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Immigration and Deportation

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Unpacking Our History Interviews
The Unpacking Our History Interviews with national and international academics, authors, and lawyers first focused on the topics raised by the *New York Times'* 1619 Project. Over time, the interview topics expanded to include current events around policing and criminal justice.

A Dark Side of Ellis Island's History

By César Cuauhtémoc García Hernández
January 1, 2020 11:00 AM EST

Every year, roughly 4 million people visit the Ellis Island immigration station, wandering the manicured museum grounds and gazing at the nearby Statue of Liberty. But today's experience visiting the tiny speck of land off the southern tip of Manhattan is a far cry from what Ellen Knauff saw there in 1948. "The whole place [had] the look of a group of kennels," she wrote in her memoir years later.

Born in Germany, Knauff spent part of World War II working for the United Kingdom's Royal Air Force and later the United States Army. After the war, she married Kurt Knauff, a U.S. citizen and Army veteran stationed in Germany. Newly married, she traveled to the United States for the first time in 1948, planning to benefit from a special immigration law enacted by Congress to make it easy for soldiers to return home with their new loves.

Instead, Ellen was greeted by the hard reality of the Ellis Island immigration prison. These days, most people think of Ellis Island as the place that welcomed generations of newcomers. That is certainly true. As many as 12 million people are thought to have first stepped foot in the United States through the island's immigration offices, which opened on Jan. 1, 1892. But in 1907, its busiest year, one out of ten arriving passengers experienced Ellis Island as a hurdle rather than an open door, spending days or months stuck inside the detention center.

"As we approached Ellis Island, I could see that parts of it were enclosed by double wire fences topped by barbed wire and marked by what appeared to be watchtowers. These fenced-off areas were subdivided by more fences," Knauff recalled. "I called Ellis Island a concentration camp with steam heat and running water," she added, borrowing language that the New York *Times* had used several years earlier when the facility held people of Italian, German and Japanese descent during the war.

Knauff was part of the 10% who got stuck there. After she arrived at Ellis Island, despite her American husband, she was not permitted to continue into the United States.

Immigration officials refused to tell Knauff why she couldn't leave. They claimed that her presence in the United States threatened national security, but refused to disclose their evidence. Insistent, Knauff fought all the way to the Supreme Court. There she received little sympathy. The justices granted the federal government broad powers to keep people out. "Whatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned," the court announced in January 1950.

With judicial approval, immigration officials kept Knauff on Ellis Island while she mounted a public-relations campaign. A few times, she won temporary relief from confinement, only to be returned to the island prison months later. In total, Knauff spent almost two years stuck there. Eventually she convinced immigration officials to give her a hearing where she learned why she was so threatening to the United States. Witnesses claimed she was a Communist spy, a powerful accusation in the early years of the Cold War. Under the antiseptic light of transparency, the government's claims were revealed to be too flimsy to continue confining her. Immigration officials had acted on nothing more than "hearsay, uncorroborated by direct evidence," the board of immigration appeals concluded. Ellen Knauff finally made her way off the island for good in 1951.

By 1954, just three years later, President Dwight Eisenhower was ready to push immigration law enforcement in a radical new direction. That year, the Eisenhower Administration decided to shut down six immigration detention facilities, including the one on Ellis Island. "Today the little island between the Statue of Liberty and the skyline and piers of New York seems to have served its purpose," Eisenhower's attorney general Herbert Brownell announced on Nov. 11, 1954. Instead of operating large immigration prisons, the federal government would make confinement the exception not the rule. As officials decided whether migrants were deportable, they would let people live wherever they wanted, blending into communities. This "is one more step toward humane administration of the Immigration laws," Brownell continued.

A few days later, the final person held on Ellis Island, Arne Peterssen, left on a ferry heading toward Manhattan. A newspaper report at the time described him as "a Norwegian seaman who had overstayed his shore leave." The United States government knew that he had entered the country with permission to stay temporarily and it knew that he had not left. Peterssen was as deportable as if he had come to the United States without the government's permission. Yet immigration officials released him into the bustle of New York City. It remains unclear what happened to him after that. We don't know if he left the United States, stayed in New York, or headed somewhere else in the country. All we know is that the United States decided that a migrant's violation of immigration law was no reason to lock him up.

Difficult as it is to believe today, the United States government got remarkably close to abolishing immigration prisons, even with the memories of war still fresh and the Cold War beginning. For the next 25 years, federal policy would not change. If the threat of Soviet military strength and the fevered pitch of Cold War ideological fights wasn't enough to keep Eisenhower from shutting down immigration prisons, what is stopping us now?

César Cuauhtémoc García Hernández is the author of Migrating to Prison: America's Obsession with Locking Up Immigrants *and an associate professor of law at the University of Denver.*

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The US Has Deported Immigrants En Masse Before. Here's What Happened.

Donald Trump has promised to deport millions on "Day One." He wouldn't be the first president to round up undocumented immigrants en masse.

Mexicans travel back to Mexico after being deported from Los Angeles in 1931. The Great Depression stoked accusations that immigrants, particularly Mexicans, were taking jobs needed by U.S. citizens. | AP

Donald Trump has promised to deport millions of immigrants on "Day One," boasting that it will be the "largest deportation operation in American history" — though there are questions about both the legality of his plan and its potentially steep price tag.

As history shows us, mass deportations are nothing new in this country. In fact, to accomplish his goal, the president-elect is promising to invoke the Alien Enemies Act of 1798, a wartime law that allows the president to deport non-citizens deemed an enemy of the United States. While on the campaign trail, Trump declared that he would use the law to carry out "Operation Aurora" — arresting and deporting immigrant criminals like the now-infamous Tren de Aragua gang that made headlines in Aurora, Colorado. (Of course, people often forget that immigrants, whether they are undocumented or documented, commit crimes at much lower rates than native-born Americans.)

Trump wouldn't be the first president to round up undocumented immigrants — criminals or otherwise — en masse. He would have to double his deportation numbers from his first presidency to break any kind of record. (More on that later.) But if past removal efforts are any indication, governments don't need to physically deport masses of people to accomplish their goals of sharply curtailing immigrant populations. Over the years, the biggest "mass deportations" in the U.S. have been, by and large, high-pressure publicity campaigns that stoked such fear among immigrants that they chose to "self-deport."

As history demonstrates, sometimes fear is all that's needed, says Kelly Lytle-Hernández, a professor of history and African American studies at UCLA. This time around will be no different. "Strongly encouraging and frightening people into leaving will be a main strategy," Lytle-Hernández says.

Here's a look back in time at previous mass deportation efforts.

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Irish Expulsion

Back in the 1800's, the United States faced one of its first big immigration crises. The potato famine in Ireland caused widespread poverty, and as Irish immigrants flocked to the U.S. by the millions, nativist fervor grew in states like New York and Massachusetts.

Catholic immigrants quickly began outnumbering native-born Protestants, and many immigrants were seen as encroaching on limited state resources. The new "American Party," which came to be known as the Know-Nothing Party, built their platform on embracing nationalism and opposing immigration because of economic concerns. The party quickly ascended to control the Massachusetts legislature.

What ensued is a little-known episode of state-controlled expulsions that set the foundation for our federal deportation system today, according to Hidetaka Hirota, a historian at UC Berkeley and the author of *Expelling the Poor: Atlantic Seaboard States and the Nineteenth-Century Origins of American Immigration Policy.*

Thanks to an anti-poverty law in Massachusetts, state authorities in the mid-1800s were given the legal basis to deport foreigners who relied on state-funded resources or charity-based almshouses. The rationale began as a financial one, but quickly expanded to include ethnic and religious considerations, Hirota said in an interview, as nativists in the Know-Nothing Party claimed Irish Catholics threatened white Protestant American identity. (Back then, the Irish were not considered "white" by many Americans.)

At the time, there was no federal apparatus forcing Irish people to leave states like Massachusetts. Instead, state officials would check public records for people of different nationalities and remove them. Some immigrants were shipped out to other states, like New York, via railroad. Some were sent north to Canada, where many Irish immigrants had originally landed before making it to the U.S. And then there are cases of Irish people — like Mary Williams and her U.S.-born child — who were put on a ship and deported back to Ireland.

The exact number of deportees is hard to pin down because there are no official statistics, but Hirota estimates at least 50,000 people were removed from Massachusetts in the mid-1800s. This was the first time that a police power was created to limit immigration, Hirota says, and this police power evolved once it reached the federal level.

The Palmer Raids and the "Soviet Ark"

By the late 19th century, the federal government had taken a more active role with immigration and began redefining who counted as "excludable and deportable," according to Hirota. For example, in 1882, the U.S. shut down all immigration from Asia

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with the Chinese Exclusion Act. In the spring of 1917, following the Bolshevik Revolution in Russia — and the start of World War I — anti-immigrant anxiety grew. The nation was swept up in a "Red Scare," and the U.S. government began monitoring labor union leaders and political dissidents. Congress quickly passed the Sedition Act of 1918 — similar to the Alien Enemies Act from 1798 — which made it illegal to criticize the U.S. government during World War I.

Then, in the spring of 1919, Carlo Valdinoci, a young radical anarchist from Italy, set off a bomb in front of the home of Attorney General A. Mitchell Palmer in Washington, D.C. Reprisal was swift: Under Palmer's direction, a series of raids and mass arrests were conducted around the country. Palmer made deportations his central focus, declaring that 90 percent of anarchist threats on American soil were "traceable to aliens."

Most of the people who were rounded up and deported were alleged leftist radicals from Eastern Europe, Russia or Italy — and some were famous anarchists like the married duo, Alexander Berkman and Emma Goldman, Jewish immigrants from the then-Russian empire. Goldman gained citizenship after marrying Berkman, a naturalized U.S. citizen. But after the couple was arrested in 1917, the federal government stripped both of their citizenship, which made them deportable. In 1919, they were shipped out of the U.S. on the *USS Buford* bound for Russia, a ship that was nicknamed the Soviet Ark or Red Ark.

By the close of 1920, the raids had been considered largely unsuccessful, and today the Federal Bureau of Investigation says the raids "were certainly not a bright spot for the young Bureau."

"Mexican Repatriation"

During the Great Depression, increased economic pressure and strained resources stoked xenophobia and accusations that immigrants, particularly Mexicans, were taking jobs needed by U.S. citizens. President Herbert Hoover touted plans guaranteeing "American jobs for real Americans." The message: Non-white people weren't Americans — even if they were born in the U.S. Local agencies started excluding immigrants from getting aid, and officials floated the idea of deporting immigrants who had become a "public charge." Informal raids and sweeps were conducted in major cities in border states like California but also in Michigan and Illinois. It's estimated that by the mid-1930s, over a million Mexicans were returned to Mexico.

However, this era of "Mexican repatriation" wasn't a full-scale deportation campaign. Ultimately, only about 80,000 Mexicans were formally deported, according to the Immigration and Naturalization Service. Instead, U.S. immigration officers stoked fear through raids in major cities to pressure Mexicans to "repatriate."

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One of the most famous raids was at La Placita Park in Los Angeles, where immigration officers shoved Mexican immigrants — and Mexican Americans — into vans and deported 400 people, regardless of their immigration status. Local governments helped coordinate these raids and even offered free train tickets into Mexico. Newspapers ran inaccurate and inflated numbers of deportations in the program.

The result: large-scale *self*-deportation. Many Mexicans, including U.S.-born people of Mexican descent, elected to leave the country. In Los Angeles, by 1935, one-third of its Chicano population had disappeared. Nationwide, it's estimated that up to 60 percent of those who left were actually American citizens.

"Operation Wetback"

It's known as the largest mass deportation in American history, and many view it as a model for Trump's impending immigration plans.

To understand why this operation was such a big deal, look no further than a guest worker program the U.S. government enacted with Mexico in the early 1940's, known as the Bracero program, named after the Spanish word for manual laborer. It allowed temporary farm workers from Mexico to fill labor shortages during World War II, bringing around 300,000 immigrants each year. But some employers, particularly in Texas, didn't want to play by the rules of the program (or pay Bracero workers a fair wage). Instead, they hired scores of undocumented workers who'd crossed the border illegally.

In 1954, President Dwight D. Eisenhower mounted a massive political campaign and deportation operation to combat Mexican immigration, named after a derogatory slur for immigrants who crossed rivers to reach the U.S. It wasn't a long operation, but it was widespread. The INS planned sweeps of factories and farms as if they were "war strikes," all to round up undocumented workers and return them to Mexico. Some of them were U.S.-born citizens of Mexican descent.

And undocumented people weren't just deported across the border, they were deported *deep* inside Mexico. This was a tactic to avoid reentry, Lytle-Hernández says. Often these undocumented immigrants were boarded on buses, planes and even some boats that resembled slave ships, according to historian Mae Ngai's book *Impossible Subjects*.

The INS declared the operation a success, claiming to have deported more than a million people. But those deportation numbers were greatly exaggerated, according to Lytle-Hernández. The majority of the deportations were actually voluntary departures, where many Mexicans left the country on their own after being apprehended by the INS.

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Similar to the Mexican repatriation of the 30's, the biggest impact of "Operation Wetback" was the fear it created. "It was largely a publicity stunt, and they used terror to try to scare people out of the country through roadblocks and raids that were covered by the press," Lytle-Hernández says.

It was a deeply-racially targeted campaign grounded in racial profiling of people perceived to be of Mexican descent, according to Lytle-Hernández, adding, "To me, it's all racism."

The Deporter-in-Chief

Half a century after "Operation Wetback," President Barack Obama became known as the "Deporter-in-Chief" by pro-immigration groups who criticized his record. But his legacy with immigration is complicated.

Obama's administration deported nearly 3 million people — more people than any other administration in history — but he also enacted programs like DACA, which provided legal protections to immigrants who had lived in the U.S. since they were children.

Obama's deportations weren't a coordinated raid or campaign in the same way as his predecessors on this list. They came as part of an ongoing shift in U.S. policy, as both Democratic and Republican administrations have increased investments in immigration enforcement since the late 20th century.

"What Obama does that's different is he shifts the number of people who are being formally deported," says Lytle-Hernández.

Instead of departing voluntarily, during the Obama administration, more people went through the actual court process of being deported. Under his administration, Immigration and Customs Enforcement also shifted its focus to targeting recent border crossers and people with criminal convictions.

During Trump's first term, more than 1.5 million people were deported, and under his "zero tolerance" policy, his administration separated thousands of children from their parents who'd crossed the border illegally. Meanwhile, President Joe Biden is on track to match Trump's deportation record by the end of his term on Jan. 20.

If he keeps his 2024 campaign promises, Trump will likely deport even more over the next four years.

The Racialization of "Illegality"

In a December 2011 interview, the sheriff of Maricopa County, Arizona, Joseph Arpaio, explained to me that his critics did not "get it": he was not a racist, his only goal and responsibility was to enforce the law. To accomplish this, he needed to deploy his officers to neighborhoods and businesses throughout the Phoenix metro area where they had "intel" that "illegal activity" was going on. They were not, he assured me, out to get Latinos; it just so happens that there are many Latinos who are "illegal," he explained. The U.S. Supreme Court disagreed. The sheriff's zealous approach to immigration enforcement was found to be unconstitutional; the Court ruled that the Maricopa County Sheriff's Office racially profiled Latinas/os living in the county.

Latinas/os – mostly Mexicans, Guatemalans, Hondurans, and Salvadorans – overwhelmingly bear the burden of the immigration enforcement system in the United States today. Immigrants from these four countries make up 70 percent of the undocumented population; however, they are overrepresented among the immigrants who are detained and deported: 88.6 percent of the detainees are from Mexico, Guatemala, Honduras, or El Salvador and 79.4 percent are men; 90 percent of Immigration and Customs Enforcement (ICE) removals are from these four countries as well. The reverse holds for other immigrant groups, especially Asians, whose undocumented immigrant population is the fastest growing in the United States, increasing from 7 percent of all undocumented immigrants to nearly 16 percent in 2015 alone. For instance, while 4 percent of the Indian population in the country is undocumented, these immigrants constitute only 0.6 percent of ICE removals. And though Filipinos make up 3 percent of the undocumented population, Chinese 3 percent, and South Koreans 2 percent, none of these groups reaches 0.5 percent of ICE removals.

This strong association between being Latina/o and undocumented, broadcast in the media and cemented through enforcement practices, has led scholars to examine experiences of "illegality" through a lens of race, and to conceptualize illegality as racialized. Indeed, some scholars and activists have labeled the targeting of enforcement on the Latino population as a whole, and Latino men in particular, as a racial project and a gendered racial removal program. Sociologists Tanya Golash-Boza and Pierrette Hondagneu-Sotelo observed that "between 1993 and 2011 … there was a 10-fold increase in the number of Mexican deportees, and a 12-fold increase in the number of Central American deportees while the deportations of Asian and European immigrants increased fourfold and those of African and Caribbean immigrants only doubled." Thus, the immigration regime targets Latinas/os today with particular force: both the legislative and the enforcement side of the regime illegalize and racialize them.

Sociologists and immigration scholars who point to the increasing use of undocumented legal status as a proxy for race and to the centrality of racialization processes in the immigration system argue that the status of "illegality" is not a race-neutral term; it has become synonymous with "Mexicanness" and with being Latina/o. And since race is a

"fundamental organizing principle of social relationships," "illegality," like race, has become an axis of stratification with effects similar to those of other social hierarchies. This race-based enforcement system, as Douglas Massey has argued, affects Latinas/os in similar ways as the criminal justice system marks Blacks. The racialization of "illegality," therefore, has real-life consequences for immigrants, their families, and communities.

Scholars have thus conceptualized the intersection of legal status (or illegality) and race as the *racialization of legal status*. Asad L. Asad and Matthew Clair developed the concept of *racialized legal status* to highlight how "ostensibly race-neutral legal classifications ... disproportionally impact racial/ethnic minorities." Focusing on criminal and legal statuses, they call attention to the disproportionate burden of such classifications on racial/ethnic minorities and to the stigmatization these classifications produce, which enable statistical discrimination "against in-group members who are not" marked by the stigmatized status. Amada Armenta has observed that scholarship on the effects of criminalization tends to focus on the effects of immigrants' legal status, not the *racialization* of the status, a concept that she argues more precisely captures these conditions. Last, San Juanita García has called attention to the institutionalized aspects of "illegality," which intersect with race to shape various forms of exclusion associated with anti-immigrant sentiment; and Juan Herrera has highlighted racialization within stigmatized immigrant groups, which complicates conceptualizations of racialized illegality.

The racialization of illegality is a product of various forces. It is generally acknowledged that the category of "illegality" is produced by law; it is a political identity that underscores immigrants' relationship to the state. However, "illegality" is also socially constructed based on stereotypes that assign illegality to certain groups, producing what René Flores and Ariela Schachter refer to as "social illegality." Certain characteristics associated with illegality "become embedded in elaborate narratives of threat and transgression that intersect with racism and reactionary politics." Social illegality thus complements and sustains legal structures and bureaucracies of enforcement. Popular discourse buttresses the continued reproduction of a class of immigrants seen as particularly suited for certain jobs who can then be made excludable and disposable. Along these lines, Armenta has noted that the overwhelming targeting of enforcement on Latinas/os she found in Tennessee – that is, their racialization as undocumented – is not simply the result of racist officers' decisions to stop, arrest, and detain these immigrants; instead, these practices are the result of institutionalized policies in enforcement agencies, policies and laws that on their face appear to be race-neutral. Nazli Kibria, Cara Bowman, and Megan O'Leary have observed that "the race-immigration nexus" constitutes a "fluid and intertwined bundle of linkages ... among institutions, ideologies and practices." Thus, the institutionalization of exclusion through "illegality" based on race creates the illusion that enforcement is directed at excluded groups, for instance Latinas/os, because of their legal status, not their race; however, seemingly neutral immigration policies have racial effects because laws are not implemented in a social vacuum but within specific racial formations.

The social construction of illegality lies at the root of how immigrants are perceived by the public, employers, and institutions and how racialized illegality is deployed in various

spheres of life. Flores and Schachter found that certain attributes of an immigrant group – such as national origin, social class, and criminal background – powerfully shape public perceptions of "illegality." Mexicans as well as other Latin Americans, especially Salvadorans, are particularly suspected of illegality, whereas Asians and Europeans "arouse the lowest levels of suspicion." These scholars also found that jobs in the informal economy have become markers of illegality. Suspicions and perceptions that equate certain national origins, levels of education, and occupations with illegality solidify ethnoracial stereotypes on which social illegality is based. This linkage is not unlike Marta Maria Maldonado's finding that employers of Latina/o agricultural workers rely on race as a proxy for worker quality, marking recent immigrants (and their legal status) as hard workers and second-generation Latinas/os as "lazier," thus justifying exploitative working conditions for the recently arrived (and mostly undocumented) workers. And Amanda Moras found that employers rely on cultural markers such as English language proficiency to hire domestic workers; such determinations racialize Latina immigrants as domestic workers.

The racialization of illegality is also tied to notions of deserving and undeserving, good and bad immigrants. Social illegality shapes immigrants' perceptions of themselves and how they are perceived in society. For instance, a Maya Guatemalan undocumented worker who was apprehended during the Postville, Iowa, raid in 2008, who, according to the interpreter, "No matter how many times his attorney explained his rights to him, he kept saying, 'I'm illegal, I have no rights. I'm nobody in this country. Just do whatever you want with me.'" Furthermore, as undocumented Latina/o immigrants try to distance themselves from their negative portrayals, they seek recognition for their deservingness by underscoring civically accepted acts, such as paying taxes and working. In their efforts to signal deservingness and "goodness," immigrants often outperform U.S.-born workers because the notion of a strong work ethic operates in a racial register. Distancing also occurs among other immigrant groups associated with stigmatized minorities. For instance, Hana Brown found that Liberian refugees use their refugee status to distance themselves from native-born Blacks and establish their position above them in the U.S. ethnoracial hierarchy.

The racialization of illegality we see today has a long history. Enduring structural racism is embedded in U.S. immigration law. Formal exclusion based on race, which reinforces stereotypes of immigrants classified as non-White as excludable, inferior, and "alien," is nothing new. At different points in U.S. history, immigration law has institutionalized practices and values that position certain immigrant groups, specifically Mexicans, Latinos, and Chinese, as "illegal." Scholars have traced the relationship between Chinese migration and racialized exclusion, whereby immigration laws that excluded Chinese laborers, presumably to protect American workers and the nation, created an excludable category based on race. Likewise, the production of the "illegal alien" category in the 1920s "reframed immigration from Mexico as both undesirable and an affront to strong American traditions of law and order."

Therefore, time and space matter significantly. The racialization of legal status is a dynamic process; it is geographically conditioned and historically specific. Given the centrality of racial systems in the organization of social life, the process itself will exist at different historical junctions and across contexts and societies, but the expressions and

hierarchies produced will be context-specific and historically situated. For instance, in contrast to the constructions of race that formally excluded certain immigrant groups in the past, immigration policies in the post-civil rights era function through color-blind racism, creating the subtler yet equally powerful racialization in immigration practices today. Thus, in contrast to overtly racist immigration policies such as the Chinese Exclusion Act, the practice today is to deem certain activities that are common among certain immigrant groups "illegal." Legal status today then can serve as a proxy for race, both formally in the immigration system and socially, as when the public and media equate Latinas/os with being undocumented.

Racialization of illegality also takes different expressions across contexts and societies today. For instance, in the Dominican Republic, illegality has been racialized as Haitian, and postwar migration to Britain has been associated with a host of social problems and with being Asian or Black. In India, Bangladeshis are "marked as Muslim and male" and "made synonymous with 'illegal migrant.'" And in a study of the racialization of legal status of Central Asian immigrants in Russia, my colleagues and I found that legal status does not lessen these immigrants' experiences of racism. Within the larger group of Central Asian immigrants, Kyrgyz migrants, despite being culturally closer to Russians and up to that point enjoying a privileged path to citizenship, experienced more hostility. They were racialized as darker and phenotypically more distinct than the other groups in our study, Tajiks and Uzbeks, and thus were more often the target of ethnoracially motivated harassment by authorities who would regularly demand to see their papers.

The racialization of legal status only has meaning in a context of expanded enforcement, fear, and increased penalties for the individuals who are targets. García has called attention to the centrality of context in sustaining racialization processes, which unfold in the workplace, in educational and health institutions, and in the criminal justice system and homogenize Mexicans, regardless of nativity or legal status, as "illegal."44 Such a climate was the case in Arizona, where a string of laws passed in the 2000s culminated in the signing of sb 1070 in 2010, requiring law enforcement officials to determine an individual's legal status during a lawful encounter if there was "reasonable suspicion" that the person was unlawfully present in the United States. The law was written and signed in a context saturated by other exclusionary laws, by media broadcasting the association between Latinas/os and undocumented status, and general social illegality that strongly associated being Latina/o with being undocumented.45

Since legal status is not a physically identifiable characteristic, Maricopa County officers needed to use other markers to make this determination. The Maricopa County (the largest county in Arizona) Sheriff's Office set up checkpoints in predominantly Latino neighborhoods and conducted regular workplace raids overwhelmingly targeting businesses that employed Latina/o workers.46 These practices resulted in "hyper-surveillance, abusive stops, problematic searches and unwarranted detention of suspected unauthorized immigrants," creating conditions of fear and anxiety for Latinas/os living in Maricopa County, regardless of citizenship or legal status.

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Although experiences of illegality are strongly linked to race and place, the legal production of illegality in the United States is enacted at the federal level, with consequences throughout the country but with specific local manifestations. Media play a key role in the creation of social illegality, locally and nationally, contributing strongly to shape associations between undocumented status and being Latina/o. Women's studies scholar M. Cristina Alcalde found that even though White youth in Kentucky condemned the racism they saw in their communities, their beliefs about immigration were similar to those in their social milieu: these youth made a strong connection between undocumented status and being Latina/o. Thus, Alcalde argues, race matters; racism against Latinas/os is the norm rather than the exception for past and current generations.

The strong association between "illegality" and being Mexican or Latina/o produces a spillover effect that reaches Mexicans and other Latinas/os who hold lawful permanent residence, those who are naturalized, and even those who are U.S.-born. Because this association is predicated on characteristics socially attributed to Latinas/os as a group, the boundaries of illegality are blurry in practice, not only to the public but also to those who enforce immigration law. In practice, then, the category of illegality spills beyond the group that the law formally illegalizes and targets. As such, legal scholar Kevin Johnson has observed that Mexicans (and I would add Latinas/os who share phenotype with Mexican immigrants and speak Spanish or Mayan languages) "bear the brunt of race-based immigration enforcement, which also cuts to the core of their belonging to the national community."

García observed that regardless of their legal or generational status or the length of time they have lived in the United States, the women in her Houston-based study were often marked as undocumented. This spillover effect thus extends to a wide swath of the Latino population regardless of generation, nativity, or legal status. Although undocumented Latinas/os show the greatest concern about deportation, research has shown that (especially after Trump's election) 66 percent of Hispanic lawful permanent residents and 33 percent of U.S.-born Hispanics worry about their own deportation or that of a family member. In our study comparing perceptions of the police among Latinas/os of different legal and citizenship statuses in Chicago, Houston, Los Angeles, and Phoenix, we found that in a saturated enforcement context like Phoenix, Latinas/os are apprehensive of contacting the police regardless of their legal status. Similarly, in El Paso, Texas, researchers found that living in neighborhoods with Latina/o-associated characteristics increases the likelihood for third- and fourth-generation Latinas/os to be questioned about their citizenship status.

The racialization of illegality for Latinas/os is sustained among Latinas/os as well as through the racialization of legal status for non-Latinas/os. The racialization of "illegality" among Latinas/os is buttressed through distinctions of skin color and ethnicity, which strengthen a system of racial stratification within Latinas/os that can create conditions for within-Latinas/os exploitation. Thus, Herrera has challenged the "homogenization of Latinos as a single 'race.'" In his research among day laborers in California, he analyzes constructions of racialized difference between Guatemalan indigenous and nonindigenous laborers as *racialized illegality*. Indigenous Maya and nonindigenous migrants experience illegality differently, based on how they were racialized in their

country of origin. Indigenous Latina/o immigrants therefore face institutional and state discrimination as their nonindigenous counterparts do, but also experience an added layer of discrimination based on their indigeneity, which they also encounter from Latina/o peers.

Internal racism exacerbates experiences of illegality across Latino subgroups. For instance, ICE raids targeting Maya Guatemalans have pushed these immigrants to the bottom of the Latino social hierarchy in the community. Knowing that these Guatemalans are racialized as undocumented and thus targeted in the raids, other Latinas/os in the community sought to distance themselves from them to avoid falling onto ICE's radar. ICE enforcement and the racialization of Maya Guatemalans as undocumented can undermine community and intensify intraethnic divisions. Andrea Gómez Cervantes has argued against conventional associations of "illegality" with a homogenized Latina/o immigrant. In her research in Kansas, she found deep divisions within Latinas/os, among whom lighter skin can translate into legal protection, but "looking Mexican" or indigenous makes them vulnerable to immigration enforcement.

The racialization of "illegality" for Latinas/os is further reinforced by the racialization of legal status among other groups. For instance, among Asian immigrants, racialized legal status erases the association between "illegality" and being Asian, even as research indicates that Asians are the fastest growing undocumented racial group in the United States, with a six-fold increase since 1990 and with one in every six Asian immigrants having undocumented status in 2015.

In her comparative research on Korean and Mexican undocumented youth in Los Angeles, Esther Yoona Cho observes that undocumented Koreans face double racialization. Although they do not experience the daily fear of deportation that Mexicans and Latinas/os do because Koreans are not immediately suspected of illegality, undocumented Koreans conceal their status. As such, their prospects for engaging in coalitional relationships are diminished significantly, especially when they are unaware of other Asians in the same undocumented predicament. The racialization of legal status among Asians is based on "model minority" stereotypes that allow them to "pass" for "legal." Cho notes that Koreans struggle with "having to navigate the very palpable constraints of illegality, while being disassociated with illegality due to visible markers of being a model minority." And as undocumented Asians have become aware of the punitive enforcement practices directed at Latinas/os, some Asians "position themselves away" from Latinas/os, thus unwittingly reinforcing the "good immigrant – bad immigrant" dichotomy and posing challenges to organizing efforts for rights of the undocumented across immigrant groups.

Similarly, Caitlin Patler has found that variations in access to coethnic networks and knowing other students in similar statuses determine whether undocumented students will reveal their status. Latina/o undocumented students in her study were relatively open about their legal status, but this was not the case among undocumented Asian and Pacific Islander students and Black students, who reported feeling isolated and too scared or embarrassed to seek support from their friends. In addition, Asian American and Pacific Islander youth eligible for DACA (Deferred Action for Childhood Arrivals) experience *dual liminality*, positioned between model minority and marginalization both

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from mainstream society and from their coethnic communities based on their legal status.

Undocumented Asians suffer similar forms of exploitation as undocumented Latinas/os, including long working hours and reduced access to medical care, but their invisibility as undocumented (and racialization as documented) hurts coalition building efforts around undocumented workers' rights. Researchers have also found that assumptions of "legality" for Asians often prevent undocumented Asians from seeking social services for fear of outing their legal status. Thus, racialization of *legality*, in a context of extreme enforcement and hostility toward the undocumented, can also be harmful.

Ostensibly neutral immigration laws that illegalize certain immigrant groups, enforcement practices that target the same immigrant groups, media discourses that reify notions of the group as "quintessentially" undocumented, and social attitudes and perceptions that reinforce such narratives coalesce to produce the racialization of illegality. It is a relational, dynamic, and historically and context-specific process. This means that expressions of racialized illegality and targeted groups will vary across time and space, but the contours of the phenomenon will be present (and produce specific outcomes) because they are shaped by the existing racial hierarchy at a specific historical moment.

The Outlook On H-1B Visas And Immigration In 2025

F forbes.com/sites/stuartanderson/2025/01/07/the-outlook-on-h-1b-visas-and-immigration-in-2025/

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H-1B Visas And International Students Under Trump Immigration Policy

Observers await the first executive orders for more clues on H-1B visa policy in a second Trump administration. Donald Trump's first term saw record-high H-1B denial rates and Requests for Evidence until a legal settlement in 2020 ended what judges said were unlawful policies.

One difference in the second term is Donald Trump owes his victory in 2024, at least in part, to Elon Musk and other tech supporters who favor admitting more high-skilled foreign nationals and oppose government overregulation of businesses. In FY 2024, Musk's Tesla had 742 approved H-1B petitions for initial employment, doubling its FY 2023 total of 328. The company emerged as 16th among employers for approvals of H-1B petitions for initial employment in FY 2024 after never being in the top 25.

On December 28, 2024, Elon Musk defended himself against trolls and critics on X.com for his support of H-1B visas. X user Steven Mackey baited Musk by posting: "Stop trying to optimize something that shouldn't exist. Let's optimize H-1B." (Musk has used the "optimize" line before.) Musk responded: "The reason I'm in America along with so many critical people who built SpaceX, Tesla, and hundreds of other companies that made America strong is because of H-1B." To emphasize his point, he added part of a line from a movie: "Take a big step back and F–K YOURSELF in the face. I will go to war on this issue the likes of which you cannot possibly comprehend."

On the same day, Donald Trump told the *New York Post* in an interview: "I've always liked the visas, I have always been in favor of the visas. That's why we have them. I have many H-1B visas on my properties. I've been a believer in H-1B. I have used it many times. It's a great program."

Trump also told campaign donors on a podcast in June 2024 that he favored allowing international students who graduate from U.S. universities to obtain green cards without numerical limits. Observers will watch whether Stephen Miller, who returns to the White House, overrides the sentiments expressed by Musk and Trump and attempts to implement the same H-1B restrictions that courts blocked or which the Trump team failed to implement for other reasons in the first term.

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The Biden administration helped close one easy avenue to restrict H-1B visas by publishing a rule that takes effect before Inauguration Day. Failing to publish the final rule would have opened the door for the Trump administration to use the comments in the proposed rule to issue a regulation that inserted its priorities over those of Biden's team. While employers did not like all parts of the regulation, it was more tech-friendly and pro-immigration than H-1B policies during Donald Trump's first term.

Sen. Grassley (R-IA), the incoming Judiciary Committee chair, suggested he might talk to Sen. Durbin (D-IL) about increasing the number of "engineers and the professional-type people that are trying to get into the United States," according to *Politico*. It is difficult to evaluate such a statement since Grassley blocked the most promising opportunity in years for employers and high-skilled immigrants when he opposed including in the 2022 CHIPS and Science Act an exemption from employment-based green cards for many individuals with a Ph.D. or master's degree in science and engineering fields. Grassley and Durbin have introduced many bills to restrict H-1B visas.

Employers will watch what happens in other immigration areas. The Biden administration issued favorable guidance that increased approvals for O-1A visas and allowed more employment-based immigrants to qualify as individuals with extraordinary abilities. In December 2024, the State Department made it easier for many scientists and others to remain in the United States on J-1 visas. Restricting the ability of the spouses of H-1B visa holders to work in the United States was a first-term Trump administration target. The fate of domestic visa renewal also rests with incoming Trump officials.

International student policy remains intertwined with high-skilled immigration. During Donald Trump's first term, the Trump administration placed a rule to restrict Optional Practical Training on the regulatory agenda, but it did not publish the regulation. Rather than end OPT or STEM OPT, Trump officials could burden OPT with requirements that make it untenable for students and employers, which was the model with H-1B visas.

The Trump administration proposed restricting international students in several ways. A court blocked Trump officials from enacting policies on "unlawful presence" for students who fall out of immigration status. The Department of Homeland Security also published a proposed rule to limit study in the United States to a fixed admission period, which could have forced many international students to leave the United States.

After Stephen Miller argued for banning Chinese students from the United States, Trump officials narrowed the approach. The Biden administration maintained the visa restrictions against Chinese graduate students in science and technology fields who

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once attended universities with a connection to the Chinese military—even if there is no evidence the individual students presented a security concern. Trump officials could enact a broader ban on Chinese students in a second term.

DACA, Mass Deportation And The End Of Temporary Protected Status

Donald Trump's pledge to initiate a mass deportation of individuals and families without legal status could define his second-term immigration policy. The administration's plans to end the current priority on people with criminal backgrounds will allow it to pursue anyone in the United States unlawfully with equal intensity. If officials hope to achieve the highest number of deportations possible to claim success, targeting those easiest to find will be the natural bureaucratic tendency.

Immigration and Customs Enforcement may focus during the first two years on the approximately three million people whose legal status the Trump administration plans to remove. Ironically, these individuals won't be in the United States illegally until *after* Trump officials end their protection from deportation. Why will this group be a priority? ICE officials may believe they will be the easiest to find.

Over one million people have Temporary Protected Status that will expire in 2025 or 2026, according to the Congressional Research Service. The Trump administration may succeed in ending TPS earlier for several countries, including Haiti. Ending TPS or humanitarian parole for Afghans and Ukrainians would be controversial. Convincing the Venezuelan government to take back deported individuals will be challenging, and the situation in countries such as Haiti remains dangerous for returnees.

Economic studies have concluded that previous efforts to bar or deport immigrants from the United States have harmed U.S. workers and the economy. Such research did not cause Donald Trump to change his views or rhetoric on immigrants during the campaign.

The U.S. Supreme Court will likely rule on DACA or Deferred Action for Childhood Arrivals in 2025, which could end the program. Donald Trump said in a December 2024 interview with NBC that he was open to dealing with Democrats on legislation to protect Dreamers (i.e., young people without legal status brought to America by their parents). However, when he was president, White House Adviser Stephen Miller and allies in the Senate attached measures to legislation that Democrats considered poison pills, dooming any chance to help even a portion of Dreamers.

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Significant challenges would exist for any Dreamer legislation in 2025. Opinions differ on which individuals to help: Only the approximately 535,000 DACA recipients living in the United States or hundreds of thousands of additional individuals who could not gain access to DACA over the past several years for legal or other reasons? Another complication: Immigration opponents would likely attempt to leverage protection for Dreamers to gain reductions in legal immigration, changes to asylum eligibility or enact other measures.

Massive Spending On Immigration Enforcement And U.S. Mexico-Border Management

Republicans plan to pass a bill that would dwarf previous budgets by spending up to $120 billion on immigration enforcement. "It would go toward wall and border agents but also build out infrastructure at Immigration and Customs Enforcement for Trump's deportation efforts," reports *Axios*. If House and Senate Republicans are unified, which remains a significant question, the bill could pass on "reconciliation" if it focuses on spending and does not include substantive policy measures. Democrats would be unable to filibuster the bill in the Senate.

"Government spending on immigration enforcement has been ineffective in reducing illegal immigration," according to a National Foundation for American Policy analysis. "Research shows an overall lack of a correlation between illegal entry and the number of Border Patrol agents and immigration enforcement spending."

To pass the bill, Republican lawmakers will likely claim a crisis exists, although illegal entry is lower today than when Donald Trump left office in January 2021. History shows work visas and other legal pathways have been more effective in reducing illegal immigration.

The incoming Trump administration must rely on the Mexican government's help on the border. Analysts credit Mexico's assistance, combined with Biden's use of legal pathways and an executive order on asylum, for lowering illegal immigration levels. Despite this, Donald Trump threatened to impose high tariffs on goods from Mexico if the Mexican government did not do what its president said—and experts agree—it has been doing.

"You may not be aware that Mexico has developed a comprehensive policy to assist migrants from different parts of the world who cross our territory en route to the southern border of the United States," wrote Mexican President Claudia Sheinbaum in a letter to Trump. "As a result, and according to data from your country's Customs and Border

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Protection, encounters at the Mexico–United States border have decreased by 75% between December 2023 and November 2024. Moreover, half of those who arrive do so through a legally scheduled appointment under the United States' CBP One program."

The Mexican government cooperated with the Biden administration, in part because U.S. government officials allowed 30,000 individuals from Venezuela, Nicaragua, Cuba and Haiti to enter the United States monthly and obtain work authorization. That encouraged the Mexican government to accept a similar number of expelled persons from Venezuela, Nicaragua, Cuba and Haiti. Trump said he will end the humanitarian parole programs and no longer allow migrants to use the CBP One app to schedule appointments at the border. Mexico will decide whether to continue cooperating with the U.S. government at the same level.

Lowering Refugee Admissions: Another Form Of Immigration Restriction

During Donald Trump's first term, press reports indicate White House Adviser Stephen Miller was chiefly responsible for reducing refugee admissions to historically low levels. George Mason University economics professor Michael Clemens, in a study for the Center for Global Development, concluded, "Today there are roughly 295,000 refugees 'missing' from the U.S. population due to the 86% reduction in refugee resettlement starting in 2017—those who would be present now if refugee admissions during 2017–2021 had stayed at their 2016 levels." He estimated those "missing refugees" cost the overall U.S. economy over $9.1 billion each year and lowered government revenues by $2 billion a year.

The Biden administration rebuilt the refugee resettlement process, admitting over 100,000 refugees in FY 2024. Religious and human rights groups expect Stephen Miller, once back in the White House, will resume his efforts to prevent refugees from arriving in the United States, including suspending refugee resettlement programs on the first day.

A New Immigration Travel Ban And Executive Order On Birthright Citizenship

Donald Trump has pledged to issue an executive order to end birthright citizenship. Legal scholars argue a constitutional amendment would be needed to deny citizenship to children born on U.S. soil and that there is no evidence people come to America unlawfully because of birthright citizenship.

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Attempts to end birthright citizenship may result in legal confusion similar to the travel ban in the first term against people from primarily Muslim nations. Donald Trump has promised to bring back that travel ban in some form, which would prevent many individuals from joining U.S. relatives or employers in America. Attempting to end birthright citizenship could place the burden on U.S. citizen parents to prove their child was born to a legal resident. Analysts note it may be one more reminder that immigration restrictions are often restrictions on Americans.

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Table 1. Immigration Enforcement Record, FY 1993-2016

Year	Total Apprehensions	U.S. Mexico Border Apprehensions	Removals	Returns	Total Deportations
1993	1,327,261	1,212,886	42,542	1,243,410	1,285,952
1994	1,094,719	979,101	45,674	1,029,107	1,074,781
1995	1,394,554	1,271,390	50,924	1,313,764	1,364,688
1996	1,649,986	1,507,020	69,680	1,573,428	1,643,108
1997	1,536,520	1,368,707	114,432	1,440,684	1,555,116
1998	1,679,439	1,516,680	174,813	1,570,127	1,744,940
1999	1,714,035	1,537,000	183,114	1,574,863	1,757,977
2000	1,814,729	1,643,679	188,467	1,675,876	1,864,343
Totals for Clinton Administration	**12,211,243**	**11,036,463**	**869,646**	**11,421,259**	**12,290,905**
2001	1,387,486	1,235,718	189,026	1,349,371	1,538,397
2002	1,062,270	929,809	165,168	1,012,116	1,177,284
2003	1,046,422	905,065	211,098	945,294	1,156,392
2004	1,264,232	1,160,395	240,665	1,166,576	1,407,241
2005	1,291,065	1,189,031	246,431	1,096,920	1,343,351
2006	1,206,408	1,071,972	280,974	1,043,381	1,324,355
2007	960,673	858,638	319,382	891,390	1,210,772
2008	1,043,759	705,005	359,795	811,263	1,171,058
Totals for Bush Administration	**9,262,315**	**8,055,633**	**2,012,539**	**8,316,311**	**10,328,850**
2009	889,212	540,865	391,341	582,596	973,937
2010	796,587	447,731	381,738	474,195	855,933
2011	678,606	327,577	386,020	322,098	708,118
2012	671,327	356,873	416,324	230,360	646,684
2013	662,483	414,397	434,015	178,691	612,706
2014	679,996	479,371	407,075	163,245	570,320
2015	462,388	331,333	333,341	129,122	462,463
2016	530,250	408,870	344,354	106,600	450,954
Totals for Obama Administration	**5,370,849**	**3,307,017**	**3,094,208**	**2,186,907**	**5,281,115**

Notes: Beginning in fiscal year (FY) 2008, apprehensions include administrative arrests conducted by U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations.
Sources: Fiscal year (FY) 2003-15 data from Department of Homeland Security (DHS), *Yearbook of Immigration Statistics* (Washington, DC: DHS Office of Immigration Statistics, 2015), available online; FY 2016 data from DHS, "DHS Releases End of Year Fiscal Year 2016 Statistics" (press release, December 30, 2016), available online.

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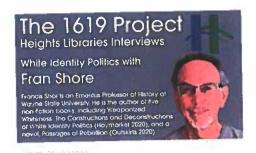# Unpacking Our History Interviews on the History of Immigration.

These interviews were conducted by John Piche' in support of the Unpacking Our History discussion group. Please consider watching to gain a better insight into the upcoming program.
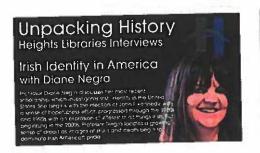

Amanda Frost: Citizenship Stripping

Diane Negra: Irish Identity in America

Cristina Beltran: Migrant Suffering and White Democracy

Reece Jones: Immigration as Racial Exclusion

Fran Shor: White Identity Politics

Sang Hea Kil: Covering the Border War

Click on the QR CODE to watch these video interviews or visit the Unpacking Our History website at unpacking.heightslibrary.org

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