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IMMIGRATION AND BELONGING
IN NORTH AMERICA AND
WESTERN EUROPE

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Waters, Mary C., and Philip Kasinitz. 2015. "The War on Crime and the War on Immigrants: Racial and Legal Exclusion in the Twenty-First-Century United States." In *Fear, Anxiety, and National Identity*, edited by Nancy Foner and Patrick Simon. New York: The Russell Sage Foundation.

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Chapter 4

The War on Crime and the War on Immigrants: Racial and Legal Exclusion in the Twenty-First-Century United States

MARY C. WATERS AND PHILIP KASINITZ

HALF A century after the landmark 1964 U.S. Civil Rights Act and the 1965 Immigration Act, scholars are debating the nature of race relations, the axes of racial exclusion, and the scope of the racial changes in U.S. society. Contradictions abound. An African American sits in the White House yet a stunning 60 percent of young black men lacking a high school degree will sit in jail at some point in their lives. Many, probably most, of the children of immigrants, including immigrants of color, are now clearly experiencing modest but substantial upward mobility relative to their parents, a few groups dramatic ones.[1] Yet others, often their siblings, are "waking up to a nightmare" as they realize that their unauthorized legal status excludes them from employment and educational opportunities.[2] Changing American demography and the retirement of the baby boomers provides new opportunities for "non–zero sum mobility," as Richard Alba has noted.[3] Yet, as in Europe, although some members of previously excluded groups seem poised to take advantage of this situation, others clearly are not.[4] Despite the much ballyhooed influx of unaccompanied minors from Central America, the combination of the 2008 recession, its aftermath, and tightening border enforcement has reduced the numbers of undocumented immigrants crossing the border. Yet the rise in enforcement and control at the border has also discouraged migrants from leaving the country. The decline in return migration, combined with a decline in the opportunities for unauthorized migrants to change their status inside the United States, has ironically led to a growth in the undocumented population.[5]

As Latinos have surpassed blacks as the largest minority group in the United States, there are reasons to both celebrate and bemoan the state of civic and social inclusion of both groups. Two questions are paramount: are Latinos a racialized and excluded minority, or are they following a path similar to European immigrants a century ago? Are African Americans slowly being incorporated into mainstream American society now that de jure discrimination has been outlawed for fifty years, or are they trapped by a new Jim Crow system in which poverty and a "school to prison pipeline" has replaced the plantation?

Michelle Alexander takes the latter view.[6] She begins her highly influential book, *The New Jim Crow,* with the story of a black man named Jarvious Cotton who cannot vote because of felon disenfranchisement. She notes that his father, grandfather, great-grandfather, and great-great-grandfather also could not vote. She concludes that "the more things change, the more they stay the same." The arguments and rationalizations that justify the denial of basic citizenship rights to African Americans may have changed, she argues, but the results have not. The disproportionate numbers of young black men in prison or marked for life because of a felony conviction lead Alexander to conclude that virulent systemic racial exclusion continues in the United States.

A quick look at the numbers makes it clear why this argument is so compelling. Approximately 5.8 million people in the United States cannot vote because they are currently in prison or permanently barred from voting because of a felony disenfranchisement. Another approximately 11 million are permanently barred from most civil rights and most forms of civic participation as unauthorized, undocumented, or illegal immigrants. Taken together, this population of political "un-persons" far surpasses the number of African Americans who lived in southern states at the dawn of the civil rights movement in the 1950s. Shocking as these numbers are, they tell only part of the story. Alice Goffman shows, for example, how the specter of incarceration limits the economic and social participation of young men not yet in prison, as well as their family members.[7] Devah Pager shows how social stigma and legal exclusion continue to limit the life chances of once-convicted men and women long after they have served their time—a fact which also limits the opportunities for their children.[8] Frank Bean and his collaborators demonstrate how undocumented status of parents negatively effects the educational achievement of even their U.S.-citizen children.[9] And when large numbers of politically excluded persons, due to either unauthorized status or felony disenfranchisement are concentrated in the same places, the resulting decrease of political power and the "rotten borough" effect reduce the social and political efficacy of entire communities.[10] Thus, though not generally discussed or studied together, unauthorized immigration and mass incarceration have simultaneously created groups of mostly black

and brown people who live in the United States but are barred from the democratic process and most forms of civic participation. As such, these trends are a challenge to our understandings of citizenship, race relations, and democracy.

Given these facts, it would be easy to conclude, with Alexander and many others, that little has actually changed in American race relations. Indeed, there is no shortage of critics who argue that the growth of the African American middle class, the upward mobility of so many immigrants and their children, and even the election of an African American president provide only an illusion of change or at best a slight reworking of racial boundaries while the fundamental racism of American society reasserts itself in new forms. Yet we feel that this old-wine-in-new-bottles argument, while correctly pointing to a profound crisis in American society, is mistaken in using outmoded analytic tools to understand the current crisis of societal membership. As such, it tends to understate the degree to which the American racial order has been transformed in recent years and is at a loss to explain how apparently contradictory trends in American race relations have gone on simultaneously.[11]

In this chapter, we address questions of citizenship, race, anti-immigrant or nativist sentiments, and evolving patterns of inclusion and exclusion. Our argument is that a twentieth-century *racial lens* on the patterns of inclusion, discrimination, identity, and stratification may be obscuring a twenty-first-century pattern of *legal exclusion.* By *racial lens,* we mean the primary variables used by social scientists to categorize the population, the frame or narrative they use to understand patterns of inclusion and exclusion, and the variables they use in proposing solutions to societal problems going forward. A *legal lens* would showcase how legal exclusion underlies many of the new patterns of social stratification that rely less on biological and cultural roots of defining difference, but rather stress individual and moral culpability for exclusion and discrimination. We will argue that a vast system of law, prisons, and criminal justice enforcement has arisen to create new forms of domination and control.

We are, we should be clear, not suggesting that legal citizenship has become the only, or even the primary, factor in American ethno-racial stratification. Nor are we suggesting that race has ceased to be an important factor in determining the life chances of Americans. Indeed, today's system of legal and political exclusion is often highly racialized in its outcomes and, of course, racial and legal exclusion often overlap in practice. Yet neither one is a simple mask for the other. Accordingly, we argue that legal mechanisms and the lack of citizenship rights are now playing an increased role in patterns of exclusion and are of increased importance, relative to race and relative to the role that formal citizenship played in times past. Although these legal mechanisms often overlap with racial discrimination, they are not simply reducible to it (as Alexander

and some critical race theorists imply). The new legal-political exclusion is not straightforwardly racial in the same way that Jim Crow or the Chinese Exclusion Act—to take two obvious examples—were. By introducing a legal lens into the discussion, we hope to illuminate how American racial practices are shifting and to at least partially explain why limits on societal membership, social citizenship, and civic participation for many Latinos and African Americans are not inconsistent with very real social inclusion and upward mobility for others. We further argue that today's political-legal exclusion is not necessarily best resisted using the language and tools that worked in the civil rights movement. A changing system of domination requires new lenses to understand its operation and new tools of resistance to bring about social change. Clinging to the rhetoric of previous eras may at times be obscuring the reality of twenty-first-century boundaries. It is in that spirit that we offer this analysis.

Historical Patterns of Immigrant Inclusion and Exclusion

When immigrants enter a new society, the history and institutions of that society shape the opportunities and obstacles they will encounter. Most comparisons of the integration of immigrants in Europe and the United States begin with an acknowledgment of that fact.[12] The long history of immigration to the United States is often held up as a resource that provides a model or pathway for current immigrants to follow, one that is lacking in European countries.[13] On the other hand, America's dark history of slavery and racism is seen as a roadblock or barrier to incorporation for today's nonwhite immigrants and their children.[14] These two patterns have been described as the positive and negative sides of American exceptionalism relative to Europe.[15] In general, in the U.S. immigration and race have been seen as fundamentally separate, if interrelated, issues. In contemporary Europe, where most racial division is seen as the result of relatively recent immigration, they are often seen as the same issue.[16]

Comparisons between patterns of inclusion and exclusion in western Europe and the United States describe these institutional structures. Richard Alba has described them as setting up different kinds of boundaries that divide groups in society.[17] He argues that for European-origin immigrant groups the United States allowed "boundary blurring" and eventually "boundary shifting." The second and third generation of these groups did not have to pass over a boundary to become fully accepted Americans—the boundary itself shifted to allow them full membership.[18] This blurred boundary led to the full integration of the descendants of European immigrants.

Alba contrasts this situation of the incorporation of immigrants and their children in the United States with the bright boundary based on citizenship and religion that has characterized the situation of immigrants and their descendants in France and Germany. Where the United States has historically maintained a bright boundary between blacks and whites, one that has been difficult if not impossible to cross over, western European countries have had a bright boundary between natives and foreigners—especially, Alba argues, Muslim immigrants.[19] Religion, which has been a bridge for immigrants to the United States to connect with natives, has been a barrier in Europe.[20]

The more or less successful integration of tens of millions of European immigrants established an institutional framework of welcome for immigrants that the United States proudly celebrates. This includes the development of an American identity that allows for civic inclusion of newcomers and persisting ethnic affiliations. This did not happen immediately or as unproblematically as some today think. But it did happen. The invisible hand of social mobility and Americanization blurred boundaries between immigrants and natives. As a consequence, legal immigrants to the United States, though often the object of discrimination, generally face fewer barriers to acceptance and full integration than their counterparts in western Europe. The persistence of some largely symbolic manifestations of ethnic identity is rarely seen as a threat to American national unity. In contrast to Europeans, few Americans care what sports team immigrants and their descendants root for, and the creation of ethnically themed shopping districts is more likely to be celebrated than seen as a sign of dangerous cultural fragmentation.

Historically, America has obviously not been so successful when it comes to matters of race. The end of slavery with the Civil War ushered in a hundred years of both de jure and extralegal segregation, including systematic violence in enforcing whites' racial domination. The civil rights movement was successful in eliminating de jure segregation, but de facto discrimination continued in many areas of American life. Unlike in Europe, racial segregation in housing and education remains high, and stereotypes of nonwhites as inferior to whites persist.[21] This has led many to wonder whether the United States will be as successful in incorporating the predominantly nonwhite immigrants who have come since 1965 as it was the European immigrants of earlier periods.[22] The central role of race as a determinant of status in the United States has led scholars to question whether American success in assimilating the children of European immigrants in the nineteenth and twentieth centuries can be repeated with Asian, Latino, and black immigrants in the twenty-first. Some scholars argue that contemporary Latino immigrants face a particularly bright boundary—a process of racialization that will prevent their full incorporation into the United States.[23] Others point to evidence of increased Latino social mobility.[24]

Finally, the civil-rights-era racial frame itself provides new opportunities for recent immigrants of color to take advantage of institutions and policies created in response to African Americans and long-established (and long-racialized) Latino populations. Affirmative action in educational institutions and the workplace, as well as the general effect of civil rights advances and the celebration of diversity in at least some sectors of American society, has opened opportunities for immigrants and their children, opportunities they are often better positioned to take advantage of than the African Americans and long-settled Latinos for whom the policies were originally intended.[25]

Changing Situation of Black Americans

Although the degree to which race has hampered the assimilation of new immigrants has been debated by scholars of immigration, scholars who study African Americans have also been noting changes in the racial and legal axes of inclusion and exclusion of blacks. Since the mid-1960s, change in this arena has been considerable. The civil rights movement demanded *civil rights* for African Americans who, as *citizens* were entitled to protection from discrimination and civic participation—the right to vote in particular. This successful movement was predicated on what Gunnar Myrdal described as the American Dilemma—that the Constitution had promised equal rights for all citizens but we had denied those rights to blacks.[26] This contradiction challenged the fundamental belief of most Americans in their country as being founded on liberty and legal equality. As a result of the civil rights movement, racial statistics once gathered to facilitate segregation were now gathered to monitor and fight racial discrimination in voting, housing, and employment—a marked contrast to the use of statistics in many European contexts, particularly France.[27]

These legal and social changes led to many undeniably positive changes in the life chances of African Americans. Both education and wealth have increased, as well as residential integration (although housing segregation remains extremely high by European standards) and intermarriage. Perhaps more remarkable has been the growing presence and visibility of blacks in elite positions culminating in the election in 2008 of the first black president. The rise of an educated black middle class has also been appreciable: in 1967, 4 percent of the black population over age twenty-five had a four-year college degree; by 2012, 20 percent did.[28]

Racial attitudes have also been changing. Whites still hold negative stereotypes about blacks, but these are "gradational or qualified, rather than categorical."[29] They also have shifted away from presumed biological or "natural" differences and focus more on presumptions rooted in group culture. Thus whites are much more willing to see differences among black Americans, and are more accepting of middle- and upper-class African

Americans, but are also more likely to express fear and resentment of poor, less educated African Americans, particularly those seen as criminal and outside the mainstream. Indeed, a decline in biologically based racism may be associated with a greater willingness to blame individual, less advantaged African Americans for their negative life outcomes.

This shift in attitudes coincided with the rise of mass incarceration. According to the Bureau of Justice Statistics, state and federal correctional authorities in 2010 had jurisdiction over 1,612,395 prisoners on December 31, and over the course of the year some 7.1 million adults were under some form of correctional supervision.[30] This quantity is the result of a rise of more than 500 percent in twenty-five years.[31] The rate of incarceration began to climb in the mid-1970s but took a dramatic upturn with the increase of harsh sentences for nonviolent drug offenders in the 1980s and early 1990s.[32] Bruce Western outlines how this largely nonpartisan shift in criminal justice policy led to an unprecedented increase in incarceration, particularly among low-skilled, low-income minority men.[33] By 2000, 702 of every hundred thousand U.S. residents were behind bars, a rate six to twelve times higher than that of western European countries.[34]

Scholars have characterized the rise of mass incarceration as one of the most important developments in the United States in the last few decades. Legal scholar Jonathan Simon describes the United States as governing through crime control—leading to the rise of the "carceral state," replacing the welfare state as the way to deal with poor stigmatized groups.[35] This increase in incarceration occurred as crime rates were falling and was presided over by both Democratic and Republican administrations. Indeed, in recent years it has been increasingly challenged by some on the Right on the grounds that it is simply too expensive and represents a wasteful expansion of government. In part because of this ideological shift, the growth of the prison population has recently slowed and in many states began to reverse after 2010. Yet the United States continues to imprison far more of its population than any other nation, and reducing those numbers, even after most criminologists have concluded that much incarceration has little value in terms of crime control, has proven extremely politically difficult.[36] Whether the recent trend is the beginning of the end of the era of mass incarceration or simply a slowing in the rate of the growth remains to be seen.[37]

Changing Situation of Latinos

In the 1960s, the United States also changed its immigration laws, opening up immigration to the entire world, but at the same time limiting immigration from the Western Hemisphere for the first time. This led to two major demographic changes that had large implications for American race relations. Immigration changed the complexion of the society with a very large increase in Latinos and Asians. A black-white dichotomy in

American race relations changed into a complex multigroup situation. The foreign born were 4.7 percent of the population in 1970, and by 2010 were 13 percent. Latinos grew from 4.7 percent to 16.3 percent, surpassing African Americans as the largest nonwhite group.[38] In addition, restrictions on the number of people from the Western Hemisphere created a large undocumented population. Over time, the pressures for immigration from Mexico and other Latin American countries, along with the long-established ties with American society, led to increased numbers of people crossing the southern U.S. border without authorization—the growth of the undocumented, or illegal, immigrants.

Beginning in the 1990s, the militarization of the border led to a sharp rise in the number of undocumented Mexicans and other Latin Americans— not because it stopped people from coming into the United States, but because it prevented immigrants from returning to Mexico. The circular migration that had been occurring ended.[39] These government policies led to the explosive growth of undocumented immigrants in new destinations in the south and Midwest, changing what was once a limited regional issue into a permanent national phenomenon.

An important shift in how the United States dealt with immigrants— documented and undocumented—came in 1996. Congress passed three laws that year that had far-reaching impacts on the prospects for integration of all immigrants. Both the 1996 Illegal Immigration Reform and Responsibility Act (IIRIRA) and the 1996 Anti-Terrorism and Effective Death Penalty Act (AEDPA) not only laid the legal groundwork for mass deportations of undocumented immigrants, but also greatly increased the ways in which legal immigrants who are not yet citizens must be deported if they are convicted of a felony. The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), also known as Welfare Reform, broadened the restrictions on public benefits for undocumented immigrants and established restrictions on the eligibility of legal immigrants for means-tested public assistance.

The 1996 Immigration and Nationality Act (INA), which was part of IIRIRA, contained the controversial section 287(g), which authorized state and local police to screen people for immigration status, to detain them until the federal government takes custody, and to generate the necessary charges to ultimately remove them from the country. In effect, this shifted to local police the authority to stop and detain people for immigration violations, a power that until then only federal authorities had held.

The IIRIRA broadened the definition of aggravated felony that justifies deportation of immigrants, both documented and undocumented, and expanded the categories of noncitizens eligible for deportation.[40] The ominously named 1996 AEDPA removed judicial review for most categories of immigrants subject to deportation. The Patriot Act of 2001 further increased the power of the federal government by allowing it

to apprehend, detain, and deport legal immigrants deemed a threat to national security.

These laws are a sharp reversal of previous trends. From the Hart-Celler reforms of 1965 to the 1990s, the practical differences between legal permanent residence and citizenship had been shrinking to the point where political participation was the last remaining bright boundary between the two. In the early 1990s, this direction reversed. Legal permanent residents began steadily losing social rights. At the same time, administrative and legislative changes systematically foreclosed many of the routes that unauthorized immigrants had used to regularize their status.

The net effect of these changes has been a growth in the intersection of the U.S. criminal justice system with the immigration enforcement system, a massive rise in the numbers of documented and undocumented immigrants deported each year, and a rapid growth of the numbers of undocumented immigrants in mandatory detention throughout the country. These laws gave power to the U.S. Immigration and Naturalization Service (INS) and then to U.S. Immigration and Customs Enforcement (ICE) to arrest, detain, and deport undocumented people and sharply limited their rights to appeal these decisions. In addition, the law defined as criminal what had been up to that point an administrative violation— entry without inspection. This new legal regime created what Daniel Kanstroom describes as a system of "post entry social control" and Rachel Buff describes as "deportation terror."[41] This has led to a whole new meaning of the concept of "crime and immigration." According to the Department of Homeland Security, 189,000 people were removed in 2001, some 395,000 by 2009, and another 438,421 by 2013.[42] The criminalization of the undocumented has led to new methods of identifying undocumented people, of new systems of detention throughout the country, and to mass deportations unseen before in U.S. history.

New laws have led to a blurring of the federal, state, and local jurisdictions. In 2003, the INS was replaced by ICE. The INS had been under control of the Justice Department. The new bureau was put under the control of the newly formed Department of Homeland Security. ICE saw its mission as apprehending, detaining, and deporting "criminal and fugitive" noncitizens.[43] It launched three programs to identify whether undocumented people had broken the law and were in state or local custody. The Criminal Alien Program (CAP) places ICE officials at state prisons to conduct immigrant screening. The Priority Enforcement Program has set up a joint database between the Federal Bureau of Investigation (FBI) and ICE into which local police can enter the fingerprints of people they arrest. This program has taken over many of the functions of the controversial 287(g) program, which had delegated the federal power of immigration enforcement to state and local personnel. By connecting the databases of the FBI and ICE, any time state and

local law enforcement check the background of persons they encounter, they are in effect screening them for immigration law violations. State and local authorities then detain them until they can be transferred to federal authorities. The evolution of a program designed to catch "dangerous criminals"—defined by a 2007 ICE fact sheet to be people involved in "violent crimes, human smuggling, gang/organized crime activity, sexual-related offenses, narcotics smuggling and money laundering"—into one based on finding every undocumented person happened at first in those jurisdictions where immigration was a politically sensitive and visible issue. This is especially true in the Southeast, where immigration has been increasing rapidly in areas that had little previous exposure to it. The program reinforced the false but increasingly common public perception that illegal immigrants were disproportionately engaged in criminal activity. Politically, many local officials used that fear of crime and the 287(g) program to create a climate of fear and intimidation.

When people are detained for immigration violations, either through detection by ICE officials or after an arrest on another charge and a screening for immigration status, they are held before it is decided whether they should be deported. It is important to note that criminal aliens convicted of a crime serve their sentence before they come into ICE custody. Yet people who have not committed any serious crimes are often held for long periods in the immigrant detention system. The detention system consists of agreements, intergovernmental service agreements (IGSAs), between ICE and state and local prisons to house people in a system of privately run contract detention facilities (CDFs) and ICE-run detention centers, or service processing centers (SPCs). A recent study using ICE data obtained through a Freedom of Information Act request found that 58 percent of the thirty-two thousand detainees in custody as of January 29, 2009, did not have any criminal record.[44] Four hundred people who had no criminal record had been held for more than a year. "The most serious convictions for 20 percent of criminal aliens in ICE custody were for traffic-related (13 percent) and immigration-related (6 percent) offenses."[45] The most common criminal conviction of those in detention was driving under the influence of alcohol. Nevertheless, these detainees were primarily held in facilities designed for people who have committed serious crimes—70 percent were in state and local prisons, 17 percent in CDFs, 10 percent in SPCs, 2 percent in federal prisons, and 3 percent in soft detention centers such as medical centers.

The average number of immigrant detainees on a given day increased from 6,785 in 1994 to 33,330 in 2011.[46] Indeed, immigration violations were the most commonly reported lead charges brought by federal prosecutors during the first half of fiscal year 2011. In 2011, ICE detained 429,247 people, a 105 percent increase from 2001. ICE has six ICE-owned

SPCs (six of the seven are managed by for-profit companies), seven prisons owned and run by CDFs, and 240 local and county jails that have signed agreements with ICE to house detainees. This increase of deportations is made all the more remarkable by the fact that much of it took place under the Obama administration—an administration at least nominally committed to comprehensive immigration reform and to protecting some classes of immigrants from deportation.

Intersection of the War on Crime and the War on Immigrants

Ryan King and his colleagues examine the determinants of deportation over a long period of U.S. history, from 1908 to 2005.[47] They find a strong positive association between unemployment and deportation in the period before 1986 but find that after that time the number of deportations tracks along with the rise in incarceration in general in the United States. They conclude that deportation is a part of the "culture of control" that has emerged in the United States as a way of dealing with the poor and marginalized. The growth in incarceration and the growth in immigration intersected and the numbers of immigrants behind bars rose. By 2009, a reported 94,498 immigrants were held in federal and state prisons.[48] Peter Schuck estimates that immigrants are more than 25 percent of federal prisoners and 4 percent of state prisoners.[49]

In fact, the intensive policing that has affected poor communities across the country is related to the rise in deportations, immigration detention, and Latino imprisonment. Because the federal immigration authorities have integrated their data systems with local and state police, they do not need to go looking for unauthorized immigrants; the local authorities let them know when an undocumented person comes in contact with the criminal justice system. Increasingly, misdemeanor offenses such as public drunkenness, driving without a license, and traffic violations can lead to an undocumented person's being discovered and detained in a state or local jail or in an ICE facility and often deported. The rationale for more intensive policing is generally public safety, not immigration control. Yet more aggressive policing and more arrests for minor offenses inevitably make it more likely that police action will ensnare immigration violators.

Racial versus Legal Frames

How should we understand the experiences of the eleven million undocumented immigrants, most of whom are Latino? Clearly, how they are being portrayed to the American public has racial overtones that pick up on long-standing stereotypes and racial definitions of Mexican

Americans.[50] Many thoughtful scholars assert that we are seeing a racialization and dehumanization of all Latinos in the United States. Deborah Boehm, for example, argues that mass deportation is best understood as being rooted in a racial logic:

> U.S. citizens of color, while not legally "deportable," are subject to the racial logic of "deportability" and the racism that guides surveillance and deportation (e.g., Chávez 2008; De Genova 2005; Rosas 2007). The shifting and racialized character of deportability and deportation underscores the complexities of studying "undocumented migration" and points to the significance of ethnographic research in the analysis of both migration and return.[51]

A racial understanding of the plight of the undocumented most surely contributes to understanding the phenomena. But we would argue that a new form of nativism, one with a strong legal component, is also operating.[52] The distinction between *racism* and *nativism* is too little used to understand undocumented Latinos in the United States. Racism can be defined as the belief that "socially significant differences between human groups or communities that differ in visible physical characteristics or putative ancestry are innate and unchangeable" and when "such a sense of deep unalterable difference . . . [is] accompanied by the notion that 'we' are superior to 'them' and need to be protected from the real or imagined threats to our privileged group position that might arise if 'they' were to gain in resources and rights."[53] Nativism has traditionally been seen as "an intense opposition to an internal minority on the ground of its foreign (that is, un-American) connections."[54] In American history, blacks have been subject to virulent racism, and European immigrants to virulent nativism. Asians and Hispanics were subject to both, though the degree to which their exclusion and suffering was due to one or the other is a subject of scholarly debate.[55] Today, however, growing anti-immigrant sentiment is largely focused on one subgroup of immigrants: the roughly one-quarter of the foreign-born population whose presence in the country is seen as illegal. Political leaders now routinely castigate illegals while celebrating the achievements of those immigrants who entered the country legally, play by the rules, and who are seen as consistent with American traditions of immigrant incorporation. Of course, many Americans presume that a much larger portion of immigrants are illegal than is actually the case, and this presumption clearly has a racial overtone. Yet the fact that many feel uncomfortable expressing an openly racist sentiment and feel the need to hang their anti-immigrant rhetoric on a legal distinction is important. It stands in sharp contrast to America in the recent past, as well as to contemporary anti-immigrant rhetoric in Europe.

Moreover, legal status matters. The foreign born in the United States now number about forty million. About a third have naturalized and

become citizens. Yet more than a quarter are undocumented and can never become citizens unless there is a fundamental change in our immigration laws. Most of the rest are legal permanent residents. De jure inequality between unauthorized immigrants and others has grown a great deal, and de jure inequality between citizens and legal immigrants has also grown, as has social inequality more generally.

A great deal of evidence points to rising nativism directed particularly toward the undocumented. Little stigma is attached to demonizing undocumented persons. Roberto Suro reports that "an analysis of 1,848 Associated Press stories on immigration topics from 1980 to 2007 showed that 79 percent fit into the framework on illegality. Of 2,614 stories on immigration in the *New York Times* over the same period, 86 percent dealt with illegality in various forms."[56] Undocumented immigration and the belief that immigrants, both legal and illegal, receive government benefits they did not work for has fueled the growth of right-wing movements such as the Tea Party.[57] The false belief that immigrants are more likely to be criminal than natives and that undocumented immigrants are by definition criminals is a strong source of anti-immigrant ideology in America. In addition to unfairly stigmatizing the vast majority of law-abiding immigrants, this stereotype of immigrant criminality has led to harsh laws targeting immigrants, to large numbers of people being held in detention in prisons, and to the largest number of deportations in our country's history.

The importance of the notion of illegality needs to be stressed here. In contrast to nativist movements of the past, today's anti-immigrant activists rarely point to the total number of all immigrants as a problem, nor do they often call for a reduction in the number of *legal* immigrants, though those numbers remain substantial compared with many countries. Even the notion that immigrants take jobs from Americans has become less common in recent years, the post-2008 recession notwithstanding. And, in contrast to Europe, the fear of cultural balkanization and divided loyalties, while certainly present in the U.S. nativist rhetoric, is rarely the central argument. Indeed, politicians arguing for tougher immigration enforcement and border security often pause to praise the work ethic of legal immigrants and say good things about the role of cultural diversity in American life. Although in reality the social distinction between authorized and unauthorized immigrants is often minimal (in many cases, they are part of the same families), in the American imagination the illegal immigrant, usually assumed to be Mexican, has come to be seen as an undeserving criminal, in contrast to legal immigrants, who are often depicted as virtuous, hardworking, and rule followers. Indeed, much of the political power of the Dreamers—the activist undocumented-student advocates of the DREAM Act—stems from their ability to put a sympathetic human face on the stigmatized, illegal category. Yet even here there is a risk. Much of the Dreamers' appeal lies in the fact that, because they

immigrated as children, their illegal status is not their fault, implying that others may indeed be at fault.

One researcher has examined the empirical effects of how animus toward Hispanics is framed in different states. Hana Brown shows that negative views about Hispanic immigrants in both the media and among politicians could take two different forms.[58] She calls these the *legality frame* and the *racial frame*. She finds that anti-Hispanic stereotypes in Arizona in the period between 1970 and 2010 were deployed using a racial frame, whereas anti–Hispanic immigrant activists in California used a legality frame. She states that "the legality frame draws moral boundaries based on legal status, lauding the contributions of legal immigrants while chastising their illegal counterparts. The racial frame explicitly racializes moral worth, blaming Hispanics or Mexicans for the suffering of deserving White American citizens."[59]

Brown traces the effects of these frames on policy outcomes in the two states. As a result of the 1996 welfare reform law (PRWORA), the federal government made legal noncitizens ineligible for welfare benefits. California responded by creating a state-supported program for documented noncitizen welfare recipients. Meanwhile, Arizona refused to extend benefits to legal noncitizens. The fight in California over Proposition 187 established a legality frame that was mobilized by anti-poverty activists seeking support for noncitizen legal immigrants who needed support. In Arizona, a racialized attack on all Hispanics more clearly drew racial boundaries that not only cut off welfare support for legal noncitizens but also paved the way for one of the harshest anti-immigrant laws in the country. This measure was passed in 2010, though part of it was struck down by the Supreme Court for racial profiling.

Of course, the reaction to undocumented Latino immigrants is partially based on race as well as on presumed legal status. Latinos occupy a somewhat indeterminate space in American racial hierarchies—as both a racial and an ethnic group—and patterns of discrimination and acceptance differ in different parts of the country given different historical circumstances and group histories and identities. Accordingly, their acceptance or exclusion can vary over time and space. It is not clear whether a racial or a legal frame leads to greater possibilities for challenging exclusion. The legal frame in California may have helped legal Latino immigrants, but the undocumented may be better protected in a state such as Arizona, where racial allies are created by racial exclusion.

Citizenship and the Difference It Makes

In America, as in all countries, the institutional infrastructure of the nation reflects its history. The United States has developed a number of institutions designed to deal with its major fault line of race. It has laws

prohibiting racial discrimination and programs to create racial and ethnic diversity in higher education and the workplace. It collects statistics on race to monitor progress toward a racially fair and just society. Because historically immigration has been seen as relatively unproblematic, the United States does not have laws written specifically to prohibit discrimination against foreigners. It also does not have ministries devoted to immigrant integration. In the United States, unlike Europe, the assimilation of legal immigrants is left to civil society and especially the labor market, where legal immigrants have largely unfettered access, albeit often to the worst jobs. Because the United States believes that it is "good at" dealing with immigrants, it has not set up a governmentally sanctioned system of institutions devoted to promoting integration, except in the important case of refugees.

Theoretical and legal scholarship on citizenship has also had two parallel tracks: an immigration and a race perspective. Linda Bosniak describes what she sees as a division of labor in legal and political theory scholarship on citizenship—with experts on immigration focusing on access to formal citizenship, and most other scholars assuming formal citizenship and focusing on substantive citizenship:

> The universality of citizenship as both norm and fact thus informs most contemporary citizenship theory; it is presumed by liberal citizenship theorists and their critics. . . . Universality is treated as so axiomatic, in fact, that the issue is rarely addressed, except by historical contrast. The ideal is widely treated as given, leaving theorists free to argue instead over precisely how citizenship should be understood in substantive terms.[60]

Jennifer Gordon and Robin Lenhardt also argue that the immigration and race perspectives in citizenship have been talking past each other— the race perspective focuses on the failures of the United States to deliver the equality promised by citizenship to African Americans and other minorities.[61] They point out that critical race scholars recognize that "while legal rights are important for racial minorities, the formal status of citizen has done relatively little to ensure belonging for racial minorities."[62] Bosniak notes that focusing on inequality and racial exclusion in the United States leads to the argument that "formal rights [are] relatively empty of substance, since most citizens are not in a position to avail themselves of these rights in a meaningful way."[63]

For most of American history, legal citizenship has been less important than race, ethnicity, and sometimes other factors in determining social inclusion and societal membership. It is true that historically, legal U.S. citizenship has been relatively easy to obtain. In nineteenth-century America, naturalization was a relatively simple matter, and birthright citizenship for all those born in U.S. territory, except slaves and American

Indians living in tribal groups, has been recognized since the beginning of the republic.[64] Birthright citizenship was extended to former slaves and their offspring under the Fourteenth Amendment in 1866. In 1896, in United States v. Wong Kim Ark, the Supreme Court clarified the fact that under the Fourteenth Amendment, birthright citizenship also applied to the children of immigrants, including those whose noncitizen parents were themselves barred from naturalization (primarily the Chinese) or were in the country illegally.[65] Ironically, native American tribal members were the one group not accorded birthright citizenship until the Indian Citizenship Act of 1924, though most persons of native American descent were already recognized as U.S. citizens by that time.

Yet although members of racialized minority groups have long been technically accorded U.S. citizenship, the designation has not served as a meaningful guarantee of civil or social rights in practice. In reality, the Fourteenth Amendment did not protect the voting rights of African Americans and, in some cases, Mexican Americans, who were effectively disenfranchised in many parts of the country until the civil rights laws of the 1960s. Legal citizenship was also no guarantee of equal treatment before the law, equal access to public services, the right of assembly and protest, or many of the other basic rights we usually think of as components of substantive citizenship. Two-thirds of the Japanese Americans interned after the attack on Pearl Harbor were U.S. citizens—in this case, clearly race mattered far more than legal status. Interestingly, although some German and Italian citizens living in the United States at the time were also interned as enemy aliens, most were not. In any event, U.S. citizens of German and Italian descent faced remarkably little persecution compared with what Japanese Americans experienced. Both during the Great Depression and under Operation Wetback in the 1950s, U.S. citizens were among the thousands of Mexican Americans caught up in dragnets of mass deportations. Here again, race trumped legal status.[66]

Yet this may be less true in a post–civil rights context. As Anny Bakalian and Mehdi Bozorgmehr note, Japanese internment contrasts markedly to the situation of Arab and other Muslim Americans after the 9/11 attacks.[67] Although Arabs, Muslims, and even those who were confused with Arabs and Muslims, such as Sikhs, were victims of prejudice and violence in the wake of 9/11, the brunt of the backlash was borne by noncitizens. Undocumented immigrants and resident aliens were victims of arbitrary arrest and internment, held incommunicado and deported. Yet while the government moved swiftly and sometimes brutally against unauthorized immigrants, it was generally cautious when it came to the rights of citizens, regardless of race or nation of origin. Further, Bakalian and Bozorgmehr note, the post-9/11 period actually led to an increase in the activity of Arab American civil rights organizations, usually founded by long-time American citizens and modeled on (and sometimes working

in cooperation with) African American, Latino, and Jewish civil rights groups.[68]

Living in the Shadow of the Law

The sheer numbers of the people in prison is a new development, but scholars have also stressed the growth of a different relationship to poor minority communities through this involvement of the criminal justice system. As so-called criminals, the less-educated, mostly minority populations (including African Americans and undocumented Latinos) can be seen as individually responsible for their conditions and as threatening to the rest of civil society.

For immigrants, in addition to being held for unspecified periods in prisons and other detention facilities, people who are detained suffer other abuses and indignities. A Human Rights Watch report estimated that more than one million family members had been separated through detention and deportation. Sometimes family members vanish when they are taken in workplace raids, and it is difficult for people to find their loved ones. Nina Bernstein, the immigration reporter for the *New York Times*, describes the terror and uncertainty the raids produce: "It can be risky, for example, simply to live in an immigrant neighborhood in a house or apartment where a previous tenant may have had an old deportation order. Immigration agents may show up at the door with a photograph of someone who hasn't lived there for years, roust people from bed to demand papers and take away in handcuffs anyone who cannot produce the right documents. In the aftermath of such raids, relatives, employers, even lawyers have to struggle to find out where those detained are being held."[69]

In addition to living with the constant fear of deportation and the ripple effects of deportation of loved ones and neighbors, undocumented immigrants, including many who have lived in the country for decades, are living in the shadows, ineligible for many services and freedoms that most Americans take for granted. Although their children can attend school from kindergarten through twelfth grade—one human right that U.S. courts have made it clear that all immigrants have regardless of legal status—the undocumented are often afraid of contact with school authorities because it can lead to their discovery. They suffer domestic violence and are afraid to ask police for help. They are often afraid to seek medical care, have no documents to fly on domestic airlines, cannot legally drive, and have no identification to open bank accounts or cash checks. They cannot live in public housing, reclaim taxes they have paid under false documents, and are often at the mercy of employers to pay them and treat them fairly, since few undocumented people would report an employer who cheated them for fear of being discovered.

A parallel world of constrained mobility, fear of the law, and denial of benefits for the poor characterizes the world of poor African Americans caught up in the criminal justice system (a majority of African Americans with less than a high school education). A six-year ethnographic study of men in these circumstances led Alice Goffman to conclude that "the dealings these young men have with the police, the courts and the probation and parole board grant them an illegal or semilegal status and instill an overriding fear of capture. Suspicious even of those closest to them, young men cultivate unpredictability or altogether avoid institutions, places, and relations on which they formerly relied."[70] Goffman describes how young men in this situation, like undocumented immigrants, avoid contact with government bureaucracy, do not call on the police when they are in danger, and alter their day-to-day lives to reduce the possibility of being caught by the criminal justice system—avoiding hospitals, courts, and the police. Goffman concludes that these men are "living as semilegal or illegal people, coping with the daily threat of capture and confinement."[71] In addition, those who have been convicted of a felony, Alexander reminds us, often lose basic citizenship rights in terms of voting, employment, housing, education, public benefits, and jury service.[72]

Ethnographic and statistical studies of the lives of the undocumented and the men "on the run" from the police are increasingly demonstrating the strong ripple effects of this life of fear on relatives and neighbors. Sara Wakefield and Christopher Wildeman find that approximately 25 percent of African American children born since 1990 will have a parent in prison at some point in their childhood.[73] Prison inmates are parents to 2.5 million children, and research finds they suffer mental health and behavioral problems along with economic instability. Indeed, research shows that imprisonment of parents has far-reaching effects on children into adolescence and adulthood, leading to the perpetuation of intergenerational disadvantage.

Yet while the criminalization of poor African Americans affects far more than those actually incarcerated, it does not affect all members of the racialized group in the way segregation did. The existence of a large black middle class, the shifting and perhaps softening of once hard racial boundaries, to say nothing of the election of an African American president (can one imagine a Turkish-descent Muslim chancellor of Germany in the near future?), all point to clear progress and lead us to question the utility of seeing the present situation as simply the new Jim Crow or the most recent manifestation of age-old racial hierarchies.[74] At the same time, the emphasis on individual blame and personal responsibility implied by the legal criminalization lens may prove even more insidious than traditional racism when it comes to isolating and denying basic rights to the poor in contemporary America. Undocumented immigrants are also the parents to some four million U.S.-citizen children. Studies show that these

children also suffer from their parents' lack of legal status.[75] In addition to the forced separations of more than a million family members, evidence has accumulated that legal status of parents has a negative effect on developmental and educational outcomes among citizen children, net of all other individual characteristics.[76] The children of the undocumented are also more likely to suffer food insecurity and less access to health care.[77]

Conclusion

How should the new modes of social exclusion be confronted? A racial lens on undocumented Americans may lead to a false hope for a solution—the civil rights movement. It is true that references to the racial past, such as Alexander's "new Jim Crow," are rhetorically effective. The Dreamers use the symbolism of the civil rights movement and increasingly the gay rights movement (that is, "coming out") particularly effectively, in part because the very Americanness of these claims, clearly a product of their post–civil rights American educations, reinforces the notions that they are in fact Americans in all but the legal sense. Yet this frame also has clear limitations. It obscures the ways in which race can be a resource rather than an impediment for legal immigrants and citizens of Latino origin. This is because legal resources and remedies are available for racial discrimination but not for immigrant discrimination. The court challenges to the most virulent immigration laws passed in Alabama and in Arizona challenged them on the basis of racial profiling. Immigrant profiling is perfectly acceptable and legal. A racial lens obscures the shifting line of oppression in our society from racial phenotype to legal exclusion. Indeed, in some situations—such as economic progress of the second generation—the relative success of children of immigrants obscures how badly the native minority population is doing.[78]

In other contexts, seeing immigrants in purely racial terms misses the social significance of the political exclusion of the large undocumented population. This group of people is significant, permanently domiciled in the United States, and part of the society economically, socially, and culturally, yet not politically. This political exclusion ill serves a democratic society. In addition, although the United States remains comparatively open to the naturalization of legal immigrants, it has been more reluctant than many European countries to open arenas for noncitizen political participation, such as voting rights in local elections. Because the United States has seen immigrant integration as relatively unproblematic, no specific laws are on the books to guarantee immigrants equal rights, and no government agency offers aid in immigrant integration. Because undocumented immigrants are part of the labor force and part of the society but most definitely not eligible for civic participation, they cannot, by definition, lay claims to civil rights.

Racialization and references to the caste-like situations of the recent immigrants, however rhetorically effective, can also be misleading. When critical race scholars speak of the racialization of unauthorized immigrants, they are arguing, in effect, that these immigrants are coming to occupy a social position similar to that of African Americans: virtual blacks. In many ways, that is true—there is no shortage of ethnic and racial discrimination toward Latinos. However, it is also true that legal exclusion has its own unique characteristics and consequences. Indeed, given the criminalization and disenfranchisement of millions of poor African Americans, we would argue that many (but not all) poor African Americans are now being redefined as virtual illegal immigrants.

Race and caste are also, by definition, seen to be immutable.[79] However much social scientists point out their socially and historically constructed nature, in popular usage they masquerade as permanent, historically fixed categories that can be changed only very slowly, if at all. But the current situations of the criminalized black poor and the unauthorized immigrant population of the United States are fairly recent creations. They happened quite suddenly. Forty years ago, illegal immigrants were barely an issue in the United States, and the level of incarceration was comparable to many European countries. The current situation is more akin to what Robert Smith has called "a cruel natural experiment" in which the life chances of unauthorized migrants are markedly different from fellow migrants (often their siblings) who are only a few years older but qualified for naturalization under the Immigration Reform and Control Act amnesty, or who are only a few years younger, but were birthright citizens of the United States.[80] The socially excluded status of these "un-persons" is the direct result of politics and policy. It can thus be changed by politics and policy.

Unfortunately, we may be headed in the opposite direction. In 2013, moderate Republican legislators unwilling to accept even the extraordinary long and tortuous path to citizenship for undocumented immigrants proposed in reform legislation passed by the U.S. Senate began to circulate proposals to regularize the status of unauthorized immigrants to a new type of permanent legal resident without the possibility of citizenship. This new status, which would allow immigrant labor full participation in the economy but give immigrant people no role in the polity, was seen as a perfect compromise between business interests and conservative Republicans anxious not to create millions of new Latino voters. Yet it also seemed to be gaining the grudging support of many immigrants and their advocates because it would stop mass deportations, allow people to come "out of the shadows" and undoubtedly improve the daily lives of millions of immigrants. Democrats, desperate to say they had accomplished *something* on immigration reform, might also have reluctantly gone along with such a proposal. In the end, the idea was sidetracked by

the electoral calendar: Republican leaders did not want a conflict between the party's establishment and Tea Party wings in the months leading up to the 2014 congressional election. But we suspect it will remerge when political circumstances warrant.

As Douglas Massey notes, "The transition to a minority-majority U.S. population is now well under way, and is inevitable in demographic terms. Although the U.S. population is currently 16 percent Latino, 14 percent black, 5 percent Asian, and 3 percent mixed race, among births, 25 percent are to Latino mothers, 15 percent are to African Americans, and 7 percent are to Asians, making up almost half the total."[81] Middle-class African Americans and Latinos are everywhere in American society. Yet large numbers of African Americans and Latinos also live in deep poverty, experience intense fear, and are much more likely than whites to end up in prison, detention, or deportation. One can understand this as a racial phenomenon and call for racial justice and fairness and seek racial solidarity among Latinos and blacks to fight for the rights all of their members.

One can also understand this as the result of long-standing racial injustices and historical colonial power that led to unequal economic and social conditions that are now being managed, at least in part, through legal means. This is an ostensibly race-neutral policy that has strongly unequal racial outcomes. Black and brown people are locked up, disenfranchised, barred from public housing and public assistance, and in many cases prevented from democratic participation and voting. Yet appeals for racial justice for these people may not go far because they are in this predicament because of immigration or criminal violations and thus are responsible for their own fates. Worse still, they are not able to advocate for themselves because they have been defined out of the polity—in effect, they cannot influence the society they live in. Civil rights do not exist for them and there is no American dilemma to be overcome—because by legal definition they are not part of the civil society.

The criminalization of poor African Americans and unauthorized immigrants allows for the oppression and exclusion of large communities of color in a way that is not at odds with America's self-image of a color-blind society in the post–civil rights era. This legal regime also accommodates racial progress for many black- and brown-skinned Americans, increasing racial and ethnic diversity in the top institutions of American society, but condemning a significant number of African Americans and Latinos to a lifetime under the thumb of a police state. Scholars who share our dismay at this situation are hoping that calling attention to the racialized nature of the phenomena might lead to societal change. We suggest that this is not necessarily the best path to right these wrongs. It may be that we need a new social movement rooted in the *human rights* of all people. Unlike in Europe, which has a strongly established human rights

discourse, this stance is a new and often unpopular position in American society. Yet until we can recognize the humanity of those who have been convicted of crimes and those who entered and live in our society without authorization, we will continue to have a democracy in name only.

Notes

1. Jiménez 2010; Kasinitz et al. 2008; Lee and Zhou 2014; Morgan and Gelbgiser 2014; Murnane 2013; Myers 2007; Smith 2013.
2. Gonzalez and Chavez 2012.
3. Alba 2009.
4. See Alba and Foner 2014.
5. Massey 2013.
6. Alexander 2010.
7. Goffman 2014, 2009.
8. Pager 2007.
9. Bean et al. 2011.
10. Waters, Kasinitz, and Asad 2014.
11. See Hochschild, Weaver, and Burch 2012; Vickerman 2013.
12. Alba and Foner 2014; Favell 2001; Koopmans et al. 2005; Mollenkopf and Hochschild 2010.
13. Foner 2005.
14. Portes and Rumbaut 2001; Foner and Alba 2010.
15. Alba and Foner 2014; Torpey 2009.
16. We use the words *seen as* quite deliberately here. Many European societies do, in fact, have long histories of incorporating immigrants as well as histories of struggle over the incorporation or exclusion of racial and religious minorities. Yet, for a variety of reasons, issues of immigrant incorporation in the United States are usually discussed in the context of past immigrant incorporation, whereas in Europe observers are far more likely to frame contemporary issues of ethnic diversity as unprecedented or at least disconnected from the ethnic diversity of the past. See Duyvendak 2014; Lucassen 2014.
17. Alba 2005.
18. Zolberg and Woon 1999.
19. See also Bail 2008.
20. Foner and Alba 2008.
21. Massey 2007.
22. Portes and Rumbaut 2001; Telles and Ortiz 2008; Massey and Sánchez 2010.
23. Telles and Ortiz 2008; Massey and Sánchez 2010.
24. Alba, Jiménez, and Marrow 2012; Murnane 2013.
25. On educational institutions, Kasinitz 2008; Waters 1999; on the workplace, Dobbin 2009; Kasinitz et al. 2008.
26. Myrdal 1944.

27. Prewitt 2013.
28. Forman 2012, 134.
29. Bobo et al. 2012.
30. Glaze and Kaeblen 2014.
31. Ibid.
32. Western 2006.
33. Ibid.
34. Tonry 2007.
35. Simon 2007.
36. Jacobson 2006.
37. Clear and Frost 2013. Interestingly, in New York City, the sharpest declines in crime of any U.S. city during the 1990s and 2000s were accompanied by relatively low rates of incarceration. During the mayoral administrations of Rudolph Giuliani and Michael Bloomberg, New York pursued a policy of extremely aggressive "stop and frisk" policing and made very large numbers of arrests of mostly African American and Latino youth for minor offenses. However, while many young men were stopped, searched, arrested and detained, relatively few were incarcerated for long periods of time. This aggressive "stop and frisk" policing, often seen as specifically directed at minority youth, was the subject of several civil rights–based court challenges and became a major in issue in the 2013 mayoral election.
38. Massey 2013, 6.
39. Massey, Durand, and Malone 2002.
40. Hagan, Rodriguez, and Castro 2011.
41. Kanstroom 2007; Buff 2008.
42. Gonzalez-Barrera and Krogstad 2014.
43. Kanstroom 2007.
44. Kerwin and Lin 2009.
45. Ibid.
46. Douglas and Saenz 2013.
47. King, Massoglia, and Uggen 2012.
48. Schuck 2011.
49. Ibid.
50. Chavez 2014.
51. Boehm 2013, 223.
52. Jiménez 2010.
53. Foner and Fredrickson 2004, 2–3.
54. Higham 1963, 4.
55. The literature is considerable about European immigrants' after 1880 being defined as *nonwhite* and as races separate from whites (Jacobson 1998). Although some historians and sociologist would argue that these immigrants were racialized in a way similar to blacks, none would argue that what they experienced was as virulent as what blacks experienced. The best empirical investigation of this difference remains Lieberson 1980.

56. Suro 2011, 11.
57. Skocpol and Williamson 2012.
58. Brown 2013.
59. Ibid., 291.
60. Bosniak 2000, 972.
61. Gordon and Lenhardt 2007.
62. Ibid., 2510.
63. Bosniak 2000, 970.
64. Pickus 2007; Schuck 2006.
65. Ancheta 1998.
66. Ngai 2004.
67. Bakalian and Bozorgmehr 2009.
68. Ibid.
69. Bernstein 2011, 29.
70. Goffman 2009, 340.
71. Ibid., 355.
72. Alexander 2010, 17.
73. Wakefield and Wildeman 2014.
74. On racial boundaries, see Hochschild et al. 2012.
75. Dreby 2015.
76. Bean et al. 2011; Yoshikawa 2011; Ortega et al. 2009.
77. Van Hook and Balistreri 2006.
78. Kasinitz et al. 2008.
79. Fredrickson 2003.
80. Smith 2013.
81. Massey 2013, 13.

References

Alba, Richard D. 2005. "Bright vs. Blurred Boundaries: Second-Generation Assimilation and Exclusion in France, Germany, and the United States." *Ethnic and Racial Studies* 28(1):20–49.

———. 2009. *Blurring the Color Line: The New Chance for a More Integrated America.* Cambridge, Mass.: Harvard University Press.

Alba, Richard D., and Nancy Foner. 2014. "Comparing Immigrant Integration in North America and Western Europe: How Much Do the Grand Narratives Tell Us?" *International Migration Review* 48, no. S1 (Fall 2014):S263–91.

Alba, Richard D., Tomás Jiménez, and Helen Marrow. 2012. "Mexican Americans as a Paradigm for Contemporary Intragroup Heterogeneity." *Social Forces* 37(3): 446–66.

Alexander, Michelle. 2010. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness.* New York: The New Press.

Ancheta, Angelo N. 1998. *Race, Rights and the Asian American Experience.* Brunswick, N.J.: Rutgers University Press.

Bail, Christopher. 2008. "The Configuration of Symbolic Boundaries Against Immigrants in Europe." *American Sociological Review* 73(1):37–59.

Bakalian, Anny, and Mehdi Bozorgmehr. 2009. *Backlash 9/11: Middle Eastern and Muslim Americans Respond.* Berkeley: University of California Press.

Bean, Frank D., Mark A. Leach, Susan K. Brown, James D. Bachmeier, and John R. Hipp. 2011. "The Educational Legacy of Unauthorized Immigration." *International Migration Review* 45(2):348–85.

Bernstein, Nina. 2011. "The Making of an Outlaw Generation." In *Writing Immigration: Scholars and Journalists in Dialogue*, edited by Marcelo Suarez Orozco, Vivian Louie, and Roberto Suro. Berkeley: University of California Press.

Bobo, Lawrence, Camille Z. Charles, Maria Krysan, and Alicia D. Simmons. 2012. "The Real Record on Racial Attitudes." In *Social Trends in the United States: Evidence from the General Social Survey Since 1972,* edited by Peter Marsden, 38–83. Princeton, N.J.: Princeton University Press.

Boehm, Deborah A. 2013. " '¿Quien sabe?': Deportation and Temporality Among Transnational Mexicans." In *Governing Immigration Through Crime,* edited by Julie A. Dowling and Jonathan Xavier Inda, 217–32. Stanford, Calif.: Stanford University Press.

Bosniak, Linda. 2000. "Universal Citizenship and the Problem of Alienage." *Northwestern University Law Review* 94(3):963–84.

Brown, Hana. 2013. "Race, Legality, and the Social Policy Consequences of Anti-Immigrant Mobilization." *American Sociological Review* 78(2):290–314.

Buff, Rachel. 2008. *Immigrant Rights in the Shadow of Citizenship.* New York: New York University Press.

Chavez, Leo R. 2008. *The Latino Threat: Constructing Immigrants, Citizens, and the Nation.* Stanford, Calif.: Stanford University Press.

———. 2014. " 'Illegality' Across Generations: Public Discourse and the Children of Undocumented Immigrants." In *Constructing Immigrant Illegality Critiques, Experiences and Responses,* edited by Cecilia Menjivar and Daniel Kanstroom, 84–110. New York: Cambridge University Press.

Clear, Todd, and Natasha A. Frost. 2013. *The Punishment Imperative: The Rise and Fall of Mass Incarceration in America.* New York: New York University Press.

De Genova, Nicholas P. 2005. *Working the Boundaries: Race, Space and Illegality in Mexican Chicago.* Durham, N.C.: Duke University Press.

Dobbin, Frank. 2009. *Inventing Equal Opportunity.* Princeton, N.J.: Princeton University Press.

Douglas, Karen Manges, and Rogelio Saenz. 2013. "The Criminalization of Immigrants and the Immigration Industrial Complex." *Daedalus* 142(3): 199–227.

Dreby, Joanna. 2015. *Everyday Illegal: When Policies Undermine Immigrant Families.* Berkeley: University of California Press.

Duyvendak, Jan Willem. 2014. "How Has the Immigrant Past Shaped the Immigrant Present in New York and Amsterdam." In *New York and Amsterdam: Immigration and the New Urban Landscape,* edited by Nancy Foner, Jan Rath, Jan Willem

Duyvendak, and Rogier van Reekum, 23–26. New York: New York University Press.

Favell, Adrian. 2001. "Integration Policy and Integration Research in Europe: A Review and Critique." In *Citizenship Today: Global Perspectives and Practices,* edited by T. Alexander Aleinikoff and Doug Klusmeyer, 349–99. Washington, D.C.: Brookings Institute/Carnegie Endowment for International Peace.

Foner, Nancy. 2005. *In a New Land: A Comparative View of Immigration.* New York: New York University Press.

Foner, Nancy, and Richard D. Alba. 2008. "Immigrant Religion in the U.S. and Western Europe: Bridge or Barrier to Inclusion?" *International Migration Review* 42(2):360–92.

———. 2010. "Immigration and the Legacies of the Past: The Impact of Slavery and the Holocaust on Contemporary Immigrants in the United States and Western Europe." *Comparative Studies in Society and History* 52(4):798–819.

Foner, Nancy, and George M. Fredrickson. 2004. "Immigration, Race, and Ethnicity in the United States: Social Constructions and Social Relations." In *Not Just Black and White: Historical and Contemporary Perspectives on Immigration, Race, and Ethnicity in the United States,* edited by Nancy Foner and George M. Fredrickson, 1–19. New York: Russell Sage Foundation.

Forman, James. 2012. "Racial Critiques of Mass Incarceration: Beyond the New Jim Crow." In *Faculty Scholarship Series*, paper no. 3599. New Haven, Conn.: Yale University Law School.

Fredrickson, George. 2003. Race: A Short History. Princeton, N.J.: Princeton University Press.

Glaze, Lauren E., and Danielle Kaeble. 2014. "Correctional Populations in the United States, 2013." U.S. Department of Justice. Bureau of Justice Statistics. http://www.bjs.gov/content/pub/pdf/cpus13.pdf.

Goffman, Alice. 2009. "On the Run: Wanted Men in a Philadelphia Ghetto." *American Sociological Review* 74(3):339–57.

———. 2014. *On the Run: Fugitive Life in an American City.* Chicago: University of Chicago Press.

Gonzalez-Barrera, Ana, and Jens Manuel Krogstad. 2014. "U.S. Deportations of Immigrants Reach Record High in 2013." Pew Research Center, October 2.

Gonzalez, Roberto J., and Leo R. Chavez. 2012. "'Awakening to a Nightmare': Abjectivity and Illegality in the Lives of Undocumented 1.5-Generation Latino Immigrants in the United States." *Current Anthropology* 53(3): 255–81.

Gordon, Jennifer, and Robin A. Lenhardt. 2007. "Citizenship Talk: Bridging the Gap Between Immigration and Race Perspectives." *Fordham Law Review* 75(5): 2493–519.

Hagan, Jacqueline, Nestor Rodriguez, and Brianna Castro. 2011. "Social Effects of Mass Deportations by the United States Government, 2000–2010." *Ethnic and Racial Studies* 34(8):1374–91.

Higham, John. 1963. *Strangers in the Land: Patterns in American Nativism, 1860–1925.* New York: Atheneum.

Hochschild, Jennifer L., Vesla M. Weaver, and Traci R. Burch. 2012. *Creating a New Racial Order: How Immigration, Multiracialism, Genomics, and the Young Can Remake Race in America.* Princeton, N.J.: Princeton University Press.

Jacobson, Matthew Frye. 1998. *Whiteness of a Different Color: European Immigrants and the Alchemy of Race.* Cambridge, Mass.: Harvard University Press.

Jacobson, Michael. 2006. *Downsizing Prisons: How to Reduce Crime and End Mass Incarceration.* New York: New York University Press.

Jiménez, Tomás R. 2010. *Replenished Ethnicity: Mexican Americans, Immigration and Identity.* Berkeley: University of California Press.

Kanstroom, Daniel. 2007. *Deportation Nation.* Cambridge, Mass.: Harvard University Press.

Kasinitz, Philip. 2008. "Becoming American, Becoming Minority, Getting Ahead." *Annals of the American Academy of Political and Social Science* 620: 253–69.

Kasinitz, Philip, John Mollenkopf, Mary C. Waters, and Jennifer Holdaway. 2008. *Inheriting the City: The Children of Immigrants Come of Age.* Cambridge, Mass.: Harvard University Press; New York: Russell Sage Foundation.

Kerwin, Donald, and Serena Yi-Ying Lin Lin. 2009. "Immigration Detention: Can ICE Meet Its Legal Imperatives and Case Management Responsibilities." Washington, D.C.: Migration Policy Institute.

King, Ryan D., Michael Massoglia, and Christopher Uggen. 2012. "Employment and Exile: U.S. Criminal Deportations, 1908–2005." *American Journal of Sociology* 117(6):1786–825.

Koopmans, Ruud, Paul Statham, Marco Giugni, and Florence Passy. 2005. *Contested Citizenship: Immigration and Cultural Diversity in Europe.* Minneapolis: University of Minnesota Press.

Lee, Jennifer, and Min Zhou. 2014. "The Success Frame and Achievement Paradox: The Costs and Consequences for Asian Americans." *Race and Social Problems* 6(*1*): 38–55.

Lieberson, Stanley. 1980. *A Piece of the Pie: Blacks and White Immigrants Since 1880.* Berkeley: University of California Press.

Lucassen, Leo. 2014. "To Amsterdam: Migrations Past and Present." In *New York and Amsterdam: Immigration and the New Urban Landscape,* edited by Nancy Foner, Jan Rath, Jan Willem Duyvendak, and Rogier van Reekum, 52–82. New York: New York University Press.

Massey, Douglas S. 2007. *Categorically Unequal: The American Stratification System.* New York: Russell Sage Foundation.

———. 2013. "America's Immigration Policy Fiasco: Learning from Past's Mistake." *Daedalus* 142(3): 5–15.

Massey, Douglas S., Jorge Durand, and Nolan J. Malone. 2002. *Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration.* New York: Russell Sage Foundation.

Massey, Douglas S., and Magaly Sánchez R. 2010. *Brokered Boundaries: Creating Immigrant Identity in Anti-Immigrant Times.* New York: Russell Sage Foundation.

Mollenkopf, John, and Jennifer Hochschild. 2010. "Immigrant Political Incorporation: Comparing Success in the United States and Western Europe." *Ethnic and Racial Studies* 33(1): 19–38.

Morgan, Stephen L., and Dafna Gelbgiser. 2014. "Mexican Ancestry, Immigrant Generation, and Educational Attainment in the United States." *Sociological Science* 1(September 29, 2014): 542–64. doi 10.15195/v1.a30.

Murnane, Richard. 2013. "U.S. High School Graduation Rates: Patterns and Explanations." *Journal of Economic Literature* 51(2): 370–422.

Myers, Dowell. 2007. *Immigrants and Boomers: Forging a New Social Contract for the Future of America.* New York: Russell Sage Foundation.

Myrdal, Gunnar. 1944. *An American Dilemma: The Negro Problem and Modern Democracy.* New York: Transaction Publishers.

Ngai, Mae. 2004. *Impossible Subjects: Illegal Aliens and the Making of Modern America.* Princeton, N.J.: Princeton University Press.

Ortega, Alexander N., Sarah Horwitz, Hai Fang, Alice A. Kuo, Steven Wallace, and Moira Inkelas. 2009. "Documentation Status and Parental Concerns about Development in Young U.S. Children of Mexican Origin." *Academic Pediatrics* 9(4): 278–82.

Pager, Devah. 2007. *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration.* Chicago: University of Chicago Press.

Pickus, Noah. 2007. *True Faith and Allegiance: Immigration and American Civic Nationalism.* Princeton, N.J.: Princeton University Press.

Portes, Alejandro, and Rubén G. Rumbaut. 2001. *Legacies: The Story of the Immigrant Second Generation.* Berkeley: University of California Press; New York: Russell Sage Foundation

Prewitt, Kenneth. 2013. *What Is Your Race? The Census and Our Flawed Efforts to Classify Americans.* Princeton, N.J.: Princeton University Press.

Rosas, Gilberto. 2007. "The Fragile Ends of War: Forging the United States-Mexico Border and Borderlands Consciousness." *Social Text* 25(2):81–102.

Schuck, Peter H. 2006. *Diversity in America: Keeping Government at a Safe Distance.* Cambridge, Mass.: Harvard University Press.

———. 2011. "Some Observations About Immigration Journalism." In *Writing Immigration: Scholars and Journalists in Dialogue,* edited by Marcelo Suarez Orozco, Vivian Louie, and Roberto Suro. Berkeley: University of California Press.

Simon, Jonathan. 2007. *Governing Through Crime.* Oxford: Oxford University Press.

Skocpol, Theda, and Vanessa Williamson. 2012. *The Tea Party and the Remaking of Republican Conservatism.* Oxford: Oxford University Press.

Smith, Robert C. 2013. "Mexicans: Civic Engagement, Education and Progress Achieved and Inhibited." In *One Out of Three: Immigrants in New York in the Twenty-First Century,* edited by Nancy Foner, 246–66. New York: Columbia University Press.

Suro, Roberto. 2011. Introduction. In *Writing Immigration: Scholars and Journalists in Dialogue,* edited by Marcelo Suarez Orozco, Vivian Louie, and Roberto Suro. Berkeley: University of California Press.

Telles, Edward, and Vilma Ortiz. 2008. *Generations of Exclusion: Mexican Americans, Assimilation and Race.* New York: Russell Sage Foundation.

Tonry, Michael. 2007. "Determinants of Penal Policies." *Crime and Justice* 36(1): 1–48.

Torpey, John. 2009. "The Problem of Exceptionalism Revisited." *Journal of Classical Sociology* 9:143–68.

Van Hook, Jennifer, and Kelly Stamper Balistreri. 2006. "Ineligible Parents, Eligible Children: Food Stamps Receipt, Allotments, and Food Insecurity Among Children of Immigrants." *Social Science Research* 35(1): 228–51.

Vickerman, Milton. 2013. *The Problem of Post Racialism.* London: Palgrave Macmillan.

Wakefield, Sara, and Christopher Wildeman. 2014. *Children of the Prison Boom: Mass Incarceration and the Future of American Inequality.* New York: Oxford University Press.

Waters, Mary C. 1999. *Black Identities: West Indian Immigrant Dreams and American Realities.* New York: Russell Sage Foundation; Cambridge, Mass.: Harvard University Press.

Waters, Mary C., Philip Kasinitz, and Asad Asad. 2014. "Immigrants and African Americans." *Annual Review of Sociology* 40: 369–90.

Western, Bruce. 2006. *Punishment and Inequality in America.* New York: Russell Sage Foundation.

Yoshikawa, Hiro. 2011. *Immigrants Raising Citizens.* New York: Russell Sage Foundation.

Zolberg, Aristide R., and Long Litt Woon. 1999. "Why Islam Is Like Spanish: Cultural Incorporation in Europe and the United States." *Politics & Society* 27(1):5.