

John S.W. Park. *Immigration Law and Society*. Medford: Polity Press, 2018. 213 pp. Paperback. ISBN-13: 978-1-5095-0600-2

This book gives a brief history of immigration in American society and offers commentary on the differing social, political, economic, and other factors that went into the formation of our immigration law, with a focus on the forces leading to, and resulting from the Immigration Act of 1965. The book was made for college students, and is largely based on a course that Professor Park, the author, teaches, and it focuses in particular on Asian American Immigration after 1965.¹ Park begins with the early history of American immigration law, emphasizing the brazenly racist and xenophobic foundation of early American conceptions on who should become citizens. He then moves through the development of more modern American immigration trends in the aftermath of World War II, and the expansion of America's military, cultural, and educational presence abroad. Finally, he examines how America reacted to the influx of new groups of immigrants from social and legal perspectives, asking why these immigrants came to America, and what some future issues and trends might be in an immigration context.

Unfortunately, the book is very condensed, with roughly half of its contents expurgated before publishing at the request of the publisher, which leads to some glaring issues. The book was written as part of a serious based on a class Park teaches, but because of editing decisions much of the material is left out of the book. First, the title of the book can be misleading because it is much narrower in scope than the title suggests. A more accurate description would be *Latin American and Asian Immigration, Law, and Society*. The condensed nature of the book also led to the exclusion of relevant immigrant groups, statistics, and counterpoints to his positions. Even with this format, the author does a good job of highlighting how many of America's immigration woes are self-inflicted. He also does an excellent job of highlighting the disparity of treatment between rich and poor immigrants, asserting that the revolutions in communication and transportation have created a group of privileged global citizens that are able raise a family in one country, work in another, while making regular trips to an ancestral home in a third. The author's specialty helps explain the exclusion of relevant immigrant groups, so it is useful to look at his background to understand why the book included certain groups to the detriment of a more thorough discussion of others.

John S.W. Park is the son of a Korean immigrant who moved to California before he was born. Professor Park, like his brother, is a professor of Asian American Studies, at the University of California Santa Barbara. He has been a professor at UCSB since 2007. His older brother, Edward Park, is a college professor, teaching Asian American Studies at Loyola Marymount University. The two have worked collaboratively on a few articles as well as a book, *Probationary Americans*, that deals with immigration topics. Before his job at UCSB, he was a professor of American and Asian American Studies at the University of Texas at Austin. He completed his doctorate in Jurisprudence and Social Policy at the University of California Berkeley law school, and has a Master's degree in Public Policy from the Kennedy School of Government at Harvard. He graduated with honors from Berkeley with a degree in Rhetoric. Before going into academia, he worked for a year at an immigration law firm in San Francisco. Since 2011, Professor Park served as the Associate Director for the UC Center for New Racial Studies, and from 2013 to 2016, he was the Chair of the Department of Asian American Studies at UCSB. He has written numerous articles focusing on Dreamers and Asian American history and immigration. Park's focus on Asian American history, his personal history with California, and the truncated nature of the book are central to my critiques of the book. The major issues with the book are its failure to

¹ See <http://www.asamst.ucsb.edu/people/john-s-w-park/immigration>

present or consider counter points to his theories, exclusion of huge groups of immigrants from mention or consideration, and dearth of statistics to provide much needed context to some of the more emotionally resonant argument.

The first critique of the book is that at no point does Park really go into discussing any counter points to his assertions. Throughout the book, he clearly advocates for -- and emphasizes -- the need to liberalize American immigration laws, in order to allow for an easier path to citizenship for those out of status and greater access to the country for those abroad. I personally agree very strongly with his position, and the arguments he presented support the need for liberalization very well. That being said, it is fairly easy to present a compelling case by ignoring any legitimate factors that have pushed conservative immigration policy for the last two decades, and claiming racism and political expediency motivated it.

The author chooses to paint the conservative movement's push for stricter immigration laws as a political strategy inspired by a calculation to align with racist sympathies in a subset of the population. Essentially, the author is asserting the entire conservative immigration platform is based on divisive politics designed to make American citizens, almost exclusively white citizens, fear the "other" who resides in their midst, and to vote for the politicians promising to rid the country of these dangerous outsiders. To support his assertion, Park first discusses how Republicans in the Reagan Administration talked about illegal immigrants without using dehumanizing terms and even advocated for bringing these people "into the light" through an amnesty with the Immigration Reform and Control Act of 1986, and then contrasts these statements with the policies Republicans pursued just a decade later.

After discussing the Reagan position, the author skips over a few years to the 1990s when, he suggests, there was a hardening in the Republican party against immigration brought on by a political calculation that inciting Americans against immigrants would help sagging poll numbers. He uses the example of Republican California Governor Wilson's successful 1994 campaign against popular Democratic candidate Kathleen Brown. Governor Wilson's polling numbers were sagging heavily shortly before the election. In response, he decided change from Reagan immigration policy to a more Trumpian ideal. Park asserts that before Governor Wilson's political support deteriorated, he perceived illegal immigrants as necessary agricultural workers who supported a major industry in his state without causing undue problems: they came to work, and live their lives, and they had no plan to destroy anyone else's life. The book proclaims Governor Wilson only became an immigration hawk to create a wedge issue, and draw out conservative support. In contrast, Brown advocated for more compassionate laws to protect illegal immigrants with possible refugee claims. Brown was ahead in the polls before Governor Wilson began taking more hardline immigration stances. Apparently, his strategy was successful, as Governor Wilson won his campaign for reelection. If this single anecdote seems weak support of such a sweeping statement, do not be alarmed, the author provides one more anecdote. He also examines a Korean-American Congressman, Jay Kim, who won a seat in the House of Representatives for a California District in 1992. Kim won his seat on the back of strong support in the Korean-American community for railing against illegal immigration, and then used immigration as an ongoing campaign issue to maintain support. While these politicians' actions support the author's assertion, his claims are ultimately unpersuasive for numerous reasons. Even though I think he is ultimately correct, he should provide enough evidence to convince a neutral reader.

First, the failure of the author to see past his own state creates the sense that this may be a local idiosyncrasy of California politics and not a national strategy. Both examples are from California and the state's unique circumstances with illegal immigration hardly makes them representative of the greater national debate. Without providing any facts to support the

assumption, Park would have us assume that California Republicans and North Dakota Republicans are using the same arguments on immigration, for the same reasons, even though their states have vastly different local politics. Maybe he is correct; but Professor Park provides insufficient corroborating evidence besides pointing to a tenuous connection between Jay Kim and Speaker Newt Gingrich, who were allegedly friends and shared similar views on immigration. This fragile connection to a national figure is not enough to connect Representative Jay Kim's, and by extension Governor Wilson's, motivations and perceptions to the national Republican's immigration policy. I do believe there is enough evidence in the public discourse to show the two California politicians' positions are shared by the majority of their caucus, but without providing additional evidence, the author only preaches to the choir, and will fail to convince any neutrals, let alone those on the other side of the immigration debate. And by not including examples or comparisons from a more national perspective, the author fails to provide compelling evidence that this is national conservative strategy/motivation instead of isolated to his home state. The author also does not mention any other modern factors that might have pushed conservatives into more hardline immigration policies. A few of the more glaring issues never mentioned in the book are the development of transnational drug cartels, the terrorist attack on 9-11 and the resulting national security concerns that invaded and permeated modern immigration debate.

It is not persuasive to argue points without addressing the legitimate perspective of the other side. Nowhere in the author's exhaustive examination of Latino immigration is there a mention of any transnational drug cartels. The development of these cartels was incredibly influential on society and politics in the 1990s, right up to today (and at this very moment El Chapo is on trial in an avidly watched set of proceedings that were precluded by a television show devoted to his life). It is impossible to present a complete picture of why American immigration policy has changed in the last thirty years without discussing the formation of the Medellin Cartel, Sinaloa Cartel, and gangs like MS-13. These types of organizations did not exist before the 1980s and their formation naturally led to a more cautious consideration of illegal immigrants from Central and South America coming to the United States. By acknowledging these arguments, you can ultimately persuade more people by showing why these criminal groups are not representative of illegal immigrants, and are not any more or less dangerous than domestic gangs when operating on American soil. Park would have been better served by emphasizing that an incredibly small percentage of illegal immigrants are associated with these sorts of criminal organizations, and then highlighting a few numerous studies that show illegal immigrants are more likely to be the victims of these criminal organizations than American citizens. By addressing and refuting the major arguments of hardline immigration hawks, he could have presented a more complete and compelling argument for his positions sufficient to persuade neutrals and possible even some conservative readers.

The lack of statistics to provide much needed context in the book is perhaps not attributable to Park. There are numerous footnotes in the book with references to studies I assume provide the mathematical backing to some of his claims, and this may have been an editorial choice. I feel the book would have been much more compelling if some of these numbers were brought into the main text, instead of left to footnotes. The penury of statistics in the body of the text also leads to some emotional appeals that may have been out of place. For example, in the subchapter entitled "Hate Crimes," the author spends five pages describing in horrific detail multiple heinous crimes committed by jingoistic Americans against people they perceived as immigrants. I disliked this section because I felt it was way too close to the strategy conservatives employ against undocumented immigrants whenever an American citizen is murdered or harmed by an undocumented. The gory recitation of horrible crimes without any statistical context is the exact

same strategy used by Republicans to condemn illegal immigrants as a group as recently as the Mollie Tibbets case². Statistical context allows readers to know if these crimes are representative of anything besides some people's capacity for cruelty.

The decision to exclude any data on the prevalence of hate crimes and how often they are motivated by immigration status inevitably leads to the accusation the author's approach seems remarkably reminiscent of the Trumpian strategies he justifiably dismissed as a form of propaganda earlier in the book, e.g. creating the government's Office of Victims of Immigration Crime Engagement to track and promote the stories of victims of crimes committed by illegal immigrants. If the treatment of Mollie Tibbets and the creation of that office is unjustified because they present a picture that is without context and condemns a group for the actions of a few, I am not sure how the discussion of hate crimes in the book fares much better. And finally, the lack of any serious discussion about African and Eastern European immigration is a massive hole in the book only explained by its condensed nature and the specialization of the author. Instead of doing research to find more diverse and complete examples, Park restricts himself to examples and comparisons from his own experience, and from his prior research. Usually this just created a stunted picture of immigration, but at times also led to at least one incredibly tone-deaf comment that stands in stark contrast to the positions he takes throughout the book.

The book almost never discusses immigration trends and perception of immigrants for any demographic besides Asian and Latin Americans. There are countless examples of when the author could have presented a more wholistic picture of immigration trends by using an example beyond the Asian or Latino demographics. A glaring example for Eastern Europeans is his discussion of advances in human trafficking and its effect on immigration law. The author references a "Sister Ping" who smuggled hundreds of thousands of Asians to America over the course of a couple decades leading up to the early 2000s. Park used her smuggling ring as a vehicle to discuss how standardized shipping container dimensions and other improvements in transportation allowed for much more robust smuggling operations, which in turn engendered complex feelings in the immigrants for the smugglers who allow them to come to America but also have many deaths attached to their names from dangerous conditions during the smuggling. While "Sister Ping" was a fine vehicle for discussing these points, this would have been a great time to include a more diverse perspective by using an example beyond Asian immigrants. Eastern European criminal organizations are especially known for human smuggling and must have comparable figures to "Sister Ping" that would have allowed for the exact same discussion while also presenting a more global perspective to the immigration trends and allowing the reader to become familiar with the history and immigration trends of more than the two demographics the author is familiar with.

The author's discussion of Africa is even worse. Instead of simply ignoring chances to include African perspectives, he makes a disrespectful comparison between African and Asian education systems while providing no data to support his comparison. In fact, the only data he does provide seems to run directly counter to his comparison. This discussion begins after the author explains, with no data to support it, how American universities in Asian countries has led to a large increase in Asian immigrants because they became familiar with American culture and the educational system through these American universities, and decided to move to pursue higher education and enjoy the culture they had learned about. The author then proceeds to examine non-American higher education systems in the Asian world, namely India and China.

² Darren Simon, *Politicians Blame Immigration Laws for Mollie Tibbets's Fate*, Aug. 22, 2018, CNN, <https://www.cnn.com/2018/08/21/us/mollie-tibbetts-missing-iowa-student-murder-suspect/index.html>

The author asserts the higher education systems developed in the last thirty years in India and China had led to a more highly educated populace for these countries and similar advances have been made in other Asian countries. These college graduates then get masters and doctorates from American universities because of the prestige. The Indian program, however, is awful when you examine the actual data. Park points out the entire Indian system, the Indian Institutes of Technology (IIT), produced 35,000 graduates in 2015, an incredibly small number for a country of 1.34 billion. Furthermore, the Indian graduates were frequently unprepared for the requirements of elite jobs, so they went to America to pursue additional education. A few pages later he briefly mentions African immigration -- in a single paragraph, for the first time -- and says that the immigrants are generally well-educated and middle-class, actually outperforming native born African-Americans. But he goes on to assert, again with no factual data, that overall Asian countries have invested more than African countries in higher education, and that is why we see more highly skilled Asian immigrants migrating to America. After this discussion, Park asserts "Barak Obama was the son of a highly educated Kenyan immigrant, and yet, for every Barak Obama, Sr., there were just a lot more highly educated Asian immigrants all of them having kids like Nikki Haley and Bobby Jindal (both Indian)." This comment is incredibly distasteful because he provides no data, discussion, or context about any educational system in Africa before he condemns all their educational systems as collectively worse than Asia, but only uses Indian examples.

Furthermore, his prior discussion of India's severely lacking system flies in the face of the comparison. He makes a contrast that characterizes the entire continent of Africa as unable to compete with the Asian educational system, while his flagship example of Asian education systems produced less than 40,000 graduates a year, many of them subpar. Additionally, he seems to find this fact so self-evident that he does not need to bother to defend or support the demeaning comparison with a single statistic or discussion of any African collegiate systems. These types of comments are more expected from a political writer in the vein of Ann Coulter than a liberal academic like Park, and nothing more should be said about it.

With all my grievances aired and explained, we can turn to the aspects of the book that are done very well, and are incredibly enlightening to the average reader. Park does an excellent job of conveying the history of Latino and Asian immigration throughout the history of America. He does a particularly good job of explaining how certain programs and legal choices have influenced immigration from these two groups and how America frequently created the problems they later decry. The example most on point is his summation of the Bracero program, and how it changed the dynamics of immigration. This program was instituted during World War II, allowing for U.S. officials to travel to Mexico and recruit seasonal agricultural workers to help with the harvest in America in light of the massive labor shortage caused by the war. The program was supposed to require registration with the U.S. government, but in fact officials encouraged many people to show up without the official paperwork. This government enticement engendered the pattern of illegal immigration that continues to this day. The author also underscores, while not going into many details, that Latin American immigrants were often fleeing from civil wars that were financed or instigated by American forces intent on preventing any Communist groups from gaining power in the Americas. The author expertly exposes the American complicity in creating a system that we now decry, and demonstrating that the blame rests not with these immigrants, but more fully on America's shoulders for bad foreign policy going back fifty or sixty years.

The exploration of the dichotomy between poor and rich immigrants is also very interesting, and highlights another absurdity of American legal system. Park explains how modern communication and transportation allows for families to live as almost global citizens, able to freely

travel and live in any country of their choosing. He shows how this has been codified into American immigration law with the development of the H1B visa program. This program allows highly skilled employees to seek visas to work in certain jobs, and also facilitates the process whereby very wealthy individuals can invest between 500 thousand and a million dollars in America to get the same result.³ This program, and its equivalent in other countries, has allowed wealthy and highly educated people to create multinational families. Park, as is his wont, focuses almost exclusively on Asia pointing out, again without contextual data, that many Asians are creating these multinational families by having children in one country, possibly because of the educational opportunities, working in another country, and making frequent visits to an ancestral home in a third country. This life style has apparently become so popular in Korea and China that a nickname has promulgated to describe these travelers as “wild geese” or “sea turtles” respectively.⁴ The author’s implicit comparison to the numerous difficulties facing poorer Latino immigrants who often have difficulty getting a justifiable asylum claim heard and not being considered economic migrants instead of refugees really emphasizes the disparity of treatment between the poor and wealthy in a novel and relatable way.

Overall this book is an interesting read for those that already agree with Park’s position and are only interested in learning about Latin American and Asian immigration in America. If a reader were to pick this book up hoping to gain a more complete picture of immigration in America, they would be sorely disappointed by the book’s lack of contextual data and exclusion of key demographics, and refusal to address legitimate reasons for conservative immigration policies.

William Finkelstein, Vanderbilt Law School

³ *Id.* at 88-9, 102-03

⁴ *Id.* at 146-47