

INEQUALITY IN A “POSTRACIAL” ERA

Race, Immigration, and Criminalization of Low-Wage Labor

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Abstract

Over the past four decades, increasingly punitive and enforcement-oriented U.S. immigration policies have been legitimized by a rhetoric of criminality that stigmatizes Latino immigrant workers and intensifies their exploitation. Simultaneously, there has been a sevenfold increase in the prison population in the United States, in which African Americans are eight times more likely to be jailed than Whites (Western 2006, p. 3). In this paper, I draw on scholarship in history and sociology, as well as my own anthropological research, to develop the argument that criminal justice policies and immigration policies together disempower low-wage U.S. labor and maintain categorical racial inequalities in a “postracial” United States. First, I review the historical role of race in U.S. immigration policy, and I consider the evidence for systemic racism in immigration enforcement in the contemporary period. Second, I discuss criminal legislation in the neoliberal era and examine the ways in which criminal legislation and immigration policies together disempower large segments of the U.S. workforce, satisfying employer demands for low cost and pliant labor. Finally, I argue that a political focus on immigrant workers’ “illegality” masks the role of the state in (re)defining the legal status of low-wage workers and veils the ways in which punitive policies maintain historical racial and class inequalities.

Keywords: Undocumented Immigrants, Incarceration, Racialization, Neoliberalism, Racism, Immigration Policy

INTRODUCTION

In 1965, at the height of the Civil Rights Movement in the United States, landmark immigration legislation was passed. Popularly known as the Hart-Celler Act, the Immigration and Nationality Act of 1965 equalized the national origins quota system that had allocated 84% of visas to immigrants from northern and western Europe since 1924 (Ngai 2004). Passage of the Hart-Celler Act was celebrated as the dawn of

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a new era in U.S. immigration policy—one that moved away from the explicitly race-based immigration policies of the past. Although the Hart-Celler Act was immigration legislation, it was widely considered to be an extension of civil rights legislation. In 1964 and 1965, the U.S. Congress passed other landmark reforms, including the Civil Rights Act and the Voting Rights Act, that promised to set the United States on a firm path toward greater racial equality and social justice in its domestic and international relations.

More than four decades later, this promise remains largely unfulfilled. In fact, the circumstances of working-class minorities in the United States are, arguably, worse than before. While many advantaged African American workers did attain access to the middle and even upper classes following the Civil Rights Movement, the economic circumstances of many African Americans have deteriorated since 1970 (Massey and Denton, 1993; Wilson 1987; Wise 2009). For example, a 2007 study by The Brookings Institute found that adjusted incomes of African American men were lower in 2004 than in 1974, and most middle-class African American children fare worse than their parents financially, with almost half falling to the bottom of income distribution (Isaacs 2007). African American and Latino youth of today are also more likely to be incarcerated than their parents or grandparents were before the Civil Rights Movement (Perkinson 2010). There was a sevenfold increase in the U.S. prison population between 1970 and 2003, in which African Americans were eight times more likely—and Latinos three times more likely—to be incarcerated than Whites (Western 2006). Simultaneously, U.S. immigration policies imposed historic restrictions on immigration from Latin America while the demand for immigrant workers has persisted (and Latin American nations have been rocked by crisis), and the unauthorized immigrant population of the United States—nearly three-quarters of which is from Latin America—has skyrocketed. In fact, it is estimated that the number of unauthorized immigrants in the United States more than tripled between 1980 and 2005, and at least eleven million people currently live in the United States without legal authorization (Passel 2006; Passel and Cohn, 2011). In all, there are more than twenty million people in the United States who are categorized as “illegal” or “criminal” and denied access to political enfranchisement and economic security. The vast majority of them are also racial minorities.

What happened? Why has the undocumented population of the United States jumped at the same historical moment that the incarcerated population rose dramatically? How can we explain widespread degradation in the sociopolitical status of minorities in the United States, and what does it have to do with capitalist labor practices? What is the best way to understand the relationship between Latino immigrant workers and low-wage African American workers more broadly? Is it best characterized by competition and antagonism or by shared experiences of racialized marginalization? Finally, what do the experiences of African Americans and Latino immigrants say about the nature of racial inequality in a “postracial” United States?

This paper brings together threads from disciplines throughout the social sciences, with an emphasis on history, sociology, and my own anthropological research, to explore these questions and pose some tentative answers. The analysis presented here has developed during my ethnographic research with unauthorized Mexican immigrants in the Chicago area and has been informed by interviews with undocumented workers and labor rights organizers which I have conducted over the past five years. This analysis has also been informed by my experiences as a lifelong resident of Chicago’s South Side and by long-standing concern about how to best understand the interaction of racism and labor relations in a period of heightened repression. This essay is divided into five main sections. First, I briefly review the

historical role of race in U.S. immigration policy, then consider the evidence for systemic racism in immigration enforcement in the contemporary period. Second, I review criminal legislation in the neoliberal era and, drawing on ethnographic research, discuss the ways in which criminal legislation and immigration policies have disempowered large segments of the U.S. workforce. In the remaining sections, I develop the argument that criminal justice policies and immigration policies together maintain historical racial inequalities in a "postracial" United States.

Ultimately, I argue that criminalization and illegalization increasingly serve much of the same function that racism has historically served in the United States—rendering certain workers at once more vulnerable to oppressive labor practices and justifying such oppression with a rhetoric of moral inferiority. While race and racism continue to preserve inequality, race is rarely invoked to justify inequality in formal political rhetoric. In an "Obama Era," in which the United States is promoting itself as a nation of racial inclusion, the overtly racist tones of political discourse on labor are veiled, and illegality and criminality have become the legitimate bases for exclusion and oppression.

RACE AND RACISM IN U.S. IMMIGRATION POLICY

The Hart-Celler Act of 1965 was not the first piece of immigration legislation that had concerns about race as its political centerpiece. In fact, the racial characteristics of new immigrants and fears about the racial makeup of the United States have been at the heart of U.S. immigration and citizenship policies from the very beginning (Chacon and Davis, 2006; Nakano Glenn 2002; Ngai 2004). The earliest U.S. policy that established rules for citizenship, the Naturalization Act of 1790, limited citizenship to "free white persons" of "good moral character," excluding slaves and free African Americans, as well as Native Americans and Asians. African Americans were only granted access to citizenship by the Fourteenth Amendment to the U.S. Constitution, passed in 1868, which established the principle of birthright citizenship. And although the Fourteenth Amendment officially extended citizenship rights to U.S.-born Blacks, many African Americans were prevented from exercising their citizenship rights until the 1960s, while Native Americans and Asians were considered racially ineligible for citizenship until 1954 (Nakano Glenn 2002).

The first restrictions on immigration to the United States were closely tied to these racial concerns about citizenship and were implemented in response to anti-Chinese sentiment in the late nineteenth century (Chacon and Davis, 2006; Nakano Glenn 2002). Congress passed the Chinese Exclusion Act, which barred the immigration of Chinese, in 1882, then in 1917 barred the immigration of all Asians from Afghanistan east through Japan (Ngai 2004). The foundation of current U.S. immigration policy, the national origins quota system, was established with the Immigration Act of 1924. The primary targets of the 1924 Act were eastern and southern European laborers who were considered biologically "degenerate" and trouble-makers to boot; thus the quota system allotted visas based on the nationality of U.S. citizens according to the 1890 Census, prior to mass immigration of southern and eastern Europeans (Ngai 2004). Moreover, the entire non-White population of the United States was excluded from the data on which the quota system was based; thus 84% of visa quotas were granted to nations in northern and western Europe, "preserving" the desired racial constitution of the United States (Ngai 2004). Notably, Latin American immigrants were exempted from numerical restriction under the 1924 Act in order to satisfy agricultural labor demands in the U.S. Southwest (Gutierrez 1995; Ngai 2004).

As immigration from Asia and southern and eastern Europe continued to be restricted throughout the first half of the twentieth century, the United States came to rely ever more heavily on labor importation from Latin America, and from Mexico in particular. This reliance was accelerated by World War II, when the working male population of the United States was drastically reduced at the same time that productive output of war materials needed to increase. To help fill labor shortages, women and African American workers were recruited to work in industry throughout the north, and Mexican workers were imported en masse to the U.S. Southwest, where they harvested the food that would sustain industrial workers and the families of soldiers abroad. To ensure an unhindered labor supply, the United States and Mexico signed a binational treaty in 1942 that came to be known as The Bracero Program. The Bracero Program was a contract worker program that brought an estimated five million workers from Mexico to labor in the agricultural fields, construction sites, and factories across the southwestern United States and in cities such as Chicago (De Genova and Ramos-Zayas, 2003). Much as the Jim Crow system legalized racial segregation of African Americans throughout the southern United States, Mexicans and Mexican Americans in the Southwest were segregated from Whites in housing, education, and public facilities (Gutierrez 1995; Menchaca and Valencia, 1990).

The Bracero Program ended in 1964; in 1965 the Hart-Celler Act equalized the national origins quota system and subjected transmigrants from Mexico and other Latin American countries to numerical restriction for the first time ever. Over the next fifteen years, the number of visas available to Latin American workers was reduced from an unlimited number to just 20,000 per country per year (Nakano Glenn 2002). These restrictions on legal immigration, in conjunction with the interrelationships established during the Bracero Program and instability fomented by globalization, rapidly pushed the prevalence of unauthorized immigration from Latin America to the United States skyward.

Since the Hart-Celler Act, race has all but disappeared from immigration policy discussions, while the category of “illegal immigrant” has become ever more salient. In 1986, the United States passed the first immigration bill that targeted illegal immigration: the Immigration Reform and Control Act, or IRCA. IRCA made the employment of unauthorized immigrants illegal for the first time, though provisions in the law largely protected employers from prosecution (Calavita 1994; Massey et al., 2002). IRCA doubled funding for the Border Patrol, but also included an amnesty provision through which some 2.7 million unauthorized people adjusted their status (Calavita 1994; Meyers 2005; Rytina 2002). A decade later, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996 made it much more difficult for unauthorized people in the United States to adjust their immigration status as it facilitated deportation of legal permanent residents. Since 1996, the rate of deportation of noncitizens (which includes legal permanent residents with criminal convictions) has increased nearly eightfold, from 50,924 in 1995 to 393,289 in 2009 (U. S. Department of Homeland Security 2011).

The 1990s also marked a major shift toward militarization of the United States–Mexico border. The U. S. Border Patrol built miles of steel fencing, new roads, and lighting along the border that was guarded with hundreds of new agents and high tech detection systems (Meyers 2005). Throughout the 1990s, a series of highly publicized “operations” on the border, of which the 1994 Operation Gatekeeper is the most notorious, made unauthorized border crossings more deadly as they simultaneously boosted a popular public image of the “illegal Mexican immigrant” (Chacon and Davis, 2006; De Genova 2005; Massey et al., 2002).

The attacks on the World Trade Center and the Pentagon on September 11, 2001, in conjunction with the current economic crisis, have pushed immigration rhetoric further to the right, and U.S. immigration policies have taken a decided enforcement-oriented turn in the last decade. In 2003, immigration enforcement came under the auspices of the Department of Homeland Security (DHS) and its Immigration and Customs Enforcement division (ICE), signaling a broader shift toward the association of unauthorized migration with terrorism and the criminalization of unauthorized immigrants. Since then, immigration enforcement has become more aggressive and has expanded at both national and local levels, with interior enforcement roughly quadrupling from 2005 to 2010 alone (Heyman 2010).

In spite of ICE's official stance condemning racial profiling (U. S. Customs and Immigration Enforcement 2011), emerging ethnographic evidence indicates that there is systemic racism in immigration enforcement. In particular, Afro Caribbeans and Latinos are especially likely to be targeted by immigration enforcement measures and deported from the United States (Fussell Forthcoming; Golash-Boza 2012; Hoyt 2011). For example, ethnographic research by Joe Heyman (2001) demonstrates that INS (now ICE) agents at the United States–Mexico border use stereotypes to classify immigrants into categories of offenders. Heyman reports, "An INS investigator (a former Border Patrol officer) spoke of 'Jose Mexican, I mean Jose alien' to represent a humble, hard-working, nonviolent, but illegal immigrant. Certain other nationalities are supposed to be more dangerous. The same officer said about criminal aliens, 'tell me the nationality, I'll tell you the crime'" (p. 131).

Nationwide, immigrants from Latin America make up about 75% of the total unauthorized immigrant population, but they have accounted for over 90% of deportees since 2000 (Fussell Forthcoming; U. S. Department of Homeland Security 2009). Mexicans make up 59% of the unauthorized U.S. population, but have constituted between 65–80% of deportees each year between 2000 and 2009 (Fussell Forthcoming; Passel and Cohn, 2009). Tanya Golash-Boza (2012) found that Central American immigrants are many times more likely to be deported than Asians, who make up just under a quarter of the unauthorized population; she reports that unauthorized Hondurans have a 10% chance of being deported and unauthorized Guatemalans have a 5% chance; in contrast, unauthorized Vietnamese, Koreans, Filipinos, Indians, and Chinese all have less than a 1% chance of being deported (p. 89). Golash-Boza concludes that immigration enforcement especially targets Afro Caribbean petty drug dealers and unauthorized Latinos with "immigration agents us[ing] racial profiling to deport as many people as possible" (p. 83).

Studies of local immigration enforcement practices have also found evidence of racial profiling. One study conducted in Irving, Texas by the Chief Justice Earl Warren Institute found that, following the 2006 establishment of a partnership between local law enforcement and ICE, arrests of Latinos for minor offenses, particularly traffic violations, increased markedly. The study also found that local police arrested Latinos for misdemeanor offenses in significantly higher numbers than they arrested Whites and African Americans. The authors conclude that there is "strong evidence" to support the charge that local law enforcement officials used racial profiling of Latinos in order to screen them for immigration violations (Gardner and Kohli, 2009).

In McHenry County, Illinois, a 2011 *Chicago Tribune* investigation found that county police officers were misreporting the race of people they stopped in order to hide widespread racial profiling and detention of Latinos. The *Tribune* analysis showed that in 2009, one in three Latinos was either mislabeled as White or omitted from department data altogether; if included, the department's official rate of minority stops would have been 65% higher than in nearby Chicago (Mahr and

McCoppin, 2009). Since McHenry County is one of several Illinois counties enrolled in ICE's Secure Communities program, anyone who is arrested by county police is automatically run through the DHS database; if there is a "hit," that person may be detained and taken into custody by ICE, regardless of whether he or she is ultimately convicted of any crime. Thus, disproportionate arrests of Latinos in McHenry County increases their chance of deportation relative to other immigrant groups.

Perhaps the most well-known argument regarding racial profiling in immigration enforcement has occurred in the debates surrounding Arizona's SB 1070. The controversial centerpiece of SB 1070 requires police throughout Arizona to investigate the immigration status of anyone they have "reasonable suspicion" of being undocumented, but it leaves open how "reasonable suspicion" of a person's immigration status will be determined. Supporters of the bill assured the public that skin color would not be a determining factor and that police would be trained to look at other characteristics, such as clothing and nonverbal behaviors, that are putatively indicative of unauthorized status. These assurances brought derision from the bill's critics, who argued that race would become the *de facto* criterion for questioning by police (Golash-Boza 2012; Heyman 2010). The U.S. Supreme Court ultimately struck down many of the provisions of SB 1070 but allowed the "show me your papers" provision to stand, and the proliferation of "copycat" legislation in states across the country ensures the continuation of heated debates about racial profiling in immigration enforcement.

In fact, a "Mexican appearance" has been grounds for detention by immigration authorities in the past (for example, in sweeps during the Great Depression and in 1954's Operation Wetback; Gutierrez 1995), and it continues to be a predictor of a person's likelihood of detention and deportation, as shown above. In wider society, criminalization of Latinos and accompanying anti-immigrant sentiment has led to a rise in discrimination and hate crimes against Latinos (Chavez 2008). Surveys of Latinos in 2006 reported that the majority (54–76%) perceive an increase in discrimination as a result of immigration policy debates (Campo-Flores 2006; Suro and Escobar, 2006). Federal crime statistics indicate that these perceptions are well-founded: attacks on Latinos in the United States surged 40% from 2003 to 2007 (Urbina 2009). In all, these studies confirm that popular imaginaries of the prototypical "illegal immigrant" map onto a Latino phenotype, converting Latinos throughout the United States into racialized targets of immigration enforcement measures.

Another controversial provision of SB 1070 would have converted unauthorized presence in Arizona from a civil violation to a criminal one. The criminalization of immigrants from Latin America has been a signal feature of immigration policy in the neoliberal era and is reflected in the conflation of unauthorized immigration with a threat to national security and personal safety. This is especially visible in the rhetoric surrounding immigration enforcement—the phrase "Secure Communities" has become code for punitive immigration enforcement—and in the heightened militarization of the U.S.-Mexico border. But Latino immigrants in the United States are not the only targets of punitive legislation; in fact, the number of U.S. citizens under the control of the criminal justice system has skyrocketed in the last four decades, with African Americans eight times more likely to be jailed than Whites (Western 2006, p. 3).

"THE CARCERAL STATE": RACIAL CASTE IN "POSTRACIAL" AMERICA

Between 1970 and 2003, the incarcerated population of the United States grew sevenfold, climbing to its highest rate in history of 2.1 million inmates on any given

day (Western 2006, p. 13). When those on parole, house arrest, probation, or in immigrant detention centers are factored in, the number of people under the control of the U.S. criminal justice system climbs to about seven million (Richie 2011). Current incarceration rates not only overtake historical U.S. averages, but far exceed those of other industrialized nations in the world. U.S. incarceration rates are more than five times greater than those of Great Britain, which has the highest rate in Western Europe, and are higher than the incarceration rates of Iran, Russia, and apartheid-era South Africa (Richie 2011; Western 2006, pp. 14–15). This boom in the prison population has converted the United States into what Beth Richie (2011) calls, "the most extreme prison nation on earth" and what Roger Lancaster (2009) has dubbed "a carceral state" (p. 63).

Not every U.S. resident has an equally likely chance of spending time in prison. More than 90% of U.S. prisoners are men, and about two-thirds of state prisoners are African American or Latino, though together they comprise less than one-third of the overall U.S. population (Western 2006, p. 16). It would be hard to overestimate the impact of mass incarceration on poor communities of color; by 2000, more than 3% of Latino men and almost 8% of African American men of working age were incarcerated (p. 16). Nearly 60% of African American men who drop out of high school spend time in prison by their thirty-fourth birthday, and African American men in the United States are more likely to be imprisoned than to graduate from college or serve in the military (p. 29).

Scholars of African American studies have argued that mass incarceration is but the most recent incarnation of a long-term pattern of reversals in the wake of civil rights gains for African Americans (Alexander 2010; Richie 2011). The roots of mass incarceration of African Americans took hold during the Reconstruction Era, when the Black codes and newly passed vagrancy laws were used as a pretext to return former slaves across the U.S. South to plantation work as wards of the state. Incarceration of African Americans during Reconstruction thus helped to reproduce a cheap labor force that Southern plantation owners had been denied as a result of emancipation. Michelle Alexander (2010) writes that the enforcement of these laws, "opened up an enormous market for convict leasing, in which prisoners were contracted out as laborers to the highest private bidder" (p. 31). Laws that especially targeted African Americans laid the ground for the Jim Crow era, during which African Americans were subjected to legal discrimination throughout the U.S. South.

Just as African Americans were poised to reap the benefits of the Civil Rights Movement, the seeds of mass incarceration in the neoliberal period were being planted (Alexander 2010; Wise 2009). As conservative political strategists realized that they could win votes by playing on the racist fears of their White constituents, they adjusted their political rhetoric to mask explicitly racist agendas and adopted a "law and order" platform that implicitly targeted African Americans. In an oft-cited quote, Nixon's Chief of Staff H.R. Haldeman wrote, "[President Nixon] emphasized that you have to face the fact that the whole problem is really the blacks. The key is to devise a system that recognizes this while not appearing to" (Alexander 2010, p. 43; Parenti 2008, p. 12; Perkinson 2010, p. 297). That system, the "war on drugs," was the foundation for mass incarceration of people of color during the 1970s and 1980s.

Ironically, according to Bruce Western (2006) and Michelle Alexander (2010), drug use was declining when the war on drugs was declared and conservative legislators introduced mandatory prison terms, longer sentences, and increased penalties for narcotics violations (Alexander 2010; Western 2006). Federal drug prosecutions rose 99% between 1982 and 1988 alone (Perkinson 2010, p. 335), and 45% of the increase in the state penal system is accounted for by the rise in incarceration rates of

drug offenders (Western 2006, p. 44). African Americans are nearly twice as likely to go to jail for drug offenses as Whites, though they use drugs at a slightly lower rate (Western 2006; Wise 2009).

Interestingly, the war on drugs also had benefits for immigration enforcement, as the Immigration and Naturalization Service (INS) received increased funding for equipment and personnel (Meyers 2005). As communities of color are disproportionately policed, immigrants who are racialized as Black—such as Afro Caribbeans—are particularly likely to be caught up in the drug enforcement dragnet and deported as a result (Golash-Boza 2012). For noncitizens with criminal convictions, the majority of them drug-related, deportations have increased 56% over the last ten years (since 2000), reaching 128,345 in the year 2009 (U. S. Department of Homeland Security 2011).

As the “war on drugs” has been eclipsed by the “war on terror,” the number of immigrants in detention has risen at an even faster rate than that of the general incarcerated population. Immigrant detention centers have more than tripled since 1996 and have doubled since 2005 alone (Detention Watch Network). Funds for detention and removal rose from \$192 million to \$1.6 billion annually between 1985 and 2002, and funds for interior enforcement have grown eightfold since 1985 (Dixon and Gelatt, 2005; Heyman 2010). Strong parallels between the growth of the “prison industrial complex” and the “immigration industrial complex” have been noted by Tanya Golash-Boza (2009), who argues that both systems persistently fail to achieve their stated goals but have resulted in massive human rights violations of poor people of color.

RACE, CRIMINALIZATION, AND DISEMPOWERMENT OF LOW-WAGE WORKERS

These sociopolitical trends have important implications for the U.S. labor market. Undocumented Mexican immigrants in the United States have consistently high labor force participation rates—higher, in fact, than native-born Americans. This discrepancy is particularly pronounced between Mexican immigrant men and African American men. As of 2008, the labor force participation rate for African American males was 66.7%, while that for undocumented Mexican males was estimated to be 94% (De Genova and Ramos-Zayas, 2003; Mehta et al., 2002; Passel and Cohn, 2009; U. S. Bureau of Labor Statistics 2009). Among workers who are in the labor force, Latino immigrants, both documented and undocumented, have higher employment rates than African Americans (Kochhar 2009, 2010; U. S. Bureau of Labor Statistics 2011). In fact, the foreign-born population of the United States actually gained jobs between June 2009 and June 2010, while the native-born population lost them (Kochhar 2009, 2010).

This has led many antiracist scholars to conclude that, in spite of landmark civil rights legislation, African Americans have continued to face discrimination in the job market even when there are jobs to be had. Some scholars (e.g., Steinberg 2001, 2006; Swain 2007) have thus argued that justice for African Americans, in the form of full economic integration in the labor force, will only be realized by restricting immigration and tightening the labor supply—in effect forcing employers to hire African American workers.

But an interpretation that attributes employment discrimination against African American workers to racism alone glosses over the economic dimension of the subjugation of U.S. minorities. While persistent, personal anti-Black racism against African Americans is one proximate cause for their continued exclusion from the labor market, employers’ “racial preferences” also have a structural dimension: the

appeal of an intensely powerless workforce. As Steinberg (2001) argues so eloquently, racism is not reducible to personal or social beliefs that are independent of the broader social, political, and economic context in which they take shape. In fact, preferential hiring of immigrants over Blacks is not due to racism alone, but to a "clear preference for foreign workers who are more pliable and exploitable, *especially if they are undocumented*" (p. 193; emphasis added). Exploitability of workers increases profits; although foreign-born workers have gained jobs since June 2009, they have also experienced a decline in wages, with Latino immigrants experiencing the largest drop of all (Kochhar 2010).

In fact, employers routinely and consistently express a preference for immigrant workers precisely because of their exploitability (Gomberg-Muñoz 2011; Neckerman and Kirschenman, 1991). Waldinger and Lichter (2003) report that one employer bluntly put it "[I]mmigrant men are going to work much harder and take more crap than any black man . . . will take" (p. 177). One restaurant manager told me that undocumented employees are preferred workers because they will "do whatever you ask," while another admitted that, "If [the immigrant employees] had papers they might not be such hard workers." Undocumented workers are acutely aware of their vulnerability and acknowledge that they are less likely to complain about low wages and poor working conditions than citizen workers with full rights. As one worker explained, "The bosses know you don't have papers and they use it. That's why they pay you what they pay you, because you cannot ask for more money. They would be like, 'How can we give you more money? You have no papers.'"

The vulnerability of undocumented workers translates into enhanced profits for the companies that employ them. One Chicago area study by the Center for Urban Economic Development at the University of Illinois at Chicago found that, all else being equal, undocumented Latin American men are paid 22% less than their documented counterparts, and undocumented Latin American women are paid 36% less (Mehta et al., 2002). Importantly, the study also found that undocumented Eastern European men—who are racialized as White—do not experience wage penalties as a result of their illegal status; this is a further indication that race is an important dimension of the exploitation of undocumented Latino workers. Even with higher levels of education, English proficiency, and many years of work experience in the United States, undocumented workers from Latin America are paid significantly less than legal workers in the same jobs (Mehta et al., 2002). Moreover, undocumented workers are far more likely to experience unsafe working conditions, wage theft, and discrimination on the job than workers with legal status (Fussell Forthcoming; Mehta et al., 2002; Romero [1992] 2002).

Tellingly, immigrant workers who struggle against their vulnerability by organizing for better wages and working conditions may be particularly targeted for immigration enforcement at the behest of their bosses (Gomberg-Muñoz and Nussbaum-Barberena, 2011; Zolniski 2006). For example, at one hotel in Chicago's northern suburbs, management fired all of the unionized Latino employees in 2010 and replaced them with nonunionized workers. Even though many of the workers are undocumented, they enlisted the support of their union and fought back. The workers won their petition with the National Labor Relations Board and the hotel was forced to rehire them; however, human resources checked the rehired workers' documents through E-Verify, and the undocumented employees were not able to regain their jobs.

This is indicative of a broader trend. Massey and Gelatt (2010) show that since 1970, the wages of Mexican immigrants have fallen steadily compared to wages earned by Mexican Americans and non-Hispanic Whites in the United States. The authors argue that this drop is due to a shift in political economic policy that has undermined

the labor rights of Mexican immigrant workers by criminalizing the undocumented. In recent years, a combination of border militarization and anti-immigrant policies has not reduced the flow of labor migration, but has “illegalized” it, legitimizing exploitation of immigrant workers by making access to political, economic, and social resources a right of citizenship. As Steinberg (2001) writes, if one “lesson of history is that blacks have overcome racist barriers in the occupational world only during periods when labor has been in tight supply” (p. 186), another lesson of history is that U.S. political policy is geared toward expanding vulnerable labor reserves, both immigrant and citizen. Legislation that criminalizes immigrants serves this end, as do policies that have incorporated racial minority males en masse into the criminal justice system.

If illegal status of immigrant workers results in their exclusion from the political process in conjunction with a high degree of employment, then criminal status of many African American men results in their exclusion from the political process in conjunction with a low degree of employment after release (Alexander 2010; Richie 2011; Western 2006). Michelle Alexander (2010) reports that a study by the Vera Institute found that, “people consistently were more preoccupied with finding work than anything else” in the first month following their release from prison (p. 145). Ex-prisoners’ worries about finding work are understandable: their parole conditions often require them to be working. One study of state parole agencies found that forty of the fifty states required parolees to “maintain gainful employment;” their joblessness could mean a return to prison (Alexander 2010, p. 145). As a result, ex-prisoners are very likely to be actively searching for work, but they have significantly lower employment rates than those who have never been incarcerated (Western 2006, p. 119). Not only are people who are convicted of a felony barred from certain jobs, they are subject to employment discrimination when they apply for the jobs that they do qualify for (Alexander 2010; Western 2006). For ex-prisoners who are able to find employment, a recent report by Lyons and Pettit (2011) found that the wages of African American ex-inmates grow at a 21% slower rate than those of White ex-inmates, indicating that lifelong economic effects of imprisonment after release are especially pronounced for African Americans.

AFTER THE RAIDS

As employers are increasingly hesitant to fill their rolls with unauthorized workers as a result of heightened immigration enforcement, the use of prisoners, probationers, refugees, guest workers, and other especially vulnerable workers is on the rise. Bruce Farely, manager of the business development unit of Arizona Correctional Industries (ACI) says that ACI is “contacted almost daily” by companies that “are looking to inmate labor as a possible alternative” to undocumented labor (Hill 2007, p. 1). Labor shortages in the agricultural sector brought on by a reduction of the undocumented labor force have led growers to seek prison labor in Arizona, Colorado, and Idaho (Battey 2007; Univision.com 2009). In 2011, Georgia Governor Nathan Deal said that filling available jobs with people on criminal probation is “a great partial solution” to labor shortages in the agricultural sector that are the result of restrictive immigration policy (Shoichet 2011). In Washington state, an agricultural company applied to import guest workers from Mexico after losing hundreds of undocumented employees to ICE audits (Preston 2010). Following a 2008 immigration raid of a meat-processing plant in Postville, Iowa in which nearly 400 workers were arrested and deported, the plant hired homeless people, former drug addicts, and ex-prisoners to replace its undocumented workforce (Grey et al., 2009). According

to anthropologist Mark Grey (2011), the high turnover of the new workforce led the Postville plant to subsequently recruit Somali and Burmese refugees, who now make up a large proportion of the plant's workforce.

Accelerated immigration enforcement may thus be a boon to the employment prospects of other workers, but not of an empowered minority working-class, as Steinberg and others hope. In one telling example, a poultry-processing plant in Georgia lost two-thirds of its workforce in the aftermath of a 2006 immigration raid. In response, the plant raised wages and recruited local African American workers to fill newly available jobs—a move that was initially touted as proof that labor shortages brought about by immigration enforcement would be a boon to African American workers. But the honeymoon was short-lived; the new workforce expressed concerns about dangerous work conditions and questionable labor practices at the plant, leading one manager to conclude that they simply "do not want to work." Rather than improve conditions and raise wages further, plant managers found new sources of pliant labor. They replaced their workforce once again—this time with prison workers, Hmong refugees, and homeless people (Perez and Dade, 2007). It seems that for plant managers, "wanting to work" means either tolerating poor working conditions or being powerless to do anything about them. The common denominator of a workforce composed of undocumented immigrants, refugees, prisoners, probationers, homeless people, guest workers, and drug addicts is a profound vulnerability that can easily translate into a "willingness" to do low wage, dangerous, or socially degraded work.

In all, the argument that immigration should be restricted in order to improve the prospects of native-born Americans, and African Americans in particular, rests on the assumption that restrictive immigration policies will expand job opportunities for citizens and result in an improved quality of life for them. There may be a measure of truth in this. Grey (2011) reports that some meatpacking plants in Iowa have recently raised wages to upwards of \$15 per hour, and local workers are filling the available jobs. Some of these plants are even recruiting African Americans from Chicago who have been displaced by the large scale destruction of Chicago's public housing projects (Grey 2011). But plants with relatively high production costs are not likely to successfully compete in a capitalist marketplace, and relatively powerless, desperate, and/or stigmatized workers are a labor force of choice for many low-wage U.S. employers.

Thus far, restrictive immigration policies have not led to economic empowerment of African Americans, and much less to the amelioration of institutionalized racism. In fact, anti-immigrant policy exacerbates racism and gives it fresh life. Moreover, rhetoric that criminalizes Latino immigrants is mutually supported by rhetoric that criminalizes African American males.

"CRIMINALS" AND "ILLEGALS": NEW FACES OF CATEGORICAL INEQUALITY

In addition to disempowerment, the illegalization of immigrants from Latin America and the criminalization of African American men have another important thing in common: they subject members of each group, as well as their broader communities, to profound stigmatization. Like racism, the assignment of criminal status to a broad segment of the non-White population is a double-edged sword that at once reinforces existing inequality and legitimizes it with a rhetoric of inherent immorality. As Beth Richie argued in a 2011 talk, criminalizing rhetoric divides people into "worthy" and "unworthy," stripping the "unworthy" of claims to rights and resources. Richie (2011) said:

The ideological power behind mass incarceration has to do with outlawing mass numbers of people and expanding the categories of illegal behavior. Immigrants are the next logical group; but the same strategy of oppression could be used on queer people, on activists, on farmers, on whoever is vulnerable. This forces people to say, “I stand with people who have committed crimes,” creating an “us” and “them” mentality.

The idea that “criminal” actions render some workers undeserving of rights has a correlate even in academic scholarship. For example, in her 2007 anthology *Debating Immigration*, Carol Swain wrote, “Most illegal immigrants have willingly left their homelands. . . . They were not brought here in chains. They made a decision to enter another country without a formal invitation or entry visa” (p. 9). Swain thus attributes mass undocumented migration to immigrants’ “willing” decisions and uses this argument to dismiss their “moral claims” to civil rights (p. 9). But Swain’s argument, which reduces complicated phenomena to the personal or collective responsibility of the marginalized, glosses over the fact that, like mass incarceration, mass unauthorized migration is predicated on three conditions: the first consists of the actions of individuals, the second is the broader sociopolitical and economic contexts in which these actions take place, and the third is the body of laws that characterize them as illegal. Expansion of the global economy and changes in criminal justice and immigration legislation better account for increasing numbers of “illegals” and “criminals” than reductionist ideas about personal responsibility.

Moreover, the argument that immigration should be restricted so as to improve the financial prospects of American citizens obscures the political construction of borders and immigration categories, naturalizing the idea that immigration status is a good indicator of who is or is not deserving of resources. But U.S. immigration policy is not devised by god, nature, or magic. Rather, like all law, it is social policy that develops from a particular history and is subject to change. In addition, mass criminalization of immigrants and citizens only erodes the organizing power of the wider U.S. workforce, suppressing living standards in a domestic “race to the bottom.”

In all, unauthorized immigrants and those under the control of the criminal justice system have several important things in common. First, they are disproportionately composed of working-poor minority males. Second, they are excluded from many political rights in the United States. Third, as a labor force, they are underpaid, largely unable to organize for better wages and working conditions, and have limited access to other employment opportunities. Fourth, they are denied access to most public services, making them especially dependent on work. Fifth, they are profoundly stigmatized and held personally responsible for their political, social, and economic marginality.

As the global economic crisis deepens, all U.S. workers are feeling the squeeze, and communities of color have been especially affected (see Tavernise 2011). Because a cornerstone of U.S. hegemony is its identity as a “postracial” nation of equal opportunity, widespread and persistent racial inequality presents a challenge to U.S. hegemony and threatens its legitimacy. To make sense of racial inequalities in a “postracial” era, U.S. political discourse has increasingly emphasized non-White workers’ “illegality” and “criminality,” masking the role of the state in (re)defining the legal status of low-wage workers and veiling the ways in which legal classifications maintain historical racial and class inequalities.

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