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Immigration "Reform" and the Production of Migrant "Illegality"

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What part of "illegal" don't you understand? By the beginning of the twenty-first century, immigration restrictionists in the United States had fashioned this presumptively self-evident question into a resounding slogan. Here was a question intended to taunt and embarrass anyone who might defend undocumented migrants. It was a question especially targeting political moderates who could be expected to find it politically awkward or unseemly to justify anything that might be depicted as leniency toward a flagrant disregard for the Rule of Law (see Kerwin, Chapter 14). It was therefore intended to serve as a rhetorical Trojan horse – a question that was not a question at all. *What part of "illegal" don't you understand?* By implication, antiimmigrant lobbies seemed to insist: the Law is the Law, and as such, it is sacrosanct; whatever is "illegal" cannot be tolerated and deserves only to be punished. When the "illegality" in question involves "foreign" intruders conspiring to defy the borders of the nation, they contended, then there must be ever-more vigorous and effective measures taken to ensure the utter exclusion of this invasive menace (see Chavez, Chapter 4; Hing, Chapter 15; Rodríguez and Paredes, Chapter 3). And naturally, given a long and persistent history that has rendered undocumented migration to be equated with the violation of the sanctity of nation-state borders and a transgression against national sovereignty, the ultimate and proper penalty for "illegal" migrants apprehended within the space of the state could only be expulsion – deportation.

What part of "illegal" don't you understand? This ostensible question was understood by those who mobilized it as a battle cry to be a pure tautology, a question for which there was no plausible reply, strategically

deployed to rhetorically bludgeon their opponents into a dumbfounded silence. Who, after all, could conceivably proclaim any sympathy for that which was blatantly against the Law? Who would admit to tolerance for the anathema transgression? Who would dare to defend the outlaws?

The tactic of recourse to a tautology is a supreme expression of fetishizing the Law – it venerates whatever is "legal" on no other grounds than that the Law so anoints it as such, and castigates whatever is "illegal" for no other reason than that it may be construed to be juridically forbidden. This sort of legal fetishism exposes its own retreat into a kind of irrationalist repudiation of any plausible debate. Its exuberant intolerance for the "illegality" that it decries is therefore tantamount to a repudiation of politics. With regard to undocumented migrants' "illegality," the nativists affirm with perfect tautological self-assurance, there is no possibility for discussion, no grounds for argument. Those who will not submit to the Rule of Law, they contend, must be subjected to the forces of Law and Order: lawbreakers must be penalized.

WHAT PART OF "ILLEGAL" DON'T YOU UNDERSTAND?

As it turns out, migrant "illegality" is very little understood – least of all by those who are most belligerent and vociferous in denouncing it.

Immigration policy discourse, legislative debate, and antiimmigrant politics in the United States in the twenty-first century revolve inescapably around the supposed "problem" of "illegal immigration." But what is the history that has made migrant "illegality" so prominent? Although deportation certainly served throughout most of the twentieth century as a basic resource for upholding the substantive inequality between "legal" and "illegal" migrants, the specifically legislative preoccupation with "illegal immigration," like the populist political obsession with "illegal aliens," has nonetheless arisen only over the last few decades. Ushering in the contemporary immigration regime, the Hart-Celler Immigration Act of 1965, which has been widely celebrated as a liberal reform, was restrictive in unprecedented but largely unrecognized ways, particularly with respect to migrations from Latin America (with Mexican migration foremost among these). Accordingly, most major changes in U.S. immigration law since 1965 have actually generated the conditions of possibility for a dramatic expansion of migrant "illegality." This chapter delineates the key features of this legal history, and how migrant "illegality" has subsequently been constituted as the premier object of U.S. immigration lawmaking and law enforcement. It likewise interrogates

the duplicities of the contemporary political discourse of "comprehensive immigration reform."

MEXICAN MIGRATION AND THE MAKING OF "ILLEGALITY"

Mexican migration to the United States is distinguished by a seeming paradox that is seldom examined: while no other country has supplied nearly as many migrants to the United States as has Mexico since 1965, virtually all major changes in U.S. immigration law during this period have created ever-more severe restrictions on the possibilities for "legal" migration from Mexico. This apparent paradox presents itself in a double sense: on the one hand, apparently liberalizing immigration laws have concealed significantly restrictive features, especially for Mexicans; on the other hand, ostensibly restrictive immigration laws purportedly intended to deter migration have nonetheless been instrumental in sustaining Mexican migration, but only by significantly restructuring its juridical status – as "illegal." Beginning precisely when Mexican migration escalated dramatically in the 1960s – and ever since – persistent revisions in the law have effectively foreclosed the viable prospects for the great majority who would migrate from Mexico to do so in accord with the law, and thus played an instrumental role in the production of a legally vulnerable undocumented workforce of "illegal aliens." Over time, these same dynamics would be repeated for migrations from other Latin American countries as well. As the historically primary and numerically most significant case, however, migration from Mexico remains exemplary. Therefore, this chapter interrogates the history of changes in U.S. immigration law through the specific lens of how these revisions have had a distinct impact upon Mexicans in particular (see also Dreby, Chapter 8). Only in light of this sociolegal history does it become possible to elaborate a critical perspective that is not complicit in the naturalization of migrants' "illegality" as a mere fact of life, the presumably transparent consequence of unauthorized border crossing or some other violation of immigration law.

The argument of this chapter is not simply that the category "illegal alien" is a profoundly useful and profitable one that effectively serves to create and sustain a legally vulnerable – hence, relatively tractable and thus "cheap" – reserve of labor. That proposition is already so well established as to be irrefutable. This is undeniably an important critical insight into the *effects* of migrant "illegality." But by itself, this crucial insight is insufficient, precisely insofar as it may leave unexamined, and

thus naturalized, the fundamental origin of this juridical status in the law – what I have called the legal production of migrant "illegality" (De Genova 2002, 2004, 2005).

The Revolving Door

Originating in a history of invasion and war by which roughly half of Mexico's territory came to be conquered and colonized by the expanding U.S. nation-state, the newly established border between the United States and Mexico long remained virtually unregulated and movement across it went largely unhindered.[1] During the late nineteenth century, as a regional political economy took shape in what was now the U.S. Southwest, mining, railroads, ranching, and agriculture relied extensively upon the active recruitment of Mexican labor (Acuña 1981; Barrera 1979; Gómez-Quiñones 1994). Mexicans were encouraged to move freely across the border to come to work without official documents or authorization (Calavita 1992; García 1980; Samora 1971).

It is revealing that the U.S. Border Patrol, from 1924 – when it was first created – until 1940, operated under the auspices of the Department of Labor. By the late 1920s, the Border Patrol had assumed its distinctive role as a special police force for the repression of Mexican workers in the United States (Mirandé 1987; Ngai 2004). Selective enforcement of the law – coordinated with seasonal labor demand by U.S. employers (as well as the occasional exigencies of electoral politics) – instituted what James Cockcroft (1986) memorably designated to be a "revolving door" policy, whereby mass deportations would be concurrent with an overall, large-scale importation of Mexican migrant labor. Although there were no numerical quotas on "legal" migration from Mexico, migrants could nonetheless be conveniently denied entry into the United States, or deported from it, on the basis of a selective enforcement of qualitative features of immigration law, beginning at least as early as the 1920s.

During this era, the regulatory and disciplinary role of deportation operated against Mexican migrants on the basis of qualitative rules and regulations governing who would be allowed to migrate, with what characteristics, how they did so, as well as how they conducted themselves

[1] Notably, it was white U.S.-citizen "pioneers" who were the original "illegal aliens"; their undocumented incursions into Mexican national territory had provided the prelude to the war; see Article 11 of Mexico's Decree of April 6, 1830 (Moquin and Van Doren 1971: 193; cf. Acuña 1981: 3–5; Barrera 1979: 9; Mirandé 1985: 24; Vélez-Ibáñez 1996: 57–62).

once they had already entered the country. Thus attempted entry could be refused on the grounds of a variety of infractions: a failure upon entry to pay a required $8 immigrant head tax and a $10 fee for the visa; perceived "illiteracy"; or a presumed liability to become a "public charge" (due to having no prearranged employment), or, by contrast, violation of prohibitions against contract labor (due to having prearranged employment through labor recruitment). Likewise, Mexican workers could be subsequently deported – if they could not verify that they held valid work visas or could otherwise be found to have evaded inspection, had become "public charges" (retroactively enabling the judgment of a prior condition of "liability"), or had violated U.S. laws or engaged in acts that could be construed as "anarchist" or "seditionist." All of these violations of the qualitative features of the law rendered deportation a crucial mechanism of labor discipline and subjugation, not only coordinated with the vicissitudes of the labor market but also for the purposes of counteracting union organizing among Mexican/migrant workers (cf. Acuña 1981; Dinwoodie 1977; Gómez-Quiñones 1994).

With the advent of the Great Depression of the 1930s, however, the more plainly racist character of Mexican illegalization and deportability became abundantly manifest. Mexican migrants and U.S.-born, U.S.-citizen Mexicans alike were systematically excluded from employment and economic relief, which were declared the exclusive preserve of "Americans," who were presumed to be more "deserving." These abuses culminated in the forcible mass deportation of at least 415,000 Mexican migrants as well as many of their U.S.-citizen children, and the "voluntary" repatriation of eighty-five thousand more (Balderrama and Rodríguez 1995; Guerin-Gonzales 1994; Hoffman 1974). Notably, Mexicans were expelled with no regard to legal residence or U.S. citizenship or even birth in the United States – simply for being "Mexicans."

In the face of the renewed labor shortages caused by U.S. involvement in World War II, however, the U.S. federal government, in a dramatic reversal of the mass deportations of the 1930s, initiated a mass importation through what came to be known as the Bracero Program, an administrative measure to institutionalize and regiment the supply of Mexican migrant labor for U.S. capital (principally for agriculture in the Southwest, but also for the railroads). The "Bracero" accords were effected unceremoniously by a Special Committee on Importation of Mexican Labor (formed by the U.S. Immigration Service, the War Manpower Commission, and the Departments of State, Labor, and Agriculture) through a bilateral agreement with Mexico. The U.S. Department of Agriculture was granted

primary authority to coordinate the program. Ostensibly an emergency wartime measure at its inception in 1942 (Public Law 45), the program was repeatedly renewed and dramatically expanded until its termination in 1964. This legalized importation essentially reduced Mexican/migrant contract laborers to a captive workforce under the superintendence of the U.S. government, and promised U.S. employers a federal guarantee of unlimited "cheap" labor.

During the Bracero era, however, employers quickly came to prefer undocumented workers because they could evade the bond and contracting fees, minimum employment periods, fixed wages, and other safeguards required in employing braceros (Galarza 1964). Through the development of a migration infrastructure combined with employers' encouragement of braceros to overstay the limited tenure of their contracts, the Bracero Program thus facilitated undocumented migration at levels that far surpassed the numbers of "legal" braceros. It has been estimated that four undocumented migrants entered the United States from Mexico for every documented bracero. As early as 1949, U.S. employers and labor recruiters were assisted with instantaneous legalization procedures for undocumented workers – which came to be known as "drying out wetbacks" (Calavita 1992). Early in 1954, in an affront to the Mexican government's negotiators' pleas for a fixed minimum wage for braceros, the U.S. Congress authorized the Department of Labor to unilaterally recruit Mexican workers, and the Border Patrol opened the border and actively recruited undocumented migrants (Cockcroft 1986; Galarza 1964). In accord with the "revolving door" strategy, this period of official "open border" soon culminated, predictably, in the 1954–5 expulsion of at least 2.9 million "illegal" Mexican/migrant workers under the militarized dragnet and nativist hysteria of "Operation Wetback" (García 1980; cf. Cockcroft 1986). Thus, the Bracero years were distinguished not only by expanded "legal" contract-labor migration, but also the federal facilitation of undocumented migration and the provision of ample opportunities for legalization, simultaneously coupled with considerable repression and mass deportations.

MEXICAN/MIGRANT ILLEGALIZATION

Due to the critical function of deportation in the maintenance of the "revolving-door" policy, the tenuous distinction between "legal" and "illegal" migration was deployed to stigmatize and regulate Mexican/migrant workers for much of the twentieth century (De Genova 2004,

2005; De Genova and Ramos-Zayas 2003; see also Chavez, Chapter 4; Rodríguez and Paredes, Chapter 3). In these respects, Mexican/migrant "illegality," per se, is not new. This reflects something of what Cockcroft (1986) has characterized as the special character of Mexican migration to the United States: Mexico has provided U.S. capitalism with the only "foreign" migrant labor reserve so sufficiently flexible that it can neither be fully replaced nor completely excluded under any circumstances. This is not to say that there are no valid comparisons or analogies to consider between the Mexican experience and the migrations of other groups, but comparisons can only be intellectually compelling and politically cogent if they derive their force from precise accounts of the particular intersections of historically specific migrations and the complex webs of "legality" and "illegality." What is crucial, then, is to critically examine how the U.S. nation-state has historically deployed a variety of different tactics to systematically create and sustain "illegality," and furthermore, has refined those tactics to generate ever-more severe constraints for undocumented migrants living and working in the United States (see Abrego, Chapter 6; Hondagneu-Sotelo and Ruiz, Chapter 11).

Migrant "illegality" is ultimately sustained not merely as an effect of such deliberate legal interventions, but also as the ideological effect of a discursive formation encompassing broader public debate and political struggle, including much social science scholarship (De Genova 2002, 2013). Yet, with respect to the "illegality" of undocumented migrants, by not examining the actual operations of immigration law in generating the categories of differentiation among migrants' legal statuses, the law is largely taken for granted. By not examining those operations over the course of their enactment, enforcement, and revision, furthermore, the law is effectively treated as transhistorical and thus falsely presumed to be fundamentally unchanging – thereby naturalizing a notion of what it means to transgress that law. This is how actual historically situated laws get transposed and fetishized as "The Law." In contrast, the complex history of lawmaking must be exposed for its constitutive restlessness and the relative incoherence of various conflicting strategies, tactics, and compromises that the state has implemented at particular historical moments, precisely to mediate the contradictions immanent in crises and struggles around the subordination of labor. Thus, rather than a master plan, immigration laws serve more as a kind of permanent crisis management, tactically supplying and refining the parameters of labor discipline and coercion. As such, immigration laws are part of the effort to make particular migrations into disciplined and manageable objects, but the

ongoing fact of class conflict ensures that such tactical interventions can never be assured of success. And it is this appreciation of the law – as undetermined struggle – that best illuminates the history of U.S. immigration law, especially in its repeated efforts to target the remarkable mobility of the Mexican migrant labor force.

Prior to 1965, as already suggested, there were absolutely no numerical quotas legislated to limit "legal" migration from Mexico, and no such quantitative restrictions had ever existed. The statutory imposition of previously unknown restrictions that reformulated "illegality" for Mexican migration in 1965 and thereafter, furthermore, transpired in the midst of an enthusiastic and virtually unrelenting importation of Mexican/migrant labor. The end of the Bracero Program in 1964 was an immediate and decisive prelude to the landmark reconfiguration of U.S. immigration law in 1965. Thus a deeply entrenched, well-organized, increasingly diversified, and continuously rising stream of Mexican migration to the United States had already been accelerating prior to 1965. As a consequence of the successive changes in U.S. immigration law since 1965, therefore, the apparently uniform application of numerical quotas to historically distinct and substantially incommensurable migrations became central to an unprecedented, expanded, and protracted production of a more rigid, categorical "illegality" – for Mexican/migrant workers in particular – than had ever existed previously.

An ever-growing, already significant and effectively indispensable segment of the working class within the space of the U.S. nation-state, Mexican/migrant labor is ubiquitously stigmatized as "illegal," subjected to excessive and extraordinary forms of policing, commonly denied any semblance of "rights," and thus, consigned to an always uncertain social predicament, often with little or no recourse to any protection from the law. Since the 1960s, Mexico has furnished millions of ("legal" as well as undocumented) migrants who currently reside in the United States (in addition to unnumbered seasonal and short-term migrants). No other country has supplied even comparable numbers. It may seem paradoxical, then, that virtually all major changes in the quantitative features of U.S. immigration law during this period have created ever-more severe restrictions on the conditions of possibility for "legal" migration from Mexico. Precisely because of Mexico's unique standing during this time period, all of the repercussions of the uniform numerical restrictions introduced by these legislative revisions have weighed disproportionately upon Mexican migration in particular. This legal history, therefore, is a defining aspect of the historical specificity – indeed, the effective singularity – of

contemporary Mexican migration to the United States. With elaborate migration networks and extensive historical ties already well established, Mexicans have continued to migrate, but ever-greater numbers have been relegated to an indefinite condition of "illegality."

The seeming enigma largely derives from the fact that the very character of migrant "illegality" for Mexicans was reconfigured by what was, in many respects, genuinely a watershed "liberalization" in 1965 that dismantled the U.S. nation-state's openly discriminatory policy of immigration control. The Hart-Celler Immigration Act of 1965 (Public Law 89–236; 79 Stat. 911, which amended the Immigration and Nationalities Act of 1952, Public Law 82–414; 66 Stat. 163) entailed a monumental and ostensibly egalitarian overhaul of U.S. immigration law. The 1965 reforms dramatically reversed the explicitly racist exclusion against Asian migrations, which had been in effect and only minimally mitigated since 1917 (or, in the case of Chinese migrants, since 1882). Likewise, the 1965 amendments abolished the draconian system of national-origins quotas for the countries of Europe, first enacted in 1921 and amplified in 1924. Predictably, then, the 1965 amendments have been typically celebrated as a liberal reform.

U.S. immigration policy suddenly appeared to be chiefly distinguished by a broad inclusiveness, but with respect to Mexico, the outcome was distinctly and unequivocally restrictive (see also Hing, Chapter 15). This same "liberal" reform (taking effect in 1968) established for the first time in U.S. history an annual numerical quota to restrict "legal" migration from the Western Hemisphere. This new cap came about as a concession to "traditional restrictionists" who fought to maintain the national-origins quota system, and as Aristide Zolberg puts it, "sought to deter immigration of blacks from the West Indies and 'browns' from south of the border more generally" (1990: 321). Although hundreds of thousands already migrated from Mexico annually, and the number of apprehensions by the Immigration and Naturalization Service (INS) of "deportable alien" Mexicans was itself already 151,000 during the year prior to the enactment of the new quota, now no more than 120,000 "legal" migrants (excluding quota exemptions) would be permitted from all of the Western Hemisphere. Notably, the Eastern Hemisphere quota – 170,000 – was higher than the 120,000 cap set for the Western Hemisphere, but the individual countries of the Eastern Hemisphere were each limited to a maximum of twenty thousand, whereas the quota for the Western Hemisphere was available to any of the countries of the Americas on a "first come, first serve" basis, subject to certification by the Department of Labor.

Nevertheless, although no other country in the world was sending numbers of migrants at all comparable to the level of Mexican migration – then, as now – the numerical quota for "legal" migrants within the entire Western Hemisphere (i.e., the maximum quota within which Mexicans would have to operate) was restricted in 1965 to a level far below actual and already documented numbers for migration from Mexico.

Following more than twenty years of enthusiastic "legal" contract-labor importation, orchestrated by the U.S. state, the influx of Mexican migrants was already well established and accelerating. The severe restrictions legislated in 1965 necessarily meant that ever-greater numbers of Mexican migrants, increasingly, had no alternative than to come as undocumented workers. Beginning in 1968 (when the new law took effect), the numbers of INS apprehensions of "deportable" Mexican nationals skyrocketed annually, leaping 40 percent in the first year. Although apprehension statistics are never reliable indicators of actual numbers of undocumented migrants, they clearly reveal a pattern of policing that was critical for the perpetuation of the "revolving door" policy: the disproportionate majority of INS apprehensions were directed at surreptitious entries along the Mexican border, and this was increasingly so. In 1973, for instance, the INS reported that Mexicans literally comprised 99 percent of all "deportable aliens" who had entered surreptitiously and were apprehended (Cárdenas 1975: 86). While apprehension totals for all other nationalities from the rest of the world (combined) remained consistently below one hundred thousand annually, the apprehensions of Mexicans rose steadily from 151,000 in 1968 to 781,000 in 1976, when migration was, once again, still more dramatically restricted. These persistent enforcement practices, and the statistics they produce, have made an extraordinary contribution to the common fallacy that Mexicans account for virtually all "illegal aliens." This effective equation of "illegal immigration" with unauthorized border crossing, in particular, has served furthermore to continuously restage the U.S.-Mexico border as the theater of an enforcement "crisis" that constantly refigures "Mexican" as the enduring national name for migrant "illegality" (see Heyman, Chapter 5).

Immigration law was not the only thing that was changing in 1965. It has been widely recognized that the sweeping 1965 immigration reforms emitted from a generalized crisis of Cold War–era liberalism, in which U.S. imperialism's own most cherished "democratic" conceits were perpetually challenged. Taking shape in a context of the international relations imperatives that arose in the face of decolonization and

national liberation movements abroad, this crisis was further exacerbated within the United States by the increasingly combative mass movement of African Americans in particular, and "minorities" generally, to denounce racial oppression and demand "civil rights," which is to say, their rights of citizenship. Thus U.S. immigration policy was redesigned in 1965 explicitly to rescind the most glaringly racial, discriminatory features of existing law. Furthermore, the end of the Bracero Program had been principally accomplished through the restrictionist efforts of organized labor, especially on the part of the predominantly Chicano and Filipino farmworkers movement. The specific historical conjuncture from which the 1965 amendments emerged was, therefore, deeply characterized by political crises that manifested themselves both as domestic and international insurgencies of racialized and colonized working peoples. Thus began a new production of an altogether new kind of "illegality" for migrations within the Western Hemisphere, with disproportionately severe consequences for transnationalized Mexican labor migrants in particular – a kind of transnational fix for political crises of racialized labor subordination.

Tellingly, the explicit topic of "illegal immigration" had been almost entirely absent from the legislative debate leading to the 1965 law. David Reimers notes the irony that the U.S. Congress "paid little attention to undocumented immigrants while reforming immigration policy in 1965," but "as early as 1969" – the first year after the 1965 law had taken effect – "Congress began to investigate the increase in illegal immigration along the Mexican border" (1992: 207–8). By 1976, however, legislative debate and further revisions in the law had succeeded to produce "illegal immigration" as a whole new object within the economy of legal meanings in the U.S. immigration regime. That is to say, from 1976 forward, "illegal" migration became the explicit "problem" toward which most of the major subsequent changes in immigration policy have been at least partly directed.

GOVERNING THROUGH "ILLEGALITY"

There is nothing matter of fact about the "illegality" of undocumented migrants. "Illegality" (in its contemporary configuration) is the product of U.S. immigration law – not merely in the generic sense that immigration law constructs, differentiates, and ranks various categories of "aliens" but in the more profound sense that the history of deliberate interventions beginning in 1965 has entailed an active process of *inclusion through*

illegalization (De Genova 2004, 2005: see also Calavita 1982: 13; cf. 1998: 531–2, 557; Hagan 1994: 82; Massey et al. 2002: 41–7; Portes 1978: 475). The legal production of "illegality" has made an object of Mexican migration in particular, in ways historically unprecedented and disproportionately deleterious.

Once again in 1976, and explicitly in the name of "equity," the revision of immigration law had a singularly and incomparably disproportionate restrictive impact on Mexico in particular. Within days of the national elections, a new immigration law was enacted (Public Law 94–571; 90 Stat. 2703). The 1976 amendments subjected the quota for "nonexempt" Western Hemisphere migration for the first time to a system of ranked qualitative preferences for family reunification that was already in place for the Eastern Hemisphere. This meant that the possibility for migration within the quota was now considerably more regulated and, moreover, that quota exemptions for family reunification were now further restricted to the spouses, unmarried minor children, and parents of adult U.S. citizens only (usually migrants who had already been naturalized). By thus privileging the kin of U.S.-citizen migrants, notably, these exemptions disadvantaged Mexico because of the pronounced disinclination of most Mexican migrants, historically, to naturalize as U.S. citizens (González Baker et al. 1998). Far more importantly, however, the 1976 statutes established a maximum number (excluding quota exemptions) of twenty thousand "legal" migrants a year for every country in the world, now imposing a fixed national quota to Western Hemisphere nations for the first time. Mexico was immediately backlogged, with sixty thousand applicants for twenty thousand slots, and the backlog became consistently more severe thereafter (Joppke 1999: 30). Then, after legislation in 1978 (Public Law 95–412; 92 Stat. 907) abolished the separate hemispheric quotas and established a unified worldwide maximum annual immigration cap of 290,000, the Refugee Act of 1980 (Public Law 96–212; 94 Stat. 107) further reduced that maximum global quota to 270,000, thereby diminishing the national quotas to an even smaller annual maximum of 18,200 "legal" migrants (excluding quota exemptions).

In the space of less than twelve years, from July 1, 1968 (when the 1965 amendments went into effect) until the 1980 amendments became operative, U.S. immigration law had been radically reconfigured – above all, for Mexicans. Beginning with almost unlimited possibilities for "legal" migration from Mexico (literally no numerical restrictions, tempered only by qualitative preconditions that, in practice, had often been overlooked altogether), the law had now severely restricted Mexico to an annual

quota of 18,200 nonexempt "legal" migrants (as well as a strict system of qualitative preferences among quota exemptions, with weighted allocations for each preference). At a time when there were (conservatively) well more than a million Mexican migrants coming to work in the United States each year, the overwhelming majority would have no option but to do so "illegally."

A new kind of landmark in the history of U.S. immigration law was achieved in 1986 with the passage of the Immigration Reform and Control Act (IRCA) (Public Law 99–603; 100 Stat. 3359), as the culmination of years of recommendations. IRCA represented a turning point because its principal explicit preoccupation was undocumented migration. As at other junctures in years past, the law instituted a "legalization" procedure for those undocumented workers who had reliably (and without evident interruption) served their extended (and indefinite) apprenticeships in "illegality," while intensifying the legal vulnerability of others. IRCA provided for a selective "amnesty" and adjustment of the immigration status of some undocumented migrants, while it foreclosed almost all options of "legalization" for those who did not qualify, and for all who would arrive thereafter. Furthermore, the INS seemed intent to reserve the Amnesty for those whose undocumented status derived from having "entered without inspection" (i.e., surreptitious border crossers), rather than those who had overstayed their visas. The INS persistently battled in the courts to exclude from the "amnesty" those applicants who did not match the profile of "illegality" most typical of undocumented Mexican migrants (González Baker 1997: 11–12). As a predictable result, although Mexicans were estimated to be roughly half of the total number of undocumented migrants, Mexican migrants accounted for 70 percent of the total pool of amnesty applicants, and even higher proportions in California, Illinois, and Texas, the areas of highest Mexican/migrant concentration (González Baker 1997: 13). In Illinois, Mexicans (predominantly concentrated in the Chicago metropolitan area) comprised 84 percent of the undocumented migrants who applied for the Amnesty. Thus INS decisions concerning the implementation of IRCA "legalization" procedures contributed yet again to the pervasive equation of "illegal alien" with "Mexican."

The 1986 law also established for the first time federal sanctions against employers who knowingly hired undocumented workers (see also Hing, Chapter 15). Nevertheless, the law established an "affirmative defense" for all employers who could demonstrate that they had complied with a routine verification procedure. Simply by keeping a form

on file attesting to the document check, without any requirement that they determine the legitimacy of documents presented, employers would be immune from any penalty. In practice, this meant that the employer sanctions provisions generated a flourishing industry in fraudulent documents, which merely imposed additional expenses and greater legal liabilities upon the migrant workers, while supplying an almost universal protection for employers (Chávez 1992: 169–71; Cintrón 1997: 51–60; Coutin 2000: 49–77; Mahler 1995: 159–87; cf. U.S. Department of Labor 1991: 124). Likewise, given that the employer sanctions would involve raids on workplaces, inspectors were required to give employers a three-day warning prior to inspections of their hiring records, in order to make it "pragmatically easy" for employers to comply with the letter of the law (Calavita 1992: 169). In order to avoid fines associated with these sanctions, therefore, employers would typically fire or temporarily discharge workers known to be undocumented prior to a raid. In light of the immensely profitable character of exploiting the legally vulnerable (hence, "cheap") labor of undocumented workers, moreover, the schedule of financial penalties imposed by IRCA simply amounted to a rather negligible operating cost for an employer found to be in violation of the law. Thus IRCA's provisions primarily served to introduce greater instability into the labor market experiences of undocumented migrants, and thereby instituted an internal "revolving door." What were putatively "employer sanctions," then, actually aggravated the migrants' conditions of vulnerability and imposed new penalties upon the "unauthorized" workers.

The Immigration Act of 1990 (Public Law 101–649; 104 Stat. 4978) was not primarily directed at undocumented migration, but it did nonetheless introduce new regulations that increased the stakes of "illegality." Specifically, this law imposed a new global cap on the numbers of family reunification migrants who were "exempt" from the official quotas. Thus the quota-exempt migration by immediate relatives of citizens was now subject to an indirect numerical restriction. Their numbers were no longer unlimited and would now be subtracted from the quotas available for migrants entering under the numerically restricted categories. This law also strengthened the Border Patrol, expanded the grounds for the deportation of undocumented migrants, introduced new punitive sanctions, and curtailed due-process rights in deportation proceedings. In addition, the 1990 legislation restricted jurisdiction over the naturalization of migrants petitioning to become U.S. citizens, rescinding a practice that had been in place since 1795 permitting the courts to award

citizenship. This authority was now confined exclusively to the federal Office of the Attorney General.

As a veritable culmination of antiimmigrant campaigns during the mid-1990s, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104–208; 110 Stat. 3009) was, quite simply, the most punitive legislation to date concerning undocumented migration in particular (Fragomen 1997: 438; see also Menjívar and Kanstroom, Chapter 1). IIRIRA included extensive provisions for criminalizing, apprehending, detaining, fining, deporting, and imprisoning a wide array of "infractions" that significantly broadened and elaborated the qualitative scope of the law's production of "illegality" for undocumented migrants and others associated with them. IIRIRA introduced for the first time a legal provision for summary removal at U.S. borders. Thus border police now were empowered to operate as the proverbial "judge, jury, and executioner," making the final decision (with no judicial review permissible) concerning whether someone could be admitted to the United States or be immediately deported and further barred from reentry for five years. This discretionary authority was also extended to the petitions of asylum seekers, who could likewise be subjected to expedited removal with no judicial review and would meanwhile be subjected to mandatory detention (see Kerwin, Chapter 14). Similarly, IIRIRA preemptively barred for three or ten years foreign nationals who have overstayed their visas in the United States from readmission.

In addition, the Immigration Reform of 1996 introduced unprecedented penalties for "legal" migrants, including measures for effectively illegalizing those who have been convicted of various violations of the law through provisions for the mandatory deportation of "criminal aliens" (see Golash-Boza, Chapter 9). IIRIRA dramatically reclassified a vast spectrum of minor, often-nonviolent criminal offenses (including many that had previously been considered misdemeanors) as now-grievous "aggravated felonies." Specifically, IIRIRA reduced the length of the prison term that would serve to qualify particular crimes as "aggravated felonies" from five years to only one year. That is to say, IIRIRA altered the very nature of the sorts of offenses that could be counted as deportable crimes. Notably, these reclassifications pertained exclusively to infractions committed by noncitizens. Moreover, it mandated detention for most migrants convicted of criminal offenses and severely rescinded the discretionary authority of immigration judges to consider any sort of mitigating circumstances. Furthermore, IIRIRA rendered most of these "criminal aliens" ineligible for relief from removal, and thereby ensured

that these migrant offenders' imprisonment would be radically augmented with the added punishment of summary deportation upon completion of their incarcerations. Hence, a noncitizen who has been convicted of an offense that for a citizen would be classed as a misdemeanor must now be deported as an "aggravated felon" – simply because the law says so.[2]

Under IIRIRA's provisions, furthermore, migrants (including long-term "legal" permanent residents) who have been wronged by immigration officials were stripped of all access to an immigration court to challenge any discretionary decision – regardless of how flagrantly discriminatory, abusive, or cruel – with respect to their status, including the determination to incarcerate or deport them (see also Provine and Lewis, Chapter 13). Thus it likewise stripped immigration courts of their former prerogative to evaluate the merits of individual migrants' or asylum seekers' pleas, and restricted the right of immigration officers and judges alike to grant relief. For those migrants who do succeed to have their cases heard in immigration courts, IIRIRA imposed mandatory indefinite detention without bond until the completion of the legal proceedings, even for plaintiffs who pose no threat and are deemed unlikely to abscond. Furthermore, IIRIRA insulated these proceedings from the standard sorts of judicial review that previously could have sought to rectify instances of legal error or judicial prejudice.

The Immigration Reform of 1996 also barred undocumented migrants from receiving a variety of Social Security benefits and federal student financial aid. This law (signed September 30, 1996) was heralded by extensive antiimmigrant stipulations in the Anti-terrorism and Effective Death Penalty Act (AEDPA) (Public Law 104–132, 110 Stat. 1214; signed into law on April 24, 1996), as well as in the so-called Welfare Reform, passed as the Personal Responsibility and Work Opportunity Reconciliation Act (Public Law 104–193, 110 Stat. 2105; signed August 22, 1996). In addition to new measures intended to expedite the deportation of noncitizen "terror suspects" and to otherwise bar their entry to the United States, the AEDPA had anticipated IIRIRA inasmuch as it entailed an "unprecedented restriction of the constitutional rights and judicial resources traditionally afforded to legal resident aliens" (Solbakken 1997: 1382). The "Welfare Reform" enacted dramatically more stringent and prolonged

[2] In addition, IIRIRA rendered many offenses deportable retroactively, such that noncitizens serving prison sentences for convictions that predated the 1996 law would nonetheless also be met with deportation, even for crimes that were not classified as deportable offenses at the time they were committed.

restrictions on the eligibility of the great majority of "legal" migrants for virtually all means-tested public benefits, defined as broadly as possible, available under federal law, and also authorized states to similarly restrict benefits programs. Notably, the AEDPA and IIRIRA both included provisions for the enlistment of local police forces into the enforcement of immigration law. Without further belaboring the extensive details of these three laws, which did not otherwise introduce new quantitative restrictions, it suffices to say that their expansive provisions (concerned primarily with enforcement and penalties for undocumented presence) were truly unprecedented in the severity with which they broadened the qualitative purview and intensified the ramifications of migrant "illegality."

Thus the tripartite onslaught of immigration legislation in 1996 introduced a panoply of new qualitative features of "illegality" and migrant criminalization. Predictably, migrant detention and deportation both skyrocketed in the ensuing years (see Menjívar and Kanstroom, Chapter 1). Nonetheless, rather than serve as a presumable deterrent to "illegal immigration," the law's provisions have plainly had precisely the opposite effect. In particular, IIRIRA's and AEDPA's excesses have operated as an *incentive* for "illegality" by inducing many noncitizens (including formerly "legal" migrants) to evade the scrutiny of the unyielding and unforgiving law and thus disappear into an "illegal" status, remaining in the United States without authorization rather than be forcibly separated from their loved ones, employment, and aspirations. Given the already well-entrenched practices that focused enforcement against undocumented migration disproportionately upon Mexican migrants, there can be little doubt that these 1996 laws likewise weighed inordinately upon Mexicans (see Dreby, Chapter 8).

RULE BY TERROR

The advent of the so-called War on Terror in the aftermath of the events of September 11, 2001 authorized the institutionalization of a new kind of security state in the United States (De Genova 2007). In the context of antiterrorist hysteria, the politics of immigration and border enforcement were profoundly reconfigured under the aegis of a remarkably parochial U.S. nationalism and an unbridled nativism, above all manifest in the complete absorption (and reconfiguration) of the erstwhile INS into the new Department of Homeland Security on March 1, 2003. However, the 1996 immigration laws supplied a very durable legal bulwark for the antiimmigrant panic that ensued from the proclamation

of a putative "war" against the "foreign" menace of "terrorism." The already-existing provisions of the 1996 laws facilitated the establishment of a virtual police state for migrants in the United States, particularly those in the targeted Arab and other Muslim communities that had become the object of the new security state's antiterrorist quest for culprits (De Genova 2007). Midnight and predawn warrantless raids on homes (as well as workplaces), mass warrantless arrests, indefinite detention without charges or evidence, secret trials, and the special registration of distinct national-origin groups (almost exclusively Muslims) became the norm. Nevertheless, the pervasive and compulsive conflation of "immigration control" with the metaphysics of antiterrorism – now effectively obligatory because of the institutionalized legal and administrative subordination of all matters regarding immigration to the mandate of counterterrorism – also ensured that the vast mass of ordinary undocumented migrant workers would now be subjected to unprecedented securitization (De Genova 2009; see also Kerwin, Chapter 14). Increasingly, any and all encounters with the law have become for undocumented migrants an unmitigated peril bristling with the interlaced menaces of detection, apprehension, detention, and deportation (see Abrego, Chapter 6; Dreby, Chapter 8; Hondagneu-Sotelo and Ruiz, Chapter 11; Provine and Lewis, Chapter 13).

There ensued from the official declaration of a national "state of emergency" (Bush 2001) a veritable legislative ambush directed at dramatically reconfiguring the organization of the U.S. federal government and reinforcing, enhancing, and expanding its multifarious police powers. The infamous USA PATRIOT Act of 2001 (Public Law 107–56), which did not entail any significant immigration provisions as such, nevertheless greatly expanded the surveillance powers of the state with respect to foreigners and U.S. citizens alike, and specifically broadened the discretion of law enforcement and immigration authorities in detaining and deporting migrants suspected of terrorism-related acts. The Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173) was quickly ushered in to deepen and intensify the material and practical interconnection between counterterrorism and immigration enforcement, including the implementation of surveillance strategies and technologies that aspired toward a more comprehensive supervision of all foreign nationals in the United States. The REAL ID Act of 2005 was passed only when it was eventually attached as a rider on a military spending bill, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief of 2005 (Public Law 109–13).

This was primarily intended to impose stricter federal requirements pertaining to security, authentication, and issuance procedures standards for state-issued driver's licenses and identification cards, which have long functioned as de facto standard forms of identification in the absence of any national identity document. One of the specific aims of this law was to preclude undocumented migrants from access to any state-issued driver's license or identification card. In addition, as part of its generally antiimmigrant imprimatur, this law extended and intensified many of the specifically judicial aspects of the 1996 laws, further inhibiting judicial review for immigration legal proceedings, further curtailing the due process rights of noncitizens, and broadening the purview of inadmissibility as well as deportability in immigration matters that could be construed to be related to "terrorism." Furthermore, it introduced still more stringent and restrictive criteria for assessing the claims of asylum seekers. It also proposed to nullify any existing laws that might interfere with the further physical fortification of U.S. territorial borders.

Subsequently, the ultimately abortive Border Protection, Antiterrorism and Illegal Immigration Control Act (HR 4437, also known as the Sensenbrenner bill), passed December 16, 2005 in the House of Representatives, would have entailed the single most expansively punitive immigration legislation in U.S. history. This bill sought to criminalize all of the untold millions of undocumented migrants residing in the United States by summarily converting their "unlawful presence" into a felony and rendering them subject to mandatory detention upon detection and apprehension, and likewise would have converted any and all immigration violations – however minor, technical, or unintentional – into felonies punishable with imprisonment, such that "legal" permanent residents would have been irreversibly rendered as "illegal aliens" for any variety of innocuous incidental infractions. In addition to numerous other draconian provisions, the bill also sought to impose criminal sanctions, with imprisonment as a penalty, on anyone construed to knowingly "assist" an "unlawful" migrant (whether undocumented or previously "legal" and subsequently criminalized), with definitions so expansive that even immigration lawyers could have plausibly been subject to imprisonment (Mailman and Yale-Loehr 2005).

Here again was a rather calculated legislative intervention that tactically aimed at revising, refining, and above all extending the "illegality" of migrants. In the spring of 2006, HR 4437 provoked an utterly unprecedented and incomparable mass protest mobilization of literally millions of migrants and their (often U.S.-citizen) children, as well as other

allies and advocates, in locales across the United States over a period of roughly two months (see also Nicholls, Chapter 10). The 2006 movement culminated in a national migrants' general strike and boycott on May 1, designated as "A Day without an Immigrant" (De Genova 2009, 2010). This veritable insurgency of migrant labor literally stopped the loathsome "Antiterrorism and Illegal Immigration" law in its tracks, and sent the U.S. Congress reeling into a protracted period of paralysis with respect to any sort of immigration lawmaking. While the Sensenbrenner bill proved to be absolutely untenable, the parties to the legislative debate did finally approve a law with a similarly punitive ethos but that confined itself to a dramatically more limited set of tasks. Retreating to the standard fall-back position of all immigration lawmaking in the United States (namely, further militarizing the U.S.-Mexico border), Congress passed the perfunctory Secure Fence Act of 2006 (Public Law 109–367), which was remarkably narrow in scope compared to virtually all of the preceding laws discussed in this chapter. This law was singularly dedicated to providing for the further presumed fortification of the U.S.-Mexico border with hundreds of miles of new physical barriers to be added to the existing 125 miles of fence. For years since, however (at least until 2013) – in spite of politicians' and pundits' bewildered admissions that the whole immigration system is really "broken" after all, accompanied by ham-fisted political injunctions for "comprehensive immigration reform" – there has been an astounding stalemate at the national level to attempt anything of the sort – a revealing testament to the enduring power manifested by the migrant mobilizations of 2006. One predictable outcome of this stalemate has nevertheless been the unprecedented proliferation of exceedingly draconian state-level legislation, whereby the struggle to further subordinate migrant communities has been pursued through the discriminatory and punitive targeting of undocumented migrants (see Friedmann Marquardt, Snyder, and Vásquez, Chapter 12; Hing, Chapter 15; cf. Provine and Lewis, Chapter 13).

WHAT PART OF "COMPREHENSIVE" DON'T YOU UNDERSTAND?

At the height of the migrant protests in 2006 and throughout the ensuing legislative debates in 2006 and 2007, there prevailed a constant incantation within the political establishment of the United States, which insisted that what was desperately needed was "comprehensive immigration reform." There was some room for discrepant perspectives as to how this phrase should be given a more precise programmatic content, but it

became the dominant articulation of a kind of centrist consensus across the partisan divide in the U.S. policy arena. "Comprehensive immigration reform" was construed in a manner that allowed it to mean all things to all people. In general, however, it was routinely proposed that there would have to be legislation that both could satisfy the shrill demands for heightened border policing and new measures ostensibly directed toward the suppression of "illegal immigration" and also could realistically confront the indisputable fact of an enormous number of long-term undocumented migrants resident within the United States, whose labor has consistently remained in great demand by employers. As the centrist political establishment retreated from right-wing pressures in favor of outright mass criminalization and the utterly implausible project of mass deportations for millions upon millions of "illegal" migrants, this second concern became synonymous with a frank advocacy of one or another formula for the "legalization" of some sizeable portion of the undocumented migrant population. In short, the phrase has come to signify the coupling of provisions for an "adjustment of status" for some undocumented migrants (and their eventual eligibility for U.S. citizenship) with new and more aggressive forms of border enforcement, workplace raids and surveillance, and more severe penalties for employers who knowingly hire undocumented workers.

Following the 2006 protests, then-Senator Barack Obama's position was substantially consonant with that of then-President George W. Bush. Notably, throughout his ensuing tenure as a U.S. senator and his campaign as a presidential candidate, Obama (like Bush) explicitly included new and expanded guest worker arrangements as a required component of this "comprehensive" vision, in order to purportedly "replace" the flow of undocumented migrant workers with a "legal" one, which supposedly could be comprehensively superintended by the U.S. state. Hence, "legalization" in such schemes came to be given a cunning double meaning – schemes for the regularization of the legal status of those undocumented migrants who could qualify (albeit with more or less onerous stipulations and requirements), coupled with new "legal" arrangements for the continued importation of migrant labor, in effect, as contracted guest workers. In the face of aggressive antiimmigrant hostility – demanding: *What part of "illegal" don't you understand?* – the business lobbies and their political spokespersons therefore began to respond in kind: *What part of "legal" don't you understand?* (De Genova 2009). The presidential administration of Barack Obama has repeatedly rearticulated its commitment to "comprehensive immigration reform" (Preston 2009).

All of this pragmatic hand-wringing about "comprehensive immigration reform" has persistently sought to legitimate itself with the cynical rationalization that "the immigration system is broken." From the standpoint of capital, however, the system that is decried as "broken" has been working astoundingly well. In light of the long history that I have outlined, it is plain to see that the U.S. immigration system has rather routinely and predictably ensured that U.S. employers have had at their disposal an eminently flexible, relatively pliable, and highly exploitable mass of labor migrants, whose "illegality" – produced by U.S. immigration lawmaking and enforcement practices – has relegated them to a condition of enduring vulnerability. Subjected to excessive and extraordinary forms of policing, practically denied any semblance of legal personhood or putative "rights," and thus, consigned to an always uncertain social predicament defined by deportability, with little or no recourse to even the pretense of protection by the law, undocumented migrant labor power has increasingly become the commodity of choice for employers in an ever-expanding variety of industries and enterprises. But if this is so, it is only because, and to the extent that, it may continue to be subjugated under the stigma of "illegality." The more profitable it is to exploit undocumented labor, the more bellicose and fanatical must be the sanctimonious political denigration of "illegal aliens." In this manner, the most fervent denunciations of "illegals" and the most punitive and cruel measures to persecute and abuse them serve merely to dutifully deliver to capital exactly what it so desires – the labor of those countless undocumented migrants who never cease to succeed to find their way through the militarized obstacle course of border policing and immigration enforcement – in precisely the most amenable (readily subordinated, highly exploitable) condition. Accordingly, undocumented migration must be perennially produced as a "problem": as an invasive and incorrigibly "foreign" menace to national sovereignty, a racialized contagion that undermines the presumed national "culture," and a recalcitrant "criminal" affront to national security (see Chavez, Chapter 4; Rodríguez and Paredes, Chapter 3). Furthermore, if some undocumented migrants who have already served their arduous apprenticeships in "illegality" may be rendered eligible for "amnesty" and eventual citizenship, and thus exempted from the worst of these severities, it is only as part of the larger functioning of a highly predictable machinery that will relegate a far greater number of present – and future – "illegal aliens" to their respective assignments of protracted servitude. So, what part of "comprehensive" don't you understand?

FUTURE RESEARCH

This chapter has provided only a broad overview of the most crucial junctures in the complex legislative history that is necessary for understanding what I call the legal production of migrant "illegality." Beyond the legislation, these sociolegal processes would be further illuminated with a careful investigation of court cases involving the juridical interpretation of these laws. The history of judicial challenges and revisions to legislation would amplify our appreciation for how "The Law," so seemingly monolithic and fixed in the popular imagination of migrant "illegality," has continuously been a site of struggle over precisely how these calculated legal acts intervene into the ongoing constitution of the sociopolitical field surrounding the status of undocumented migrants. Likewise, the heterogeneous modes of implementing such legal interpretations at the level of border and immigration law enforcement policies provide another key aspect of how the law is actively deployed in everyday life. All of these areas of research could supply salient historically specific features of the larger picture of migrant illegalization.

This chapter does not only address how one analyzes the past history of how immigration laws have operated to actively illegalize particular migrations, however. As new immigration laws come to be enacted, there are a series of critical methodological protocols embedded in the analysis presented here that could instructively serve as guidelines for the sort of sociolegal analysis that would aspire to not unwittingly collude in the renewed reification and fetishization of migrant "illegality." Most scholars, like the larger public debate that informs their research, simply presuppose the category of "illegality" whereas they really ought to subject it to thoroughgoing critical scrutiny. Even many of those who may be genuinely devoted to challenging the cruel injustices of migrant "illegality" often persist in treating "illegal immigration" as a transparent and self-evident fact. Much of the research on undocumented migrations has long been marred by awkward omissions, regrettable inconsistencies, or plain inaccuracies with regard to immigration law, generally, and the history of changes in the law, in particular. Such approaches often are culpable of a naïve empiricism when confronting "The Law." Rather than investigate critically what particular laws actually *do*, this sort of scholarship takes the stated aims of the law – deterring undocumented migration, for instance – at face value. Many such commentators then proceed to evaluate various legislations – and specifically, various apparent efforts at the restriction of undocumented migration – in order to claim that these

legal efforts were somehow not effective or simply "failures." Lo and behold, they discover that the law that was supposed to stop or at least decrease undocumented migration was followed by its expansion and acceleration. There is a distinct subcategory of such scholarship, moreover, that not only takes the overtly restrictive intent of particular laws at face value, but also supplies it with a preemptive apology. That is to say, such commentators assert that the specific effects of various changes in immigration laws on particular migrations can be somehow presumed to have been inadvertent – mere "unanticipated" and thus "unintended" consequences. Critical scholarship that seeks not to be complicit in naturalizing the category of "illegality" cannot afford to play guessing games with respect to the ostensibly "good" or "bad" intentions of lawmakers, nor their greater or worse capabilities to anticipate the outcomes of their own exercises in legislative power. This sort of show of "good faith" toward the state, and the underlying belief in the law's transparency, does not even allow for the possibility that the law may have thereby been instrumental in actually generating revised and expanded parameters of migrant "illegality." As this chapter has demonstrated, the real effects of laws in (re-)shaping a social field are often perfectly systematic and highly predictable. Regardless of their putative aims and objectives, such laws "work" inasmuch as they generate substantial outcomes: they "succeed" to produce real effects. The onus on future research, therefore, is precisely to analyze and reveal what particular interventions into the larger body of immigration law produce. As we have seen, in ways that have been profoundly detrimental and clearly discriminatory for particular migrations, a great part of the history of U.S. immigration law has persistently and reliably produced only more and more "illegality."

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Constructing Immigrant "Illegality"

Critiques, Experiences, and Responses

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