that the

American Dream did not include my family despite their hard work and sacrifices. The American Dream has also failed many in my community. The size of the problem demands systemic changes. As the next generation, I am urged to think about how we as Latinas can redefine our American Dream to include and engage our communities. Developing cooperative ownership, starting in the workplace, is our possible approach to re-shift the preimposed definition of the American Dream. Latinas are equipped with the social nature and entrepreneurial spirit to lead the way in assisting everyday Americans to achieve a different, more community-focused American Dream.

Worker-Owned Cooperatives: Democracy in the Workplace

When starting the cafe, I discovered democratic member control and concern for the community are cooperative principles that serve as symbolic foundation of worker cooperatives.¹ These all-encompassing standards enable democratic decision-making in and out of work, from civic engagement to conscious consumption. Worker cooperatives engage workers through "one member-one vote" democratic decision-making, and this

participatory culture continues outside of the workplace through civic engagement. Once the worker has a voice in the workplace, the worker feels more empowered to engage in their community, assert their place in society, and identify the purpose of their contributions to their economy. Insofar, a redefined American Dream calls for systemic changes to further civic activity and achieve sustainability, particularly for the underrepresented.

The American Dream: A Distant Memory

The American Dream revolves around owning a business, a home, a car, etc. For the most part, first-generation Latinos inherited the idea of the American Dream as the reason why our parents came to this country, and for many, we still wonder whether it was inherited because we believe in it or because it is an unfulfilled promise we are still trying to accomplish. According to Pew Research Center, Latinos believe in the American Dream, but as we grow distant from our immigrant roots, the belief in it decreases.² Our existing socio-economic system does not allow for everyone to achieve the American Dream as we know it, so many are left merely looking out for themselves to survive, with little hope of ownership.

The New American Dream: Collective Ownership

It is becoming increasingly difficult to own anything with today's income distribution. For instance, Latinas earn 53 cents per every dollar earned by White male counterparts and less than any other women per dollar.³ The odds of having fair wages are considerably against Latinas, but we are using our cultural skills to change the statistics. Latinas like me are already leading this movement of taking wage matters into our own hands, and this makes sense as we're naturally inclined to be entrepreneurs and take creative steps to help our communities thrive. We account for the largest business creation in the United States,

jumping to 87 percent in a five-year period according to "Latina 2.0" by Nielsen, a report on the increase of Latina entrepreneurs in the United States.⁴ Socially, we're positioned in the center of our community, using our understanding of our culture and social cultural practices to pursue our entrepreneurial goals. This cultural role of the Latina meshes naturally with a cooperative framework that empowers all of its members, instead of a token few. The framework also creates more business owners out of community members who may not have the funds or access to start businesses on their own.

Who Is Equipped? Latinas

Latinos make up 43 percent of the workforce in cooperatives according to the 2016 Worker Cooperative Economic Census, more than any other demographic.⁵ Furthermore, Latinas are the most entrepreneurial demographic in the entire country, according to Nielsen: "[S]ales of Hispanic female majority-owned firms grew 41 percent during the period, while sales of all female majority-owned U.S. firms grew by 19 percent."⁶ One of the reasons why this is the case is because we have a culture of "*comadrear*," a term used for chatter, gossip, and small conversation that can result in ideas or plans. *Comadrear* is a culture of socializing, passed on from generation to generation. Latinas in the United States have transferred this culture to social media through sharing their experiences and accomplishments and engaging with fellow women who are doing the same. As a result of the technology and speed of information, more ideas and actions happen as a result. The social muscle does not stop at communication and sharing ideas, it is also used for financial progress. Latinas inherit the culture of "*tandas*," a word for informal lending circles where community members, usually women, take turns borrowing from an informal community fund to pay for short-term goals, such as funding businesses.

Worker Cooperatives in Policy

Cultural assets such as these empower others to contribute their efforts, but we need formal policy that enables institutions to strengthen the financial progress in communities to cultivate a stronger cooperative movement. Historically, the Small Business Association (SBA) did not offer resources specifically for worker cooperatives. However, as the movement grew and the demand for worker democracy increased, the Main Street Employee Ownership Act was introduced and passed in the House of Representatives, signaling a grand achievement in policy that helps empower the cooperative movement.⁷ Under the bill, the SBA would be responsible for improving access to capital and technical assistance to businesses that want to transition into employee ownership or worker-owned cooperatives. At this time, there are more cooperatives forming around the country, and this act is a valuable resource for workers who want more democratic values at work that transfer into better working conditions. In particular, this policy is an excellent opportunity for the already resourceful Latinas to combine their entrepreneurial spirit with the inclusive structure they would find in worker cooperatives.

When the system is not created for them to thrive financially, Latinas work around their challenges and create opportunities for themselves and, in the process, their communities. Latinas are showing their leadership through their engagement as consumers and drive as entrepreneurial leaders.⁸ Parallel to this movement, the Latina community in the United States is experiencing a collective consciousness of our current economic state and reinventing the dream into inclusive ownership with models such as worker cooperatives. The American Dream is no longer individual: it must be recreated into a collective effort and inclusive approach to ownership, and the worker cooperative movement is one of those ways. Latinas are ready to grow the movement.

I'm proud to be one of the leaders of this movement.

The coffee shop is not just the space to “*co-madrear*”—it is a catalyst for many conversations. Collective Avenue was born as an idea and developed into a series of conversations, and it is now growing and expanding through COOP LA, a collaborative of start-up cooperatives in Southeast Los Angeles. This is possible in multiple spaces, and the conversation needs to start as big-picture thinking. When we are asked about our role in a collective identity, their community, we are redefining our American Dream into a more collaborative vision. The vision becomes apparent when we acknowledge that the Latina, who is resourceful and entrepreneurial in her right, can accomplish more in the cooperative movement.

Author Bio

Kateri is co-founder of Collective Avenue Coffee, Los Angeles's first worker-owned cooperative coffee shop founded in Lynwood, California. What started as an idea to create a small worker-owned cafe developed into multiple collaborations with grassroots movements, space for educators, and a case study for community members interested in getting involved in the cooperative movement. She spearheads the business strategy and organizational design of the company and runs the internship program to educate young adults on cooperative entrepreneurship and real-life business challenges. Additionally, Kateri is working with three other cooperatives to create COOP LA, California's first shared cooperative space, where the entities share their resources to overcome financial challenges collectively. Kateri holds a degree in American studies with an emphasis in consumerism from University of California, Berkeley.



Endnotes

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Alexandria Ocasio-Cortez and Cardi B Jump through Hoops: Disrupting Respectability Politics When You Are from the Bronx and Wear Hoops

Amanda R. Matos

In 2019, a rapper and a congress member have more in common than one may expect. Cardi B and Alexandria Ocasio-Cortez are both Bronx-bred millennial Latinas, Instagram and Twitter stars, successful leaders in their respective fields, and most importantly, disruptors of respectability politics.

Cardi B, a rapper and self-proclaimed “regula degula shmegula girl from the Bronx,”¹ is the first solo female rap performer to hold the number one spot on Billboard’s Hot 100 list since Lauryn Hill over 20 years ago.² According to Billboard, “Bodak Yellow” achieved this feat through popularity in social media and video-streaming sites, making it one of the most listened to singles since its release in June 2017.³

Meanwhile, Congresswoman Alexandria Ocasio-Cortez, known as AOC, is the youngest woman ever elected to Congress.⁴ In June 2018, she successfully ran against incumbent Representative Joe Crowley, boldly running a campaign on a democratic socialist platform that included a call to abolish US Immigration and Customs Enforcement (ICE) and provide Medicare access for all.⁵ Now she’s calling for a Green New Deal, one of the most progressive legislative packages to address climate change and increase access to green jobs.⁶

Respectability Politics

Evelyn Brooks Higginbotham coined “the politics of respectability” in her 1993 book, *Righteous Discontent: The Women’s Movement in the Black Baptist Church*.⁷ Respectability politics refers to the practice and belief system that marginalized communities must adhere to dominant cultural norms in order to receive respect. If they practice their cultural identities through their speech, appearance, and overall deportment and behavior, they are deemed less intelligent and respectable. Though the term was first used in the context of Black women, it now extends to communities of color and other disadvantaged communities.

How Cardi B Disrupts Respectability Politics

Cardi rejects respectability politics by challenging the mainstream embodiment of womanhood with her fashion, cadence, and expression of her sexuality. She is a proud Bronx Dominican-Trinidadian woman who loves being real with herself and others and is raising her daughter with these values.

Last year she released a song called “Motorsport,” with collaborators Migos and Nicki Minaj. In this track she raps, “I’m the trap Selena/Dame más gasolina,”⁸ stirring

strong reactions on social media.⁹ Regardless of critical feedback, she integrated the same line into her 2018 hit, “Dinero” with Jennifer Lopez.¹⁰

According to *Remezcla*,¹¹ a Latino millennial digital publishing company, many fans applauded her by writing comments such as:

Fuck yes. Cardi is the #trapSelena

*She breaking barriers in her own way
and i respect her hustle*

However, others ridiculed her comparison to Selena Quintanilla, beloved Tejana star:

*Cardi needs to be real, Selena was never
on the pole!*

*Pinche pendeja! How dare this STD
ridden stripper compare herself to the
class act that is Selena!*

In response to these negative comments, fans rallied in support of Cardi B:

*Latinos hating on latinos at its finest Im
down with it! everybody just be hating
on Cardi B yall needa get a life and stop
with that salty ass shit 1st of all shes not
dissing Selena or even disrespecting shes
REPRESENTING Selena's name in her
style of TRAP “The SELENA OF TRAP”*

I understand people’s love and respect for Selena. Selena’s fan base has an unwavering commitment to celebrating her life posthumously. I myself grew up listening to her songs, yearning to own a purple jumpsuit, and can recite every line of her 1997 biopic starring Jennifer Lopez, who coincidentally is another Latina from the Bronx like me, Cardi, and AOC.

However, celebrating and respecting one woman while denigrating another is anti-feminist and feeds into the notion of respectability politics. Suggesting that Cardi has STIs because of her sexual expression stigmatizes sexual freedom and shames people with STIs. Adding

that Selena was not on a pole refers to Cardi’s experience working as a stripper and devalues her autonomy and informed decision-making capacity as a woman. Questioning Cardi’s comparison to Selena is rooted in questioning her Latinidad, or sense of Latin American identity, which highlights the problem of anti-Blackness in Latinx communities: Afro-Latinxs’ racial and ethnic identities are often categorized as never being enough of one.

Cardi’s use of “trap” in describing herself as the “trap Selena” pays homage to the framework of trap feminism, coined by media expert Sesali Bowen. Trap music is a male-dominated rap genre that centers around sex, money, and drugs. Sesali juxtaposes it and “luxury” rappers like Jay-Z who spit lines about their wealth and material goods.¹² Trap is about the money and stardom you don’t have access to in your hood and how you plan on getting it. Given the male dominance of the genre and extracting from its gender dynamics, trap feminists are active agents in deciding how to use their bodies and sexuality for art and expression.

Cardi’s embodiment as a self-determined, sexually autonomous, and independent Afro-Latina rapper is groundbreaking. Yet people critique Cardi for her “unladylike” deportment, missing the point that trap feminism subverts female standards of chastity and modesty and celebrates challenging gender norms. They are quick to slut-shame and question her Latinidad, as the comments above do. Moreover, these critiques perpetuate the virgin/whore dichotomy with Selena as the virgin and Cardi as the whore. Selena as a Mexican-American Latin pop sensation is portrayed as an acceptable symbol of Latinidad, whereas Cardi’s Dominican-Trinidadian identity is challenged as her identity is inextricably linked to her Blackness. The erasure of Afro-Latinidad in pop culture and mainstream media perpetuates a monolithic understanding of Latinx culture and identity.

Cardi B is not devaluing Selena’s legacy and achievement. She is making a distinction

that there is no singular way to practice feminism, especially in the music industry. She models herself as an Afro-Latina feminist by strongly claiming her cross-cultural identity. She is not calling herself the next Selena or even suggesting she holds the title of La Reina. Cardi is claiming her Blackness, her Latinidad, and her sexuality all in one verse while paying respect to Selena's impact on so many people, including herself.

How Alexandria Ocasio-Cortez Disrupts Respectability Politics

Since AOC's defeat of former Rep. Joe Crowley, conservative media platforms have described her as a socialist darling and little girl, among other epithets. Her ability to govern is constantly put into question across party lines because of the layering of her ethnicity, age, hometown, and political ideology.¹³

In response, AOC disrupts respectability politics by constantly paying homage to her Bronx and Puerto Rican roots. For her congressional swearing in ceremony, she wore hoop earrings, donned red lipstick, and twisted the front of her hair. When critiqued for her use of Twitter and Instagram, she simply recorded even more stories to continue demystifying the US government for the American public, knowing that she is reaching millions of people.

John Cardillo, a conservative talk show host, questioned her "Bronx hood" roots and authenticity by tweeting a Google Street View photo of the house she grew up in as a child.¹⁴ His point was to call her out as a liar, as if working-class people from the Bronx cannot or should not live in a home they own.

Cardillo's underlying assumption about the Bronx is embedded in racism and classism. His comments are part of a larger narrative of outsiders abhorrently stereotyping the Bronx and making value judgments on how working-class families look, behave, and spend their hard-earned money.

In response Ocasio-Cortez tweeted: "Your attempt to strip me of my family, my story, my

home, and my identity is exemplary of how scared you are of the power of all four of those things."¹⁵

It's powerful to see Ocasio-Cortez claim her Bronx identity given the flattened stereotypes we're used to seeing of the Bronx in the media. My beloved hometown doesn't always have the best reputation. The Bronx is one of the country's poorest counties.¹⁶ Stories of gun violence have more airtime than stories of community resilience and success. New Yorkers wonder how, when, and whether gentrification will thwart the outer borough or whether we're a lost cause. Access to healthy food is limited due to transportation deserts—areas where grocery stores are miles away and there's little access to efficient public transportation. These are structural problems. They are not inherent to our community. And they are not all that the Bronx is.

Seen as a threat to conservatives and even Democrats, AOC chooses to defy political norms to blaze trails for more young people and people of color in politics.

Far too many elected officials avoid talking about racism, classism, and sexism, and even more shy away from designing legislation that explicitly addresses these inequities. As an outspoken democratic socialist, AOC demonstrates that you can believe wholeheartedly in democracy while advocating for equitable resource distribution of a social safety net that invests in communities and combats systemic oppression. AOC is showing the whole country what progressive leadership should look like—boldly advocating for the most marginalized in your community—and she does this while being her authentic self.

The Bronx is home to Alexandria Ocasio-Cortez, Cardi B, hip-hop, local businesses like Bronx Native, community gardens, summer concerts, and so much more. When it comes to politics, we've had a few champions advocate for us to thrive, but we haven't had someone like AOC speak unapologetically about our culture, our potential, and our ability to sit at the decision-making table.

AOC proudly quoted¹⁷ Cardi B from the rap “Best Life,” recognizing the importance of celebrating your roots:

*I never had a problem showin’ y’all the
real me
Hair when it’s messed up, crib when it’s
filthy
Way-before-the-deal me, work-to-pay-the-
bills me
‘Fore I fixed my teeth, man, those com-
ments used to kill me
But never did I change, never been
ashamed
Never did I switch, story stayed the same
I did this on my own, I made this a
lane¹⁸*

Both Cardi and AOC use their social media platforms to show a sneak peek into their daily lives while also communicating important political messages to their followers. As the longest government shutdown in history takes place, both leaders amplify the urgency of ending the shutdown on their platforms to ensure people are informed and know how to take action against injustices taking place. At first glance, critics may say they are only catering to their online echo chamber, but in actuality, they are using 21st-century technology to educate their followers on the current politics.

Conclusion

As women-of-color trailblazers, Cardi B and Alexandria Ocasio-Cortez are continuously under attack for sharing their opinions confidently, succeeding in their seemingly impossible endeavors at young ages, and disrupting what dominant culture deems as acceptable behavior for women, particularly Latina women. As a fellow Bronx Latina, I have experienced the preconceived notions people have about us based on our appearance, style, and neighborhood roots. And as a fellow feminist, I’m familiar with the way our political beliefs are often dismissed as too radical or too idealistic for the status quo.

To enact a paradigm shift where respectability politics no longer exists, we must be authentic leaders and not succumb to status-quo pressures. And it is equally important for all of us to suspend judgment when people bring their authenticity into the room. Despite not adhering to normative behaviors, Cardi B and AOC are success models because they don’t tear each other down, they build each other and others up.

Excerpts of this commentary were originally published on Feministing.com

Author Bio

Amanda R. Matos has devoted her career to racial and gender justice through capacity building, political education, and civic engagement. She is co-founder of the WomanHOOD Project, a youth-led after-school mentorship program for girls of color in her hometown of the Bronx. Amanda also helped create the New York City Young Women’s Initiative in partnership with New York City Council and Girls for Gender Equity and served as manager of community organizing at Planned Parenthood of New York City.

Amanda received her BA in ethnicity and race studies from Columbia University and is currently a master in public policy candidate and Sheila C. Johnson Fellow at the John F. Kennedy School of Government at Harvard University. She is the co-editor-in-chief of the *Harvard Kennedy School Journal of Hispanic Policy* and co-chair of the Latinx Caucus. Twitter: @Amanda_R_Matos



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A Note to Henry A. J. Ramos

Last fall, Henry A. J. Ramos, founder of the *Harvard Kennedy School Journal of Hispanic Policy* and member of the Journal's Executive Advisory Board, communicated to us his intentions to step down from the board.

While saddened by his decision, we want to take this opportunity to acknowledge Henry's steadfast support and contributions to this publication over the past 30 years. A writer, artist and progressive public advocate, Ramos became a steady source of advice and inspiration for the Journal's staff. Additionally, the Journal was also fortunate to be the recipient of some of his most inspiring artwork, *Gardens at el Sueño*, which graced the cover of our 30th Volume.

As we publish our 31st Volume, in recognition of his tireless advocacy to advance policy issues that impact our community, our Executive Advisory Board named Henry A. J. Ramos *Member Emeritus* of the board. We have been fortunate to have known and worked with Henry A. J. Ramos over the years and are grateful that part of his legacy will live in the pages of the Journal for years to come.

With gratitude,

The HKS Journal of Hispanic Policy Staff and Executive Advisory Board



Henry A. J. Ramos is a California-based artist, writer, and progressive public advocate. A graduate of the University of California, Berkeley (where he earned bachelor's and law degrees) and the Harvard Kennedy School of Government (where he founded the Harvard Kennedy School Journal of Hispanic Policy), Ramos's original artworks have been featured and sold in galleries and showing venues in New York City; Paso Robles, California; Lausanne, Switzerland; and Berlin, Germany.

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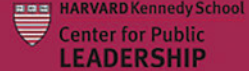
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Correction for page 4: Juana Hernandez Sanchez was erroneously omitted from the "Recognition of Former Editors" section. She served as editor of the HJHP from 2014-2015.

Correction made on 03/27/2024