

ILLEGAL IMMIGRATION AND BORDER
ENFORCEMENT
IN HISTORICAL PERSPECTIVE

David G. Gutiérrez
Department of History, 0104
University of California, San Diego
La Jolla, CA 92093-0104

Illegal migration and the attendant growth of a huge population of unauthorized persons within the territorial boundaries of the United States have been hot-button political issues for decades now, but with the onset of the deep recession of the early twenty-first century, these questions have become even more heated and divisive. Although the circulation of technically unauthorized persons within U.S. territory has been a consistent feature of American life since the early national period, the explosive growth of unlawful residents from approximately 600,000 in the 1970s to an estimated 11 to 12 million by 2006 has provoked a running debate on U.S. immigration and citizenship policy that rivals the intense debates over similar questions that have roiled American politics for generations.¹ In the first decade of the current century, the debate over the twinned issues of border security and the unauthorized

presence of millions of people has intensified to the extent that critics are now demanding the implementation of a broad range of draconian measures. These include the mass deportation of illegal residents (and presumably, therefore, many of their U.S.-citizen children as well), criminal prosecution of anyone providing any kind of aid or sanctuary to unauthorized persons, and at the extreme, a rethinking of the very basis of citizenship through the repeal of the birthright citizenship provision of the Fourteenth Amendment to the Constitution of the United States.

Although space limitations make it impossible to provide a detailed survey of the long history of these complex issues, this chapter will provide a broad overview of the evolution of the debate over unauthorized migration and border control. The chapter focuses in particular on the heart of the ongoing controversy—the historical tension and antagonism between those who have advocated strict policies of immigration restriction and border enforcement versus those who, primarily for economic reasons, have exhibited a much higher toleration for the presence of foreigners of all legal statuses. Given that economically-driven migration will likely remain a constitutive feature of global capitalism into the foreseeable future, the chapter suggests that the vexed questions of border enforcement and the presence of unlawful residents will continue as two of the most divisive issues in modern U.S. politics.

Citizenship, Capitalism, and Problematic Borders

The intensity of the debate over unauthorized migration and border enforcement policy over the past four decades has tended to obscure the fact that these controversies have their origins in some of the basic contradictions associated with the creation of the United States as an independent nation, and indeed, more generally, with the emergence of the nation-state as the dominant form of sociopolitical organization in the modern world system. The most fundamental of these center on the intrinsically enmeshed issues of territorial sovereignty on the one hand, and ancillary questions regarding definitions of formal membership in the nation on the other. From the initial crystallization of individual nation-states in the eighteenth and nineteenth centuries, this form of political organization has been associated with a cluster of linked characteristics Hannah Arendt famously termed “people-territory-state,” a tripartite formulation in which a more or less culturally distinct and politically like-minded people is presumed to occupy a clearly defined and bounded geographic territory governed by an overarching and unified state apparatus.² While these three components have long been taken as the central defining features of the modern nation, both historical scholars and contemporary social critics have noted that the homology tying a putative nation’s people to a bounded territory governed by an overarching state and its institutions

tended to mask both the arbitrariness of the equation and the fact that few actually existing countries could claim the kind of “demarcated and culturally integrated political communities” this definition of nation prescribed.³

This has been particularly true of white settler societies such as Canada, Australia, and the United States. In each of these cases, the permanent presence of large numbers of indigenous inhabitants, the early and sustained importation of persons of debased social and political status such as indentured persons, convicts, contract laborers, and especially chattel slaves, (and later—the intermittent entry of various groups of religious and political refugees and persons claiming asylum) all tended to belie the notion of nations as homogeneous social formations. But above all, dating from the dawn of the Industrial Revolution to the present day, participation of individual nations in an increasingly intertwined transnational market economy—and the more or less continuous global circulation of economically-motivated migrants and immigrants that has been a defining characteristic of capitalism from the outset—rather glaringly exposed the myth of distinct and homogeneous peoples occupying hermetically sealed sovereign territory from time immemorial.

In the case of the United States, the evolution of the institution of national citizenship provides another clear example in which the so-called “container theory” of the nation does not

easily mesh with the actual historical record.⁴ Indeed, even a cursory review of the organizational logic underlying the development of national citizenship in the United States makes clear that formal membership in the early republic (that is, full rights-bearing status) was from the outset imagined as the exclusive and privileged purview of a fraction of the actual inhabitants of the new nation. Thus, whereas one will search in vain for an affirmative definition of citizenship in the text of the Constitution, evidence abounds of the framers' clear sense of what citizenship was *not*. In Article I, for example, the exclusion of native peoples from membership; the slave trade and fugitive slave clauses; the infamous "three-fifths" clause regarding the census enumeration of slaves; and the strongly gendered, white-male-centered language of the entire text all clearly, if indirectly, demarcated groups that were from the beginning considered to be outside the embrace of both actual and potential citizenship. In short, citizenship in the early republic was at least tacitly defined against a shadowy but vast body of inhabitants, who, while recognized as permanent features of the new national landscape, were nevertheless imagined to be beyond the pale of formal membership in the polity. This system of exclusion was so extensive that some scholars estimate that citizenship may well have been limited to only about 20 percent of the actual population of the young republic.⁵

It is not surprising, therefore, that the logic of privilege, exclusion, and sharp racial and gender boundaries that lay at the heart of the nation's original political community was also expressed in the United States' first laws regulating immigration and naturalization. On one level, the nation's first federal statute on naturalization, the Naturalization Act of March 26, 1790 (1 Stat. 103), provided a very liberal two-year waiting period for applicants for citizenship. But the nation's first naturalization law also extended the country's conservative founding principles by limiting access to citizenship exclusively to "free white [male] person[s]." This male-gendered and racially exclusive definition remained the *de facto* baseline requirement for naturalized citizenship until the end of the Mexican War in 1848 (when the first small number of "mixed race" Mexican Americans in the newly annexed Southwest became U.S. citizens under the Terms of the Treaty of Guadalupe Hidalgo), and the Fourteenth Amendment (ratified in 1868) extended citizenship to all those born in U.S. territory. In rudimentary form, the Naturalization Act also provided a rough template regarding those considered "legal" residents of the nation and therefore also, those who were not.

In theory, the racially-based and gendered restrictions on access to citizenship might well have been expected to contribute to the eventual emergence of a more homogeneous society over time. However, despite the clear preference for just this outcome

among many of the framers, from the outset, advocates of highly selective immigration policies were often stymied by other powerful interests who, for economic reasons, sought to encourage more or less free flows of immigrants across the nation's borders. Despite the fact that the supporters of this position usually held racial views that were virtually identical to those of their opponents, they considered the settlement and broader circulation of immigrants vital to the development of the nation's territory and natural resources. Consequently, they either pushed for lenient immigration and naturalization policies—or simply encouraged the maintenance of laissez-faire approaches to these questions. Over the first half of the nineteenth century, proponents of substantially open borders generally prevailed, their position bolstered by the addition of vast new expanses to the national domain through the Louisiana Purchase (1803), admission of new states from the Old Northwest Territories (1803-47), and the addition of territory seized in the Mexican War (1846-48).

This is not to suggest, however, as some have, that the period between the early republic and the Civil War represented an era of completely “free” immigration. To the contrary, recent scholarship has revealed an intricate meshwork of state and local statutes that emerged over the course of the late eighteenth- and early the nineteenth centuries. These statutes varied depending on locale, but in general, the first local immigration laws were

designed to discourage or restrict the entry and/or naturalization of a variety of persons deemed undesirable (that is, above and beyond extant racial criteria). These included criminals, the physically or mentally infirm, the elderly, and especially, the destitute (or, to use the increasingly common parlance of the time, those who were seen as “likely to become a public charge”). Even so, at this point most state and local immigration laws were directed not toward individual immigrants but rather toward those who facilitated the immigration process through recruitment or conveyance. Thus, in effect, over much of the nineteenth century, rather than being a direct responsibility of the federal government, national immigration policy was indirectly administered at the state and local levels by shipping and transport companies, ship's captains, labor recruiters and agents, and other intermediaries who bore much of the burden of immigration regulation.⁶

However, as the pace of U.S. economic growth (and the expansion of global capitalism more generally) accelerated over the course of the nineteenth century, American employers continued to look abroad for labor. Beginning in the 1840s and increasing sharply after the Civil War, American development was increasingly fueled by the labor of immigrants and their children. Again, the structural use of immigrant labor was not unique to the United States at this time. Indeed, following the abolition of slavery, whether “free” and volitional, coerced or

conscripted (as with the infamous “coolie trade”), or formally recruited and contracted, imported immigrant- or migrant labor had become the norm in the developing world, and the citizenship status of such workers and the “legality” of these practices was seldom questioned. It is also crucial to note here that although much of this massive global circulation of human beings was unidirectional and permanent, one-quarter to one-third of gross transnational population flows between the 1840s and the 1940s (and for some groups, much more) were temporary or circular. Sojourners, who essentially circulated in the interstices of national citizenship systems for periods ranging from months to years, were (and remain) a vital component in the expansion of global capitalism, and represented another prime example of the way the market forces unleashed by capitalism were not contained by fixed national borders.⁷

The continual mixing of populations of very different statuses was particularly evident in the United States in the period of its most intensive industrialization, roughly from the 1870s to the onset of the Great Depression. Again, reflecting the seemingly inexhaustible demand for labor in the United States, the continuous ingress of immigrants played a key role in both economic development and population growth. For the entire period between 1860 and 1930, the officially-acknowledged foreign-born population of the country ranged between a low of about 13 percent of the total U.S. population (in 1860) to a high

of nearly 15 percent in 1910—and this did not include an unknown but surely sizable number of foreigners who had landed without documentation. In this era, immigrants and their children (who, not coincidentally, also by now constituted pluralities if not outright majorities in most major American cities) became a structurally-embedded feature of the work forces of virtually all basic industries. Immigrant labor filled the vast majority of low-skilled or unskilled jobs across the economy but highly skilled immigrants and sojourners also played key roles in the developing internationalized labor market. Seeking to employ skilled workers for their expertise, and unskilled workers for their willingness to do physically demanding and often hazardous work for low pay (and not incidentally, because of their tenuous legal and social status), employers relied on immigrants as a reserve labor supplement to native workers wherever and whenever they could.

Border Enforcement and the Production of “Illegality”

The global circulation of immigrants in this era inevitably created social tensions and eventually generated similar kinds of reactions in immigrant-receiving societies around the world.⁸ In the United States, as the volume and the composition of the vast throng of immigrant and sojourner populations increased—and the ability of local and state authorities to manage the initial

entry and subsequent integration of immigrants was gradually overwhelmed—powerful anti-immigrant sentiments began to emerge at both the grass-roots and elite levels. The earliest expression of anti-immigrant sentiment was directed at Irish-Catholic immigrants in the 1840s and 1850s, but American nativism reached an unprecedented level of virulence against Chinese immigrants in the decades following the California Gold Rush. Rooted part in racism and xenophobia, part in concern about the rapidity of economic, demographic, and cultural change, and in no small part in growing anxiety among self-defined white native workers about immigrants’ negative impact on wages, working conditions, and unionization efforts, different nativist movements emerged and subsided in national politics for the rest of the century.

The virulence of anti-immigrant sentiment after the Civil War finally forced Congress into the immigration policy arena. The legislative branch was further pushed in this direction by the important Supreme Court ruling, *Henderson v. Mayor of New York* (92 U.S. 259), in 1875. Building on the logic of the precedents set in an earlier set of suits known as the *Passenger Cases*, the Court ruled in *Henderson* that contrary to a long history of local control over immigration policy, state and local regulation of immigration was an unconstitutional infringement of Congress’ plenary authority to regulate foreign commerce.

The Court’s ruling set the stage for a period of unprecedented legislative action by Congress.

As is well known, the first major federal immigration legislation passed by Congress was the Chinese Exclusion Act of 1882 (22 Stat. 58), which barred further Chinese immigration for a period of ten years. But over the next several decades, subsequent Congresses passed a series of progressively more restrictive laws targeting a growing list of undesirable immigrants including the diseased, the mentally infirm, convicts, polygamists, paupers, prostitutes, anarchists and other political radicals, and others. However, the capstone of this era of reform was the Johnson-Reed Immigration Act of 1924. Passed with broad bipartisan support, this sweeping statute (43 Stat. 669) established a highly exclusionary national origins quota system (which completely banned further immigration from Asia and severely limited immigration from anywhere other than northern and western Europe); expanded the grounds on which individuals could be deported and/or denaturalized; eliminated a statute of limitations on prosecution for unlawful residence; and for the first time, created a federalized Border Patrol. A companion law passed several years later (45 Stat. 1551, 1929) made it a misdemeanor to enter U.S. territory without immigration inspection.

Over the short run, the onset of the Great Depression and the Second World War probably did more to curb previous patterns

of mass migration to the United States than did restrictive legislation, but on a more general plane, the move toward immigration restriction and more stringent border control between the 1880s and the 1920s had the effect of sharpening and hardening what until that time had been fairly fluid distinctions between citizens and non-citizens in American society. Prior to this time, many jurisdictions had fairly flexible policies regarding the legal status of non-citizens. Indeed, until the practice came to an end in the 1920s, at least 22 states allowed white male non-citizens to vote in various combinations of local, state, and even federal elections.⁹

With the advent of the new legal regime, however, this changed dramatically, with the distinction between those with citizenship and those without becoming a bright line. As one historian has noted of this key transition, “Because illegal entry is a concomitant of restrictive immigration policy, the quota laws stimulated the production of the illegal alien and introduced that problem into the internal spaces of the nation....The [new regulatory] system shifted to a different, more abstract register, which privileged formal status over all else. It is this system that created what we today call the ‘undocumented immigrant’.”¹⁰

It is important to keep in mind here, however, that while non-citizens had clearly become more vulnerable after the 1920s, the emergence of the modern American immigration and border enforcement regime did little to alter the continuing tension

between advocates of border interdiction and employers who continued their pursuit of cheap labor—a fact that became abundantly clear once the Depression came to end. Once the United States entered the Second World War, U.S. employers anticipated immanent labor shortages, particularly in agriculture and allied industries. With their former sources of foreign labor closed off, American employer lobbies immediately pressured the State and Labor Departments to make arrangements with the Mexican government to explore the re-implementation of a labor importation program that had been tried on a smaller scale during the First World War. In bilateral negotiations, the Mexican government acceded to this request, but only after insisting that any of its citizens contracted to work in the United States be guaranteed transportation to and from Mexico, a fair wage, decent food and housing, and basic human rights protections. After hammering out the details in the spring of 1942, the two governments announced the creation of the Emergency Farm Labor Program. Soon dubbed the “Bracero Program” (for a Spanish colloquial term for manual laborer), the program not only reopened the southern border to Mexican labor but more significantly, reinstated the use of immigrant workers in the U.S. economy.

The initial scale of the agricultural labor scheme remained fairly modest through the war years, with an average of about 70,000 contract laborers working in the country each year during

the war. But over time, the program, which was extended by various means after the war, had the effect of priming the pump for the much more extensive use of such workers. By 1949, the number of imported contract workers had jumped to 113,000, and then averaged more than 200,000 per year between 1950 and 1954. During the peak years of the program between 1955 and 1960, an average of more than 400,000 laborers (predominantly from Mexico, but augmented by smaller numbers of Jamaicans, Bahamians, Barbadians, and Hondurans as well) were employed in the United States.¹¹

More importantly, it soon came apparent that the implementation of this new guest-worker program stimulated a concomitant influx of workers from Mexico and elsewhere who entered the country without authorization as news of the availability of work traveled through the communication networks established by the foreign workers themselves. Again, there was nothing particularly novel about this—significant surges of clandestine entry were seen during the Chinese exclusion era, during the first experiment with Mexican contract labor during WWI, and more generally, with the chain- and circular-migration patterns that previously had brought tens of millions of Europeans to the United States. However, the essential difference between the earlier forms of labor circulation and that of the 1940s and beyond was how much of it was now officially unsanctioned, and thus, “illegal.” In short, although

non-citizen foreign workers of all statuses continued to perform almost exactly the same work immigrants had provided for more than 100 years, the new regulatory framework technically transformed many of the latest generation of immigrant workers into “illegal aliens” subject to expulsion at any time. The change was clearly reflected in apprehension statistics of the period: apprehensions of unauthorized immigrants (again, mainly from Mexico, but increasingly from other places as well) rose dramatically from a negligible number in 1940, to more than 91,000 in 1946, nearly 200,000 in 1947, and to more than 500,000 by 1951.

As always, the postwar circulation of unauthorized workers suited both employers, who sought to avoid the red tape and higher costs associated with participation in the formal labor importation program, and would-be braceros who were unable to secure contracts through official means. For both employers and employees habituated to this kind of exchange, this was simply business as usual. Indeed, the mutual economic incentives for unsanctioned entry (bolstered by ever more sophisticated and economically lucrative smuggling, communication, and document-forging networks) increased so much in this period that it is estimated that at different times, the ratio of unauthorized workers to legally-contracted braceros was at least two-to-one, and in some cases, was even higher in specific local labor markets. That the use of unauthorized labor had once again

become a systemic feature of the U.S. economy is further reflected in that fact that over the twenty-four years of the Bracero Program, the estimated number unauthorized persons apprehended—nearly 5 million—was roughly equivalent to the total number of official contracts issued.

The Ambivalence of Immigration and Border Control Policy after World War II

The use of unauthorized workers on this scale eventually provoked a fierce response, as labor unions, religious groups, philanthropic organizations, and civil rights activists demanded an end both to the Bracero Program and to the widespread abuse by American employers of undocumented workers. But as always, the economic and political interest groups that had long supported the use of such labor continued to push back against reform efforts. Indeed, while there is no question the legal regime erected earlier in the century had greatly increased the risks associated with unlawful entry, in the end, the law functioned not so much to end the employment of unauthorized workers but as a mechanism that ensured both their availability to employers and their vulnerability under American law.¹²

The bald cynicism underlying much of immigration and border control policy after the 1920s was seen in a variety of ways. For example, the fact that the Immigration Act of 1924 had

pointedly *excluded* from restriction potential immigrants from the Western Hemisphere demonstrated both the persistent power of employer lobbies (which had worked aggressively behind the scenes to gain the hemispheric policy exemption)—and the likelihood that employers would return to the use of foreign labor once the economy recovered. A second important indicator of the ambivalent nature of immigration and border control policy at this time was the anemic support given to the Border Patrol and the larger immigration and naturalization bureaucracy from their inception. Indeed, much as the heated the heated rhetoric of the current immigration debate often serves to deflect attention from the marked ineffectiveness of extant policy in preventing the growth of a huge unauthorized population, the creation of a border enforcement bureaucracy between the 1890s and 1920s was designed, at least in part, to provide the *appearance* of concerted action while masking the relative paucity of resources actually devoted to the task of “securing” the border. For example, when the first Bureau of Immigration was created in 1891, Congress appropriated resources sufficient to fund only 24 border inspection stations to police more than 5000 miles of the United States’ land borders with Canada and Mexico. Between 1924 and 1926, border enforcement effort increased substantially, with the Border Patrol’s administrative and enforcement staff growing to 700 and its budget rising to \$1.5 million annually. But virtually all of these still-thin assets were

deployed on the southern border. In the meantime, the 3000-mile long Canadian frontier remained virtually unmanned except for official ports of entry—despite the fact that unauthorized Asian and European immigrants regularly used the northern border as a gateway.¹³

During the Bracero era, the cynicism underlying U.S. immigration and labor policies was even more apparent. Nothing exemplified this more than two of the most notorious policy developments of the period—the enactment of the so-called “Texas Proviso” in 1952 and “Operation Wetback,” in 1954. As the scandal over the widespread use of unauthorized labor grew in the early 1950s, a growing coalition of labor and civil rights activists insisted that the best way to curb it was to impose legal sanctions on employers who hired such workers. However, once again, employers’ lobbies and their congressional allies stymied virtually all meaningful efforts in this direction. When a liberal congressional coalition tried to pass a measure that made it illegal to “harbor, transport, and conceal” illegal workers in 1951-52, Texas agricultural interests convinced their delegation and eventually, a majority in Congress, to pass the infamous Texas Proviso instead. The proviso’s authors feinted by acquiescing to some minor anti-smuggling features of the larger bill but brushed away the employer sanctions measure by inserting language in the bill that decreed that employment of unauthorized workers was not to be considered “harboring.”¹⁴

Operation Wetback was an even more egregious example of the general cynicism of U.S. immigration, border control, and labor policies during this period. Although the Texas Proviso had essentially provided a free pass to American employers who continued to use unauthorized workers, the public outcry about the rapidly growing undocumented population eventually forced immigration enforcement officials to take action. Once again caught between the wishes of regional employers and increasing political pressure in Washington, INS commissioner Joseph Swing decided to stage a spectacular show of force in the western states that regularly employed the largest numbers of unauthorized workers. In the summer and fall of 1954, the INS massed personnel and resources in different spots along the U.S.-Mexico border in a highly publicized campaign to apprehend and repatriate suspected undocumented persons (again, the northern border remained almost completely ignored). Within weeks, the INS announced that it had physically repatriated hundreds of thousands of unauthorized persons, virtually all of them Mexicans. But beyond this, the INS suggested that the highly visible workplace and neighborhood raids had also pressured untold numbers of other unlawful residents to depart the country “voluntarily.”

In the end, the INS’ combined strategy of coercion and physical removal proved to have a number of advantages. The large repatriation numbers announced by the INS seemed to

assuage those who wanted to see strict control of the border. The INS purported to have expelled well more than one million unauthorized persons, a significant increase from the 526,000 apprehensions reported in 1952 and the 885,000 claimed in 1953. In addition, INS officials argued that the unknown number of voluntary departures that occurred under the border sweeps had saved the government the expense of mounting formal deportation proceedings. More importantly, the apparent success of Operation Wetback also allowed the Immigration Service to tout what it claimed were the long-term effects of its campaign. At the end of the operation, INS officials went to far as to proclaim that “the so-called ‘wetback’ problem no longer exists....The border has been secured.”¹⁵

In hindsight, it is difficult to judge how much of the INS’ rosy assessment of the death of the “wetback problem” reflected a dramatic shift in hiring patterns and a steep decline in unlawful entries or simply an extension of its ongoing public relations campaign. Most conventional historical portrayals of the aftermath of Operation Wetback have largely accepted the INS’ account of events, but it strains credulity to believe that historical trends that had seen literally millions of unauthorized immigrant workers working alongside legally-contracted ones were suddenly reversed in the face of a concerted unilateral policy intervention by U.S. immigration authorities. It is much more likely that as Bracero contracts increased during the peak years

of the program, the demand for unauthorized workers lessened but never disappeared.

This basic fact of economic life was confirmed with the end of the Bracero Program in 1964 and the overhaul of the extant U.S. immigration system the following year. Although the number of formal bracero contracts gradually declined until the program’s end in 1964, there is no indication that the demand for labor in occupations in which undocumented workers toiled had dropped appreciably. Again, given historical trends, it is much more likely that as the program wound down, braceros were simply replaced by unauthorized workers (or, after their contracts expired, simply became unauthorized workers themselves). In any case, border apprehensions began to rise again almost immediately after the guest worker program’s demise. Whereas the INS reported apprehending an average of 75,000 per year in the nine years between Operation Wetback and the end of the Bracero Program, apprehensions breached 100,000 again in 1965 and continued to rise sharply thereafter. The passage of the Immigration and Nationality Act (INA) Amendments that same year (79 Stat. 911) almost certainly exacerbated this trend. Although the new law finally scrapped the national origins quota system, for the first time in history the INA imposed a hemispheric ceiling of just 120,000 legal immigrants per year. Later adjustments in the law further lowered the number of visas available in Western Hemispheric.

The 1973 Arab oil embargo further disrupted the American labor market and eventually helped lay the foundations for an even greater influx of unauthorized workers. The extended period of simultaneous contraction and inflation that followed the 1973 crisis—and the neoliberal economic reforms that were instituted in response—signaled a massive reorganization of work and production processes that in many ways continue to the present day. This ongoing restructuring was regionally and temporally uneven, but across the economy the general trend was toward a contraction of comparatively secure high-wage, high-benefit (often union) jobs in the manufacturing and industrial sectors and a corresponding growth of increasingly precarious low-wage, low benefit, often non-union jobs in the expanding service and informal sectors of a transformed economy. In addition, the protracted crisis and policy responses that followed also paved the way for a steady degradation in public health, education, and welfare expenditures which eventually put a growing number of working-class citizens under even more economic pressure at a time when real wages remained static or actually declined in many sectors. In the international arena, the deepening global debt crisis and austerity measures imposed on many developing countries over this same period by the World Bank and International Monetary Fund set the stage for even more drastic economic restructuring and displacement abroad.

On another front, the effect of these interlocking trends were further intensified by ongoing neoliberal “free trade” negotiations designed to reduce trade barriers and foster greater regional economic integration. In the United States, the two signal developments in this area, the ratification of the North American Free Trade Agreement (NAFTA) in 1994 and a similar initiative, the Central American Free Trade Agreement (which is gradually being implemented with several Central- and South American nations) have been tremendously successful in increasing trade between the signatories. But at the same time, these agreements also provided the means for U.S.-based firms to export parts of their production processes to comparatively low-wage and laxly-regulated economies while downsizing production capacities (and shedding higher-wage, often unionized labor) within the borders of the United States.

Together, these structural changes laid the foundations for an intensification of two trends that have come to define the U.S. economy at the turn of the twentieth-first century: the downsizing and outsourcing of production processes that were once based in the United States and a concomitant trend toward what might be called labor “in-sourcing” of ever larger numbers of both authorized and unauthorized immigrants.

The stunning result of structural reshaping of the economy has been an unprecedented explosion of the unauthorized population in the United States. Again, although INS

apprehension statistics must be considered rough proxies for the actual growth of the unauthorized population, the trend after the mid-1960s was unmistakable. The INS reported apprehending between 100,000 to 200,000 unauthorized individuals annually in the period between 1965 and 1968, but after 1970, the number of apprehensions shot up, reaching 400,000 in 1971, 500,000 in 1972, 600,000 in 1973, and continuing on this steep upward trajectory thereafter. By the late 1970s and into the 1980s, apprehensions hovered between 800,000 and one million per year, reaching a peak of more than 1.6 million in 1986. Although apprehensions dipped sharply for a short time after passage of the Immigration Reform and Control Act (IRCA) of 1986 (discussed further below), they continued their rise again in the 1990s to well more than one million per year. One should note again that apprehension statistics actually tended to understate the magnitude in the growth of the unauthorized population since most migration scholars agree that somewhere between 40 and 50 percent of all persons not legally in the country are individuals who did not cross the border illegally but rather have overstayed valid tourist, student, or other visas. Thus, although illegal immigration has come to be perceived primarily as a “Mexican problem,” Mexicans accounted for about 56 percent of the estimated total in 2005—the remaining 44 percent, many of them visa violators, came from virtually every other nation in the world.

Although such estimates are always tenuous, demographers believe that in aggregate, the unauthorized population of the country rose from approximately 3 million in 1980, to about 5 million by the mid-1990s, reached an estimated 8.4 million by 2000, and peaked at between 11 and 12 million (or about 4 percent of the total U.S. population) before turning downward after the financial crisis of 2008-09. With much of the global economy in a sustained slump since then, the unauthorized population is estimated to have dropped by at least one million since 2009.¹⁶

The Policy Response

Against this unprecedented surge of unauthorized migration and socio-demographic transformation, budgets and personnel devoted to border enforcement and repatriation have skyrocketed. As recently as 1971, the U.S. government spent less than \$70 million for border policing, which was smaller than the law enforcement budgets of many U.S. cities. But by 1997, the INS budget had reached \$1.7 billion, and continued upward, reaching \$4.2 billion in 1999. Most of these new resources went into border enforcement activity, especially along the U.S.-Mexico border. In terms of personnel, the size of the Border Patrol doubled between the 1970s and 1980s, and then doubled again in the 1990s.

In the wake of the attacks of 2001, the border enforcement apparatus was strengthened even more with the creation of the Department of Homeland Security (DHS), a sprawling umbrella organization with an annual budget of more than \$37 billion. The INS was disestablished, with border security responsibilities now divided between two new entities, U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection, operating with a combined annual budget in 2009 of more than \$15 billion. Under this new organizational structure, the Border Patrol's budget also shot upward, growing to \$400 million in 1992, reaching the \$1 billion mark in 2000, and nearing \$3 billion by 2009. With a current force of 20,000 personnel, the U.S. Border Patrol is now the largest non-military armed force within the U.S. government.

As border enforcement budgets and personnel have expanded over the years, policing efforts have gone through several permutations. In 1986, largely in response to growing public pressure to address the growing unauthorized population, Congress passed the Immigration Reform and Control Act (Public Law 99-603). Something of a policy hybrid, IRCA added substantially to the budget of the INS and Border Patrol and, after decades of failed attempts, finally mandated (weak) civil and criminal sanctions on individuals and firms that “knowingly” employed unauthorized workers. But in addition to an emphasis on punitive measures, IRCA also gave millions of unauthorized

the opportunity to “regularize their status” by applying to the INS. In the end, more than 3 million individuals were legalized under provisions of the 1986 act.

While the legalization program of IRCA can be read as a belated acknowledgement of the reality of the permanent presence of unauthorized persons, both the liberal and punitive provisions of the new law obviously did little to stem the continuing illegal influx of people. Indeed, if anything, due to eroding economic and political conditions in Mexico, Central America, and other immigrant-sending regions, undocumented migration increased dramatically in the years following passage of IRCA. With public concern about the unauthorized population growing, members of Congress once again were forced to take action that made it appear, if nothing else, that the issue of border security was being systematically addressed. As we have seen, this led to an even greater investment in border interdiction and also to a series of even more punitive laws, including the Immigration Act of 1990 (Public Law 101-649).

Laws passed in the early 1990s further increased the size and scope of the Border Patrol and supported highly publicized border-interdiction campaigns such as “Operation Blockade” (later renamed “Operation Hold-The-Line”) in El Paso, Texas (1993-94); “Operation Gatekeeper” in the San Diego, California border sector (1995-96); “Operation Safeguard” in Nogales, Arizona (1996); and “Operation Rio Grande” (1997) in Texas’

lower Rio Grande Valley. Although these initiatives were successful in diverting unauthorized migrants from crossing into the United States in these targeted sectors, migrants and smugglers simply plotted new and more dangerous routes across the border. While migrant fatalities increased as a result, the overall number of illegal entrants continued to rise right up to the great economic contraction of 2008.

Indeed, many migration scholars have noted that since the border policing efforts implemented in the 1990s made crossing the border more difficult and expensive, they may well have contributed to the long-term growth of the resident unauthorized population because potential migrants dealt with rising opportunity costs by planning to stay in the U.S longer than they would have otherwise, and because unauthorized migrants already in the United States could no longer circulate across the border as freely as they once did. In any case, the high public visibility of these issues compelled Congress to revisit immigration and border enforcement policy several more times in the 1990s, first with passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA, Public Law 104-208), and later in that same year, with the Personal Responsibility and Work Opportunity Reconciliation Act (Public Law 104-193). Again, both laws focused on deterrence of potential migrants at the border and the harassment of unauthorized persons already in the country, with the first

directing even more resources to expanding the Border Patrol and physical barriers (like walls, fences, vehicle barriers, and stadium lighting) along the border, and both targeting unlawful residents (and their families) by making access to public services more difficult.

While it is difficult to pinpoint the exact causes of slowing rates of unauthorized migration since 2000, it is clear that the combination of heightened security measures and the ongoing recession have contributed to steep declines. Apprehensions reported by ICE have dropped from a recent peak of nearly 1.64 million in 2000 to fewer than 450,000 in 2010.¹⁷ Whether such declines continue if and when the economy recovers is an open question, especially given the increasingly integral role unauthorized workers have come to play in the economy.

Before the current economic contraction, patterns of immigrant labor in-sourcing had accelerated to the extent that immigrants of all legal statuses were filling jobs in the United States at a rate comparable to that which existed 100 years before. Indeed, although the ongoing recession has clearly suppressed the hiring of both native foreign workers, recent data reveals just how much immigrants have become part of the fabric of American economic life. According to Census data, as recently as 2007, highly-skilled “legal” immigrants were essential to many key economic sectors, constituting fully 44 percent of all medical scientists, 37 percent of all physical

scientists, 34 percent of all computer software engineers, 31 percent of all economists, 30 percent of all computer engineers, and 27 percent of all physicians and surgeons. With citizen members of the “baby boom” generation entering retirement in ever increasing numbers, demographers predict that pressure to recruit such high-skilled immigrants will continue to rise.¹⁸

In the vast occupational landscape below such elite professions, immigrant workers of all legal statuses (the Census does not distinguish between “legal” and unsanctioned workers) are similarly structurally embedded in virtually every job category in the economy. As would be expected, more than half of all agricultural workers, plasterers, tailors, dressmakers, sewing machine operators, and “personal appearance workers” are immigrants. Beyond their well known presence in these occupations, immigrants are estimated to constitute another 40 to 50 percent of all drywall workers, maids and housekeepers, and packers and packaging workers. In the next decile, immigrants comprise 30 to 40 percent of all roofers, painters, meat and fish processors, cement workers, brick masons, cooks, groundskeepers, laundry workers, textile workers, and dishwashers. Below this, immigrants of all statuses are estimated to hold another 20 to 30 percent of 36 additional occupational categories.¹⁹ In addition, untold numbers of other noncitizens of all legal statuses toil in the vast and expanding reaches of the “informal” or unregulated “gray” and subterranean “black”

market economies.²⁰ At the turn of the twenty-first century, employment of non-citizens was so pervasive that foreign workers are estimated to have accounted for one half of all jobs created between 1996 and 2000. And overall, undocumented workers were estimated to constitute at least 16 percent of the total U.S. work force.²¹

As always, the economic dependence of the U.S. labor market of both “legal” and “illegal” immigrants has inevitably cemented and extended links of mutual dependence to immigrant-sending regions of the world and thus has also contributed to the continuing cycle of illicit movement into U.S. territory. Since the 1970s, the same kinds of social networks previously established by European, Asian, and Mexican labor migrants have been established by more recent migrants, thus expanding the ties of mutual dependence between immigrant-source and immigrant-receiving regions. The depth of this interdependence becomes clear when one considers the scale of remittances migrants of all statuses send to their countries of origin. Before the global economic contraction of 2008, when global remittances peaked, remittances constituted at least 19 percent of the GDP of Honduras, 16 percent of El Salvador’s, 15 percent of Haiti’s, 14 percent of Jamaica’s, 12 percent of the Philippines’, and 10 percent of GDP of both Nicaragua and Guatemala. In 2007, Mexico alone received more than \$24 billion in remittances from its citizens abroad. Another recent

study notes that as recently as 2003, 14 percent of adults in Ecuador, 18 percent of adults in Mexico, and an astonishing one-in-four of adults in Central America reported receiving remittances from abroad.²² In short, in-sourcing of unauthorized immigrant labor has become a deeply embedded structural feature of both the supply and the demand side of the unauthorized immigration equation and is, therefore, that much more difficult to arrest with unilateral policy interventions.

The brutal reality of these aspects of globalization has done little to mitigate what is an increasingly volatile and often deeply contradictory political environment—despite the ongoing investment in new border enforcement measures. The unprecedented massive mobilization now known as the immigrants’ rights movement in the spring of 2006 and beyond represents one pole in the spectrum of public opinion. The protestors, many of them “illegally” in the country, have demanded recognition for the contributions they make to U.S. economic growth. By also insisting that non-citizens of all statuses have always been a permanent feature of American society, they have demanded both recognition of this fact and legislative action to “regularize their status” within some broadened framework of societal membership.²³

Of course, on the other side of the rancorous debate, the perceived effrontery of unlawful residents making such rights claims fanned the flames of dissent among those who are

infuriated not only with what they see as the unconscionable expansion of the nation’s unauthorized population, but more generally, with the erosion of domestic living standards associated with the ongoing restructuring of the U.S. economy. Fears about the inexorable aging of the “white” citizen population and the rapid growth of a comparably youthful non-white population have tended to heighten resentment against the foreign-born and their children—and especially against those without legal status. The widespread sense that the federal government has not seriously enforced existing law has added to the frustration of those holding such views.

Consequently, in what is clearly the most dramatic recent development in the debate over immigration and border control policy, states and localities have entered the fray by enacting a range of measures designed to decrease local populations of unauthorized persons. Following precedents previously set by activists in California and elsewhere, localities such as Hazleton, Pennsylvania, Vista and Escondido, California, and at least 130 other American towns and cities have passed local ordinances that do everything from criminalizing the hiring of unauthorized day laborers, renting to unauthorized residents, suspending business licenses of firms employing unauthorized workers, and criminalizing the public use of languages other than English. In addition, a number of states—perhaps most notoriously Arizona, and more recently, Indiana, Georgia, Alabama, and others—have

debated and/or enacted a variety of measures designed to pressure unauthorized persons to leave state jurisdictions. In 2010 alone, states passed more than 300 such laws including measures requiring local law enforcement officials, teachers, social workers, health-care providers, private-sector employers, and others to verify the citizenship of any individual they encounter in their official duties or businesses—and make it a crime for non-citizens not to have documents verifying their legal status. Some have gone so far as to propose that unauthorized persons be prohibited from driving (or, for that matter, be barred from receiving any kind of state license), and that states not recognize the U.S. citizenship of infants born of unauthorized residents, regardless of the birthright citizenship provision of the Fourteenth Amendment. Federal courts have thus far tended to enjoin or strike down such statutes as violations of federal prerogative in immigration matters, but the future in this arena of immigration and citizenship politics remains uncertain.²⁴

In stark contrast to most state and local anti-immigrant agitation, smaller humanitarian immigrants-rights movements (and even some legislation) have begun to emerge in some states and localities. For example, in the spring of 2011, the state of Utah passed a bill that would allow unauthorized workers to work in the state’s own “guest worker” program. Other states, notably Texas, California, Maryland, and at least 10 others have

passed or attempted to pass legislation making it possible for U.S.-born children of unauthorized persons to attend college paying in-state tuition. Such legislation also makes it possible for such students to receive financial aid. Patterned after the proposed federal “Dream Act”—which would provide legal status and a “path to citizenship” for otherwise law-abiding non-citizen youth who attend college or join the military—such measures are rooted in the proposition that most unauthorized residents are productive tax-paying members of the community and, as such, should have access to at least a modicum of rights and tax-supported services. Based on the same logic, more than 100 cities have passed various kinds of “sanctuary” ordinances, pledging not to harass unauthorized persons or aid law enforcement officials in pursuit of such individuals.²⁵

For its part, the immigration and border enforcement bureaucracy under the Obama administration has responded to the political pressure emanating from states and localities on two fronts. On the one hand, the Justice Department has filed a series of suits challenging the constitutionality of state- and locally-based immigration and/or citizenship statutes. On the other hand, however, the DHS under Obama has dramatically stepped up internal enforcement efforts by significantly increasing workplace raids and audits against employers suspected of hiring unauthorized workers and encouraging all employers to be more scrupulous in utilizing the so-called E-Verify program, a

decidedly imperfect computer system that, in theory at least, allows employers to verify an applicant's legal right to work. The Obama administration has also aggressively increased other enforcement efforts against unauthorized residents by emphasizing the so-called "Secure Communities Program" that allows local jurisdictions to check arrested individual's immigration status against federal data bases. In addition, federal immigration officials have also engaged in a protracted campaign of neighborhood sweeps, detentions, and an unprecedented number of deportations. According to figures released by ICE, 380,000 non-citizens—most of them criminals but many of them not—were deported in fiscal 2009-10 and another 393,000 in 2010-11.²⁶

Given the tremendously unstable state of the U.S. and global economies and the highly volatile state of the debate over border enforcement and undocumented immigration in the second decade of the century, it is impossible to predict even partial resolution to these festering controversies. Although the continuing precariousness of the economy may well lay the groundwork for the projection of more force on U.S. borders and an even more hostile climate for non-citizens already within U.S. territory, global economic trends will almost certainly continue to create incentives for the ongoing structural use and abuse of both officially-authorized and unauthorized immigrant workers. Under these circumstances, it is likely that the historical debate

over border enforcement and the status of unauthorized will persist into the foreseeable future.

¹Obviously, the surreptitious nature of illegal migration and unauthorized residence require that analysts develop best estimates on the actual number of unauthorized persons physically present within the United States at any one time. For contextual and methodological discussion of the numbers cited above, see Robert E. Warren and Jeffrey S. Passel, "A Count of the Uncountable: Estimates of Undocumented Aliens Counted in the 1980 United States Census," *Demography* 24 (3) (Aug. 1987): 375-93; and Jeffrey S. Passel, "The Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey" (Washington, DC: Pew Hispanic Center, March 7, 2006).

²Hannah Arendt, "The Stateless People," *Contemporary Jewish Record* 2 (April 1945): 137-53.

³For a brief and cogent discussion of some of the basic conundrums associated with the conceptual history of the nation-state, see Craig Calhoun, *Nationalism* (Minneapolis: University of Minnesota Press, 1997): 76. For another trenchant recent critique of the uneven morphology of the nation-state see, Adreas Wimmer and Yuval Feinstein, "The Rise of the Nation-State across the World, 1816-2001," *American Sociological Review* 75 (5) (2010): 764-90.

⁴Although a number of scholars have used the term "container theory" to describe what is argued to be a flawed conceptualization of the political and social organization of the world system, it has perhaps been most closely associated with the work of the German sociologist Ulrich Beck. For a recent explication of the debate, see Ulrich Beck, "Cosmopolitan Realism: on the Distinction between Cosmopolitanism in Philosophy and the Social Sciences," *Global Networks: A Journal of Transnational Affairs* 4 (2) (April 2004): 131-56.

⁵For the contours of this contentious debate during the Constitutional era see, *The Founders of the Republic on Immigration, Naturalization, and Aliens*, ed. Madison Grant and Charles Stewart Davison (New York: Scribner's, 1928), and Rogers Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven: Yale University Press, 1997). For two very different explorations of the use of "the other" as negative referents for defining U.S. citizenship see, Edmund S. Morgan, *American Slavery, American Freedom* (New York: Norton, 2003), and Bonnie Honig, *Democracy and the Foreigner* (Princeton: Princeton University Press, 2001).

⁶For thorough overviews and analysis of early immigration regulation see Benjamin J. Klebaner, "State and Local Immigration Regulation before 1882," *International Review of Social History* 3 (3) (1958): 269-95; and Gerald L. Neuman, "The Lost Century of American Immigration Law (1776-1875),"

Columbia Law Review 93 (8) (Dec. 1993): 1833-1901. For estimations of the proportional size of the citizen population at this time, see Jamin B. Raskin, "Legal Aliens, Local Citizens: The Historical, Constitutional, and Theoretical Meanings of Alien Suffrage," *University of Pennsylvania Law Review* 141 (4) (Apr. 1993): 1391-1470.

⁷ See Adam McKeown, "Global Migration, 1846-1940," *Journal of World History* 15 (2) (2004): 155-89; and Dirk Hoerder, *Cultures in Contact: World Migrations in the Second Millennium* (Durham: Duke University Press, 2002).

⁸ For discussion of the parallel development of restrictive immigration laws in different parts of the world at this time see, Aristide Zolberg, "International Migration Policies in a Changing World System," in *Human Migration: Patterns and Policies*, ed. William McNeill and Ruth Adams (Bloomington: Indiana University Press, 1978): 241-86; John Torpey, "States and the Regulation of Migration in the Twentieth-Century North Atlantic World," in *The Wall Around the West: State Borders and Immigration Controls in North America and Europe*, ed. Peter Andreas and Timothy Snyder (Lanham, MD: Rowman and Littlefield, 2000): 31-54; Charles A. Price, *The Great White Walls Are Built: Restrictive Immigration to North America and Australia* (Canberra: Australian National University Press, 1974); and Triadafilos Triadafilopoulos, "Building Walls, Bounding Nations: Migration and Exclusion in Canada and Germany, 1870-1939," *Journal of Historical Sociology* 17 (4) (Dec. 2004): 385-427.

⁹ See Raskin, "Legal Aliens, Local Citizens"; and Sarah Song, "Democracy and Non-Citizenship Voting Rights," *Citizenship Studies* 13 (6) (2009): 607-20.

¹⁰ See Mae M. Ngai, "The Strange Career of the Illegal Alien: Immigration Restriction and Deportation Policy in the United States, 1921-1965," *Law and History Review* 21 (1) (Spring 2003): 70, 77. See also Nicholas P. De Genova, "Migrant 'Illegality' and Deportability in Everyday Life," *Annual Review of Anthropology* 31 (2002): 419-47.

¹¹ See United States Congress, Senate, Committee on the Judiciary, *History of the Immigration and Naturalization Service*, 96th Cong. 2d sess., Dec. 1980 (Washington, DC: U.S. Government Printing Office, 1980): 51, 57, 65.

¹² See David G. Gutierrez, "The Politics of the Interstices: Reflections on Citizenship and Non-citizenship at the Turn of the Twentieth Century," *Race/Ethnicity: Multidisciplinary Global Contexts* 1 (1) (Autumn 2007): 89-120; "The Shell Game of Immigration Policy 'Reform': A Response to Dan Tichenor," *Labor: Studies in Working-Class History of the Americas* 5 (2) (Summer 2008): 71-76; and "The 'New Normal'? Reflections on the Shifting Politics of the Immigration Debate," *International Labor and Working-Class History* 78 (Fall 2010): 188-22.

¹³ See Andrew Graybill, *Policing the Great Plains: Rangers, Mounties, and the North American Frontier, 1875-1910* (Lincoln: University of Nebraska Press, 2007); Kornel Chang, "Enforcing Transnational White Solidarity:

Asian Migration and the Formation of the U.S.-Canadian Boundary," in *Nation and Migration: Past and Future*, ed. David G. Gutiérrez and Pierrette Hondagneu-Sotelo (Baltimore: Johns Hopkins University Press, 2009): 169-94; and Claudia Sadowski-Smith, "Unskilled Labor Migration and the Illegality Spiral: Chinese, European, Mexican *Indocumentados* in the United States, 1882-2007," in *Ibid.*: 277-302.

¹⁴ For the clearest account of the convoluted legislative maneuverings that led to the eventual enactment of the Texas Proviso, see Kitty Calavita, *Inside the State: The Bracero Program, Immigration, and the I.N.S.* (New York: Routledge, 1992, repr. New Orleans: Quid Pro Quo Books, 2010): 71-77.

¹⁵ See United States Department of Justice, *Annual Report of the Immigration and Naturalization Service* (Washington, DC, 1955): 14-15.

¹⁶ See Jeffrey Passel and D'Vera Cohn, "The Unauthorized Immigrant Population: National and State Trends, 2010," (Washington, DC: Pew Hispanic Center, Feb. 1, 2011).

¹⁷ See Richard Marosi, "New Border Foe: Boredom," *Los Angeles Times*, April 21, 2011: A1.

¹⁸ See Teresa Watanabe, "Shortage of Skilled Workers Looms in U.S.," *Los Angeles Times*, April 21, 2008: A1.

¹⁹ See Steven A. Camarota and Karen Jensenius, "Jobs Americans Won't Do? A Detailed Look at Immigrant Employment by Occupation," (Washington, DC: Center for Immigration Studies, Aug. 2009), especially table 1; American Immigration Law Foundation, "Mexican Immigrant Workers and the U.S. Economy: An Increasingly Vital Role," *Immigration Policy Focus* 1 (2) (Sept. 2002): 1-14; A.T. Mosisa, "The Role of Foreign-Born Workers in the U.S. Economy," *Monthly Labor Review* 125 (5) (2002): 3-14; Diane Lindquist "Undocumented Workers Toil in Many Fields," *San Diego Union-Tribune*, Sept. 4, 2006: A1; and Gordon H. Hanson, "The Economic Logic of Illegal Immigration," *Council Special Report No. 26*, Washington, DC: Council on Foreign Relations, 2007. For an insightful case-study analysis of the replacement of domestic workers by the foreign-born in one key industry, see William Kandel and Emilio A. Parrado, "Restructuring the U.S. Meat Processing Industry and New Hispanic Migrant Destinations," *Population and Development Review* 31 (3) (Sept. 2005): 447-71.

²⁰ See James DeFilippis, "On the Character and Organization of Unregulated Work in the Cities of the United States," *Urban Geography* 30 (1) (2009): 63-90.

²¹ See M. Tossi, "A Century of Change: The U.S. Labor Force, 1950-2050," *Monthly Labor Review* 125 (5) (2002): 15-28.

²² See Roberto Suro, "Remittance Senders and Receivers: Tracking the Transnational Channels," (Washington, DC: Pew Hispanic Center, Nov. 24, 2003); and Migration and Remittances Unit, World Bank, *Migration and Remittances Factbook*, 2011,

www.worldbank.org/prospects/migrationandremittances, accessed July 25, 2011.

²³ See Irene Bloemraad and Christine Trost, "It's a Family Affair: Intergenerational Mobilization in the Spring 2006 Protests," *American Behavioral Scientist* 57 (4) (Dec. 2008): 507-32; and Josue David Cisneros, "(Re)Bordering the Civic Imaginary: Rhetoric, Hybridity, and Citizenship in La Gran Marcha," *Quarterly Journal of Speech* 97 (1) (February 2011): 26-49.

²⁴ See J. Esbenshade and B. Obzurt, "Local Immigration Regulation: A Problematic Trend in Public Policy," *Harvard Journal of Hispanic Policy* 20 (2008): 33-47; Kyle E. Walker and Helga Leitner, "The Variegated Landscape of Local Immigration Policies in the United States," *Urban Geography* 32 (2) (2011): 156-78; Monica W. Varsanyi, "Neoliberalism and Nativism: Local Anti-Immigrant Policy Activism and an Emerging Politics of Scale," *International Journal of Urban and Regional Research* 35 (2) (March 2011): 295-311; and Richard Fausset, "Alabama Enacts Strict Immigration Law," *Los Angeles Times*, June 10, 2011: A8.

²⁵ See Walker and Leitner, "Variegated Landscape": 157; Nicholas Riccardi, "Utah's Right Has Its Own Way," *Los Angeles Times*, March 20, 2011: A1; and Andrew Seidman, "In Maryland, An Immigration Battle Redux," *Los Angeles Times*, July 22, 2011: A7.

²⁶ See "Record Number of Illegal Immigrants Deported," *Los Angeles Times*, August 13, 2010: A16; Miriam Jordan, "Deportations Hit Record Number," *Wall Street Journal*, Oct. 7, 2010: A6.