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Introduction: The Moment the Border is Crossed

This issue spans a vast terrain of physical and mental border crossings, with particular emphasis upon those who have been subjected to the kinds of persecution, fear, upheaval, or curiosity, that can drive people to explore new regions – be they geographical, political, or even spiritual. Authors explore the many disciplines and subjects that are naturally associated with movement, demonstrating the role that intervening obstacles or facilitators can play in the course of the journey to a new host country. As I review this wonderful new issue, I'm inclined by way of introduction to reflect upon first encounters at border spaces, and set it up as a frontier to the other texts, an introduction that may very well be a front-line meeting for readers of this issue, or of the journal itself.

One of the determining factors for how border crossings are experienced is the first few minutes of an encounter, particularly when the traveler happens to be a vulnerable migrant in search of protection. The legal and narrative dynamics of this initial interaction is, it seems to me, both crucial and understudied, particularly given the increasingly draconian structures that lurk behind the gate that the keeper maintains with some combination of discretion, authority and obligation. With the ongoing crises in El Salvador, Guatemala, and Honduras; upheaval in Venezuela; tensions in Columbia and Mexico; and the continued migrant flows from Syria, Eritrea, Somalia, the Lake Chad Basin, Yemen, Iraq, South Sudan, and Afghanistan, it's clear that the issues surrounding the treatment, admission, and policing of vulnerable migrants will remain crucial in the coming years and decades. One way of engaging this border region is to focus on the narrative-law dynamic of first encounters between forced migrants and officials charged with making decisions. At the heart of this dynamic lies the tension between what actions officials are *expected* to take, and which ones they actually take, particularly in light of local, municipal, and state resistance to federal and/or state immigration policies.

In order to take on this broad area of work, I have begun to document the array of national and international immigration law, statutes, cases and regulations that pertain to these interactions, and plan to then supplement this data by interviewing front-line actors from a range of settings and countries. The goal is to test three related hypotheses: (1) How front-line encounters are performed, in language and gesticulation, have important repercussions for which legal guidelines and rules are applied, and thus has bearing upon the likelihood that officials will—or will not—enforce immigration laws; (2) These decisions are informed by the values and attitudes of the official and the claimant that can be identified in dialogue; and (3) Because front-line officials have considerable discretion over irregular migrants, factual errors, irrelevant details, stereotypes (especially in regards to gender, ethnicity and country of origin) and communication missteps by claimants can endanger credible claims for asylum or protection.

The interviews for the project will probe the subjective factors that bear upon the interaction, as a means of addressing other questions, such as: What is the relationship between behaviors noted by officials, and the migrants' country of origin? How do officials claim to address intercultural communication, notably the relationship between demeanor, narrative style, inconsistencies, and credibility? What role does the official feel that translation plays in front-line encounters? What kinds of resources do officials call upon when uncertain about whether the claimant could/should request refugee status or some other form of protection? What are the specific challenges faced by female claimants, in terms of preconceived ideas about women's engagement in, say, political

activities in the host country, or vis-à-vis perceptions about gender relations in the country of origin? How do strongly-ensconced stereotypes affect how officers? Are certain officers inclined to act more negatively in regards to particular groups, particularly those described as being fundamentally dissimilar to the host society by certain officials, such as Muslim claimants in Europe, Australasia, and the Americas? When does an official identify a particular behavior as cultural, and therefore not relevant to the decisions s/he has to make?

The goal is to emphasize the value of narrative/law research, both for scholarship and for policymakers who are interested in supplementing existing training of border officers with a comprehensive understanding of the complex web of legal and performative issues that officers will be encountering in their work on the front lines. At the same time, I'm looking to explore the idea that one of the last horizons for discretion that can favor (or not) asylum seekers and undocumented peoples is at these front lines, where ordinary people charged with official duties encounter ordinary people who have left their homes in search of protection. Each side to this encounter is affected by the communicative and legal apparatuses to which they are subjects, but they are also motivated in some of their decisions by reports that swirl within the social discourse emanating from politicians, media reports, rumors, hearsay and the many intermediaries to the process.

Although undocumented migrants and refugees face similar challenges on the front lines, the proposed research distinguishes between them, first in regards to the laws, regulations, and case law that applies to their situations, and second, in regards to the communicative and performative challenges they face. Notably, the undocumented migrant's objective is generally to avoid authorities, and if forced into a confrontation, to attempt to terminate the encounter as quickly as possible. Asylum seekers, by contrast, are appealing for official recognition, so they may feel less pressure to end the encounter, and instead try to provide the right kinds of information in order for them to make their claim. They must also provide details that won't be contradicted at later stages in the process, since statements deemed false or erroneous can serve as grounds for rejection in later stages, such as the asylum hearing.

Any analysis of front-line interactions naturally benefits from multidisciplinary perspectives, because borders can be seen as laboratories where negotiated processes of adjudication, domination and selection can be observed, and hypotheses about possible outcomes can be tested. This project maps selected variables and their effects, in spaces where officials can choose from actions ranging from protection to incarceration. Preliminary findings suggest that the broadest outcome variation occurs when policymakers are at odds with one another; in such cases, administrators often leave enforcement decisions to those who first encounter vulnerable migrants, deferring to discretionary application of operative regulations and guidelines. In the current climate, there may also be fear on the part of officials who are resistant to federal officials, and who believe that they themselves may be subject to investigation or attack by the federal government, or by their superiors, if they don't act in accordance with prevailing rules.

The legal component of this project relates to the moral and legal responsibilities of host countries, but at the heart of these encounters are officers who work for such agencies as Frontex, the European agency that operates inside of this highly discretionary space. In each encounter, Frontex officials, in conjunction with national border guards,

are called upon to strike a balance between security and protection, just as those who are charged with soliciting confessions, such as Porfiry Petrovich, in Dostoevsky's *Crime and Punishment*, have to balance what they reveal, and what they seek, in interviews with Sonia and Raskolnikov. By bringing narrative issues to the fore (and by invoking literary examples of similar encounters), it is my claim that within such spaces, there's more than just a fabric of legal issues; there's also another fabric woven out of language and performance that occupies the space between the vulnerable migrant and the adjudicating officer who is called upon to distinguish between those who are eligible for the next stage of the protection process (status, asylum proceedings) -- and those who are not. In most of the literature about this process, we find these kinds of distinctions: those entitled to continue their journey into the courts and tribunals that can accord protection or status, and those who are not. The work I'm describing here focuses on that comma that separates those two clauses, the space between those, and those, *on the front lines*.

In a fascinating work called *Humanity at Sea* (Cambridge UP 2016), Itamar Mann provides the legal description of these encounters, imagining that the sea, or, I might add, any liminal space between two territorial jurisdictions established by sovereignty, is a kind of crack. Through this crack it is possible to see the movement from a state of nature to a state of citizenship, or a state of emergency, and a state of protection, in a transnational and historical context. This crack, he says, is the place where we stand in the human rights encounter, the place where the relatively powerless party addresses the relatively powerful one, like Billy Budd before Captain Vere in Melville's classic tale. Captain Vere weighs the options before him, and makes the catastrophic decision to kill Billy Budd, partly in order to quell any urge that others might have to defy orders of their commanding officers. We're seeing similar kinds of draconian behavior amongst border agents who illegally turning away people seeking asylum, or refusing to deal with their requests by projecting the kind of perplexity that Franz K experiences in Kafka's *The Trial*, or that all three of the inmates to hell endure in Jean-Paul Sartre's *Huis Clos*.

How can we research variables that contribute to this variation, and the practice of discretion by officers? Such questions lead us to explore how language theory can help us understand the kind of gender discrimination described by, for example, Jacqueline Bhabha, or the mechanics of vilifying Muslim claimants that is the subject of Sahar Aziz's work on religious discrimination. This is a complex process that must begin with the positing of a general social discourse, for which Marc Angenot, in his vast corpus of work on the subject, offers a powerful model. The overall social discourse, according to Angenot's paradigm, is extremely contradictory, and isn't composed of a set of statically dominant ideas, representations, systems of belief, or 'ideologies'; rather, it is the product of what Angenot describes as "regulated antagonisms" through which a kind of a hegemony will emerge. This hegemonic approach informs decisions made, at least for a particular moment, and in a particular space (in the form of a policy that emerges on its basis, for example), a very Bakhtinian conception of dialogue and dialogism.

This broad-brush conception of the social discourse can be broken down further, into a kind of discourse marketplace, where ideas are bought and sold, promoted and devalued, liquidated and rarefied. This process of dividing up a social discourse is crucially important for those wishing to shift attitudes about, for example, the values, or dangers, posed by vulnerable migrants. Here, the work of Pierre Bourdieu is of particular salience, because he demonstrates the very material nature of language. According to

Bourdieu, the appropriate capital to a particular linguistic objective is made up not of performative utterances, *pace* John Austin, but of wares introduced into the discourse marketplaces, wares comprised of scarce resources, unequally distributed, and with effects that operate on the basis of prevailing (discourse) market forces. And so, by way of a short example: if a young migrant claims to be eligible for status based on harassment by gang members in Central America, the official standing in front of him might judge whether the migrant looks young enough, or strong enough, to have been targeted for membership in a gang. The official may have heard media reports suggesting that young Central American men use gang violence to justify an illegal border crossing, which might tip the scale in regards to the front-lines decision. From the perspective of the migrant, on the other hand, reports in the media, rumors, or hearsay are critical to decisions in regards to how and where to make a claim. This same migrant might be led, or misled, into accentuating or downplaying certain elements of his narrative on the basis of what he thinks the host society is like, and therefore what an official would wish to hear. Another factor in this complex dialogic relation is misinformation that is spread through rumors, innuendos, or, as we've seen recently, proclamations that seem like harbingers of things to come. For example, the Trump administration has mired protected groups, such as Haitians, in uncertainty, first by threatening to end such programs as DACA, or TPS, and then proposing some kind of relief, and then moving ahead with the original threat. This will certainly impact Canada in the coming years, which was already feeling the effects of the threats made by the administration, while also contributing to front-line uncertainty, as refugees try to negotiate a new official paradigm.

Each of these factors contributes to the circulation of emotions and bodies in discursive encounters in realms where representatives feel the need to "protect" the body politic from invasion or corruption. The narrative task of immigration officials is also rooted in questions of truth and objectivity, since the officials are after the migrant's "real story". To this end, officials employ tools aimed at objectivity and impartiality, such as technologies and documents, and the growing use of electronic devices suggests that many first encounters will be between humans and machines. Risks of arrest are exacerbated on the front lines when the migrants use the "bifocal lenses" of home and host countries to try to negotiate a successful outcome to the encounter, even though they might not have sufficient understanding of how to engage officials to secure a satisfactory outcome to the dialogue. Accounting for the social discourse and the performance of claims contributes importantly to administrative law and communications studies in its assessment of communicative behavior and comportment that affect the legal actions of front-line actors. One of the ways of focusing this work even more precisely is to look at groups most likely to be subjected to stereotypes, negative or positive, such as claimants who are seeking protection on the basis of gender persecution, who may fear that by articulating the narrative upon which their claim needs to be based, that they will be immediately excluded.

These are early days for a project of this magnitude, but I were to look forward, into some of the findings that preliminary conversations suggest might emerge, I would predict that front lines soften as those tribunals, hearings and processes that lay beyond the gate harden. This might seem counter-intuitive, and indeed we regularly receive reports that suggest that when unhinged from legislated sympathy or caring or respect, some agents have found their draconian selves. We can expect that by the same token,

however, that other officials might use their discretion to favor the person who stands at their gate, because they know them, or they know enough about them to recognize the perils of the processes that lay behind the first encounter. We are, as it were, at the door that is kept by the official in Kafka's "Before the Law", or at the gate guarded by the fallen angel in Milton's *Paradise Lost*, or the invisible force that has opened the cell door in Sartre's *Huis Clos*, agents that in all cases arbitrate, with or without personal agency, passage through the threshold, and into deeper depths of misery or security and liberation.

We can hope that humanism will ultimately prevail, and that an *AmeriQuests* issue like this one, released into the social discourses surrounding border control, might incite the kind of empathy required for its promotion.

Legitimizing Evictions in Contemporary Europe and Apartheid South Africa

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At the basis of this article is a purely visual association. Media pictures of the eviction of informal migrant settlements in Calais, Idomeni, Amsterdam and other places in Europe are reminiscent of pictures of informal settlements in South Africa under Apartheid being dismantled. In both cases, the people who are being targeted by state violence are “non-white”; law and order is maintained by “whites”; the places people are being evicted from are informal dwellings; and this is happening for years and years on a regular basis.

But is the association more than visual? Does the visual give us access to a similarity that deserves to be fleshed out in verbal concepts; or is it an association that, upon closer inspection, is better discarded? This paper undertakes to investigate these questions. In both cases, people were denied the right to a home (or at least: to the home they were occupying at that moment) because they were considered to be illegal aliens. But how did this situation come about? How did these people become illegal aliens? And while it seems obvious that illegal aliens can be deported from the territory, how did their alien status come to justify the destruction of their homes?² Pursuing the association means we will not only identify similarities, but also try to establish where the association meets its limits. It seems likely that there are real differences between the situation in Apartheid South Africa and contemporary Europe with regard to the underlying normative frameworks that informed these policies.

The aim of pursuing a visual association across time and space is not primarily to draw exact parallels. In contemporary Europe, the use of violence of a “white” state in order to destroy the housing of “non-whites” is accepted as a normal element in the regulation of “non-white” populations. The association with Apartheid seeks to problematize this normality by pointing to the uneasy pedigree of such practices.

Under the South-African Apartheid regime as well as in contemporary Europe, a situation came into existence where considerable numbers of people were categorized as illegal aliens. This paper will map how, on the basis of their illegal alien status, their houses could then be destroyed because they were not supposed to be living where they lived. The legitimization for this will be clustered in two groups, being internal spatial policies (public planning in the case of South Africa, public order in contemporary Europe), and external spatial policies, i.e. migration law. A final section discusses where the association between South Africa under Apartheid and contemporary Europe makes sense in a legal context, and where the parallel reaches its limits.

1. Illegalization in Apartheid South-Africa

The apartheid policy that South African Government adopted up until to the 1990s was founded on four legal pillars, two of which are relevant for our context: the Population Registration Act and the Group Areas Act (the other two were the Prohibition of Mixed Marriages Act and the

¹ Mitsuru Suzuki has been instrumental in the research for this paper. I am grateful for the critical feedback to earlier versions of this paper by Guno Jones, as well as the participants of the ‘Racial Exclusion in and at the Borders of Europe’ seminar of the Migration & Diversity Centre of the Vrije Universiteit Amsterdam, 23 March 2017; of Francois Venter of North West University, South Africa; and of two anonymous reviewers.

² Comp. on the plasticity of the relation between alienage and rights Linda Bosniak: *The Citizen and the Alien. Dilemmas of Contemporary Citizenship*, Princeton University Press, 2008.

Immorality Amendment Act). The legal foundations of apartheid policy were laid with the 1950 Population Registration Act,³ which divided the South African population into three main “racial groups”, namely “whites”, “natives (blacks)” and “coloreds”.⁴ The concept of race was considered a mixture of physical and social characteristics, such as language.

1.1 Legitimation through spatial planning law

The 1950 Group Areas Act⁵ and 1966 Group Areas Act⁶ played an important role in racial segregation. The former divided urban areas into racially segregated zones based on the 1950 Population Registration Act⁷ and criminalized the residence and the ownership of land in a territory that was not assigned to the appropriate “racial group”. Its aim was to exclude “natives” from more developed urban areas and the best suburbs, applying the theory that “natives” could only live there temporarily. “From the Government’s point of view, the most useful” effect of group areas has been the creation or expansion of labour pools of non-white workers in conveniently controllable areas linked by railroads to the industrial cities.”⁸ In case of conviction, not only would “natives” face a penalty (a fine or up to two years imprisonment); they could also be ordered to vacate the urban area where they were living.⁹

This law, combined with 1954 Native Resettlement Act,¹⁰ endowed the South-African authorities with the power to forcibly remove “natives” from any area within and next to the magisterial district of Johannesburg. An example of the application of these laws is the destruction of Sophiatown, a multi-racial suburb of Johannesburg. The area became overpopulated when “non-whites” were removed from the inner city of Johannesburg. Because “natives” were not allowed by the government to acquire permits for land ownership, they built houses out of metal sheets and excess materials. On 9 February 1955, the South-African authorities sent 2.000 policemen armed with sten guns and rifles. They destroyed Sophiatown and ultimately removed 60.000 inhabitants. People who had settled in there were moved to Meadowlands, which formed a part of Soweto. However, some people refused to leave Sophiatown. Residents of Sophiatown protested and used explosives and guns to fight government officials. In 1960 the destruction of Sophiatown was finalized, and a new “white”-only neighborhood was erected with the name of Triomf (Triumph).¹¹

³ Act No. 30 of 1950.

⁴ Section 5 (1), 1950 Population Registration Act.

⁵ Act No. 41 of 1950.

⁶ Act No. 36 of 1966.

⁷ Section 3 (1), 1950 Group Areas Act.

⁸ Barry Higgs: The Group Areas Acts and Its Effects, United Nations Centre against Apartheid, Department of Political and Security Council Affairs, 1971, p. 20; comp. Henry J. Richardson: Self-Determination, International Law and the South African Bantustan Policy, *Columbia Journal of Transnational Law* 17 (1978), p. 185-219 at 186-190.

⁹ Section 34, 1950 Group Areas Act.

¹⁰ Act No. 19 of 1954.

¹¹ South Africa History Online (SAHO), “Sophiatown”, <http://www.sahistory.org.za/place/sophiatown>. More generally, see the special issue of *African Studies* Vol 74 (2015), No. 1, p. 1-145.



Figure 1 Sophiatown, Photo Jürgen Schadenberg

The effect of moving “non-whites” to areas devoid of facilities was “to undermine their standing and leave them at the mercy of powers designed to manipulate them as movable units of labour. In many cases, after group areas removals had been effected, communities were transplanted to other areas which, due to their total lack of development or facilities, have rapidly assumed the slum characteristics of their forerunners. A prime example is Lenasia, the township for people of Indian descent in Johannesburg created towards the end of the 1950's. It was reported in 1963 that there were still no street lights, only two tarred roads, no waterborne sewage, no hospitals or clinics, no mail delivery, and inadequate police protection.”¹² Lenasia was one of the townships to which the former inhabitants of Sophiatown had been forced to move.

In 1966 the Group Areas Act was amended to introduce stricter criteria for “non-whites” (for instance, District Six of Cape Town was declared as a new “whites”-only place and

¹² Barry Higgs, *The Group Areas Act and Its Effects*, p. 15.

destroyed after 1968 by government bulldozers). Significantly, “blacks” were not called “natives” anymore in public acts, but “Bantu” instead, indicating what the next step of the apartheid policy would be in the years to follow. A study of Eric Winchester (a United Party Member of Parliament) shows that solely in 1969 more than a million South Africans had been ordered to move away according to this Act¹³, while the Surplus People Project estimates that 80% of the 3.5 million people forcibly removed from 1960 to 1983 were “blacks”.¹⁴ Similarly, informal settlements in urban areas were destroyed and the 1951 Prevention of Illegal Squatting Act¹⁵ punished squatting severely. Denial of “black” property ownership led to a situation where “blacks” were accommodated in hostels, compounds and shanty towns, and formed the majority of squatters. The shortage of “black” housing is illustrated by the fact that there were 1,3 million squatters in South Africa at that time.¹⁶ The grounds of forcible removals were multiple:

- Farm removals, including removals due to the abolition of labour tenancy on “white” owned farms in the 1960s and 1970s. This was abolished in 1979;
- Clearance of so-called 'black spots'. These are properties outside areas designated for occupation in terms of the 1913 and 1936 Natives Land Act;¹⁷
- Removals that have been necessary to consolidate the various tribal areas into blocks for homelands;
- Urban relocation, including the removal of African townships from prescribed areas to the national states;
- Removals of informal settlements in urban and peri-urban areas. Section 38 of the Black Communities Development Act¹⁸ provided, before its repeal, that where a town or hostel was altered or disestablished, any person could be removed from such town or hostel to another place;
- Removals due to the operation of influx control legislation;
- Group Areas Act removals. People were often 'disqualified' in terms of the Act from occupying the land in question.¹⁹

The 1952 Natives Law Amendment Act²⁰ amended the Natives (Urban Areas) Consolidation Act²¹ and regulated the conditions under which “natives” could stay in the urban areas. It allowed “natives” to live in urban areas only if they permanently resided there since birth or had continuously lived in the same urban area for 15 years or had worked for the same employer for ten years or had a permit. In order to have a permit, it was necessary either to be registered as a local worker or to be a job-seeker (in the latter case, the residence could last between 7 and 14 days). Wives and children of people so qualified could live in urban areas as well. As concerns

¹³ Quoted in Barry Higgs, *The Group Areas Act and Its Effects*, p. 6.

¹⁴ Surplus People Project: *Forced Removals in South Africa*, Cape Town 1983, Vol. 5, p. 95.

¹⁵ Act No. 52 of 1951.

¹⁶ Quoted in J. Burdzik and D. Van Wyk: *Apartheid legislation 1976-1986*, *Acta Juridica* 1987, p.119-164, at p. 155.

¹⁷ Act No. 27 of 1913; Act No. 18 of 1936.

¹⁸ Act 4 of 1984.

¹⁹ Burdzin and Van Wyk., *supra* note ***, p. 158.

²⁰ Act No. 54 of 1952.

²¹ Act No. 25 of 1945.

children, they could live in urban areas as long as they were dependent on their parents. All those who did not have these qualifications could stay in urban areas no longer than 72 hours without permission. Those who stayed unlawfully in urban areas were considered criminal offenders and they were eligible under section 36 to forcible removal. They were detained in custody pending removal and then they were sent home or to a place indicated by a commissioner or a magistrate.

1.2 Legitimation through migration law

The Group Areas system assigned geographical areas to particular racialized categories. This facilitated the step to a situation where some areas were declared “independent”, with the consequence that migration law became applicable to the new “aliens”. When the Bantustan policies culminated in formal independence of a number of Bantustans, migration law became an additional legitimation of policies which resulted in eviction and destruction of informal settlements of people who had now become “aliens” and, if they resided in South-Africa, were “migrants”.

The 1959 Promotion of Bantu Self-Government Act²² set up eight (later extended to ten) “Bantustan” (Homelands) out of the existing reserves, each one with a degree of self-government. It is remarkable that most of these Bantu Homelands were not geographically unified: instead, their territories were scattered (Figure 2).

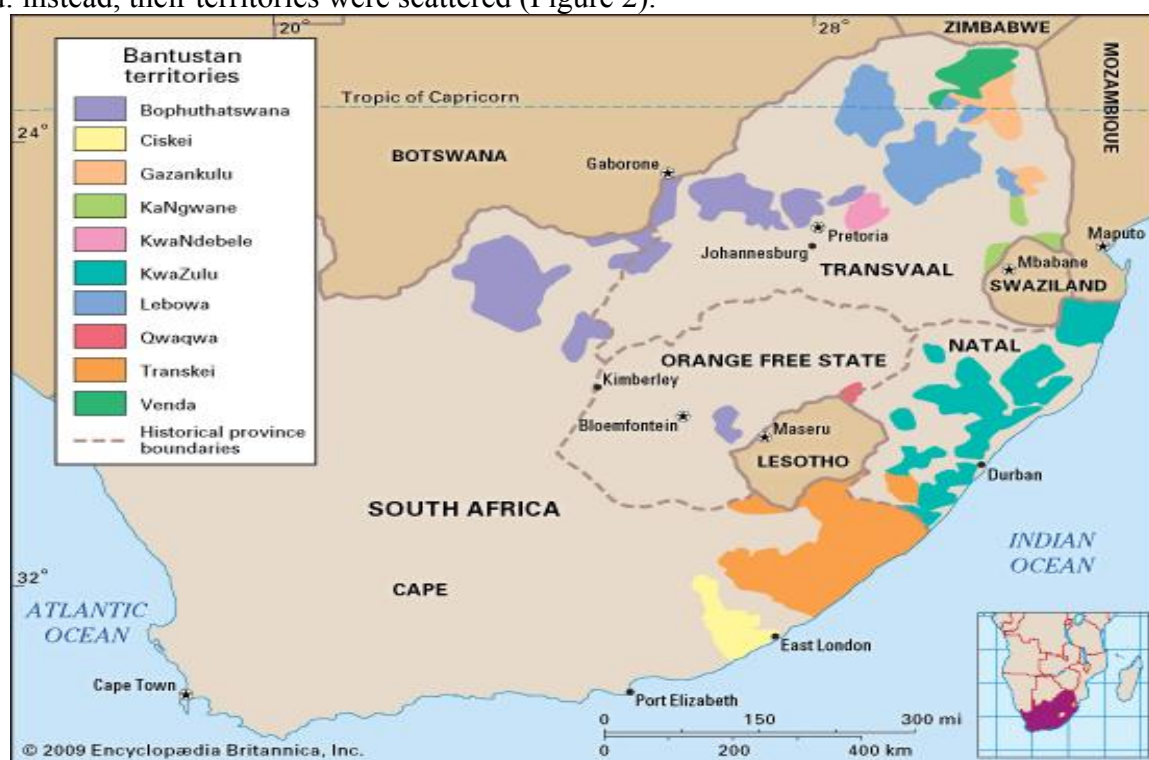


Figure 2 Bantustan territories, source Encyclopædia Britannica

This Act became one of the keystones of the South-African policy. These Homelands were to be given independence and “natives” were forced to move there and exercise their civil and political rights only in these Bantustans. Indeed, “blacks” were given a whole new citizenship through the

²² Act No. 46 of 1959.

1970 Bantu Homeland Citizenship Act.²³ The newly assigned Bantustan citizenship was connected to their racial, cultural and linguistic backgrounds. It affected all “blacks”, whether they had ever lived in the areas to which they were assigned or not. Section 3 of the 1970 Bantu Homeland Citizenship Act grants citizenship of the respective Bantu territories to every Bantu person born or domiciled in that territory; every Bantu person speaking the Bantu language of that territory; or Bantu persons related to or identified with the Bantu population or associated with it by virtue of cultural or racial background. Independence was to be gradually granted to all Homelands. Between 1976 and 1981, Transkei, Bophuthatswana, Ciskei and Venda actually became independent. As a consequence, the respective “black” South Africans lost their South-African nationality. It is estimated that approximately ten million “blacks” were dispossessed of their South-African nationality,²⁴ but approximately 2-3 million “blacks” received it back with Restoration of South African Citizenship Act 73 of 1986.²⁵ The other 7-8 million continued to be regarded as aliens in South Africa in terms of the Aliens Act of 1937.²⁶ A 1986 study shows that in South Africa, excluding Bantustans, “whites” represented the 19.5% of the population, while the 65% of population were “blacks”, even if the official figures probably undercounted the “black” population because of widespread reluctance among “blacks” to provide census data.²⁷ The Aliens Act of 1937 provided that no alien could enter Republic of South Africa for the purpose of permanent residence or temporary sojourn without a permit, and without having a valid passport or other valid travel document issued by his own state.

In effect, the South-African government deprived a substantial group of its citizens of their South-African nationality by assigning them to Bantustans, which were then declared to be independent states. And subsequently, they applied immigration law to the people who, after losing South-African nationality and acquiring a Bantustan nationality, had become “migrants”. This did not per se mean that they became illegal immigrants. When the Government was interested to keeping “blacks” in South-African territory, it did. This is what happened with men: young, adult and able-bodied males were actually allowed to stay close to “white”-reserved urban areas, while children, women, elderly and infirmed men were removed. But Bantustans ended up being overcrowded, with a high rate of unemployment, because the richest part of the country remained in the territory of the Republic of South Africa. Generally, the Bantustans were the poorest parts of South Africa, with only about 3 percent of South Africa's Gross Domestic Product produced in all the Bantustans combined. It is remarkable that Bantustans represented the 13% of the South Africa's territory while 75% of its population resided there. Those who had the opportunity worked in South Africa. The “migrant” workers from Bantustans were usually hired on one year contracts, and could not take their families with them. They used to live in squalid, single-sex, barracks-style hostels. “Migrant” workers were not allowed to go out and seek work directly with an employer: employers submitted their labor requests to a central labor bureau, which then recruited in the Bantustans. Bophuthatswana provided some 236,000 migrant workers and 163,000 commuter workers; both groups worked in “white” areas. Commuter workers actually lived in Bophuthatswana but commuted by bus or train on a daily basis to jobs

²³ Act No. 26, 1970, Government Gazette, 9th March 1970.

²⁴ Joe W. Pitts: The concept of citizenship: challenging South Africa's policy, *Vanderbilt Journal of Transnational Law* 19(1986), p. 533-584, at 552.

²⁵ Burdzik & Van Wyk, *supra* note ***.

²⁶ Act No. 1 of 1937.

²⁷ Thomas S. Szayna: *Identifying Potential Ethnic Conflict: Application of a Process Model*, Rand Corporation, Santa Monica 2000, p. 190.

in the “white” areas. Since they were not able to live near the workplace, they were forced to travel several hours every day. To be as near as possible to their place of employment, people built squatter settlements in Bophuthatswana, especially near the Pretoria-Witwatersrand industrial areas. Over 40 percent of the Bophuthatswana population lived in these squatter camps in 1984.²⁸

The South-African government stated officially that the aim of Bantustan policy was not racial discrimination.²⁹ Three main arguments were used for its rationalization. First, there was a *cultural* argument. According to this argument, the Bantustan policy was used to prepare “blacks” to cope with a “higher” grade of civilization, where they were allegedly not able to function yet.³⁰ A South-African government report on “reserves” for the “black” population asserted that “a continuation of the policy of integration would intensify racial friction and animosity”, and that “the only alternative is to promote the establishment of separate communities in their own separate territories where each will have the fullest opportunity for self-expression and development”.³¹ The purported impossibility of integration was underlined by the fact that Afrikaans-speaking “whites” and English-speaking “whites” struggled over 50 years to merge, after South Africa was established as a single country in 1910. Therefore, according to the South-African government, whereas the international community (especially, UN) criticized South Africa in moralistic language, by contrast what was needed according to its architects was a sociological appraisal. Moreover, the two cultures (that of “whites” and that of “blacks”) were not to be seen as hierarchically superior or inferior, but as two different cultures, whose integrity had to be preserved. Indeed, the scholar Charles Manning who defended Apartheid suggests a comparison between the Bantustan policy and that involving Ireland and UK. According to Manning, in both cases, the portion of the country that historically belonged to an ethnic group was assigned to it.³²

Second, the then Prime Minister Verwoerd explained that the Bantustan policy was a result of international pressure to recognize the *right to self-determination* of “black” Africans. In a 1961 speech, he affirmed that due to the pressure caused by UN and proceedings before the International Court of Justice, South Africa had to choose between giving up Apartheid completely and making concessions in the framework of separate development.³³ In 1963, the South-African Government “granted” a limited form of self-government to Transkei³⁴ in order to prove to ICJ the sincerity of its program. In the proceeding before ICJ over South West Africa,

²⁸ *Development Studies Southern Africa*, Bureau for Economic Research, Co-Operation and Development, Pretoria, Vol 5, No. 1, October 1982, pp. 106-109; *Development Studies Southern Africa*, Bureau for Economic Research, Co-Operation and Development, Pretoria, Vol. 6, No. 1, October 1983, p. 98; and Quarterly Bulletin, South African Reserve Bank, June 1982, p. 83. These sources are referenced from Richard Knight: *Black Dispossession in South Africa: The Myth of Bantustan Independence*, *Southern Africa Perspectives* 2/84, accessible on <http://richardknight.homestead.com/bophuthatswana.html>, last accessed 9 October 2017

²⁹ 11 U.N. Monthly Chronicle, no. 10, at 21 (1974).

³⁰ Henry J. Richardson: *Self-Determination, International Law and the South African Bantustan Policy*, *Columbia Journal of Transnational Law* 17 (1978), p. 185-219, at 191.

³¹ Quoted in Charles A.W. Manning: *In Defense of Apartheid*, *Foreign Affairs* 43 (1964), p. 135-149, at p. 136.

³² Manning, *supra* note *** at 142.

³³ House of Assembly Debates, cols. 4191-93, Apr. 10, 1961.

³⁴ Transkei Constitution Act, Act 48 of 1963.

Dr. W. M. Eiselen, one of the main architects of the separate development doctrine, affirmed that the aim was to grant independence to different ethnic groups in South Africa, in respect of the principle of self-determination.³⁵ It is noteworthy that South Africa was not the only country rejecting international claims accusing the South-African Government of perpetuating colonial domination and violating international law. Representatives of Benelux countries, indeed, when justifying their abstention for the adoption of a General Assembly's resolution condemning the Bantustan policy, affirmed that "white" populations cannot be equated to "white" overlords, because this would be a reverse-discrimination towards "whites".³⁶

Thirdly, there was a *democratic* concern. Manning thought that the critics of Apartheid were guided by a Communist ideology that managed to affect Western countries, while South Africa honestly realized a capitalistic model of economy and society. Furthermore, he argued that in the elections only 70.000 citizens circa voted for the Progressive Party (which opposed Apartheid), while the majority voted for the National Party, which advocated apartheid. Obviously, Manning referred to elections in which non-whites were not allowed to participate.

1.3 Racialization – eviction – alienation

In sum, in the South-African context the authorities first distinguished different racialized groups by means of the Population Registration Act. It then gradually "cleansed" particular geographical areas of the racialized categories of "natives/Bantus" and "coloreds" through, sometimes massive, evictions. By subsequently declaring some of the "Bantu" areas to be "independent" in some respects, the subjects of these newly "independent" states became "aliens" and could be subjected to migration law. Declaring the Bantustans to be "independent" was explicitly meant as a strategy to legitimize the racialized stratification that was a cornerstone of South-African Apartheid. Adding migration law allowed the South-African state to rely on the widely acknowledged rule of international law holding that states have the right to control the entry and residence of aliens.³⁷ People who used to be South-African nationals were thus "alienated". The separation of different racialized groups, and referring particular racialized groups to destitute areas and situations, was eventually legitimized through migration law. One of the forms this referral took was the forced eviction of people from their informal homes – the visual aspect mentioned at the beginning of this article.

1. Illegalization in contemporary Europe

Having analyzed the legitimization of evictions under Apartheid South-Africa, we will now turn to contemporary Europe. Episodes of dismantlement of informal settlements and the destruction of places occupied by migrants occur on a regular basis in various European places such as Calais, Amsterdam and Idomeni.³⁸

2.1 Legitimation through public order law

In Calais, Amsterdam and Idomeni, migrant settlements have been evicted by local or national authorities relying on their competences to maintain public order. In some instances, these broad

³⁵ 10 South West Africa Cases, [1966] I.C.J. Pleadings 103.

³⁶ 12 U.N. Monthly Chronicle, no. 11, at 25 (1974).

³⁷ I.a. United States Supreme Court in *Chae Chan Ping v US* (The Chinese Exclusion Case), 130 U.S. 581 (1889); International Court of Justice in the *Nottebohm* Case, 1955 ICJ 4; European Court of Human Rights 28 May 1985, *Abdulaziz, Cabales and Balkandali v United Kingdom*, 9214/80; 9473/81; 9474/81.

³⁸ Comp. Matthew Willner-Reid: Emergence and Decline of a Protest Movement: The Anti-Deportation Campaign for Afghan Asylum Seekers in Belgium, *Journal of Refugee Studies* 28 (2015), 505-522.

prerogatives were supplemented by more specific public powers based on anti-squatting laws (criminalizing squatting) and private property law (where the owner of a building or of land requires occupants to vacate the place).



Figure 3 Idomeni, Photo Petros Giannakouris/AP

In Calais, French authorities adopted a ‘policy of invisibilisation’, that consisted of removing migrants from the public eye in order to pretend that the migrants’ emergency has been solved.³⁹ The migrants “problem” in Calais started in the 1990s, when non-EU migrants began to stop there before going to UK. The more the entry into the UK became difficult, the longer migrants used to spend in Calais after the opening of the Channel tunnel in 1994. From this period on, migrants and French authorities clashed on a regular basis. The situation was characterized by multiple protests, destruction and subsequent reconstruction of migrants’ informal settlements, which involved NGOs, media and human rights lawyers. Migrants and their legal representatives filed different lawsuits against French authorities but they have never been successful, mainly because the court has always recognized that French authorities perpetuated this policy in order to protect public safety. However, they have prepared alternative shelters to migrants in different cities.



Figure 4 Calais, Photo Getty

³⁹ Lieneke Slingenberg and Louise Bonneau, “(In)formal Migrant Settlements and Right to Respect for a Home”. Paper presented at DAMR Conference Urban refugees and migrant integration in the city.

In 2014, the Administrative Tribunal in Lille allowed the Calais local authorities the forcible eviction of migrants on the grounds that the municipality has as its task to ensure the proper use (“bon usage”) of land, and gave this permission in an accelerated procedure on account of the insufficient sanitary infrastructure and an accumulation of excrements and waste (“l’insuffisance d’infrastructures sanitaires et l’entassement d’ordures et de déchets”) resulting in a danger to public health. The argument raised on behalf of the migrants that evacuating this particular location would do nothing to relieve these problems was rejected using the argument that this does not affect the grave danger to public health which can presently be observed in this location.⁴⁰ In a subsequent case a group of migrants and humanitarian organizations sought an injunction suspending the decision to evict another location. It concerned a place that had initially been set up as a shelter following the 2014 eviction of another location. However, the new location became overcrowded on account of new arrivals and what the court calls sedentarization (the court later refers to migrants living in this location for months or years). The local authorities want to evict the migrants for reasons of public order and safety, including the safety of the migrants themselves. The court considers that the situation in this location is untenable and says there is another location where the migrants (in particular single women and unaccompanied children) can get shelter.⁴¹

The issue of informal migrants’ settlement of Calais may be assimilated to that of Amsterdam, even though the latter started more recently. In Amsterdam, the “We are here” protest started in 2012. It has been organized by a group that began by occupying the square of a former school with tents, and since then is squatting empty buildings.⁴² They do so not only to have a place to stay, but also to host political, cultural and social events.⁴³ Despite the fact that this was initially tolerated, also in Amsterdam there were frictions and conflicts between the migrants and the local authorities. The protest group occupied different places (an old church, empty office spaces, empty garage, etc.), always ending up being evicted or leaving the location ‘voluntarily’ in order to prevent forcible eviction. In 2013 and 2014, the Amsterdam municipality offered two different possibilities of temporary accommodation: the first one was a former prison which the migrants could use for six months, but after six months only the most vulnerable migrants were offered new accommodation, while the others were forced to leave; the second one was represented by the granting of basic shelter, food and sanitary facilities only from 4 pm to 9 am. Even though it was deemed sufficient by the Court of Appeal of Amsterdam, some migrants did not accept this and kept on squatting. Some who would accept the available night shelter have no other option than squatting because the night shelter often is full.

The District Court Amsterdam in 2012 refused to give an injunction prohibiting the mayor of Amsterdam to evict a tent camp, agreeing with the local authorities that eviction was necessary for the prevention of disorder (there had been incidents between the migrant groups varying from hard core nationalists and “a group of scooter boys”) and public health.⁴⁴ In another

⁴⁰ Tribunal Administratif de Lille, 27 June 2014, *Commune de Calais*, req. n° 1403975.

⁴¹ Tribunal Administratif de Lille, 25 février 2016, *Sharifi & autres*, req. n° 1601386. Comp. Tribunal Administratif de Lille, 18 October 2016, *M. Loay M. et autres*, req. n° 1607719.

⁴² See <http://wijzijnhier.org/who-we-are/>, last accessed 13 November 2017.

⁴³ D. Dadusc, ‘Squatting and the undocumented migrants’ struggle in the Netherlands’, in: P. Mudu and S. Chattopadhyay (eds), *Migration, Squatting and Radical Autonomy : Resistance and Destabilization of Racist Regulatory Policies and B/Ordering Mechanisms*, Routledge 2016.

⁴⁴ Voorzieningenrechter Rb Amsterdam 28 November 2012, ECLI:NL:RBAMS:2012:BY4471.

case, the District Court gave an injunction ordering migrants to vacate a building they had squatted at the request of the owner, with the owner's property rights as legal basis.⁴⁵ A more complicated picture arises from litigation about another squat, the Vluchtgarage. The city of Amsterdam was the owner of this building, and had filed a criminal complaint for trespassing. The migrants sought an injunction to prevent eviction based on criminal law. The District Court issued an injunction for 2½ months, holding that the migrants were in a desperate situation which they were unable to influence, and held that during winter their interest in having shelter prevailed over the municipality's interest in immediate eviction.⁴⁶ The Amsterdam Appeals Court however overturned, ruling that because of the night shelter offered by the municipality the interests of the municipality outweighed those of the migrants.⁴⁷

Anti-squatting policy and dismantlement of migrants' camps also took place in Greek cities, such as Thessaloniki and Idomeni. In particular, after the evacuation of Idomeni's camp in May 2016, the Greek government started to transfer migrants to smaller camps around the country, in collaboration with the EU, UNHCR and NGOs. But the conditions of these military and police-run camps⁴⁸ put into being more problems: indeed, migrants protested not only because of the lack of electricity, quantity and quality of food and water in the camp, but also for its distance from other facilities.⁴⁹ Thus, Greek authorities applied the policy of migrants isolation as well as the French ones. In the meantime, in September 2015 a group of migrants occupied abandoned buildings in Athens, thus starting to take part of social and political life of the city. However, in Thessaloniki police evicted three self-organised squats in a mass operation.

1.2 Legitimation through immigration law

In the previous paragraph, internal spatial policies that are used to legitimize evictions were addressed. Another source for a more general legitimation by governments for their exclusion of undocumented migrants from socio-economic rights, including the right to shelter, is external spatial policy, in the form of migration law. Illustrative for this is the position the Dutch government took in a case before the European Committee of Social Rights concerning the situation of the *We Are Here* group in the Netherlands.⁵⁰ The Dutch government maintained that the European Social Charter does not apply to migrants in an irregular situation, because the Charter explicitly provides that foreigners are only covered by the Charter if they are nationals of other states that are party to the European Social Charter and if they are lawfully resident or

⁴⁵ Voorzieningenrechter Rb Amsterdam 1 August 2013, ECLI:NL:RBAMS:2013:4804.

⁴⁶ Voorzieningenrechter Rb Amsterdam 20, February 2015, ECLI:NL:RBAMS:2015:847. See for a similar intermediate position, in a case where the municipality wanted permission to evict from a building it had rented for six months as shelter Voorzieningenrechter Rb Amsterdam 20 June 2014 ECLI:NL:RBAMS:2014:3532; in the final decision, the court did order the migrants to leave the building, Voorzieningenrechter Rb Amsterdam 4 July 2014, ECLI:NL:RBAMS:2014:3952.

⁴⁷ Gerechtshof Amsterdam 31 March 2015, ECLI:NL:GHAMS:2015:1121; cassation appeal rejected without substantive grounds, Hoge Raad 7 October 2016, ECLI:NL:HR:2016:2281.

⁴⁸ The Guardian (2016, May 28). Protests grow as Greece moves refugees to warehouses 'not fit for animals'. Retrieved from: <https://www.theguardian.com/world/2016/may/28/greece-refugee-warehouses-not-fit-for-animals>

⁴⁹ Middle East Eye (2016, May 26). Greece, where refugees prefer petrol station forecourts to military-run camps. Retrieved from: <http://www.middleeasteye.net/news/idomeni-camp-evacuation-1175931541>.

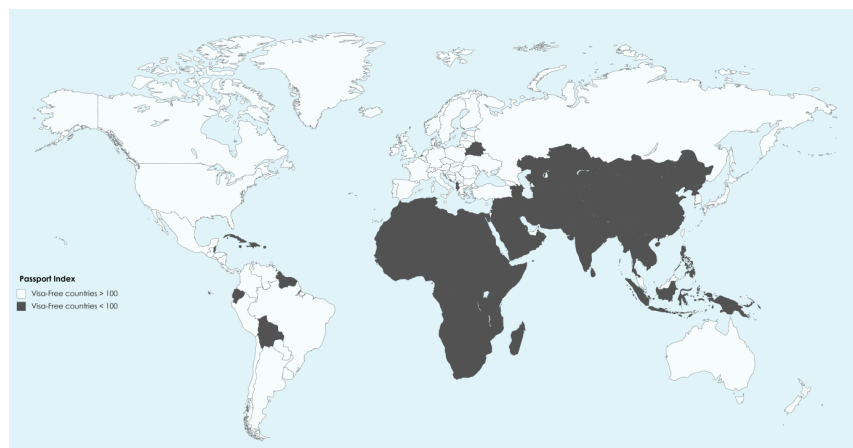
⁵⁰ European Committee of Social Rights 1 July 2014, Conference of European Churches (CEC) v the Netherlands, 90/2013.

working regularly within the territory of another state party. Secondly, the government argues that migrants who cannot return for fear of persecution are granted asylum, and migrants who cannot return through no fault of their own receive a humanitarian residence permit. So migrants whose applications have been rejected can return safely (there is no risk of inhuman treatment) and they can actually return, provided that they cooperate (for example by giving their correct identity). The government argues that the irregular status of adult migrants is often the result of a conscious choice. They can end their irregular stay by agreeing to return, which according to the government actually is their legal obligation.

This means that the Dutch government denies having any obligations in the field of socio-economic rights vis-à-vis irregular migrants except emergency provision of health care, education for minors, and legal aid. This is based on the notion “that, as a matter of well-established international law and subject to its treaty obligations, a State has the right to control the entry of non-nationals into its territory.”⁵¹ The Dutch government argues that this right of states implies the right to deny socio-economic rights, because otherwise the state right to control migration would become meaningless (because socio-economic rights would have to be granted regardless of the legal status of aliens). In terms of Bosniak, the issue is what the irregular status of aliens can lead to: is it merely grounds for the alien to be deported, or can states also deny rights to aliens on their territory without deporting them? Does the status of illegal alien only influence the migrant’s position in immigration law (s/he may be deported), or does it also influence other rights (can illegal aliens be tortured, do they have the right to fair trial, do they have the right to work, rent a house?)

In Calais, Idomeni, Amsterdam and other European places, the people who are being evicted from their homes are overwhelmingly African or Asian. They originate from countries such as Somalia, Ethiopia, Eritrea, Sudan; and from Syria, Iraq, Afghanistan. They originate from the countries that are black in the map below.

Figure 5 Global passport index (visuals Yussef Al Tamimi)



⁵¹ European Court of Human Rights 28 May 1985, 9214/80; 9473/81; 9474/81, Abdulaziz, Cabales and Balkandali v United Kingdom para. 67. See extensively Marie-Bénédicte Dembour: *When Humans Become Migrants*, Oxford University Press 2015.

The map divides countries in those of which the nationals can access more than 100 other countries without needing an entry visa (white), and those of which the nationals can access less than 100 other countries without an entry visa.⁵² The fact that the evicted people do not have a right to reside in France, Greece, the Netherlands etcetera is crucial in legitimizing their eviction. As we have seen, the public order and public health grounds for the evictions functions in a context where their right to socio-economic entitlements as such is disputed by the authorities on the ground that they claim these entitlements in the wrong country, being a country where they have no right of residence.

1.2 Racialization/alienation – eviction

In the contemporary European context, the authorities found a ready-made situation in which the people who are subjected to evictions were already aliens. They did not first have to create independent states in order to have a right under international law to entirely exclude the populations they want to exclude. However, they did have to decide to what extent the status of alien would matter. For citizens of the United States, Japan or Australia, their status of aliens in Europe has a totally different meaning than for citizens of Somalia, the Democratic Republic of Congo. First and foremost, the former can enter Europe without needing a visa, while the latter need one⁵³ and are likely to be denied one if they were to apply for it. The racialized nature of the visa obligations is less blatant than under Apartheid, because “white” South-Africans need visa just like “black” ones, while “black” Americans benefit from visa-freedom just like their “white” fellow-citizens. Notwithstanding this, the degree to which the status of alien matters is racialized, as illustrated by the passport index map (Figure 5).

Within the racialized group of nationalities subjected to a visa requirement, differences are made as well. Some people may be granted visa, but this is related primarily to having sufficient means (Article 21(1) Regulation 810/2009 in conjunction with Article 6(1)(c) Regulation 2016/399; Article 21(3)(b) Regulation 810/2009). In this manner, denial of visa is based on class and indirectly to race and gender (think of the relative socio-economic position of women globally⁵⁴ and of Blacks in countries such as South-Africa, Mauritania and Tunisia⁵⁵).

Thus, in the European context the racialization of the status of aliens is indirect. People are not subjected to visa obligations, and are not refused visa, on the basis of their race. Nonetheless, visa obligations apply to all of Africa, all Middle Eastern nationalities except Israel and the United Arab Emirates, and to all of Asia except the most affluent countries (being Japan, South Korea, Taiwan and Malaysia). The racialized nature of the resulting map (which is almost equal to Figure 5) is hard to deny.

⁵² Based on *Passport Index*, <https://www.passportindex.org/>, last accessed 13 November 2017.

⁵³ Regulation 539/2001, last amended by Regulation 2017/850. Compare the visualization of visa requirements for the European Union on the website of the European Commission, https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy_en, accessed 25 November 2017.

⁵⁴ *The Little Data Book on Gender* 2016, World Bank, Washington DC 2016.

⁵⁵ Comp. Achille Mbembe and Felwine Sarr: Face à l’esclavage, luttons pour notre dignité, *Le Monde* 26-27 November 2017, p. 25.

Forced removal from informal dwellings exclusively affects racialized groups, as the inhabitants of these informal dwellings are exclusively “non-white”.⁵⁶ The evictions are legitimized via public order law and immigration law. The use of the concept of public order is part of the more general development in which authorities conceptualize irregularized migration not merely as an administrative issue, but as a threat to public order. The legitimation through immigration law relies on a racialized legal system, as I outlined above, hence is racialized by ricochet.

In conclusion: the racialization in contemporary Europe is subtle when the Apartheid system is taken as the norm. But it is undeniable both in legal terms (see Figure 5), and because it is exclusively “non-whites” who are evicted. The use of violence, which includes violence against persons and the destruction of their homes, could only become routine and normalized because its victims were racialized.

1. Parallels and differences

So far, the position of two groups has been sketched: that of people in South Africa who were deprived of their South-African nationality, and people in Europe who have been denied asylum or other forms of legal residence. This final section addresses the question what the parallels between these groups are, and what the distinctions are.

There are two major parallels. First: in both cases, the vocabulary is contested. In the South-African context, obviously the racialized terminology (“natives”, “Bantus”, “coloreds”, etcetera) used in apartheid legislation and policy is contested. But in the present context, it is relevant to note that it was also contested whether or not people were referred to as citizens of one of the Bantustans (and consequently as migrants when in South Africa), or on the contrary as South-African citizens. The use of these terms was at the core of the conflict about apartheid. There were no neutral terms to refer to the people involved. The use of terms itself signaled a particular politicized position. The same is true in the contemporary European context. The *We Are Here* group, for example, refers to itself as refugees. On the other side of the political spectrum the same people are referred to as illegal aliens. In between are terms such as rejected asylum applicants, and non-removable irregular migrants. Efforts are made to use neutral terminology – for example the European Committee for Social Rights refers to irregular migrants. But this may be, and is, contested by people who emphasize that these people are in fact refugees and that they have been illegalized.⁵⁷ So in both cases the terminology used to describe is simultaneously political, moral, and indicates the investment of the person using the terms.

Second: in both cases, the nationalities assigned to the people concerned have only little meaning for their citizens. People are referred to “their” states for the realization of basic human rights, while it is evident that “their” states are unable to deliver. Of course, the Bantustans were specifically created for that purpose, while the states of origin in the contemporary European

⁵⁶ Comp. the eviction of the informal dwellings of Roma people in France, Maryline Baumard: Le dernier camp rom de Bobigny en sursis, *Le Monde* 2 June 2017, http://abonnes.lemonde.fr/societe/article/2017/06/02/le-dernier-camp-rom-de-bobigny-en-sursis_5137480_3224.html?xtmc=rom_france&xtcr=7, accessed 25 November 2017. Because of their different legal status (the Roma concerned have the nationality of European Union member states), the legitimization of the evictions is different.

⁵⁷ See on this for example Harald Bauder: ‘Why We Should Use the Term ‘Illegalized’ Refugee or Immigrant: A Commentary’, *International Journal of Refugee Law* 2014, p. 327-332.

situations are *objets trouvés*. The Bantustans were not recognized as independent states by the international community, and did not have governments capable of fulfilling normal state functions. In contrast, the countries of origin of contemporary migrants in Europe are recognized as states. But in some cases, this recognition is in fact the only thing there is. The internationally recognized governments of Somalia and Libya have no factual authority outside limited areas which they control. Europe tries to set up internationally recognized governments there, with which they can enter into binding agreements. Governments of states like Iraq and Afghanistan are unable to guarantee even a minimal form of law and order in substantial parts of their territory. States like the Democratic Republic of Congo and Burundi are so entangled with business interests that there is something artificial to treating them like any other subject of international law.⁵⁸ On the other hand, some countries of origin which are more “real” than some internationally recognized regimes are not recognized by the international community (concretely the de facto authorities in Somaliland and Puntland in Somalia, and Kurdish North Iraq). Both under Apartheid and in contemporary Europe, for the realization of their socio-economic rights “migrants” are referred to states which are not recognized internationally, or which effectively exist only in some ways and not in others. The limited actual meaning of the existence of some these states is not created on purpose (as that of the Bantustans was). The decomposition of Afghanistan, Iraq and Libya was the consequence of military actions of Western countries, but was not the aim of these actions. So although the limited reality of countries of origin was not purposefully constructed, it is an actual fact of which European countries can hardly be unaware. Also, European countries can hardly claim that they have no involvement in that situation. Notwithstanding this, the formal existence of these states eagerly seized to claim that their citizens have a place where they can realize their socio-economic rights. This process might be labeled as a reverse form of institutional isomorphism. Institutional isomorphism is defined as a process in which organizations are forced to resemble each other as they face the same set of environmental conditions. A coercive form of this occurs when the environmental conditions consist of formal and informal pressures exerted on organizations by other organizations upon which they are dependent.⁵⁹ In the contemporary European context, states of origin such as Libya do not actually resemble states like Japan, but are ascribed such resemblance by European state authorities. It suits the interests of European states to emphasize the resemblance, whereas “migrants” emphasize the fundamental difference. The “migrants” concerned consider it as unrealistic to expect the states of which they have the formal nationality to deliver. Some of them have no territorial control; some are heavily dependent on private actors; some are unable to deliver on basic points such as safety and the bare minimum for survival. In that sense, like the citizens of the Bantustans “migrants” concerned are referred to “their” states of nationality while they experience these as being unreal and unable to provide even the most basic forms of human needs.

There are two differences as well. First: the Bantustans were not recognized internationally. The idea of referring people to the strawman-states which South-Africa set up to legitimize apartheid was unacceptable at every level. In contrast, the countries of origin of

⁵⁸ Approximately half of the tax income of Burundi comes from one firm, beer brewery Brarudi, which is controlled by Heineken, <https://www.nrc.nl/nieuws/2016/11/18/zo-werkt-dat-in-burundi-5337152-a1532331>.

⁵⁹ Paul J. DiMaggio and Walter W. Powell: The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields, *American Sociological Review* 48 (1983), p. 147-160.

contemporary migrants are formally recognized states, and as such are recognized as having obligations under international law towards their nationals. There are a few exceptions, which are relevant for irregular migrants in Europe (Northern Iraq, Somaliland and Puntland, see above). However, this difference relies on the formal recognition of states under international law, and passes over the actual differences between contemporary states. For example, for Japanese nationals in an irregular situation, the legitimation of their exclusion from socio-economic rights seems quite convincing. It is not incongruous to argue that, if they want to effectuate their socio-economic rights, they can turn to the appropriate authorities in Japan and should not expect this from the authorities in European states where they find themselves. To suggest that a Somalian national can turn to the appropriate authorities in Somalia is utterly unconvincing: these authorities have very limited territorial control, and even within the territory they control they are unable to deliver safety and basic means of survival. Nevertheless, there is a real difference between apartheid South Africa and contemporary Europe on this point. The problematic nature of referring Somalians to the Somali authorities is of a different order than in the apartheid context. Under apartheid, the argument was unacceptable as a matter of principle. In contemporary Europe, the argument is arguably not acceptable because the Somalian authorities have proven unable to provide for basic human needs for over 25 years. If this factual situation changes, as a matter of principle there are no objections against referring Somalians to the Somalian authorities for the realization of their socio-economic rights.

Second, and related to this: the alien status of people who under apartheid were assigned Bantustan nationality was not recognized in international law. The application of migration law to them was therefore as such unacceptable. They were South-African citizens on South-African territory, and under international human rights law had the right to be on that territory. This is different for contemporary Europe. These people are aliens, they are subjects of internationally recognized states, and therefore under current international law as a rule they need consent of the state where they find themselves for their presence, because it is not the state of their nationality.

As a final remark, it has to be noted that in the above it has been questioned whether states like the Democratic Republic of Congo or Somalia can be treated as actual independent states. From the perspective of their citizens residing in Europe, it is artificial in treating them as if they were states like Australia or Japan. While this is something that needs to be underlined, it should also be pointed out that there is something deeply uneasy about an academic from the global North relativizing the status under international law of decolonized states. Decolonization has been one of the central political and moral aspirations of the 20th century, and is not to be dismissed lightly. What this analysis shows is how former colonial states use the fact that their former colonies are now independent in order to justify how they treat people who, under colonialism, would have been their subjects. The former colonial powers thus ignore the incomplete character of decolonization, which is evident from the disruption resulting from previous and current waves of globalization.

Franz Kafka's *In the Penal Colony* is a text that all law students should read. In the story, a Traveler from a foreign country is sent to observe the Penal Colony's method of punishment for wrongdoers, which turns out to be a barbaric torturous death machine that inscribes the accused's sentence on his body as it slowly kills him. The Traveler grows more and more horrified as the Officer in charge of the executions explains the machine enthusiastically, with pride and love for each of its components. The Condemned Man, a servant sentenced to death for falling asleep and neglecting his duty to "stand up every time the clock strikes the hour and salute in front of the captain's door," looks on during the explanation despite the fact that he cannot understand the language (Kafka 9). Upon finishing his explanation, the Officer asks the Traveler: "Can you now appreciate the work of the Harrow and the whole apparatus? Just look at it!" (Kafka 14). When the machine is ready to receive its next victim, the Soldier, who is there to assist the Officer, cuts off the Condemned Man's clothes and helps to strap him to the machine as the Traveler looks on in disgust.

While this travesty continues, the Officer grows concerned as he sees the Traveler's reaction, and pleads with him not to speak out against the execution method, for fear that the new Commandant will end it if he sees how strongly a respected foreigner disapproves of it. When the Traveler informs him that he will voice his opposition to this type of execution, the Officer "smile[s] the way an old man smiles over the silliness of a child," spares the life of the Condemned Man, and opts instead to throw himself into the execution machine (Kafka 29). The Soldier and the Condemned Man enjoy the macabre spectacle, and even assist the Officer as he straps himself in. The Condemned Man becomes fascinated with the machine after he is no longer sentenced to die by it, and "with his hands folded...plead[s] to be allowed to stay there" to observe it working on the Officer (Kafka 35). The machine eventually kills the Officer, but without the beauty and seamlessness he had described to the Traveler. As the Traveler notes, "what all the others had found in the machine, the Officer had not" (Kafka 37).

The story ends with the Traveler and other two men visiting the site where the old Commandant is buried—outside a tea house underneath a table where people are casually dining. The Traveler leaves, and the Soldier and Condemned Man chase after him. By the time they get to the Traveler's boat, he has already boarded and the boat takes off, taking the Traveler away from the Penal Colony and leaving the two men behind.

Kafka's distinct storytelling style, which at once both delights and horrifies the reader, is the perfect medium through which to illustrate the inefficiencies and shortcomings of any modern legal system. When read through an immigration law lens, this text perfectly illustrates what it is like to be an immigrant or refugee in the United States. From the complex system of incomprehensible rules to the stubborn obsession with entrenching those rules and preserving them at all costs, *In the Penal Colony* illustrates the life of the immigrant from his entrance into the country all the way to his inevitable assimilation into the system.

The typical person who immigrates to America enters the country a lot like the Condemned Man approaches his execution. The immigrant usually does not speak the language. Like the Condemned Man, he does his best to understand what is happening around him by carefully observing those in charge, ultimately gleaning very little in the process. If the immigrant does speak the language, it is likely that he does not speak the particular language used throughout the immigration system. Quickly, the immigrant begins to learn that the system is plagued with inconsistencies and injustice. In the story, the Officer explains the execution machine to the bewildered spectators, and the Traveler grows more and more concerned as he realizes that the

previous Commandant, who had designed the machine, was “in his own person a combination of everything;” he was “soldier, judge, engineer, chemist, and draftsman” (Kafka 7).

The Traveler is even more baffled upon learning that the Condemned Man does not know his sentence. This conjures up images of unrepresented immigrants standing in immigration court and having very little idea of why they are there or what is going to happen to them. In the story, the Officer explains the reason the Condemned Man does not know his sentence—“[i]t would be useless to give him that information. He experiences it on his own body” (Kafka 8). The immigrant experiences the truth about his status within his community in a similar fashion. Though it is not printed on his body, his systematic exposure to anti-immigrant rules and sentiments becomes imprinted on his mind.

When I immigrated to the United States from Romania as a young child, I remember people exclaiming “Welcome to America!” cheerfully, even at the airport in Dallas where my mother and I first landed. It made us feel like we had landed in paradise. That feeling was short-lived, as we soon came to learn that as an immigrant in the United States, you do not receive the same treatment as everyone else. Although my mother was paid less than her American counterparts, her immigrant status made her unable to apply for any benefits that low-income American citizens could apply for. No one will approach an immigrant outright and say “you will never be worth as much in this country as an American citizen,” but that is not necessary, because an immigrant quickly deciphers his true place in society “with his own wounds” (Kafka 15).

However, immigrants and refugees in America are still necessary for one thing: their entertainment value. In *The Penal Colony*, the Officer explains that executions in the colony used to be widely attended—everyone “came merely to watch,” and there were “fanfares” announcing the event as “the whole society—and every high official” gathered to witness the condemned person’s demise (Kafka 20). People witness executions because it makes them feel good, and they support draconian immigration measures because it makes them feel safe. Not only is “justice” served, but they get to see how another person’s life turned out so much worse than their own. They get to feel bad for the poor guy and feel good for themselves, because, after all, they’re much better off. Many immigrants have a similar experience.

As an immigrant, though you are marginalized and constantly reminded that you do not truly belong, you are also extremely *interesting*, and the sadder your story, the better. People light up when I tell them I’m from another country. They can’t wait to hear all about how horrible and miserable my life was before I moved here to the land of the free and the home of the brave. I can’t count the number of times I’ve been asked whether when I lived in Romania, I didn’t have enough food, or a home, or clothes, or a school to go to. In reality, I lived a middle class life, had access to free healthcare, lived in an apartment that we owned, and went to an excellent school, which allowed me to surpass all my peers when I started school here. But that makes me more valueless as an immigrant, because I can’t contribute to the poverty porn so many Americans feed on.

Immigrants are cool as long as they are documented and come complete with a feel-good story about how America helped them turn around their sad, worthless lives. For those who are undocumented, the battle for acceptance and inclusion is even harder. Like the Condemned Man, undocumented immigrants and refugees are not merely fighting for a specific status within society—they are often fighting for their lives, and fighting alone. In the story, the Traveler wishes to intervene on behalf of the Condemned Man, but feels uneasy about it and figures that maybe “in this place special regulations [are] necessary, and that one [has] to give precedence to military measures right down to the last detail” (Kafka 10). These are the same justifications that led to Donald Trump’s infamous travel ban. Regardless of the relevant humanitarian concerns,

ultimately, being biased against refugees or immigrants is okay, because it's a matter of national security. Or national pride. Or the fact that we already have poor people in America. Or that somehow, people fleeing the evils of terrorism in their own countries just can't wait to get to America and engage in exactly the same thing that prompted them to leave. Whatever the pretexts, Americans, even well-meaning ones, tend to take on the Traveler's initial attitude; we throw up our hands, shrug our shoulders, and tell ourselves it is not up to us to solve the country's problems.

This perpetuates the notions that immigrants and refugees are inferior and dangerous, and that regardless of whether attitudes towards them or rules governing their status are unfair, they are necessary. In the Officer's words, "Is it not necessary to try every means of saving this procedure, even those methods which may possibly be inadequate?" (Kafka 25-26). In *The Penal Colony*, this is illustrated through the Officer's desperation to hold on to the barbaric execution tactic left in place by the old Commandant, even if the rest of the colony opposes it. "I'm using all of my powers to maintain what there is at present," says the Officer as he begins to plead with the Traveler to help him keep the current system in place (Kafka 19). It may not be the best it can be, but that's not the Officer's fault—it is rather a result of the fact that the "resources for maintaining the machine are very limited at the moment" (Kafka 17).

These are the excuses given when you ask why there are refugees who have been waiting for years for someone to review their applications and grant them permission to remain in the United States permanently. There are simply too many applications and not enough resources to process them all. But if you suggest that the process would go faster if some of the roadblocks were removed and those fleeing danger could more easily obtain status, that is simply unacceptable, because it would imply having to bring the current system to a screeching halt and re-working it.

The Officer's intense paranoia about people trying to change the current penal system is palpable in the United States and shared by almost all of those who support marginalizing and excluding immigrants and refugees. One can almost hear Donald Trump screaming the Officer's words in desperation: "People are already preparing something against my judicial proceedings. Discussions, to which I am not invited, are already taking place..." (Kafka 20). As they explain why the current system must be maintained, its supporters lament the fact that it is no longer as strict as it used to be; that in the past, "the needles... dripped with caustic liquid which today we are not permitted to use anymore" (Kafka 21). Gone are the good ol' days when we didn't have to be so "politically correct" and we could just blatantly express our racism and bigotry without anybody having a problem with it. Amid cries of "build the wall!" and "go back to your country!" small voices rise up in protest, but they are quickly stifled. To those who stand up to challenge the barbarism, its supporters reply: "you are biased in your European way of seeing things" (Kafka 22).

This brings me to another point at which the immigrant becomes slightly more valuable to American society—when he gains citizenship and assimilates into the culture by casting out all previous customs and adopting the American way of life. This step is difficult to reach, particularly for those who are not white or who come from countries with vile stereotypes attached to them. It is even more difficult to reach for refugees, and almost impossible for undocumented immigrants. In the story, the Condemned Man would have presumably reached this point during the sixth hour of the execution, where even "the most stupid of [those being executed] begins to understand" the sentence that is being inscribed on his body (Kafka 15). In the Penal Colony, this was an exciting event, especially for those witnessing the execution. As the Officer explains, when people used to attend the executions, they all happily "took in the expression of transfiguration on the martyred

face” of the man who finally understood once and for all exactly who he was in the eyes of the spectators (Kafka 21).

Gaining citizenship accomplishes that transfiguration for today’s immigrant in the United States. I will never forget my own experience with this phenomenon. It begins when you first submit your documents to apply for citizenship. You await with trepidation an envelope telling you that after extensive background checks and a hefty sum of money, you have been deemed worthy enough to receive the honor of being interviewed to see if you are worthy enough to receive the honor of becoming a citizen. More envelopes follow with more instructions, and eventually you receive an interview date, dress in your best American-looking outfit, and show up to a local government building to prove that you understand something of the English language and have spent at least a few minutes looking through the booklet of information you were provided about the country’s history.

My mother studied earnestly for the interview, making sure to remember that George Washington was our first president, Barack Obama was our current president, and something pretty significant took place right around the year 1776. We walked into the building together, ready to face whatever test of our loyalty to our new country was thrown at us. The most memorable part of the entire experience was witnessing the way people were treated when they entered the building as non-citizens and comparing it to the way they were treated as they exited the building as reborn believers in the American dream.

When people entered, they were herded like cattle as they moved through a security line similar to the ones at airports. Hostility and hatred hung in the air as officers screamed “take off your shoes!” at a woman who took more than two seconds to figure out what she was supposed to do when she reached the front of the line, and every few minutes, another officer would yell “have a seat until your number is called!” over the crowd. Like the Condemned Man who had yet to decipher the inscription on his body, all the immigrants in the room looked around at each other, confused about why they were being treated like they were sub-human. The officers looked at us like piles of garbage, and we had no choice but to sit and wait until we could be transformed into something less inconvenient and unsightly.

After the whole process was complete, we proceeded to a room to take part in a ceremony celebrating our new identities. With cheers and fanfare, someone called out each country that was represented in the room, and we all stood up to roaring applause when our country was called. A welcoming video was played, followed by the national anthem and pledge of allegiance. The hateful tension we experienced upon walking in was replaced with big smiles and congratulations as those same people who had treated us like garbage hours earlier waved flags in our faces and enthusiastically encouraged us to register to vote. We had experienced the transfiguration the Officer in the Penal Colony longingly described. We had reached the 6th hour of our transformation, and we had finally gained some value in the eyes of our spectators. What seemed like a happy ending to everyone around us was, to us, simply an ending. Our faint smiles, like those of the people executed in the Penal Colony, signaled to others that we had finally understood and accepted our place. To us, they signaled the end of one kind of life and the hope for the beginning of another.

The greatest fear of those who insist that immigrants, refugees, and undocumented persons need to be excluded and oppressed is that without the proper measures, one day those people will rise up and bring the entire system to its knees. The ending of the story illustrates that fear. Here, the foreigners—the Condemned Man who did not speak the Officer’s language and the Traveler—put an end to the execution system. Every piece of the elaborate execution apparatus began

tumbling down as the machine decomposed before the viewers' eyes. Horrified, the Officer had no other choice but to become the machine's final victim; to go down with his sinking ship rather than endure another day without it. Those who wish to maintain America's dysfunctional immigration system see foreigners as a threat to every part of their way of life, and they are willing to do anything in their power to keep the machine working, regardless of who is harmed in the process. As seen in *The Penal Colony*, however, a shaky system built on fear and maintained for the sake of tradition and reverence toward its creators can only last so long before it inevitably meets its demise.

Simina Grecu, Vanderbilt Law School

Commentary: Today's World in *The World of Yesterday*

Recent political events across the United States and Europe have shaken the international community. A weakened European Union, the presidential election of Donald Trump, and widespread anti-immigration sentiment indicate a decrease in support and enthusiasm for international cooperation. Countries have turned their focus inward and are emphasizing border protection and national interests above all else, at the expense of broader international concerns.

The geopolitical landscape is marked by anxiety and uncertainty, as the bonds of the global community seem increasingly fragile. The nature of today's political climate led me to Stefan Zweig's autobiography, *The World of Yesterday* (University of Nebraska Press, 1964). Zweig was born in Vienna in 1881, and raised during a period of international harmony that he called "the Golden Age of Security (23)." He led a cosmopolitan life, and was a frequent international traveler; fittingly, he was a strong supporter of European unity and open borders within the continent. As an adult, he witnessed the creeping division that would ultimately shatter Europe, not once but twice during his lifetime. In 1934, Hitler's rise prompted him to flee Austria, and at age 52, Zweig found himself a refugee (413). His horror at what he considered the demise of Europe drove him to commit suicide at 1942, shortly after sending the final manuscript of his autobiography to his publisher (vi). Zweig's internationalist perspective on the tragic events of his time are illuminating, and make the parallels to today in his narrative especially chilling. Tragically, Zweig's life ended shortly before the post-war years swung the pendulum back towards peaceful and cooperative international relations. Today, we seem to be witnessing the reverse, making Zweig's account especially relevant.

Against the backdrop of today's fractured world, Zweig's frequent references to boundaries, borders, and divisions are particularly interesting. Whether symbolic or territorial, real or metaphorical, they were a constant presence in Zweig's narrative. As a child growing up in the ancient Austrian monarchy, the stability and permanence of the state were hallmarks of civic and political life; security was something granted by the state alone. Perhaps it was these lessons, instilled at such an early age, that prompted Zweig to pay attention to borders, whether between states, social circles, political groups or cultural norms.

Fittingly given the subject of *AmeriQuests*, some of the most significant moments of Zweig's life involved crossing state borders. Traveling from Austria to Switzerland during World War I, he recalled the drama of crossing the border, noting that in that moment he was "already thinking differently, more freely, more actively, less servilely (286)." He returned to Austria nearly a year later, but found himself hesitating at that same border, as any pacifist would likely do when leaving a neutral country for one at war. Zweig's ultimate decision to return to Austria, despite the certain hardships that lay ahead, was "a turning point" in his life (307).

Zweig saw border-like divisions in other areas of his life as well. He writes that his upper-class upbringing was a kind of insulation against the harsh realities of the outside world, as external disasters never penetrated "the well-padded walls of 'secure' living" and even foreign armed conflicts "did not penetrate the existence of my parents (47)." He left the propriety of Vienna to study in Berlin for a semester at age 20, where he noted the lack of social divisions in their culture; he was particularly surprised to witness true poverty within his very own social circle (something that would never have happened in Vienna). Later, in Paris, Zweig similarly notes a lack of visible barriers between luxurious shopping streets and dirty back alleys, and people of different socioeconomic status mixing freely together (152).

Given the emphasis placed on permanent statehood and security throughout his early education, it is interesting (but perhaps not surprising) that Zweig ultimately saw himself not as a citizen of the state, but of the world. By age 40, he had lived in Austria, France, England, and Switzerland, and he had traveled to Spain, Algeria, India, Ceylon, Burma, the United States, Cuba, and Puerto Rico. His feeling of belonging to the world – Europe in particular – shielded him from the outbreak of Austrian nationalism at the beginning of World War I. Zweig was unable to join his fellow citizens in demonizing Belgians, for example, as he had “lived too internationally to be able suddenly, overnight, to hate a world that was as much mine as my fatherland” (250). Zweig also glorifies how easy and open international travel was before 1914, and he describes with great aplomb his travels through Europe, India and North America without a carrying a passport or seeing anyone else’s.

His stories suggest that in the early 1900s, many others shared this belief. In Belgium, for instance, he heard that the first Zeppelin flight had crashed. According to Zweig, this was experienced by all Europeans as a tragedy, not as something specific to Germany. Similarly, all Austrians celebrated Bleriot’s flight over the Channel in 1909 as a European victory. These scientific advancements further diminished the utility of borders in Zweig’s mind; “[h]ow useless, we said to ourselves, are frontiers when any plane can fly over them with ease, how provincial and artificial are customs-duties, guards and border patrols, how incongruous in the spirit of these times which visibly seeks unity and world brotherhood! (219)”

Given his global citizenship, and the centrality of European unity in his beliefs, it is not surprising that Zweig was devastated by the military conflicts and subsequent political developments of the first half of the 20th century. His hope of a unified Europe slipped further and further away, as borders that were once purely symbolic (Zweig likened them to passing over the Meridian of Greenwich) became impassable barriers. Where once you could travel freely, one now needed a passport to even be treated as a human being (436). He hated the fact that the first stop in a new country was no longer a cultural landmark, but a government office to acquire a permit. Most significantly to Zweig, human beings were now “codified, registered, numbered and stamped” and otherwise treated like objects (438).

While Zweig was devastated for Europe, he was also personally heartbroken. He applied for British citizenship in 1938, after leaving Vienna for what he knew would be the last time. Zweig confesses that once forced to rely on alien identity papers, a part of his original identity was destroyed forever (438). He ultimately relocated to Brazil, though it was a painful process, as Zweig considered “every impression of a rubber-stamp in my passport a stigma, every one of those hearings and searches a humiliation (438).” In his final message to his publisher, sent the day before he took his life, Zweig wrote: “After one’s sixtieth year unusual powers are needed in order to make another wholly new beginning. Those that I possess have been exhausted by long years of homeless wandering.”¹

It is thus clear how devastated Zweig was to be stateless – despite his insistence that he valued his global citizenship above all things. I believe it is this tension that makes his description of his refugee status so potent, even decades later. After all, the fundamental issues faced by refugees, especially on personal level, remain constant. While it was tragic to read, it was also beautifully written and one of the best parts, for me, of Zweig’s narrative: the moment he became

¹ ARC. Ms. Var. 305, Stefan Zweig Archive, Archives Department, National Library of Israel, Jerusalem. Available at http://primo.nli.org.il/primo_library/libweb/action/dlDisplay.do?vid=NLI&docId=NNL_ARCHIVE_AL002645087.

a refugee, Zweig felt that he had “slipped down to a lesser, even if not dishonorable, category (435).” He describes how vulnerable he felt after being forced to exchange his Austrian passport for an English alien certificate: he saw his passport as “a symbol of his rights (435),” whereas the certificate was a favor bestowed by the state that could be revoked any time. He imagined the constant suspicion that his new status evoked in others: as a stateless person, they couldn’t simply deport him if they felt he overstayed his welcome. He was unable to shake the feeling that with every breath of air, he deprived a citizen and should thus express gratitude. Zweig acknowledges the absurdity of these thoughts, but asks:

Of what avail reason, against one’s emotion? (439)

For me, this description beautifully captures what must be the myriad frustrations and conflicting emotions experienced by refugees of today and throughout history, around the world. Despite the passage of time, Zweig’s words are hopefully a comfort to anyone who has experienced something similar, and a reminder that they aren’t alone.

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In the wake of another terror attack—the New York City vehicle attack on pedestrians in October 2017—allegedly inspired by the extremist beliefs and agenda of Islamic State of Iraq and Syria (ISIS),¹ President Trump has re-affirmed his commitment to passing a merit-based, as opposed to lottery-based immigration system—stating, that he's “going to ask Congress to immediately initiate work to get rid of this program...we need merit based.”² The word merit, however, is defined in a rather suspect way. The Act he supports, called the RAISE (Reforming American Immigration for a Strong Economy) Act, would accumulate points for young adult status, doctoral or advanced degrees, a Nobel prize, Olympic medals, monetary investment in the US, and strong English skills.³ Ultimately, his program would boil down to point accumulation based on parameters that emphasize one thing: the more opportunities a person was afforded at a young age, the more valuable the United States would find her. Privilege will be the gateway. The screaming problem with this approach is that the trope of the average American immigrant is a person *seeking* opportunity—escaping war-torn, economically distressed, or tyrannical governments. Thus, migrants are in a ‘Catch-22’ under this system: to reach the security and better future they seek, they must already be leaps and bounds more successful than the average American.

The perpetrator in the aforementioned New York City attack, Sayfullo Saipov, was legally in the United States from Uzbekistan via the Diversity Visa Lottery Program, and his legal status was granted in 2010.⁴ The program under which he was granted legal status creates a “pathway” for people to enter the country and become citizens legally.⁵ Trump has called this Diversity Visa Lottery Program (hereinafter “The Diversity Program”) a “Chuck Schumer Beauty,” but this hardly tells the whole story.⁶ The Diversity Program, that was indeed *backed* by Senator Chuck Schumer in 1990, randomly selects up to 50,000 people annually (from countries that have had fewer than 50,000 people immigrate to the US in the past five years) and grants them a legal green card to enter the United States, which eventually results in permanent resident status.⁷ It has an autumn application period: from which approximately 15 million applications are submitted, with fewer than half of a percentage (.33%) of those people getting accepted.⁸ Once selected by computer randomization, these people are vetted by United States security checks.⁹ To qualify as an applicant, the people must have a high school education or skill-trained job.¹⁰ Schumer is not

¹ See Shimon Prokupecz et al., *Note Found Near Truck Claims Manhattan Attack Done for ISIS, Source Says*, CNN (Nov. 6, 2017, 9:39 AM), <http://www.cnn.com/2017/10/31/us/new-york-shots-fired/index.html>.

² Yeganeh Torbati & Jeff Mason, *Trump Calls for Ending Visa Program After N.Y. Attack, Blasts Democrats*, REUTERS (Nov. 1, 2017, 6:38 AM), <http://www.reuters.com/article/us-new-york-attack-trump/trump-calls-for-ending-visa-program-after-n-y-attack-blasts-democrats-idUSKBN1D14JL>.

³ RAISE Act, S. 1720, 115th Cong. (2017).

⁴ See Corey Kilgannon & Joseph Goldstein, *Sayfullo Saipov, the Suspect in the New York Terror Attack, and His Past*, NY TIMES (Oct. 31, 2017), <https://www.nytimes.com/2017/10/31/nyregion/sayfullo-saipov-manhattan-truck-attack.html>; Torbati, *supra* note 2.

⁵ *Id.*

⁶ Derek Hawkins, et al., ‘A Chuck Schumer Beauty’: Trump Calls for End to Diversity Visa Program, Washington Post (Nov. 1, 2017), https://www.washingtonpost.com/news/morning-mix/wp/2017/11/01/extreme-right-gins-up-a-culprit-for-n-y-terror-attack-chuck-schumer/?utm_term=.9cdf33001e59.

⁷ Miram Jordan, *Diversity Visa Lottery: Inside the Program That Admitted a Terror Suspect*, NY TIMES (Nov. 1, 2017), <https://www.nytimes.com/2017/11/01/us/diversity-visa-lottery.html>. Kilgannon & Goldstein, *supra* note 4.

⁸ *See id.*

⁹ *Id.*

¹⁰ Molly Olmstead, *President Trump Attacks “Diversity” Visa Program That Was Actually Created to Benefit the Irish*, SLATE MAG. (Nov. 1, 2017, 11:10 AM), http://www.slate.com/blogs/the_slatest/2017/11/01/diversity_visa_lottery_explaining_program_donald_trump_bla_ming_after_new.html.

even close to the whole picture, however, and this rhetoric by Trump will likely have the effect of drawing a further wedge between parties on the issue of immigration. This program started, in fact, as a President George H.W. Bush bipartisan-supported initiative under the 1990 Immigration Act.¹¹ The bipartisan support was unbelievably strong (hardly reminiscent of agreements in our current Congress) and it passed with an 89-9 margin.¹²

Since its inception, but predominantly since the September 11th, 2001 terrorist attacks, people have been vocal critics about the safety of the Diversity Program—concerned with allowing dangerous people into the country.¹³ Though this is not *wholly* untrue, as there have been a small handful of people who have committed large crimes from this program, the percentage of people who have been dangerous is likely at a ratio lower than (or at least on par with) the actual criminal rate of the US general population. Only two cases in the past ten years have been reported wherein a Diversity Program immigrant committed a publicized crime: in 2011 (a Diversity Program visa recipient shot two people) and this year's October 2017 attack, with the former not being classified as terrorism.¹⁴ Additionally, in 2007, the Government Accountability Office (GAO) issued a report stating concern for the potential of fraud in the Diversity Program—without providing any concrete support on how, when, or if this was frequently occurring.¹⁵ It is incredibly disheartening and absolutely abhorrent that Saipov committed such a heinous act in the US and that innocent lives were lost—it truly makes me feel ill in vulnerable public spaces—but it is incredibly low-hanging fruit and fear mongering to chalk a national security threat up to a single instance of abusing a system.

Additionally, more common national tragedies spring up from our own US-born population, as evidenced by the sickening mass murders in Las Vegas¹⁶ and at a Texas church¹⁷ in the past two months. In all large pools of people there will statistically be people who do not follow the letter of law and act in ways loathsome to most others. However, misattributing the presence of one anomaly in a group of many, to a complete failure of a program is inherently flawed and politically manipulative. The Diversity Program is not broken because it allowed two 'bad apples' into the system, just as much as the Airforce is not an inherently broken system because the Texas shooter was a member. The narrative surrounding American-born killers is that they needed mental health help (which is certainly true an underlying factor)—but when the perpetrator allows an anti-immigrant or fear-infusing purpose to be promulgated, there is no hesitation for the media, and in this case our President, to sidetrack the conversation and use the fear affiliated with the term "terrorism" to push political aims that may be extremely attenuated. I will concede, absolutely,

¹¹ Hawkins, *supra* note 6. Interesting side note: Senator Schumer was actually part of a faction that recently tried overturning the Diversity Program. See Jordan, *supra* note 7.

¹² *Id.*

¹³ *Id.*

¹⁴ See Olmstead, *supra* note 10.

¹⁵ U.S. GOV'T ACCOUNTABILITY OFF., GAO-07-1174, BORDER SECURITY: FRAUD RISKS COMPLICATE STATE'S ABILITY TO MANAGE DIVERSITY VISA PROGRAM 27 (2008) (Stating "[t]he DV program is vulnerable to fraud committed by and against DV applicants, but State has not compiled comprehensive data on detected and suspected fraudulent activity.")

¹⁶ See Tom Jackman, *In Las Vegas shooting, Could Police or Mandalay Bay Have Acted to Save Lives?*, WASHINGTON POST (Nov. 1, 2017), https://www.washingtonpost.com/news/true-crime/wp/2017/11/01/mandalay-bay-says-four-armed-officers-were-on-the-32nd-floor-as-the-las-vegas-shooter-attacked-should-they-have-acted/?utm_term=.7de292ed6a84.

¹⁷ See Peter Holley, et al., *At Least 26 Dead in South Texas Church Shooting, Officials Say*, WASHINGTON POST (Nov. 6, 2017), https://www.washingtonpost.com/news/post-nation/wp/2017/11/05/reports-multiple-people-shot-at-texas-church/?utm_term=.de01eae62502.

that when a person claims to do something in the name of ISIS (a political extremist group), then it is by American legal definition an act of terrorism and that label is, therefore, appropriate.¹⁸ I will also concede the corollary: that when a person claims no affiliation to political, racial, or religious organizations for the cause of their crime, they are not *legally* considered terrorists. For the sake of this paper, whether the US definition of terrorism, which was not codified in the Code of Federal Regulations until after the September 11th terrorist attacks, is itself problematic, will be tabled. Despite that point being pushed to the side, my argument stands: an aberration does not stand for the whole and the ISIS threat is not an inherent product of the Diversity Program.

President Trump additionally stated his disapproval of “chain” based legal immigration pathways—programs wherein family members of legally granted citizens are able to link to that family member’s legal status and enter the country with that citizen.¹⁹ It is unconfirmed, but alleged by President Trump, that Saipov had upwards of twenty members of his family granted with him through this chain program.²⁰ The RAISE Act would absolutely have precluded members of my family and most others just in the past two or three generations. It was co-sponsored by Senators from Arkansas and Georgia, Tom Cotton and David Perdue, respectively.²¹ It has, however, been an idea perpetuated for several decades.²² Aside from the merit system, it would limit the aforementioned “chain” aspect of immigration from the 1965 Immigration Act to only immediate family members, and interprets immediate family narrowly. Though I thoroughly disagree with the presented merit system, I do see the benefit in drawing lines at certain levels of family members that can be tacked onto a single legal immigration grant—as line-drawing is important to not cause later immigration caps that will affect people who otherwise would be accepted.

Regarding the merit aspect, I actually took the citizenship scoring test under RAISE and would only meet the thirty-point threshold if my salary is at least \$77,900 when I enter the legal profession—though I graduated from a prestigious private university and attend a top-twenty law school. I am 24, giving me 8 points (with the ideal age range being 26-30, granting the maximum 10 points).²³ A legal degree or non-scientific postgraduate or professional degree seems to be completely moot in this system: a bachelor’s degree in the US accrues 6 points, and there are six levels above, granting different points for any degree above bachelors granted in the US or abroad, but *only in STEM* (Science, Technology, Engineering, and Mathematics).²⁴ So after my \$500,000-worth of American education, I have still accrued only 6/13 points in the education category. My English fluency gives me 12 points, with ‘moderate’ English granting half of that amount. So, after three categories, my total is 26 points.²⁵ This, in itself, also shows a narrow conception of what it means to be an acceptable American and a fear of other: the immigrant communities just in the last century would have often not met this language threshold.

The category I find most outlandish due to its sheer emphasis on the *rich or bust* theme of the merit system is the award of 13 points for a US job offer with a salary of \$155,800 and above,

¹⁸ See 38 U.S.C. § 2656f.

¹⁹ Kilgannon & Goldstein, *supra* note 4.

²⁰ Torbati, *supra* note 2.

²¹ Priscilla Alvarez, *Can a Decades-Old Immigration Proposal Pass Under Trump?*, The Atlantic (Aug. 21, 2017), <https://www.theatlantic.com/politics/archive/2017/08/can-a-decades-old-immigration-proposal-pass-under-trump/537138/>.

²² *Id.*

²³ RAISE Act, S. 1720, 115th Cong. (2017).

²⁴ *Id.*

²⁵ *Id.* Note: these are based on English equivalency test score thresholds.

and 0 points offered for a salary lower than or equal to \$77,900.²⁶ Assuming that a Vanderbilt Law graduate decided to utilize her law degree for public service (which, thankfully many of our graduates do), the average legal public sector salary out of Vanderbilt Law is \$54,500; thus, a civil servant with seven years of education would score 0 on this question.²⁷ Essentially, I would not meet the citizenship standard if I went into public service, but assuming, *arguendo*, that I go into the private sector, I would barely make the cut if I make \$77,900-\$103,900 (giving me five points, totaling 31).²⁸ The next two questions are reserved for such a small portion of the population that they are essentially null: whether a person has a Nobel Prize or other similar prestigious international award, and whether she is an Olympic medalist.²⁹ I clearly score a 0 on these two. The final question reaffirms that the exorbitantly rich are welcome and others can suffer in their own countries: how much money the person plans on investing in the US.³⁰ Sub-\$1.35 million in investments offers 0 points in any currency, foreign currency between \$1.35 and \$1.8 million grants 6 points, and above that amount or by creating a new enterprise, 12 points awarded.³¹

I absolutely recognize my privileges that I have been afforded, and am unbelievably fortunate and thankful for the opportunities I have. I would not have them if I did not live in the United States. If a person who was afforded the educational opportunities that I have been is not (or, if so, barely) eligible for the merit system, it is incredibly clear how few people could meet this threshold. Even if I completed my identical credentials and had abroad citizenship, I would not be welcome to stay under the RAISE Act. The Act has other problematic aims: to reduce refugee allowance to 50,000 and to cut legal immigration itself in half—with the chain linking to only minor children and spouses.³² Additionally, economic experts from across both aisles almost unanimously agree that this will actually harm GDP growth and the national economy, despite the shrouding of this issue as a benefit for the economy—due to loss of low-cost laborers.³³

Further, if merit were defined differently: as not having a criminal background, or with concrete educational plans, or with clear, legal refugee status³⁴ (indicating a concrete persecution fear)-like factor weighing, the program could possibly be more palatable. If the Act passes, however, the message is clear: if one can provide monetary capital, prestige, and assimilate well-enough that we cannot tell she is an outsider she *may* be welcome, but if she is trying to make a better, more productive life, but has yet to achieve that goal, she has no value to the United States. The American Dream is no longer attainable, unless one is already in the upper echelon; and pure human capital cannot win over competing aims of money and fear mongering.

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²⁶ These numbers are calculated in terms of percentages above the median income of the applicant's proposed state: with the lowest level offering 0 points unless 150% of the state's median. These numbers are based on the national median.

²⁷ *Id.*; Vanderbilt University, Best Law Schools, US NEWS & WORLD REPORT 2018, <https://www.usnews.com/best-graduate-schools/top-law-schools/vanderbilt-university-03147> (last visited Nov. 7, 2017).

²⁸ RAISE Act, S. 1720, 115th Cong. (2017).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² RAISE Act, S. 1720, 115th Cong. (2017).

³³ Heather Long, *It is a 'Grave Mistake' for Trump to Cut Immigration in Half*, WASHINGTON POST (Aug. 2, 2017), https://www.washingtonpost.com/news/wonk/wp/2017/08/02/its-a-grave-mistake-for-trump-to-cut-legal-immigration-in-half/?utm_term=.7b5766832220.

³⁴ *See generally* 8 U.S.C. § 1101(a).

An Exceptional America Exceptionally Divided: The Need to Bridge the Divide between Red and Blue

Vanderbilt University's student newspaper, *the Hustler*, publishes online articles each week, including a notoriously conservative opinion column entitled "Matt's Traditional American Values." Recent highlights include a defense of the so-called "Nashville Statement",¹ which condemns homosexuality and affirms fundamentalist Christian beliefs, and a call to action for pro-life activists around the world². These views likely do not reflect those of the majority of the Vanderbilt student body and thus, have elicited vehement reactions. While some students have written thoughtful articles in response, others have resorted to derision and shaming on social media. Both parties here are at fault. The columnist's articles include unnecessary, provocative statements, expressed with alienating language (e.g., "the left is insane on immigration"³). It is hard for readers to listen to his underlying argument when they feel they are under attack. At the same time, however, many of the readers do not engage in critical conversations with their adversaries. They read the first few paragraphs, get disgusted, and turn to social media.

The "Traditional American Values" column is just one of countless examples of Americans' inability to effectively communicate across the political aisle. The vast majority, it seems, see differences in opinion as irreconcilable worldviews, and others' ideas seem so offensive that they are motivated to shut down rather than engage in productive debate. In an age of harsh polarization and unprecedented party tensions, an age where the mainstream media grossly miscalculated the results of a landmark election, this problem is more important than ever before. As a result, students, politicians, and journalists urge us to "listen to one another" and "have genuine conversations." But what does this really mean? When such conversations do happen, they are rarely productive. We scarcely walk away questioning our beliefs. How do we talk about these issues in a way that bridges the divide?

This is what I asked myself as I read Stanford Law Professor Mugambi Jouet's work, *Exceptional America: What Divides Americans from the World and from Each Other*.⁴ Jouet examines American society from a global perspective, arguing that contrary to the popular interpretation of American exceptionalism, the United States is not superior, so much as different: an "exception." The U.S. stands out in areas of social policy, health policy, and economic policy compared to the rest of the Western world. For instance, the U.S. lacks a universal healthcare system, only loosely regulates gun ownership, and has notably high wealth inequality. Interestingly, polarization is both a cause and an effect of such exceptionalism. Polarization, itself, is far more intense in the U.S. than in the rest of the Western world, thus contributing to exceptionalism. On the other hand, the same forces that fuel the divide between

¹ Colleran, Matt. "Matt's Traditional American Values: In Defense of the Nashville Statement." Opinion. *The Vanderbilt Hustler*, 11 Sep. 2017. <http://vanderbilthustler.com/voices/matts-traditional-american-values-in-defense-of-the-nashville-statement.html>

² Colleran, Matt. "Matt's Traditional American Values: The global pro-life movement." Opinion. *The Vanderbilt Hustler*, 5 Nov. 2017. <http://vanderbilthustler.com/featured/matts-traditional-american-values-the-global-pro-life-movement.html>

³ Colleran, Matt. "Matt's Traditional American Values: The different right wings." Opinion. *The Vanderbilt Hustler*, 22 Oct. 2017. <http://vanderbilthustler.com/featured/matts-traditional-american-values-the-different-right-wings.html>

⁴ Mugambi Jouet's, *Exceptional America: What Divides Americans from the World and from Each Other*, Berkeley, CA, University of California Press, 2017.

America and the rest of the world, also fuel the divide between Americans themselves. Anti-intellectualism, Christian fundamentalism, market fundamentalism (a hardline commitment to laissez-faire principles), and racial resentment have played strong roles in shaping uniquely American policies and political ideologies. Ultimately, Jouet fears that America's exceptional polarization may spell decline.

I found Jouet's book to be engaging, easy-to-read, and thought provoking, and I found myself sharing many of the author's intriguing statistics and findings out loud with my peers as I was reading. More importantly, though, Jouet unveils the forces driving political polarization and the kind of uniquely American beliefs that led to election of President Trump. He helps explain many far right stances that cosmopolitan liberals may otherwise dismiss as bigoted or uninformed. This is very valuable: We cannot hope to make progress on crucial issues such as healthcare, mass incarceration, or gun control until we understand why, for instance, a business owner would refuse to serve a same-sex couple on account of religious freedom. Jouet connects such far right views to greater historical and sociocultural movements. In the case of such a business owner, this belief is rooted in a uniquely American conception of secularism, where the practice of religion must be protected from infringements by the government. (In many other Western nations, it is viewed as the other way around.) Such an interpretation is a vestige of America's beginnings, when it served as a safe haven for those fleeing religious persecution. In illuminating the core postulates of many right-wing voters (whether populists, religious fundamentalists or free-market fundamentalists), Jouet brings us a step closer to understanding this segment and developing political solutions that account for such views.

I would argue, however, that knowing the opponent's reasoning is not enough. This book demonstrates that despite advanced understandings, despite expertise, despite compassion and the best intentions, communicating to a broad audience is extremely difficult. Ironically, this book that elucidates American polarization may be, itself, polarizing. Few conservatives would make it past the first few chapters, as they would be alienated by some of the values-based assumptions Jouet makes and some of the language he uses. In the most blatant sections, Jouet describes conservatives as chauvinistic and absolutist. He calls George Bush, Sarah Palin, and President Trump "know-nothing politicians" (59), with Sarah Palin an "even less thoughtful figure" (45) than Bush, a parochial "anti-intellectual by choice" (61). While academic in nature, the book is also personal, and Jouet leaves no doubt as to his belief on each issue he discusses. For example, in talking about abortion, Jouet concludes that "what the U.S. anti-abortion movement rationalizes as a fight for life is largely a defense of patriarchy and ultratraditionalism" (129). He is sure to call out all the well-known Republican blunders, such as Todd Akin's claim that "if it's a legitimate rape, the female body has ways to try to shut that whole thing down," (115), and Rush Limbaugh's unwarranted accusation that "Obamacare was the largest tax increase in the history of the world" (70). Jouet's statements are accurate, and they play a part in his greater argument that helps liberals understand the social, political, religious, and cultural factors behind such beliefs. However, they do little to advance his credibility and engagement with right-leaning readers.

It is likely that establishing credibility with the right was not Jouet's priority—and it does not necessarily need to be. Yet, as a country, we need to figure out how to talk across party lines more effectively. We need to not just seek to understand others' views in intellectual exercises with like-minded colleagues, but we need to engage in honest and open debate, free of ad hominem attacks, free of preconceived notions, free of scorn and disgust. We need to identify why we believe what we believe, acknowledging our roots and upbringing in shaping our

worldview, while also asking others to bring a conscious awareness of their backgrounds to the table. Most importantly, we need to question our own assumptions, the justifications we vacuously repeat again and again, challenging our views and thinking critically about the decisions made by our country. Jouet's book does a beautiful job of synthesizing the diverse sources of conservative ideologies and American exceptionalism, but it is a pity that such a remarkable work will likely not make it on to the shelves of our conservative friends.

Jouet also encourages readers to take ownership of America's flaws and strive to do better, and decreasing inter-party animosity is an important part of this. Instead of viewing polarization and gridlock as something beyond hope, we need to actively confront this issue. Hearteningly, there is promise for bridging the gap. A most telling example is the case of Megan Phelps-Roper, the daughter of the founder of Westboro Baptist Church.⁵ Phelps-Roper, who held "God Hates Jews" signs before the age of five, was convinced by conversations with strangers on Twitter to change her views. After leaving Westboro and severing familial ties, she now speaks out against religious extremism and advocates communication across party lines. She attributes this change to the open-minded and rational conversations she had with ordinary Americans on social media. Although many of us have not quite figured out how to do this yet, this example should inspire us to keep trying. Calling someone a bigot and then purposely avoiding him or her does little to change the bigotry.⁶

Through the eloquent citations of Tocqueville and in-depth examinations of domestic and foreign policy, *Exceptional America* urges Americans to question whether we are proud of what has made us so exceptional. Both liberals and conservatives would say they are proud of some of these things and deeply ashamed of others—perhaps with opposite views of the same things. I, for one, am most ashamed of how we have become estranged from one another.

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⁵ Phelps-Roper, Megan. "I grew up in the Westboro Baptist Church. Here's why I left." TED. Feb. 2017. Lecture.

https://www.ted.com/talks/megan_phelps_roper_i_grew_up_in_the_westboro_baptist_church_here_s_why_i_left-t-901087

Chen, Adrian. "Unfollow: How a prized daughter of the Westboro Baptist Church came to question its beliefs." *The New Yorker*, 23 Nov. 2015. <https://www.newyorker.com/magazine/2015/11/23/conversion-via-twitter-westboro-baptist-church-megan-phelps-roper>

"The Hate Debate." *More Perfect Union* from NPR, 6 Nov. 2017, <https://www.npr.org/podcasts/481105292/more-perfect>

⁶ Beinart, Peter. "Conservatism without Bigotry." *Atlantic Monthly*, Dec. 2017, pp. 11–14.

Bill Browder. *Red Notice*. New York, NY: Simon & Schuster Paperbacks, 2015. 380 pp. US\$16.00 (Paperback). ISBN 978-1-4767-5574-8.

Keeping me in detention has nothing to do with the lawful purpose of detention. It is a punishment, imposed merely for the fact that I defended the interests of my client and the interests of the Russian state. (278)

It is almost inconceivable to me that Sergei Magnitsky wrote these profound words with such objectivity and poise whilst imprisoned, sleep-deprived, and malnourished. These are the actions of a man who believed so strongly in his country that he was not only willing to die *for* it, but was willing to be killed *by* it in the hopes that his circumstances would inspire the nation to reach for the ideals that other great nations had achieved. Sergei Magnitsky was an impossibly courageous man, and, while he was neither the first nor will be the last to be horribly wronged by Vladimir Putin's regime, his story was the impetus for tremendous human rights legislation in both the United States and the European Parliament thanks to the work of another inspiring man, Bill Browder.

Sometimes history unceasingly and unapologetically absorbs stories of human passion and suffering that could spark change, if only someone used the sieve of literature to bring these stories into the public consciousness. In *Red Notice*, Bill Browder does just that by combining his genuine and straightforward writing style with the assurance of one whose deep conviction has galvanized into a search for justice that cannot be ignored. Browder manages to make the story of a pioneering businessman turned human rights activist relatable to readers with no similar experience by writing a book that transcends normal genres. *Red Notice* begins as a finance story describing Browder's career and timely desire to invest in Eastern Europe; ultimately, though, the book makes a fundamental shift into a thrilling story of espionage aimed at uncovering the deep-seeded corruption in the Russian state under Vladimir Putin, one of the most powerful and dangerous men in the world. It is in this way that *Red Notice* is able to draw immense interest from readers who have no interest in traditional finance stories. To say, as others have¹, that *Red Notice* falls into the same category of non-fiction finance books as Michael Lewis's *Liar's Poker*² or Bryan Burrough and John Helyar's *Barbarians at the Gate*³ seems to unfairly pigeonhole a book that could touch and inform readers far more than any finance book could. *Red Notice* made me laugh and it made me cry, and not always to the exclusion of the other.

Browder begins by explaining his upbringing in a family of prolific mathematicians, a family which includes Earl Browder, Bill Browder's grandfather and the once-head of the American Communist Party, who ran for president in 1936 and 1940. Browder discusses a tumultuous academic career that began to take shape with his decision to transfer to the University of Chicago to finish his undergraduate studies. He went on to attend Stanford Business School as a precursor to an extraordinarily interesting business career, which included working for Robert Maxwell, the notorious British billionaire, at the time of his death and likely murder in the Canary Islands in 1991, and with Edmond Safra, the Brazilian billionaire banker, at the time of his death and also likely murder in Monaco in 1999. Browder later founded Hermitage Capital, an emerging-

¹ Boris Kachka, "8 Books You Need to Read This February," review of *Red Notice*, by Bill Browder, *Vulture.com*, February 2, 2015.

² Norman Pearlstine, "Russian undressing," review of *Red Notice*, by Bill Browder, *Fortune*, January 22, 2015.

³ Bryan Burrough and John Helyar, *Barbarians at the Gate: The Fall of RJR Nabisco* (New York: HarperCollins, 1990).

markets hedge fund based in Moscow that at one point had \$4,500,000,000 in assets under management, generated returns of 1,500% since its launch in 1996, and was ranked as the best performing emerging-markets fund in the world. This position made Browder the largest foreign investor in Russia during the privatization of Eastern Europe following the fall of the Soviet Union, and gave him a unique ability to instill change by bringing public awareness to the financial crimes that many Russian oligarchs were perpetrating with impunity. However, this position also put Browder squarely in the crosshairs of Vladimir Putin, a man who originally regarded Browder with favor during his presidential campaign, but who immediately sought to silence him once Browder's activism became against his economic interests. Unfortunately for Putin and his brutish tactics, Bill Browder is not easily silenced.

After Putin made clear his intention to inundate Browder's record with criminal charges, investors in Browder's hedge fund began to withdraw their money in droves at every redemption date. Browder writes, "My whole professional life had been geared toward being an investor in Russia. I'd never thought about anything else . . . And I certainly wasn't going to retire. I was forty-two years old and had fire in my belly" (190). When these thoughts crossed Browder's mind he was undoubtedly unaware of just how true this was. He certainly wasn't going to retire, but his career would soon take an unpredictable turn.

Browder relates the tale of his resistance against Putin and the Moscow Interior Ministry. His resilience and effective methods for shedding light on the crimes carried out by the Putin regime would become a hallmark of his human rights career. Although Browder and most of his associates would become political refugees forced to flee Russia, the end result would be sweeping human rights legislation and a glaring blemish on the pride of Vladimir Putin, a man whose power revolves around his ability to control and subjugate those who would stand against him.

Among those forced to flee Russia were Eduard Khayretdinov and Vladimir Pastukhov. A defense attorney and former judge who fought the criminal charges brought against Browder and Hermitage, Khayetdinov found his home under strict surveillance and his every move followed. Before eventually slipping across the Russian border, he spent months at a safe house in a remote region of Russia. The team surveilling Eduard's home did not follow Eduard and his wife on their nightly walk. This brief time without his unwelcome pursuer gave Eduard the opportunity to begin his escape. Instead of turning back after during their walk, Eduard slid into the back of a strategically positioned tinted Audi A8 to leave the city. Browder describes the beginning of Eduard's escape with vivid detail: "Eduard's wife knew things had been getting bad for her husband, but she was totally unaware of his plan. He turned to her, took her by the hand, and said quickly, 'Now's the time.' Tonight was the night he would disappear. She took him by the shoulders and leaned in to give him a kiss. Neither of them knew when they would see each other again. When their kiss ended, Eduard jumped into the backseat of the sedan, lay down, and the car was off" (242).

Vladimir Pastukov was a Moscow lawyer who served as Hermitage's outside counsel. Like Sergei, Pastukov refused to leave Russia, instead placing his faith in the Russian justice system. After receiving threats and an illegally issued summons to appear in court to provide "evidence" of Browder's alleged criminal activities, however, Pastukov eventually relented and left the country. Pastukov used the influx of travelers for Russian summer holiday as an opportunity for him and his family to slip through customs at Sheremetyevo Airport without his flagged passport being detected.

I continuously found myself in awe at the great sacrifices made by Browder and his confederates, but in the midst of such great sacrifice that of Sergei Magnitsky stood out above the

rest. After several companies formerly associated with Browder and Hermitage Capital were stolen by officers at the Moscow Interior Ministry in order to defraud the Russian taxpayers by falsely utilizing extensive net operating losses, Magnitsky, a tax lawyer, refused to flee his country and instead chose to use his knowledge to expose the fraud to the Russian people. Magnitsky was imprisoned and subjected to a public smearing campaign before eventually being tortured to death on November 16, 2009 in the Butyrka prison.

Browder's subsequent actions are incredibly inspiring, yet he writes about them with such humility and sensibility that I could not help but feel that he did what any reasonable person in his situation would have done, albeit with vast success. Over a crackling phone line months before his death, Sergei Magnitsky presciently mentioned that "Russian stories never have happy endings,"⁴ but Bill Browder has been determined to expose the flaws of that old adage. *Red Notice* is emotionally stirring on many levels, and comes at a time in history when it is important to remember that the calculated, timely machinations of a few smart people can unveil a system of injustice and inequality.

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⁴ 215.

Maria Clemencia Ramirez, *Between the Guerrillas and the State: The Cocalero Movement, Citizenship, and Identity in the Colombian Amazon*. Durham, NC: Duke University Press, 2011.

What does it mean to be invisible in your own home? What if you could become visible, but it came at the expense of the only way you can support yourself?

These are the questions Maria Clemencia Ramirez elaborates on in her book, *Between the Guerrillas and the State: The Cocalero Movement, Citizenship, and Identity in the Colombian Amazon*. Ramirez describes the plight of the campesinos (peasant farmers) in Putumayo, Colombia, who began illegally growing coca in order to make a living, and then started a grassroots social movement in order to gain recognition, and aid, from the Colombian government: “It was precisely the illegality of coca that enabled the campesinos to put the region’s social and economic crisis onto the national and international agenda, finally overcoming the government’s apparent lack of interest in their plight” (3). Through this paradox and the description of the movement, Ramirez weaves migration, identity, politics, and drugs into a compelling study of a group of disenfranchised farmers demanding recognition and rights from a government that vacillates between ignoring and punishing them.

Ramirez traces the cocalero movement through all of its stages, beginning with a description of how the Colombian Amazon, which includes Putumayo and Baja Bota, became a haven for those for whom the Colombian government had nowhere else. The first chapter traces the paths of colonization, as non-natives moved into the area mainly to extract wealth—first through petroleum, and then through the coca plant. Next, Ramirez shares the story of coca: how it is produced, its rise in Colombia and the neighboring nations, and then how the region tried to stamp it out through anti-drug policies. In this early part of the book Ramirez begins to probe the tension between the government characterizing the people of Putumayo as violent actors due to their interactions with coca and the government exerting political pressure, influence, and sometimes violence on the area in response to the coca – an almost chicken or the egg dilemma from which the reader comes away thinking that perhaps the government was the most violent member of the conflict. In the third chapter, Ramirez describes earlier civic movements in the area, casting light upon the ways in which the civic protests were characterized by the government and press. These characterizations, which emphasized violence and unruly behavior, fed into “the image of an uncivilized region where drug traffickers and guerillas f[ound] fertile ground for their lawless activities” and therefore negated the civic part of the protest and “utterly los[t] from view the people who were repeatedly asking the federal government to make their presence felt, seeking dialogue and concertacion (cooperative effort)” (93-94). The duality of the campesinos– and the opposing concepts of how they are viewed versus how they want to be viewed—is a recurring theme throughout the book, allowing the campesinos to seem more sympathetic but also, conversely, highlighting the seeming futility of their struggle.

Chapter four begins to describe the cocalero movement, which “derives its identity not from its opposition to the state but from the social and political exclusion of its members by that state” (111). After the early civic movements, the cocaleros “contested their stigmatization as illegal actors and temporary migrants in search or easy money” (110). The cocaleros, through their movement, “defined and presented themselves as Colombian citizens, internal migrants (colonos) seeking to work and improve their standard of living, who were at the same time residents of Putumayo” (111). Chapter five details the negotiations between the cocalero leaders and highlights the dichotomy between the campesino’s concrete objectives and the government’s tenuous recognition. Ramirez describes the negotiations as complex, portraying the government and the

campesinos on opposite sides of the table not only in schools of thought but in pure life experiences. While the government vehemently opposed coca, they failed to grasp how the campesinos had viewed it, and used it, as their only means of economic stability. These opposite viewpoints led to tense negotiations, even walkouts, but the story ends on an uplifting note as the people and the government seem to come to an understanding together. Chapter six describes local state formation and Putumayo's struggle with wresting autonomy away from FARC, paramilitaries, and narco-traffickers. Chapter seven follows what occurred after the negotiations, how the movement leaders continued to work on the development plan for their state and the various victories they managed—such as avoiding criminalization and receiving international allies. Chapter eight reveals how the U.S.'s war on drugs and the Colombian government have tightened their stronghold over the area, as aerial fumigation was intensified in the area. Further, after forces were sent into Putumayo, the cocalero movement leaders were unable to effect any real change in the state or contribute to the development in any helpful way. Ultimately, the book ends with an unhappy conclusion. Despite all the many valiant efforts described, and all of the small victories that the cocaleros were able to achieve, at the conclusion of the book everything looks the same as it had been described at the outset. In fact, the only change Ramirez gives the reader is that “policy formation is even more centralized and the central government continues to favor a more military and less social response to campesino activities” (238).

Despite the unhappy ending, Ramirez manages to make Putumayo jump off the page for the reader making the town and the people come alive through her prose. Aided by maps and charts, showing everything from the topography of the region to the numbers of deaths in the area, as well as journalistic photos capturing the protests, Ramirez is able to give her reader a complete picture of life in Putumayo. Ramirez provides such a clear picture of the region and their issues because she lived in the region and returned often, offering updates of the movement as they occurred in the early 2000s. Early in the introduction, Ramirez describes how she learned to stay away from certain people and areas in order to avoid being considered a police informant, as well as how to deal with militia when forced into confrontations with them. Her first-hand perspective offers insight from someone who knows these people, felt their abandonment, followed their journey, and shared in both their successes and their failures. Despite her proximity to her subject, Ramirez manages to showcase both sides of the argument—describing the citizens fear of the cocaleros during the protests, or describing how the FARC members did not prevent the campesinos from trying to effect change at first. However, Ramirez portrays the campesinos as sympathetic beings, meaning the reader, more often than not, finds herself rooting for the cocaleros, cheering with their victories and feeling the pain of their losses.

Ramirez explores the plight of the cocaleros on an intimate level, using her experiences in the region and interactions with the people to give a level of authenticity to the story that books of this nature can often lack. The book offers an inside perspective on the effects coca (and the various people who supported or tried to bring an end to coca production) has had on the area. Looking at the broader picture, Ramirez brings attention to “the importance of borderlines and margins as peripheries where inhabitants find themselves between inclusion and exclusion, legality and illegality, order and disorder, ruled and unruled” (7). Ramirez posits that “[t]hese ambiguous spaces pose threats and demands and contest the relationship of their inhabitants to the central state, although they are legally intrinsic to the state and its constitution” (7). This broad theme pervades the book, remaining behind each assertion Ramirez makes about the conflicts between the citizens and the state, and leaves the reader with lasting questions after the lackluster conclusion of the government's inaction.

Ramirez's book was published in 2011, and while it provides an impactful ethnography of the cocalero movement, it left me with myriad questions as to what is happening in Putumayo today. I hope that Ramirez will return to add further chapters to the book, continuing following the cocalero journey. Ramirez does such justice to the cocalero story, I believe that this book offers a compassionate history of the Colombian Amazon worthwhile to anyone wanting to learn more about the War on Drugs and its effects on the Colombian people, or hoping to learn more about the inner dynamics of Colombia.

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Bender, Steven. *Tierra y Libertad: Land, Liberty, and Latino Housing*. Editor: Ediberto Román. New York and London: New York University Press, 2010. 252 pages. \$49.96 (hardcover). ISBN: 9780814791257.

In Trump's America, rhetoric characterizing Mexican Americans and other Latino/as as dirty, dangerous, and unworthy of the realization of the American dream circulates through the mainstream media and the Internet so prevalently, that such language becomes engrained in our minds, sometimes subconsciously. Embedded in Bender's *Tierra y Libertad: Land, Liberty, and Latino Housing*, is the effect of this language on Latinos/as in their quest for fair and equal housing opportunities, and although it was written during the Obama presidency, it bears upon the current juncture. As a law student diving into the legal, literary, and policy realms of property and border crossing, I cannot neglect to reflect my family's journey, and my own, as we have sought to pursue the American dream as Latino/as immigrants. Full of uncertainty, with a limited supply of money and an extraordinary abilities visa in my father's hands my family, accompanied by several extended family members, left samba and white sands behind to move into a tiny apartment along in a Texas suburb. Fortunately for us, our current family home replaced the tiny apartment, in part because of the support of English-speaking American family friends. Nevertheless, as Bender's work suggests, my experience grasping the American Dream differs dramatically from the experience of most Latino families.

¡Tierra y Libertad!—land and liberty—is not only the slogan of the 1900s Mexican Revolution, it is also an affirmation that land acquisition and home ownership are central to achieving the true freedom embodied in the American Dream. To that end, the book is not so much a historical account of the Latino housing struggle in American soil as it is a deep examination of how the actions of multiple private and public forces wove the Latino/a hope of home ownership in America into a tight knot of frustration and agony. Perhaps the most commendable aspect of the work is Bender's accurate grasp of the cultural, and "even spiritual" link between Latino/as and land (2). A central theme of Latino culture is the value it places on the family unit, and the family home takes center stage in embodying the lives and memories of Latino families, a recurrent theme in movies and novels that depict our communities. This cultural facet is deeply and continuously shattered throughout the book, as Bender describes in vivid detail the great lengths that public officials, neighbors, and lenders have gone through to masquerade unfair and discriminatory practices targeting Latino/as as legitimate policy.

The work is fittingly divided into four sections. Section I: "Loss" highlights the wretched history of land loss and housing exclusion experienced by Latino/as in this country and the recent techniques employed by governments, lenders, and private actors that serve only to exacerbate an already stark reality. Second II: "Exclusion" focuses on public and private efforts to exclude undocumented and documented Latino/a immigrants from local housing through the unfortunate twisting of legal principles such as trespass, nuisance, loitering, zoning, and restrictive covenants. Section III: "Geographic Examples of Loss and Exclusion" in turn, presents the accounts of Mexicans in East Los Angeles, Cubans in Miami, and Puerto Ricans in New York as "case studies" of the "legacy of segregation" that Latino/as have endured in this country (95). The author concludes the work with the Section IV: "Reclamation and Reform," which presents the reader with policy considerations and strategies, mostly legislative, to aid Latino/as in reclaiming space, lowering the cost of housing and credit, and overcoming income inequalities through immigration and education reform.

In order to contextualize and further support his proposals in Part IV of the book, Bender starts the work by framing the Latino struggle through the lens of familiar stories of loss, such as César Chávez's loss of his family home in Arizona during the Depression and the divestment of Spanish/ Mexican land grants from Mexicans to Anglos that continue into the twenty-first century (13-26). Further, in a beautifully written account of the appalling affordable housing crisis experienced by farm workers in affluent areas of California, Chapter 4: "Loss in the Tortilla Flats," sets the tone for the rest of the book. Laced with relevant statistics such as the finding that one-fifth of single bedroom residences in the area "had more than five people sleeping in them," and that the average combined family income for Latino/as in the area was only \$12,925 while apartments rented for \$825 to \$1,600 a month, the chapter hits the perfect balance of hard facts and narrative by contrasting the reality behind such statistics with American novels centered on Mexican-American dwellings (38-39). The Chapter explains how the overcrowded substandard housing in Monterey County feeds the narrative of Mexican Americans as dirty, fertile, and content with filthy living conditions (39). To support his point, Bender cites U.S. magazine reports and two novels that focus on Latino irresponsibility and lack of stewardship (39). It is the author's position that the myth created by feeding into these stereotypes justified Anglos in "taking a rich land away from people who were not making good use of it" (39). These links between the harsh realities of Latino life and the unwarranted stereotypes it feeds, as described in Chapter 4, are especially relevant today, as the media is inundated with similar discourse and imagery.

Part II, "Exclusion," is replete with accurate criminal and property law concepts that have been stretched and twisted throughout the years to push out Latino/as from the acquisition of land and even their mere presence therein. As an absurd illustration of one of such instances, Bender describes the attempts of New Hampshire police chiefs to stretch criminal trespass to prosecute undocumented immigrants for their mere presence in the town in the absence of valid immigration documents (64). The author then eloquently reflects on resulting instances of racial profiling as well as the New Hampshire judicial system's final determination, that applying criminal trespass principles in such manner constitutes an "unconstitutional local attempt to augment federal enforcement of immigration crimes" (65). "Exclusion" also carries the book's theme of spine-chilling contrasts between Latino and Anglo housing through language such as "while day laborers often pursue work in urban public spaces, by night they retreat to the shadows and margins of the American dream" (66). Similarly, while describing the ironic link between the outcry over immigration and Latino permanency in the U.S., the author makes the illuminating observation that "undocumented immigrants might be dreaming in Spanish, but they are dreaming the American dream of homeownership, a job, and a future for themselves and their children, all in the United States" (70).

Continuing the theme of Part II, Part III "Geographic Examples of Loss of Exclusion" provides a perfect transition into his proposal section (Part IV) with more vivid examples of the legacy of segregation endured by Latino/as in America. He does so first by offering the sneaky strategy adopted in southern California of using urban renewal as an excuse for displacing Mexicans from their traditional affordable community and replacing it with the Dodgers stadium, which had no public purpose (100-01). Similar stories shock the reader for the remainder of Part II with respect to Cubans in Little Havana and Puerto Ricans in East Harlem.

The concluding section of the book, "Reclamation and Reform," invites readers to dive into legal and policy proposals designed by the author himself. These are accomplished both at the micro-level, with illustrations of protests and symbolic camp-ins, and at the macro-level, with

the gigantic task of reforming the immigration and educational systems so that Latino/as can have a seat at the table. Although several suggestions are not realistically implementable in the Trump era on account of the radical conservative rhetoric and agenda we face as a nation, Bender's proposals draw from past initiatives that have produced change in other contexts (such as affirmative action strategies), which adds to the feasibility of his potential implementation mechanisms (144-45). Moreover, he builds his credibility in the "Policy Considerations" chapter by explicitly wrestling with political obstacles that proposed actions will most definitely face (151-54). I also admire and commend some of Bender's thoughtful and creative proposals such as supporting environmental imperatives that have the potential of helping shape tax policies benefitting Latino/a residents (163-64), adapting existing laws such as the Federal Truth in Lending Act to overcome language discrimination barriers (170-74), and building coalitions with African Americans, who have also faced hostility in the housing market to acquire and wield political power (184-87).

Tierra y Libertad is a spectacular eye-opening read for all students and scholars in the legal, literature, history, Latin American studies, and journalistic field. It is also a remarkable educational tool for all Latino/as who, like me, have achieved their American dream and desperately wish for a future where others will have a realistic opportunity to do the same. As the author suggests towards the end of the book, one the founding American values—the idea that hard work will present the rewards of financial prosperity and homeownership—is quickly eroding as Latino/as struggle to "grasp that brass ring" (187). This book, in turn, gives readers the opportunity to wrap their heads around the Latino housing struggle so that they are empowered to confront these issues in a manner that will benefit all Americans, ensuring that the idea of the American dream does not become a myth, replaced by an "ethos of discontent that hard work leads nowhere" (187).

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Vanderbilt University Law School

Gerald Sider. *Skin for Skin: Death and Life for Inuit and Innu*. Duke University Press, 2014. 312 pp. US\$26.95 (Paperback). ISBN 978-0-8223-5536-6.

On the cover of *Skin for Skin: Death and Life for Inuit and Innu* is a depiction of the myth of Sedna, which recounts the story of a young girl tragically thrown off a fishing boat by her own father. She tries to climb back into the boat, but he cuts off her fingers. She falls into the ocean and becomes the goddess of ocean storms and creatures. Gerald Sider found this illustration on the wall of a government office lobby. He was struck by her large panicky eyes and open mouth as if in a silent scream. He asked an official what a little girl, coming to the office for help after being beaten or raped, would feel to see that picture. The response? “It is our culture” (215). Sider quotes anthropologist Clifford Geertz: “Believing, with Max Weber, that man is an animal suspended in webs of significance he himself has spun, I take culture to be those webs” (216). But webs are spun by spiders to catch and devour flies. Sider observes:

Whatever else culture once or now is, it is now always about inequality: transforming it, localizing it, creating it, trapping people within it, making it necessary to oppose or evade it—all this, simultaneously and sequentially, all this and much more. And meanwhile the children stand there, shivering and crying, left out in the cold. We must never make peace with that, or separate ourselves from that, whatever else we think and do about the issues such instances present us with. Children are so compelling a metaphor because they are not responsible for the world that does what it does to them. But they are only a metaphor for a much larger range of problems. (215-216)

The Inuit and Innu have one of the highest youth suicide rates in the world, as well as extremely high rates of domestic violence, alcoholism, and child substance abuse, especially gas sniffing. Several children were videoed sniffing gas, and one child was captured on camera screaming, “I want to die!” (216). Yet the problems are so much deeper beyond the lens.

Troubled by these realities, Sider felt compelled to tell the story of the extraordinary Inuit and Innu, people who were once considered to be expendable, used to serve a dominant interest, but are now treated as disposable, no longer useful unless they are gone. It is a story of darkness and death but, if you look closely enough, also of light and life. Sider explores the ways in which the historical violence of the “not-yet past” perpetuates the present. Most importantly, however, he finds hope for the future within the silence. He humanizes the unfairly dehumanized Inuit and Innu by telling their story, and in so doing demonstrates a unique understanding of not only their struggles, but also of their triumph despite great tragedy.

Sider defines historical violence as several centuries of exploitation, disease, and taking that “echo and ricochet like a steel bullet around the walls and openings of the present” (10). Historical violence began with the Hudson’s Bay Company, [one of the world’s first corporations](#), and Moravian missionaries, but continues with Canadian federal and Newfoundland provincial governments, which have left the natives with inadequate living conditions, medical care, education, and so on. Such failure led to one child having to witness sled dogs eat the corpses of her parents with nowhere to turn for help (113). The story Sider tells is largely of the haste exploitation of natives and gradual disposal of them. In one case, deaths caused by starvation stretched across two winters (200). This treatment, constant in harshness but changing in method, is a policy choice. Natives were dominated with a “rod of iron,” encompassing forced relocation,

intentional starvation, turning tribes against each other to advance the fur trade, and purposeful introduction of disease.

Throughout the course of history, the native populations were continually dispossessed and displaced. Sider describes displacement as getting high in attempt to control what is being done to you when the ground is cut out from under you—but this high often puts people on, or in, the ground (27). This history is still in the making. The natives suffer from what Sider analogizes to post-traumatic stress disorder but is more accurately captured by the phrase “continuing trauma stress” (110). Sider offers a unique appreciation for the sensitivity and limitations of understanding that we face in attempting to account for this historical violence but nonetheless attempts to illuminate the truth through partial understanding and partial coping.

Historical violence has led to present violence—an epidemic of self-destruction executed to cope but also to resist. In response to the increasing control over their lives, the natives undermined their own productive autonomy with their self-destruction in an attempt to create illusions of self-assertion. Native communities were uprooted—pushed across borders to serve the needs of Europe’s expansion. They were starved and killed off. They were promised and denied improved living conditions. They were tricked by the white people. The Innu and Inuit ultimately became “Indians” and “Eskimos”. Remedies such as rebuilding relocation communities and sending natives “back to the bush” have failed to alleviate the problem. The government fails to keep its promises.

Solutions that romanticize tradition fail to account for the struggle to survive against modernity. Traditional society—more appropriately, impoverished society—is continuously reborn. The natives ultimately reproduced and transformed the violence imposed upon them by becoming part of their own struggle. Natives once died premature deaths from imposed disasters, and they now die from self-imposed disasters. They react to the uncertainty of tomorrow by asserting themselves today. Substance abuse, on one hand supports social relations as a collective expression of autonomy, and on the other hand, destroys social relationships through the consequences. Today, Sider notes, the youth deal with the idea of tomorrow by taking their own lives, potentially with the hope that their struggles will be noticed. Nevertheless, the unity of the natives fuels their resilience. The deep social relations among the native communities have facilitated survival even in the face of many deaths. Every individual has a role in the community, whether it be hunting, teaching, or homemaking. Even in silence, unity can be found. Together they rise above the inequality imposed by “culture.”

The major takeaway from this book is that the people treated as disposable in fact have great worth. They have overcome a violent history. They still face violence, but they will overcome and, thankfully, they can find strength and resilience in their social relations. If there is anything that I learned throughout my time studying American Indian Literature during my undergraduate education, it is the redeeming power of resilience for native communities that have endured and continue to suffer from various forms of oppression. I had the privilege of reading authors such as Sherman Alexie, Louise Erdrich, Leslie Marmon Silko, Tomson Highway, Leanne Howe, N. Scott Momaday, and D’Arcy McNickle, among others. It was a pleasant surprise to find myself reading this book at Vanderbilt University Law School for my Crossing Borders in Law and Literature course, which focuses on immigration law. I have realized the common hardships among all displaced people, the importance of keeping hope alive, and the value of telling the stories of marginalized people that are all too often silenced within the historical archive.

I would recommend this book to anyone interested in the history of native populations, how they continue to be marginalized today, and most importantly, how they continue to survive.

Kayli Smendec, book review, Gerald Sider, *Skin for Skin*. *AmeriQuests* 14.1 (2017)

Sider believes that the complexity of this ongoing struggle and viewing it from an outsider's perspective only allows for a partial understanding. But as he shows through his writing, even a partial understanding can be incredibly empowering.

Return to the cover of the book. Sider acknowledges, that isn't how the Inuit tell the story. According to the Greenland version, Sedna turns into a bird and flies away.

Kayli Smendec, Vanderbilt University Law School

Erica Cusi Wortham, *Indigenous Media in Mexico: Culture, Community, and the State*. Durham, NC: Duke University Press: 2013. 288 pp. US\$25.95 (Paperback). ISBN 978-0822355007.

I spent two weeks in late May 2014 with two dozen of my college classmates and my professors exploring the capital city and local indigenous communities in Oaxaca, Mexico. Oaxaca is home to a vibrant, multifaceted indigenous culture with a rich history of art and media, which made it a prime destination for our growing Latin American Studies program. During the latter half of our trip, the *zócalo* (the town square) had been transformed into a mass of tents and bullhorns, as the annual local teachers' strike began. While our trip was only affected via additional traffic jams and explicit instructions to avoid law enforcement, subsequent years would not be so calm. Two years later, in June of 2016, that same student trip would be cancelled as the event turned into a deadly clash between Mexican police and protestors.

Erica Cusi Wortham's book on *Indigenous Media in Mexico: Culture, Community, and the State* begins much the same way – recounting her experience with the teachers' union protests while she conducted her research – and the violent ends to which they unfortunately came in 2006. As she explains in detail throughout the book, conflict between the Mexican government and its people still continues, particularly when it comes to the education and political inclusion of indigenous peoples. The difficulty of establishing lines of communication between indigenous groups and more affluent, Europeanized demographics is exemplified in Wortham's commentary on the culture shock of travelling from "Doña Jose's modest home on a steep slope of the Mixe sierra to the walled-in, expansive gardens surrounding grandmother's house in the San Miguel Chapultepec neighborhood of Mexico City" during the course of her research. (Wortham 14) Self-representation and autonomy in media remain critical to establishing political and cultural self-determination for indigenous peoples. Wortham's book focuses on the development of state-sponsored and grassroots initiatives to provide these peoples with the means and knowledge to construct and consume their own forms of media – an initiative which she broadly titles: "Making Culture Visible."

Many of the most vital projects undertaken by the Mexican government to address the problems faced by indigenous communities, detailed in the first chapter, pertain to access to education and methods of media creation and dissemination. In this section, Wortham situates the development of indigenous media in the broader context of Mexican history, and the development of international indigenous rights movements. The goal of the Mexican state dating back to the Mexican Revolution in the early 20th century was to create one *mestizo* Mexican culture. This was sought primarily through assimilation of indigenous peoples, often resulting in the destruction of indigenous culture. The INI (the *Instituto Nacional Indigenista*) and other state initiatives emerged from this framework, and were the vehicles through which indigenous media was "taught" to communities.

The author focuses in particular on the fact that *video indigena* (indigenous video/media) was taught to communities, rather than conceived by them. Just as political conflicts plague the relationship between the Mexican government and its citizens, indigenous media is defined by conflict between the state-sponsored movement and indigenous notions of collectivity and activism. State influence has resulted in these media projects leaning towards documentary projects, and also focusing on cultural topics rather than political ones. However, modern indigenous media trends to distance itself from state-sponsorship both in name and method, and focuses on video as a social process, a *postura*.

State-sponsored *indigenismo* is connected with notions of indigenous assimilation, and the creation of a pan-Mexican culture through suppression of undesirable aspects of indigenous communities. State initiatives forced a distinction between culture and politics in order to ensure that aspects of indigenous community that were preserved were “safe” and posed no threat to the state – unlike distinctive political structures or language. These initiatives addressed indigenous communities without including them in decision-making process in any meaningful way. This in particular promoted the rise of indigenous media as a way for indigenous peoples to both preserve their culture and promote their narrative, thereby “making culture visible” in a way that increased their political power. Naturally, indigenous peoples and videomakers have pushed back upon these state initiatives and attempt to limit association with them. There is a modern trend towards reclamation of the term through traditional notions of indigeneity – which encompasses the desire for autonomy and self-determination at all levels of government.

The second part of the book moves on to explore *video indígena* in a more regional, rather than national context, and several of the initiatives that emerged from the INI and its sub-programs. These regional initiatives attempted to distance themselves from state-sponsorship in an effort to be more impactful and relatable, and tended to see video more as a social process than a static representation of bygone culture.

The final chapter of Part Two distills *video indígena* down to the final, most narrow setting: local initiatives in indigenous communities in Oaxaca and, in a later chapter, Chiapas. Oaxaca is home to some of the most progressive laws regarding indigenous peoples in the nation, including constitutional recognition of indigenous legal and political structures. Media initiatives in Oaxaca focus on the incorporation of new perspectives and the embeddedness of media within the community. One Mixe community radio program focuses specifically on media as a method of identity formation, believing that “seeing and hearing oneself strengthens the community’s sense of self as Mixe or Ayuuk,” directly contributing to the process that Wortham has titled “making culture visible.” (Wortham 142-43) Unfortunately, as the author explains, structural political change remains impossible when autonomy is granted to indigenous communities as passive actors subject to the political discretion of the state, rather than affirmatively agreed upon by both parties.

Wortham then moves on to a discussion of local media initiatives in Chiapas, which were born out of a unique, revolutionary situation prompted by the EZLN and the Zapatista movement. Further, because equipment and training was provided to rebel communities by a binational NGO, the organization was more amenable to incorporating indigenous communal decision-making processes. Chiapas initiatives are then overtly more political than those that were born of the INI by virtue of their inception, and were immediately concerned with sustainability and distribution of their product as a way to promote their narrative to other states and communities. As Wortham notes, the distinction between indigenous media as conceptualized in Oaxaca and that in Chiapas is that media training programs in Chiapas were “anchored to the shared social and political agenda of the Zapatista movement to achieve indigenous autonomy, rather than the preservation of a particular culture.” (Wortham 199) The EZLN remains an active political force in Mexico, disseminating their ideas across all available forms of media, including the internet.

The author ends the book with an exploration of an indigenous film product which provides insight into the filmmaker’s community and way of life. Titled *Dulce convivencia*, the eighteen-minute short film depicts a Mixe man’s experience within his community through the process of production of *panela* (a raw form of brown sugar), and illustrates the importance of filmmaker embeddedness in authentic indigenous media. In addition to this exploration, the book is peppered with illustrations of citizens of indigenous communities and indigenous videomakers, which

Michaelene Wright, book review, Erica Wortham, *Indigenous Media in Mexico AmeriQuests* 14.1 (2017)

enables the reader to see through the lens, so to speak, of the Mixe and Zapatista filmmakers in their own communities. Wortham's writing is both fluid and succinct, effortlessly weaving together the historical context and the modern constructions of indigenous media as they are found in Mexico today, and bringing the reader into the communities she explores.

Michaelene Wright, Vanderbilt University Law School

Laura Penney, Book Review of *Violent Borders: Refugees and the Right to Move*, *Ameriquests* 14 (2017)

Reece Jones. *Violent Borders: Refugees and the Right to Move*. London: Verso, 2016. 212 pp. \$11.52 (Paperback). ISBN 978-1-78478-471-3.

Members of Western society tend to view national borders as inevitable and immutable. Without question, we accept the restricted flow of people and resources across them. However, in *Violent Borders: Refugees and the Right to Move*, Reece Jones challenges our basic assumptions regarding the meaning and consequences of borders. Through powerful anecdotes, alarming statistics, and historical accounts, Jones presents a compelling argument that borders, as we understand them, are neither necessary nor beneficial to the global community. In fact, he asserts, borders are fundamentally violent.

The book opens with an account of Jones' own encounter with several would-be refugees on a bus ride to a Moroccan port. He witnessed a group of young boys climbing onto the back and underside of the bus, where they clung for the duration of a twenty-minute ride at a speed of 100 kilometers per hour. At the port, a guard knocked several of the boys off the bus with a baton. Afterward, border agents conducted an X-ray of the bus and removed five more of the boys; they brought in dogs to track down the last two. "Why," the author recalls wondering, "did these boys take such a risk with so little chance of success?" (3). He answers his own question later: "For many migrants, there is no real choice." (28).

Jones repeatedly lavishes the reader with anecdotal evidence of the risks and sacrifices involved in migration. These anecdotes underscore the incredible risks that migrants take throughout the world to rebel against the established system of borders. The stories Jones relays are made more engaging by his personal connection to those involved. Rather than tell stories through a media lens, he interviews participants and utilizes their perspective. For example, the author spoke with several members of the Abu Rahma family to learn their story of resistance against the Israeli occupation of Palestine. Of the family of activists, two members have been killed for their efforts at resistance, and two others have been arrested. Jones' narration of his interactions with the Abu Rahmas humanizes their struggle, relaying information in a far more compelling way than bare facts and statistics ever could.

Throughout the text, Jones emphasizes that sovereign states and borders emerged relatively recently and are defined less rationally than one might assume. For example, he describes how distinct national cultures in Europe resulted from – rather than influenced – the definition of borders. Furthermore, European colonists drew the borders of many African countries with no regard for cultural groups, resulting in artificial states that lack political and social unity. As Jones puts it, "[B]oundaries do not mark the edges of already existing things; the thing comes into being by placing boundaries."

Despite their tenuous connection to pre-existing realities, borders have very real effects: namely, restricting the outflow of resources and the inflow of people. (167). Chapter 1 focuses on the European Union's overall mishandling of the current migration crisis. In addition to criticizing those who have hardened their borders and failed to rescue migrants at sea, Jones points out inadequacies in the policies countries employ when they do admit migrants. Chapter 2 discusses the United States-Mexican border, where border patrol has become unnecessarily synonymous with militarization; thousands of migrants have died at this border for having the audacity to seek a better life. In Chapter 3, Jones shows that border violence is not limited to wealthy, Western states. Citing the diverse examples of Israel, India, Bangladesh, and Australia, the chapter demonstrates that states throughout the world engage in violent practices to exclude migrants. Each country mentioned in the chapter uses different tactics; while India has the most

kilometers of border fences and walls in the world, Australia's strategy focuses on preventing boats from reaching its shores in the first place. Still, the strategies employed by each country are violent and exclusionary. Chapter 4 discusses the relationship between poverty and migration. Jones describes the rags-to-riches migration story of Andrew Carnegie and explains how today's concept of citizenship precludes such success. Chapter 5 emphasizes the relative newness of enclosing resources and demonstrates that human existence did not always consist of the countless bounded spaces that define the world today. Chapter 6 explains how corporate globalization has contributed to migration violence: While Western nations are responsible for a great deal of poverty throughout the globe, they reject those who attempt to flee said poverty. Finally, Chapter 7 discusses how climate change intersects with migration. Wealthy Western states have made the greatest contributions to climate change, but poor nations bear the greatest costs. Of course, due to the violence of borders, the majority of those most heavily impacted by climate change have no escape available.

Each chapter promotes the idea that borders function violently to maintain the power of arbitrarily defined "insiders" and to prevent "outsiders" from gaining access to power. Much of this takes the form of what Jones terms "direct violence," or intentional, overt infliction of physical harm. For example, the book describes Israel's frequent use of tear gas to disperse peaceful protests by Palestinian nationals. While Westerners may feel comfortable associating direct violence with far-off developing countries, the concept is perhaps epitomized by the United States-Mexico border, where officers routinely employ military-grade strategies and weapons against civilians. The book provides numerous accounts of direct violence perpetrated by states against individuals striving to obtain better lives for themselves and their families.

In another powerful anecdote, Jones describes an incident of direct violence that hits closer to home for Western readers: the 2010 shooting of fifteen year-old Sergio Hernandez Guereca at the United States-Mexico border. Accompanied by three friends, Sergio brazenly ran across a narrow, shallow portion of the Rio Grande in broad daylight. The youths were met by an armed border patrol agent as soon as they reached the United States side of the border. While Sergio and two of his friends managed to retreat to the Mexican side, the guard detained the fourth member of their group. The other boys – angry, frightened, and young – responded by throwing rocks at the border agent from where they stood on the other side of the border. Despite the distance between the boys and the agent – twenty or thirty meters – and the relative harmlessness of the boys' weapons – rocks, compared to the agent's gun – the agent fired two shots across the border. Sergio did not survive. Jones' style in relaying this and other anecdotes drives home the senselessness of the brutality perpetrated against migrants. He describes the events leading to Sergio's death matter-of-factly but expertly utilizes quotes from witnesses to convey the horrifyingly gratuitous nature of the shooting.

Jones also views borders as characterized by "structural violence," which is "built into the structure [of sovereign states] and shows up as unequal power and consequently unequal life chances." (8). In addition to direct violence, structural violence abounds at the United States-Mexico border, where increases in border enforcement have funneled migrants into hostile desert terrain, resulting in hundreds of deaths per year. Structural violence also includes policies that seem harmless or even benevolent, such as the European Union's recent focus on Syrian refugees. While the crisis in Syria certainly warrants attention, member states have used it as an excuse to delegitimize and exclude migrants fleeing harsh conditions in other countries. Other forms of structural violence discussed in the book include the exploitation of factory workers and the disproportionate contributions of Western countries to climate change.

Laura Penney, Book Review of *Violent Borders: Refugees and the Right to Move*, *Ameriquests* 14 (2017)

Jones concludes by making a bold but persuasive case for opening borders throughout the world and offers several strategies for doing so. In his view, continuing to cross borders – despite the dangers inherent in doing so – is a rebellious act that is crucial to uprooting the persistent global system of border violence. While acknowledging that his stance is controversial, he argues that it is no more radical than resisting slavery or colonialism. Regardless of whether one ultimately agrees with Jones' proposed solutions to border violence, this provocative book will challenge readers' sense of normalcy and leave them better informed about the significance of national borders.

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Eileen T. Lundy and Edward J. Lundy, eds. *Practicing Transnationalism: American Studies in the Middle East*. Austin, Texas: University of Texas Press, 2016. 267 pp. US\$27.95 (Paperback). ISBN: 978-1-4773-1073-1.

As a once fresh-faced sophomore at a small liberal arts college in New England, I was forced to grapple with what seemed a daunting question: what do I major in? Drawn to its purported freedom of study, in conjunction with the fact that I had (somehow) already acquired multiple credits towards completion of the degree, I settled comfortably on American studies. An emerging interdisciplinary field, American studies has made significant strides in recent decades. Once a field characterized by scholarship exclusively focused on the *United States* of America, American studies now incorporates transnational and hemispheric methodologies and approaches to the United States. What was once, rightly, critiqued for perpetuating ideas of American exceptionalism, now more fully considers the legacies of settler colonialism, slavery and European expansion, interrogating notions of indigeneity, gender, race/ethnicity, and disability as well.

In *Practicing Transnationalism: American Studies in the Middle East*, Eileen T. Lundy and Edward J. Lundy embark on the formidable endeavor of tracing the introduction and development of American studies in an unlikely place—the Middle East. As Fulbright scholars and lecturers, they joined the faculty of the American studies program at the University of Jordan (UJ) during the summer of 2003. While teaching in the Middle East, anti-American sentiment was intensifying. In light of the disturbing accounts of torture and abuse in Abu Ghraib, the United States' invasion of Iraq, and the dubious justifications offered by the US government in support of the indefinite detention of prisoners in Guantanamo Bay, it seemed almost unfathomable that interest in American studies programs in the Middle East would exist, never mind rise to the extent that it did. Through a compilation of essays composed by those who worked in these programs, *Practicing Transnationalism: American Studies in the Middle East*, sets out to explore the dynamics that motivated the establishment of American studies programs in the Arab world.

The first two sections attempt to situate American studies as a broader academic field. Part I—Questions and Challenges and “the American Question” examines the beginnings of American studies as a one-way transfer of information. (27) In this view, the United States is a success story, the archetypal world power, and exalted source of intellectual advancement. “The American Question,” traces American studies from initially being a story of human *encounter*, to its important shift towards the emphasis on offering a comparative lens, particularly in programs outside of the United States.

In the chapter, “The Politics of American-Style Higher Education in the Middle East,” the book diverges greatly from its overarching theme, -- American studies -- and sets up an interesting paradox: although the United States' popularity in the Middle East has been steadily decreasing, “the regional appetite for institutions that bear the label “American” have not experienced a similar decline. (33) This chapter, in particular, with its almost exclusive focus on the “American *university*” abroad, interrogates the notion of an American nation building “project.” Concentrating on such a limited view and understanding of the field, “The Politics of American-Style Higher Education in the Middle East,” almost implodes on itself. In one sense, the chapter attempts to deconstruct the problematic realities of simply transferring the American educational model overseas.

Effectively, this transfer operates as “a form of cultural imperialism.” (37) While this, indisputably, is a legitimate concern, and problematic if true, this observation necessarily conflates American studies with American education, and treats American studies as it was framed in its early years, as opposed to the state of the field as it stands today. I push back on and question both of these “assumptions.”

In the context of the larger concern of the book—American *studies* and not the United States’ *educational system*—the central inquiry in this chapter seems to be strikingly misplaced. As the editors themselves note, what started out as a field exclusively dedicated to the study of the United States of America has now become a distinctively transnational discipline. The current shift towards the Americas—emphasis added on the “s,” highlights an awareness and appreciation for the multiplicity of American voices, cultures, and experiences. Thus, Chapter 2, perhaps included to offer contextual gloss on the connection between America (The West) and higher education in the Middle East, falls flat. In effect, “The Politics of American-Style Higher Education in the Middle East,” proves to be more of a contrasting inclusion to the American *studies* centered compilation, than as an elucidating contribution. Moreover, an included note clarified the origins of the phrase “American-style university,” as deriving from a report for the Washington Institute for Near East Policy. “American-style university,” it states, was used “to refer to American, Australian, British, and Canadian universities that have recently opened their doors in the Middle East...” (48) Thus, it should come as no surprise that this chapter, although interesting and clearly well researched, feels out-of-place in the larger scheme of the text.

The second part of *Practicing Transnationalism* “Contexts and Implications” encounters similar issues of focus. Chapter 3 provides a historical survey of liberal education in the United States, exploring the changing educational system post-Civil War, particularly with Congress’s passing of the Morrill Land Grant Act of 1862. By establishing state public universities, the Morrill Land Grant Act altered the educational landscape. American Protestant universities no longer dominated the United States as the only option for higher education. Interesting and informative, but where does American studies fit in all of this? Unfortunately, it does not really factor into this chapter at all, at least not in any significant way. “Shifting the Gorilla: The Failure of the American Unipolar in the Middle East,” is arguably the chapter most guilty of this. In an essay of almost fourteen pages, less than one page even *discusses* American studies in the Middle East. “Discourse, Palestine, and the Authoritative News Media,” explores the manner in which the United States consumes, understands, and treats Palestine, by way of its news media coverage. Yet again, by giving exclusive attention to the United State’s view of the conflict, this chapter subtly reifies “American” as connoting *only* the United States of America. This is in direct contravention to the modern shift within the field of American studies that book initially lays out. Given the class, religious, and racial dimensions of the Israeli-Palestinian conflict, this chapter could have been an incredible opportunity to engage with the discourses found in the broader scope of the Americas. What does news media coverage look like in South America? Is there a Central American view of Palestine?

Practicing Transnationalism: American Studies in the Middle East often loses itself in the technical weeds of the educational system both here, and abroad. At times, the compilation oscillates, not all too gracefully, between American studies as a field of

study and the American *university*. While, perhaps, an only superficial distinction, the conflating of the two has considerable implications. As the editors correctly point out, American studies no longer has the singular focus that it once touted. Ultimately, *Practicing Transnationalism: American Studies in the Middle East*, struggles to overcome the very pitfalls that the field of American studies itself has perennially faced. Due to its relative “newness” in the landscape of academia, both American studies and *Practicing Transnationalism: American Studies in the Middle East* fall victim to the very *newness* that makes them so fascinating.

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Bryan McCann, *Hard Times in the Marvelous City: From Dictatorship to Democracy in the Favelas of Rio de Janeiro*, Durham, NC: Duke University Press 2014, 249 pages, \$25.95 (paperback edition), ISBN: 978-0-8223-5538-0.

During the time-period leading up to the Olympics, Rio's favelas were at the forefront of global headlines due to violent confrontations between police and *favelados*, -- those favela residents who were being forcibly evicted from their homes. While favela residents were promised compensation and improved housing, many refused to move, leading to violent clashes between the police and the defiant *favelados*. But, these promises either fell far away from the mark or were lost in the disruption and corruption that surrounded the preparation for these two major events, and in the end, broken promises of improvements in infrastructure and access for Rio's poorest citizens was all that remained. For residents of favelas, the World Cup and Olympics reignited a cycle of displacement, destruction, and evictions that many previous favela residents had fought against in the 70s and 80s. While Rio de Janeiro has drifted from the minds of most Americans post-World Cup and Olympics, in Bryan McCann's book, *Hard Times in the Marvelous City: From Dictatorship to Democracy in the Favelas of Rio de Janeiro*, Rio and its favelas are once again front and center of intensive investigation.

McCann is well-versed in modern Brazilian history, having published many articles and books on the topic; but *Hard Times* is an accessible read for anyone, regardless of their knowledge of modern Brazilian history, in part because McCann skillfully employs graphics, maps, song lyrics, and a clear writing voice to tell his story to a wide audience. McCann begins every chapter of *Hard Times* with an excerpt from a song that is about the hope and the plight of favelas or Rio as a whole. As an outsider who is unfamiliar with modern Brazilian history, I found that "The Big Picture" did an excellent job of giving the reader a general comparison of favelas, irregular subdivisions, and housing projects, and how they all differ from the other in terms of residents, property rights and development. With the chapters focusing on broad concepts, the lyrics give a layer of personalization that would be lost in a straight clinical analysis of favelas in Rio. The song excerpts humanize what could have been textbook favela history had McCann not shaped the narrative into broad overviews of massive changes throughout the favelas of Rio.

McCann successfully dodges the typical tropes that plague scholars writing about places and time periods that have not met the traditional concept of a successful renaissance. There were numerous missteps taken by both the leaders of Rio and residents of favelas. But, that is not the end of the story, because there were also many success stories, and positive outcomes brought about by the democratization of favelas. One of the key reasons behind the democratization of favelas was to prevent the expulsion of people from the favelas, and to offer ownership rights to the residents. While ownership rights were not extended to most residents, they were also no longer called for because favelas were given legitimacy and residents no longer feared being forcibly expelled because they had a favela association to represent them. However, with every step forward in one area for favela residents, there seemed to be two steps back. The residents of favelas were given a political voice through the favelas associations, but the associations also reemphasized the otherness of favelas as being wholly separate from the rest of Rio.

McCann's analysis emphasizes the fact that favelas were never seen as entirely a part of Rio, and although the *favelados* residing in them were not necessarily outsiders, they were not seen as typical residents or citizens of Rio. Instead of *favelados* having direct representation in the government of Rio, favela associations acted as the go between for the Rio government and *favelados*. Favela associations, like many other aspects of favela life that looked like vehicles for

positive changes, were taken over and perverted by traffickers and militias to serve their own interests. The theme of boundaries between the favelas and the rest of Rio is still as present today as it was during the development and implementation of democracy.

Pervasive themes that flow throughout McCann's analysis of favelas in Rio is hope, corruption, police violence, drug cartels, poverty, and lack of civil rights for *favelados*. McCann gives a brief detailed overview, of the many factors and factions that led to the breakdown of the ideals of the liberation and *socialismo morena* -- brown socialism -- movements that swept through Rio and the favelas in the late 1970s. Discussion of life in Rio's favelas cannot be undertaken without acknowledging race, particularly in terms of black residents who often had to fight the double-edged sword of being *favelados* and black, and *socialismo moreno* hoped to end the plight of black *favelados*. Leonel Brizola was one of the main advocates of socialism moreno, basing his 1982 and 1990 gubernatorial campaigns in Rio on the ideals of this movement. This movement helped Brizola to gain support of residents of favela residents. Brizola planned for sweeping reforms to bridge the gap between favelas and the rest of Rio. One of Brizola's major projects was Centros Integrados de Educação Pública or CIEPs which were community schools that focused on serving all aspects of the student's life. CIEPs were built in a specific model near certain favelas to make sure that they were incorporated into communities because after school hours, the buildings would be used for night classes, community meetings, or other neighborhood events. CIEPs did not reach their full potential with enrollment at half of the desired amount at many locations and a negative reputation from middle and lower-class families of being a school for poor, troubled kids. Brizola's goals for CIEPs, like many of his goals for Rio, were never fully realized.

While the changing times allowed for increased mobility for some favela residents to gain education and attain positions of power and leadership in the government, the changing times also opened the floodgates for the traffickers to take root. Carlos Magno Nazareth Cerqueira was a black *favelado* who was appointed secretary of military police by Brizola and served on the security council. Nazareth Cerqueira was unique not only because of the position he attained, but because of the ideas of community policing that he pushed throughout the force to end police violence and mend the fragmented relationship between favela residents and the police. Cerqueira's reforms were met with mixed reactions with many on the force refusing to implement his new policies. Cerqueira can be contrasted with Denir Leandro da Silva, also known as Denis da Rocinha, who was a well-connected local drug trafficker. Denis excelled at building his loyalty base through favors leading him to become for a time the city's "most notorious drug trafficker" (111). While Cerqueira could not stop police violence in the favelas, Denis had so much influence that when he was arrested and imprisoned, hundreds of favela residents marched to the police station demanding his release. Traffickers like Denis had a great deal of influence over favelas that even when slightly loosened would spring right back. The problem that seemingly no one in power could tackle was the ever changing and expanding power of the traffickers as well as the violence the traffickers brought to the favelas.

Unlike police violence that was the focus of many of Rio's leaders, traffickers often escaped critique. Brizola and his administration could not stop the violence, thus inaugurating a trend of political officials focusing on police violence, and ignoring trafficker violence. The late 1990s and early 2000s marks the rise of NGOs in Rio's favelas. But, NGOs did not escape the "law of the hill" as McCann describes it, in which government officials, NGOs, or any party that wanted to do business in a favela had to submit to the power or authority of the trafficker that controlled that territory. Due to the geography of the hills of Rio where many of the favelas are

located away from the main road access, traffickers in some cases could entirely prevent outsiders from gaining access to a favela. In other cases, traffickers could encourage resident shop owners to close their doors in protest when prominent gang members were killed or imprisoned. Even when the federal government stepped in during “Occupation Rio,” violence and trafficker control remained in place.

The “hard times” that Rio has gone through as analyzed by McCann is a reflection on the state of Brazil as a whole. The stark divisions between the favelas and other neighborhoods in Rio can be metaphors for the divisions that plague so many areas or groups throughout the world. Or, the divisions can just be seen as what they are, arbitrary lines drawn between communities that, as evidenced in McCann’s writings, will take a long time to overcome. “Although the reforms of the 1980s failed, the dream of the extension of full and complete citizenship to the residents of Rio’s favelas did not die” (17). The divisions between favelas and Rio may remain and the dreams of social equality may still not be realized, but favelas and *favelados* have survived.

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Waskar Ari. *Earth Politics: Religion, Decolonization, and Bolivia's Indigenous Intellectuals*. Duke University Press, 2014. 280 pp., ISBN-10: 0822356171

In his *Earth Politics*, Waskar Ari creates a fascinating reconstruction of Bolivia's indigenous activist movement, *Alcaldes Mayores Particulares* (AMP). The AMP movement vitalized a project of decolonization through the social and political affirmation of indigenous rights and culture. The movement utilized the Aymara religious and political ideals which, in part, advocated for two separate republics, one Indian and one white (2). AMP thrived between 1921-1951 until changes following the Bolivian National Revolution led the movement to reorganize and address new forms of colonialism (3). In his unique historical approach, Waskar Ari contrasts the earlier Bolivian indigenous movement with the more modern revolutionary AMP movement to show how a politics of decolonization rather than a politics of reconciliation, although both well intentioned, was better suited to serve the Indigenous populations of Bolivia. In *Earth Politics*, he uses the narratives of key activist-intellectuals in AMP to show how "by framing issues, gathering audiences, and creating networks and social movements from inside the Indian world, these actors provided alternative understandings of nation making in modern Latin America" (3).

Ari details the lives of four key AMP leaders during a time where being Indigenous in Bolivia meant either complete assimilation or complete isolation. For example, one of AMP's leaders, Gregorio Titiriku, experienced urban Bolivian society's complete segregation in the 1920s. However, he continued venturing to the city because he believed that "we [Aymaras] are in our land and we have the right to walk in the streets, the plaza, the parks, and take the streetcars, as well as to sit down on El Prado and watch the trucks and the streetcars. No one has to stop doing that because we are the owner of these lands" (87).

Through adamantly rejecting the notion that assimilation was the only path to respect as well as social and political power, these leaders invented a system of advocacy that incorporated indigenous religion, dress, language, and customs which fought not for the integration of the indigenous populations into colonial society, but instead to carve out a dignified place in society that allowed the respect and celebration of Indigenous cultures in Bolivia. For example, Indians had to deal with laws that arbitrarily discriminated against anything indicative of Indian culture. One law being campaigned for around 1925 suggested that Indians should be banned all together, but, if they were allowed in the city "they should be prohibited from wearing the poncho and pants.... The purpose of this ban is to remove from the city the exotic, ugly, colorful, and ridiculous dress ...presents to foreigners a city with ponchos, "calzones partidos," and other extravagant clothes that Indians like to use" (89). AMP battled these offensive regulations by unashamedly wearing Indian dress in city spaces and encouraging others to do the same. This worked counteract what Ari calls "cholification" and to contradict the prevalent stereotype that Indians were uncivilized and were a blow to the cause of modernity.

Additionally, although not written for a legal reader, *Earth Politics* confronts major issues social and political movements face when confronted with the Law. For example, the older generation of these activist-intellectuals were committed to trying to gain back land that had been taken from Indigenous populations and converted into haciendas by searching archives of historical documents in the hope of finding colonial land titles. These documents would then be enforced, giving Indigenous groups legal title over the land that had been taken from them. However, these earlier activists were confronted with major obstacles that are inherent in the problem of liberating a disenfranchised and exploited minority within the framework of the colonial system. First, since the ability to escape the repercussions of colonialism relied solely on

colonial institutions approval, the control still laid in the hands of the dominant social structure. Second, only a small number of all Indigenous groups were able to benefit from the colonial title model because their land was taken either before or after the colonial period and, for many, no papers reflecting evidence of prior ownership existed. After a while, this system was no longer efficient or sustainable in accomplishing the goal of liberation and it frustrated those intellectuals (the future leaders and followers of the AMP movement) who wanted to work not only toward liberation, but toward larger more deeply systemic decolonization. Accepting colonial land titles as the answer to the Indian struggle meant, for leaders like Gregorio Titiriku, also accepting the ideological implications of the strategy as well. Titiriku did not believe the agrarian reform of 1874 to be valid, and he also “opposed the very concept of property titles as a legitimization of land tenure because he did not want the Indian struggle to be restricted to a fight for lands and property within the framework of the dominant sector’s laws” (48). Because of this fundamental disbelief in the validity of the dominant sector’s power, the colonial land title approach seemed destined to fail.

In the legal world, attorneys who represent disadvantaged individuals including criminal defendants, undocumented immigrants or refugees, and impoverished victims, often face similar structural barriers. The paradox of working for progress and liberation for historically disadvantaged minority groups within the majority system is that the system being relied upon was not created to serve the minority and will require huge changes if it is ever to do so in a meaningful way. Understandably, as a future attorney, Waskar Ari’s compilation of the AMP movement’s mission and tactics was incredibly inspirational to me. The four AMP leaders won their cause in a racialized and segregated society by reimagining what progress looked like. In my interpretation, to them, it did not look like acceptance, integration, or even land alone; what it looked like was an uncompromising refusal to forget about parts of their identities in exchange for dignity. Instead, they demanded both through the narrative telling of venerable Indigenous histories. In doing this, the AMP activist-intellectuals reinvented revolution as a movement to which humanity, customs, history, and religion were required. Miraculously, this inclusive model successfully accomplished cross-cultural indigenous unification and still resisted the white-washing of Cholo and Spanish culture.

The AMP’s utilization of *Earth Politics* in taking back land, language, religion, dress, and all other aspects of Indigenous Bolivian culture reflects a truly successful reinvention of modern revolution. And from the perspective of a future attorney, *Earth Politics* has illuminated that, if as activist lawyers, we can achieve the same ends through more inclusive means which tell narratives in the fight for justice, we will be doing our jobs much more effectively.

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Jalane D. Schmidt, *Cachita's Streets: The Virgin of Charity, Race & Revolution in Cuba*. Durham: Duke University Press (2015). Paperback, 357 pp. ISBN: 9780822359371.

Aptly titled, *Cachita's Streets* centers on two primary subjects, *Cachita*, the Virgin of Charity of El Cobra, and the patron saint of Cuba. The book details the history of the Virgin's physical effigy and her cult of ardent devotees, which, over four centuries, has included Cubans ranging from Roman Catholics, to practitioners of Spiritism and Santiera, to the nominally otherwise religious. Schmidt's history of the Virgin and devotion to her among Cubans traces twentieth- and early twenty-first-century Cuban religions and their complicated relationships with the Cuban state and with Cuban identity. Schmidt offers up a history of the Virgin and her devotees, but in the process, she engages the reader in a sweeping narrative of Cuban politics, identity, race and religion over the past four centuries, tracing "the local permutations of devotion to the Virgin and the varying fates of religions in Cuba, particularly as these are expressed in relationships to changing racial, cultural, and political conceptions of Cuban Nationality." (9). The book is fascinating in its depiction of a "competitive religious and cultural landscape", wherein different groups, including the Cuban Catholic church, the evolving Cuban government, and the Virgin's often religiously, socially, and racially marginalized devotees, vied to advance their own interpretations of the Virgin (28). Although some romanticize devotion to the Virgin as a symbol of "creole religio-cultural unity," a universally beloved figure connecting Catholics, practitioners of Afro-Cuban religions, and the nominally faithful, Schmidt pushes back on this conception, describing the ways in which, in fact, shared devotion to the Virgin has fueled competition among these groups (28).

The physical effigy of the Virgin was legendarily found at sea in the Bay of Nipes by two indigenous men and an enslaved black child, collectively referred to as the "Three Juans" (Schmidt notes that only two of the men were actually named Juan, but this mythical naming emphasizes the "Everyman" nature of Virgin's origin story). The Virgin's effigy was soon placed in a shrine the hill next to the residences of the El Cobra's enslaved miners. It was there that the cult of the Virgin of Charity, and, almost concurrently, the use of the symbol of the Virgin in mobilizing various agendas, began. The slaves of El Cobre invoked their dedication to the Virgin in their appeals to the Spanish government for freedom from their condition as slaves, in a seemingly strategic move to gain sympathy in the Catholic recipients of their petitions, and were eventually successful.

Over the twentieth- and twenty-first centuries, Catholic clergy have viewed popular devotion to the Virgin among Cubans as an evangelization opportunity. Historically, devotees of the Virgin, and Cubans in general, have been mostly Catholic by baptism but, as Schmidt stresses throughout the work, minimally Catholic in practice. The push for a large base of practicing Roman Catholics in Cuba has never become a reality, despite the continuing popularity of devotion to the Virgin herself. This disconnect may exist in part because while Catholic clergy see belief in other deities and phenomena as mutually exclusive with Catholicism, many devotees of the Virgin see themselves as both Catholic and spiritist. Through anecdotal stories of Cubans who practice spiritisim and Santeria, Schmidt reveals the ways in which Afro-Cuban faiths have been misunderstood, dismissed, marginalized, and at times exploited by the Catholic church, the Cuban government, and narratives about Cuban religion and history.

The book's second concern is the urban *streets* of Cuba, where devotion to Cachita has played out in large-scale public ceremonies her honor for centuries. Schmidt explores the ways in which the planners of these public spectacles mobilized the symbol of the Virgin "to promote their historically specific claims regarding religious practice, ascriptions of race, and political ideologies

of Cuban nationhood.” (9) As Schmidt points out, Cuban leaders have had various motives for alternately facilitating, discouraging, or allowing these spectacles. She describes several key moments in the Virgin’s history, such as the 1936 Coronation of the Virgin, the lively yearly feast day processions in her honor, her 1951-52 tour of the country, and two Papal visits to Cuba that honored her. Inherent in the stories of these events are the political and religious climates of the nation during these moments.

The book frequently refers to the contrast between *antes* (before) the 1959 Cuban Revolution and *después* (after), in terms of the implications for public religious ceremonies, as well as for Cuban religion and culture as a whole. Although some clergy aligned themselves with the Revolutionary cause, and the Virgin herself was invoked by some revolutionary leaders as a symbol of the fight for Cuban liberation from the Batista regime, relations between the Catholic church and the Cuban government soured as the new regime established itself as Communist and atheist. For decades, religious processions were outright banned, and replaced by revolutionary rallies in the streets. But, as Schmidt notes, in the 1990s and early 2000s, the government’s attitude toward both the Catholic church and Afro-Cuban religions began to thaw, and street processions have been reinstated.

Schmidt sheds light on the importance of the Cuban streets as a stage for political and religious leaders to influence their audience, the Cuban people. In the streets, culture, belief, and identity are not only celebrated—they are shaped. In examining the history of processions in honor of the Virgin of Charity, Schmidt paints a broader picture of the power of rhetoric, symbolism, and celebration in the shaping of Cuban national identity.

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Ediberto Román and Michael A. Olivas, *Those Damned Immigrants: America's Hysteria over Undocumented Immigration*. New York City: New York University Press, 2013. 186 pp. US\$40.00 (Hardcover) ISBN-13: 978-0814776575

Call me crazy, but I've always loved to see a good fight, especially if it's a political or an academic one. I consider this book an academic jab at the huge uproar of nonsense, spewing all over the media, regarding immigration. Most of the stories, particularly in the more "popular" media, make no distinction between documented and undocumented immigrants, so it typically boils down to a race issue. In the text, the author provides specific examples of statements and speeches, in which rhetoric was being used to make a certain group of Americans fear immigrants in general, documented or not. According to the Fox News talk show host, Bill O'Reilly, supporters of immigration reform "hate America" and want to "flood the country with foreign nationals...to change the complexion of America" (29). Correct me if I'm wrong, but complexion is not a tell-tale sign of citizenship status, unless of course you view any non-white person as illegal. Secondly, what exactly is the complexion of America? When making statements like the ones mentioned throughout this review, such as calling immigrants rapists, drug dealers, etc., you are attaching a face to those statements. While people can't see "documented" versus "undocumented", they can see non-white, and that is the thing they grow to fear because that's usually all a person can gather just by looking at someone. While this text serves primarily as an educated discourse, it also serves as a cautionary tale on the power of rhetoric, and, perhaps implicitly, encourages us to use that power wisely. I'm getting off my soapbox now.

All that aside, I think the author makes a nice attempt at being totally unbiased by supporting his arguments with numerous empirical studies, but I can see the forest through the trees, and suspect that other readers will do the same. The authors are calling "baloney" on this whole inaccurate, one-sided discourse that blames undocumented immigrants for America's problems! To begin with, they literally call out Americans, on both sides of the debate, for either making such prejudicial statements or for not speaking out against those statements more loudly. The authors make the comparison between undocumented Latino immigrants and other marginalized populations to call attention to the fact that, when other groups are the targets of such hatred, we boldly demand action either through protest, getting people fired, etc. However, when things about undocumented immigrants take place, those of us who are in support of immigration, at best, say that those attacks are "insensitive"; it typically goes no further than that. The author makes an interesting point that the reason for this reaction, or lack of a better one, could be due to the fact that people view them as "illegal", and, therefore, deserving of any criticism, no matter how hateful (6). And then, attention is redirected to the validity of those attacks. If I could count the number of times I've heard that undocumented immigrants are stealing jobs, destroying the economy, etc., I'd need another set of hands! The authors do a nice job of articulating what others of us are screaming. First of all, contrary to popular false knowledge, the authors note that immigration actually declines during a recession; just like most Americans, they want no part of our economy when it's crappy, so stop blaming them for the economy Americans caused. (50) Secondly, they are not taking American jobs; domestic businesses are giving those jobs to them because they don't want to have to pay you minimum wage plus benefits. After reading this text, I think all Americans should take a chill pill, step out of our emotional bubbles, and see the bigger picture.

Their ultimate conclusion seems to be that the "issue" of immigration that comes up in every presidential election and satiric talk show may not be that great of an issue at all; in fact, the

magnitude of the issue all depends on the rhetoric of those that discuss it. It is rhetoric that ultimately determines how “tough” on immigration the United States wants to be at any given time, not actual researched facts, and in fact there has been relatively marginal differences beyond the rhetoric (at least to date) between Obama and Trump in regards to the deportation of undocumented people, of examples. The book uses numerous studies to challenge the three basic premises associated with the “illegal immigration invasion” discourse: that there is an “invasion” of illegal immigrants, that the invasion will have devastating effects on the American economy, and that this invasion will lead to unprecedented crime rates.

According to the text, the claim that there will be some huge invasion into the United States by Mexicans, or attempted overthrow of the United States government in our southwestern territory, is largely unsupported by facts, and used by politicians as a strategy to garner favor among what I would characterize as a disproportionately racist population -- the white working class. While politicians and anti-immigrant advocates use exorbitant figures for their own benefit, other studies show that immigration rates are far more modest. According to the National Research Council, the number of foreign-born living in the United States, as a percentage of the total population, was higher for each year from 1850 to 1930 than it was for 1990 (48). In another study done by the Pew Hispanic Center in 2010, immigration rates had actually gone down in the last decade; in fact, the annual flow of unauthorized immigrants to the United States was nearly two-thirds smaller in the March 2007 to March 2009 period than it had been from March 2000 to March 2005 (49). The hysteria over this mass invasion is based on nothing but rhetoric based on nothing but false claims to advance an agenda.

While the text discusses the false claim that the “Mexican invasion” will lead to unprecedented crime rates, I did not think the analysis was particularly interesting because I know that that is a primary means in which bigots and racists try to dehumanize and vilify any ethnic minority they feel threatened by. No matter what the studies suggest, this is a subject that certain groups will always skew to favor their biased opinions. For example, a report by the Southern Poverty Law Center, called “Getting Immigration Facts Straight”, addressing a claim made on famous anchor Lou Dobbs’ show that in 2005 the 7,000 cases of leprosy in the United States were, in his words, one of the “deadly imports” of immigration (32). Statements like this, surprisingly, did not make me angry or sad; in fact, it makes me laugh that people can be so desperate to have people hate other people, they will say anything they can pull out of...a hat. Along with this, Dobbs frequently refers to illegal aliens from Mexico to the U.S. as an “army of invaders”, and even had a falsely-proclaimed medical doctor on the show that alleged that Mexican immigrants were prone to molesting children (32-33). More ludicrous comments are featured in the text, but these “facts” are clearly not rooted in fact; they are rooted in a political agenda. To add icing on top of this already god-awful cake, the text quotes a statement made by U.S. Representative Steve King of Iowa, who said “the lives of 12 U.S. citizens would be saved who otherwise die a violent death at the hands of murderous illegal aliens each day. Another 13 Americans would survive who are otherwise killed by uninsured drunk driving illegals” (51). In case you’re wondering, yes, this is real life, and, yes, he actually made drunk driving and crime an immigration problem to advance his own agenda. While I understand the author’s choice in fully discussing this part of the debate and essentially putting these horrendous acts in the faces of readers, I don’t find it to be the most powerful means of changing the rhetoric; it just reinforces that the U.S. is not a post-racial society, but we already knew that. Thus, I will skip that premise, and dive right into the alleged catastrophic affects that undocumented immigrants have on the economy.

The way the author addresses this issue did nothing short of make me smile; he structures his analysis in a way that suggests that the relationship between migrant workers, which he distinguishes from undocumented immigrants, and domestic businesses is one of supply and demand. He says that it is American companies, like construction companies, that attract and create a market for many undocumented immigrants because they like to take advantage of the cheap labor costs. Bill Gates is noted to have frequently complained that stricter immigration policies will impede the ability of businesses to hire skilled workers. Even an “American Farm Bureau Federation study notes that the agriculture industry’s loss of access to migrant labor would cause them to lose over \$5 billion in annual production of commodities” (59), meaning that domestic businesses want them and our economy benefits from them. Therefore, while anti-immigrant institutions and much of the American working class like to blame their lack of a job or resources on undocumented immigrants, they fail to point their fingers in the right direction—at domestic businesses. However, before pointing those fingers, it is important to note that the presence of immigrants in this country, according to data from the U.S. Census Bureau, has little to do with unemployment rates among any native-born racial or ethnic group at the state or metropolitan level (81). Maybe, then, instead of pointing, we should all just hold our hands in the air because everything seems to be no one’s fault and everyone’s fault all at the same time.

Now, the author does clarify that he is not making the argument that there are no economic downfalls of having undocumented immigrants in the workforce, but he is saying that the temporary costs that an immigrant family would place on the overall public would later be offset by the taxable income that they will eventually contribute. He addresses the costs that state and local governments face concerning providing healthcare and education to undocumented immigrants, and suggests that the federal government share its net gains from working undocumented immigrants with the state and local governments. To accomplish this goal, he proposes a new Guest Worker program that would allow states to accurately collect data on the number of undocumented immigrants in their workforce and communities; officials could then use this information to call upon the federal government to help bear some of the costs it brings. Furthermore, the money the country spends on antiterrorism resources, some which they use to arrest low-income farm workers, could be allocated elsewhere. This would be both a benefit, and detriment, depending on your perspective, to domestic business sectors. On the upside, they would be able to hire the skilled workers they desire, but on the downside, they would have to give them basic rights and actually treat them like human beings, not just commoditized bodies (146). Under the former Guest Worker program, proposed by President George W. Bush, foreign workers would be allowed to “fill” the jobs Americans didn’t want, but must return home after their job is completed, but under the author’s proposal, undocumented immigrants and migrant workers could use this as a path to potential citizenship (145-147). This all sounds great, aside from the fact that getting domestic businesses to provide their undocumented workers with more rights and higher pay will be no easy feat because their former incentive for hiring them in the first place would be eliminated.

Though this was published in 2013, much of the rhetoric described herein is as prevalent, and perhaps even moreso given current events in the US and the emergence of the Trump White House, and Trump’s plan to build an actual wall to “keep immigrants out”. Since most of this President’s work is done on Twitter, it wasn’t very hard to locate a tweet from June 2015, where he said, “We must have strong borders and stop illegal immigration. Without that, we do not have a country.” Unfortunately, I couldn’t search long enough for his comments about Mexicans being “rapists” and “bringing drugs” to the U.S., but you get the point. While, admittedly, I have heard

Brianna Owens, book review, Román and Olivas, *Those Damned Immigrants*, *AmeriQuests* 14.1 (2017)

less about the suspected “invasion” of Mexican immigrants taking over the United States, the DREAM Act, which allows undocumented immigrants to earn citizenship by going to college or serving in the military, has been all the buzz these days. Under this administration, I’d say his plan for a guest worker program, the DREAM Act, and a path to citizenship are, at best, idealistic, and, for Trump, a dream deferred.

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Review of *Living Indigenous Leadership: Native Narratives on Building Strong Communities*, edited by Carolyn Kenny and Tina Ngaroimata Fraser. Vancouver, Canada, UBC Press, 2012. p. xiv, 231. Contributors. Index. ISBN: 978-0-7748-2347-0.

As an immigrant, I cross the borders every time I switch from English to my native tongue, every time I bow to my elders in greeting, and every time I notice the ways the culture of my birthplace shapes my behavior and thoughts. For me, these shifts can trace back their origin across the ocean, to the tangible land where my “otherness” is the everyday norm for more than 50 million people. As I dove deeper into the narratives of Indigenous peoples, however, I could feel the endeavors of those who strive to create the intangible validation of themselves through cultural connections and revitalization.

Living Indigenous Leadership reveals the personal and social struggles of Aboriginal peoples experience from the loss of their land and cultural identity all across Canada, the United States, and New Zealand. Yet, like a traditional war cry of Aboriginal warriors declaring their prowess, the fourteen essays by Indigenous scholars proclaim the leadership concepts that promise to mend hearts and build strong Native communities. Carolyn Kenny and Tina Ngaroimata Fraser have gathered the voices of grandmothers, mothers, and single women from diverse Aboriginal nations who are fearless academics and leaders in various fields, including education, health, social justice, and ethnic studies. Through personal storytelling, the authors show the historical trauma caused by colonialism that affects social, political, educational, and leadership conditions of Indigenous people today. Though each author presents unique experiences, the essay collection speaks in unison that rethinking leadership based on history, tradition, and cultural values shared by Indigenous peoples is the critical process to improving Native communities in meaningful ways.

The journey to reconstructing leadership concepts begin by seeking the guidance of elders in Native communities, particularly that of the grandmothers. In Part 1, “Leadership, Native Style,” the authors examine the correlation between low self-esteem of many indigenous peoples and their lack of First Nation identity, and the ways grandmothers’ teachings ultimately become a pathway to decolonization that sustains cultural identities. In her essay, “Learning to Lead Kokum Style,” Yvonne G. McLeod conducts an anthropological study on eight Indigenous women and argues that the Indigenous leadership can be empowered through “*kokum*-style” (grandmother-style) leadership based on the process of reflection, experience, and self-direction (17). Reflecting on their lives, the eight women agree that cultural artifacts, such as legends, stories, and metaphors, allowed them to have understanding of the world that sense alone cannot provide (22). By watching her grandmother perform traditional sewing, singing and drumming, and ceremonies, one woman was freed from the hurts of racism through understanding the values of cultural connections (34). Another remembers her mother modeling the “old ways” of her mother to teach the interconnectedness of universe and special gifts of individuals (36). The behavior, resiliency, and knowledge transmitted through grandmothers in geese and buffalo metaphors, the medicine wheel, the Teachings of the Seven Grandfathers, helped these women to overcome the struggles as Indigenous peoples and find their identity and leadership roles in their communities (34).

Similarly, Alannah Young Leon in “Elders’ Teachings on Leadership” focuses on elders’ perspectives on the role of culture in Indigenous leadership and applies them to leadership in postsecondary institutions (48). Emphasizing the four pedagogical components of an Indigenous leadership identified by elders as land interaction, cultural practice, community service, and language and genealogy, Leon argues that these leadership qualities are needed to reclaim holistic health of Native communities which still suffer from racism, religion, reservation, and the legacy

of residential schools (53). Leon views Elders as those who, through modelling and storytelling, teach how to make meaning out of history, to connect the past to present conditions, and indicate safe directions to pursue so that history can be sustained and advanced (49). Finding that both students and Elders today feel the cultural values are missing in leadership training, Leon argues that the personal narratives recounting internalized racism and its continued impact are the key to decolonizing the Indigenous leadership education and practice (53).

In Part 2, “Collaboration is the Key,” the concept of seventh-generation thinking emphasizes the Indigenous value of fostering interconnectedness of communities and multi-generations. Raquel D. Gutiérrez in “Indigenous Grandmas and the Social Justice Movement” examines the council of thirteen Indigenous grandmothers, which embodies the classic seventh-generation thinking by upholding the Aboriginal culture to nurture, educate, and train the Indigenous people all across the world (105). In “The Legacy of Leadership,” Tina Ngaroimata Fraser looks at the *Kapa Haka* (performing group) that relives the stories of Māori histories and plights through songs and dance. Exploring how the performance is inextricably linked to Māori language, culture, and community, Fraser recognizes it as a way that can foster unity between performers and audiences, as well as spiritual connection between ancestors and the audience that can lead to self-healing of Native communities (125). Fraser tells her memory of how the grandmothers guided the haka group of her youth with their strengths developed out of a desire to protect their land and language (121). As for Māori people and most Indigenous peoples, identity emanates from the land, and the focus of tutoring and performing *Kappa Haka* is having a greater understanding of Māori origins and self-awareness (121). Remembering the story of a feisty great-grandmother who had been arrested for pulling out surveyors’ land markers to resist illegally confiscation of lands, Fraser argues leadership should emulate the naturally abilities of grandmothers to lead as tribal women (121).

Likewise, Stelómethet Ethel B. Gardner in “The Four R’s of Leadership in Indigenous Language Revitalization” explores the grassroots revitalization of Indigenous languages based on the Indigenous spiritual values and belief in the sacredness of Indigenous languages, which recognize that language, land, identity, culture, and spirit are interconnected and intertwined (125). Along with Siyàmiyatéliyot Eilizabeth Philips, the only fluent Halq’eméylem speaker, Gardner advocates the mobilization of revitalizing Stó:lō language as a means of sowing grassroots leadership that can actualize the traditional values of balance, harmony, and respect embedded in the language (135). Spreading the method of awakening respect, relevance, responsibility, and reciprocity of Indigenous languages to revivalists across various tribes, Gardner lives out the interconnectedness of cultures and models a leadership that creates stronger unity within and between Indigenous peoples today (131).

At the closing of the book, the authors address the continuing effects of colonization seen in violence and discrimination against Native people. In Part 3, “Healing and Perseverance,” Michelle M. Jacob in “We Want a Lifelong Commitment, Not Just Sweet Words” examines the need to heal the historical trauma perpetuated within educational system and observes an on-going presence of micro aggression against Native American students in one California college campus (180). Jacob set up a focus group study that provides the very first opportunity for the students to speak about the shameful experiences they faced as Native American students on campus, in which the students recounted instances of tokenization of Indigenous culture and the pressure to hide their Indigenous identities in order to survive and thrive (183).

In “Leaders Walking Backwards,” Alanaise Goodwill digs into how the First Nation communities suffer from normalized levels of violence which undermine the Indigenous people’s

collective ability to stand up against it (223). Identifying the leadership qualities that have become distorted in colonial spaces as the driving force of Indigenous children in choosing gang-life, Goodwill argues that Indigenous leadership can redirect these qualities to developing pro-social leadership in Native communities for future generations (231). Goodwill interviewed several Indigenous men who were ex-gang members, but are now taking a leadership role as mentors to sympathize with and redirect what are fundamentally caring and loyal qualities in Indigenous children (224). One of the men explains that even though the men and the children come from different experiences and tribes, he is able to understand the pain and help because they are “all one race,” as “the traditional race” (228).

Living Indigenous Leadership is a unique contribution to leadership studies from the perspectives of diverse Aboriginal nations that share the core values of Indigenous societies. It is an inspiring collection of essays that reflect the resiliency and strength of the will of Native communities to “not only survive but thrive, sometimes against all odds” (Preface, xiv). Moreover, the message of this book does not only apply to Native communities, but also applies broadly to communities that seek to untangle the effect of messy history and look forward to bettering their lives, and the lives of future generations.

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Shanthi Sekaran, *Lucky Boy*. NY: G. P. Putnam's Sons, 2017. \$9.71 (paperback), 496 pages, ISBN: 978-1101982266

Although I've never been to California, and I've never been an immigrant, I found myself relating to Shanthi Sekaran's novel *Lucky Boy*. Solimar Castro Valdez, one of four main characters, often feels like a cultural outsider when she illegally immigrates to Berkeley, California from Santa Clara Popocatepec, a small town in the Oaxaca region of Mexico. As a military brat, I share the experience of feeling like everything, from the language to the food, is alien; but while I had the stability of parents and a community of other English speakers on each military base, Soli's journey was pervaded by a sense of loneliness. Kavya Reddy also deals with feelings of being culturally torn, but usually because of pressure from herself and her mother to assimilate to her native Indian culture as a first-generation Indian-American.

As the book progresses, you also see hints of these cultural conflicts for Rishi and Vikram, although not to the extent I had hoped. Sekaran's writing in *Lucky Boy* often comes across as though she had a checklist for how to flesh out a character (family history, a job, some feelings or thoughts of their own) but never quite makes it to a fully fleshed-out character, particularly in the case of Rishi. For instance, Rishi's project at work comes up multiple times, sometimes going into great detail about the type of materials he was considering using, for no satisfactory purpose. In this quote, he discusses another part of the process, the software model:

Rishi was rehashing his proposal. He'd sent it off to Vikram Sen ten days before, as promised, only to have it returned a week later with a two-word reply. Rehash, please. What exactly needed to be rehashed, Rishi couldn't say, but rehash he would. He was creating a software model of the programming center; then he'd add windows, air vents, sticking on and plucking off the variables like parts of a Mr. Potato Head.

By the end of the book, the project has been brought up many times, but is never wrapped up, and the reader is left hanging. Particularly in Rishi's case, the ending seems rushed, as if his purpose was fulfilled before he had a chance to flesh out a key character. Indeed, this seems to be the theme of how this book ends; there is a definite conclusion, but most of the plot lines feel unfinished and rushed, and you're left wanting to know how things turned out for almost all of the characters. In fact, the only characters that I felt had a complete storyline from beginning to end were Miguel (Kavya's assistant at work) and Mr. Cassidy. Unfortunately, these were not the characters who needed this attention, so it does not help the book very much.

Despite Soli's somewhat shallow and incomplete character development, however, she does give a nicely rounded-out image of the experience of an illegal immigrant. Initially, her family paid Manuel, a man who they knew as a friend's mother's other daughter's nephew, to drive Soli to across the border in a hidden compartment in his Cadillac. The family made plans for Soli to meet with her cousin, Silvia, in California. Soli soon discovered that Manuel was planning on taking her to Texas instead, so that she could take his drugs across the border through a tunnel. Later that day, she escapes from Manuel and finds a group of boys who helped her jump onto a train, headed back to California. This group stays together for part of the journey, until the boys are discovered by men toting guns, while Soli manages to stay hidden in the truck. After switching from that flour truck to an onion truck, she made it across the border to San Francisco, California. From there, she makes her way to Berkeley, where she connects with her cousin, Silvia, whose address she had memorized. Silvia quickly comes to the conclusion that Soli is pregnant, but tells Soli that she still must work in order to pay Silvia back. In an attempt to make working easier, as well as because

Soli is unsure of who the father is, Silvia convinces Soli to get an abortion. However, just before the procedure, Soli decides that she wants to keep the baby, as a remnant of Checo, one of the boys from the train and the boy that she believes is the father. Afterwards, Silvia assigns Soli as a maid for the Cassidys. Initially, only the mother and daughter are there, as the father is away. However, when he comes back, he asks for her information, which prompts her to buy a fake SSN in order to hide her status. Mr. Cassidy accepts this number, although it is implied that he knows it is fake due to his job with the government.

When the Cassidys then discover that Soli is pregnant, they decide to promote her from maid to nanny, continually being supportive and kind. Through all of this, she attempts to find her culture and herself in her surroundings, from asking Silvia where the tortilleria is, to the joy she feels when Mr. Cassidy comes home and speaks Spanish with her. Sekaran is not afraid to discuss the ugly side of the illegal immigrant's experience too, though. Between the descriptions of Soli's multiple rapes by men with cowboy hats and guards at the detention center, and the desperation that led to Soli kidnapping her son, *Lucky Boy* contains more than sunshine and rainbows. Somehow, however, even despite all of these details, Soli feels hollow. Perhaps Sekaran failed in focusing too much on the external details, rather than on Soli's internal battles, or maybe Soli feels hollow because she is, due to some depression or other lasting trauma from her experiences. Regardless, it makes the book a bit disappointing to read, as it seems that Soli should be the true star of the show.

Besides the unfinished nature of the characters, the writing in this novel is fairly good. The chapters alternate between focusing on Kavya and Rishi and Soli, without causing undue confusion for the reader. Sekaran's writing is descriptive, but not to the point of seeming flowery. It is enjoyable to read a book that has a number of main characters, each with conflicts and history, but it's somewhat difficult to understand what Sekaran is trying to get across. The book seems, at different points, to be about Ignacio, Soli, and Kasha and Rishi. It is possible that this was Sekaran's intention, though, in which case she succeeded in including a significant portion dedicated to various characters. Overall, I enjoyed reading *Lucky Boy*, and appreciated the insight it provided into a variety of cultural conflicts, but unfortunately, I did not enjoy it to the point of ever reading it again, or even recommending it to friends and family.

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Daniel Kanstroom and M. Brinton Lykes, editors. *The New Deportations Delirium – Interdisciplinary Responses*. New York: NYU Press, 2015, 271 pp., \$47.14
ISBN 978-1-4698-6867-4

*O say does that Star-Spangled Banner yet wave,
O'er the land of the free and the home of the brave?*

- The Star Spangled Banner, written by Francis Scott Key

Upon taking office, President Trump made immigration one of his first priorities, and although he has struggled to gain support for some of his more controversial ideas, such as building the border wall between the United States and Mexico, immigration arrests shot up 38% within the first three months of his presidency compared with the same period in 2016. Within the first few months of this administration, ICE officers arrested 41,318 people, compared with 30,028 people over the same period the previous year. For many, these are just vague statistics that you can read in a New York Times article; however, for my community, in the Flatbush section of Brooklyn, New York, these statistics incite fear and paranoia. Flatbush is home to a large West-Indian immigrant community, some documented and others not. Shortly after the inauguration, I remember seeing loads of social media posts warning Flatbush residents to avoid particular places within the community, which many people frequented daily, because of threats of ICE arrests. While these social media posts were most certainly bogus, I watched people that I know, love, and grew up with, become crippled by fear. Members of my community were afraid to go to work, afraid to shop in the local grocery stores, and even afraid to drop their kids to school because of this mass hysteria. Much of the existing rhetoric on deportation focuses on the federal government formally removing alien from the United States for violations of a number of immigration or criminal laws. *The New Deportations Delirium: Interdisciplinary Responses*, however, explores the tension between the open immigration ideal and system of exclusion and removal.

With contributions by some of the leading figures in the field, *The New Deportations Delirium* investigates deportation through an interdisciplinary lens. The most interesting and compelling component of the work is the diversity in opinions. The authors of the eight chapters come from wide ranging professional backgrounds and disciplines, including psychologists, sociologists, social workers, lawyers, judges, policy advocates and government administrators. The introduction of the book lists a series of questions, regarding both theoretical and applied issues around American deportation policies, including: “Can the United States legitimately claim to be a “nation of immigrants” when its massive deportation machinery continues to negatively affect many millions of people?” and “What are the psychological and social consequences of policies and practices that force hundreds of thousands of migrants living within U.S. borders – many of whom are members of transnational families – into the shadows?” *The New Deportations Delirium* seeks to wrestle with these questions to examine how deportation, detention, Immigration Courts, and social service agencies work and how they affect real people.

The first four chapters of the book, captured under the rubric of “The Legal, Administrative and Political Responses”, focuses on the overarching challenges that American immigration policy present, specifically within the context of family. Further,

part one also seeks to explore ideas and proposals for reform to improve immigration policy. The second section of the book, “Interdisciplinary Research, Advocacy, and Actions for and with Migrants Affected by Detention and Deportation”, explores the stories of immigrants navigating American immigration policy as well as the people who work with them. The section seeks provide multidisciplinary perspectives, and does a great job of enabling readers to better understand the intricacies of immigration by forcing readers out of the comfort zone of whatever particular discipline the reader is most familiar with.

The New Deportations Delirium begins with “Unhappy Families: The Failings of Immigration Law for Families That Are Not Alike,” by law professor David Thronson, who is critical of the narrowness of immigration laws, suggesting that the implications thereof is that they often result in family separation, hardship and suffering: “For families that do not met the exacting templates of immigration law, the story is not of family unity but rather of separation and hardship” (33). Thronson’s chapter is a great way to begin this book, because it lays a foundation for readers to understand the counter narrative to what we so often read and hear about deportation. This chapter so clearly paints the picture of separation caused by immigration policy, deportation specifically.

Chapter two, “Improving Conditions of Confinement for Immigrant Detainees: Guideposts Toward a Civil System of Civil Detention,” by Dora Schirrio, the former director of the Office of Detention Policy and Planning for the Department of Homeland Security, sets out the principles needed to improve the practices of Immigration and Customs Enforcement (ICE), and a reform agenda for detention systems. I found Schirrio’s discussion of accountability between ICE and detainees especially interesting. She ultimately suggests that ICE take back from the private sector the oversight of detention management activities and assume responsibilities for outcomes by conducting regular assessments and annual evaluations. (p. 81).

In chapter three, Denise Noonan Slavin and Dana Leigh Marks, both immigration judges, address the question of “Who Should Preside Over Immigration Cases, Where and How?” by exploring tensions immigration that judges face in their dual roles as U.S. government attorneys and judges. They ultimately recommend the creation of an Article I Immigration Court, or the establishment of Immigration Court as an independent agency outside the Department of Justice. While I certainly think separating from the Department of Justice could be interesting, I question the feasibility of this idea, particularly under this Trump administration. Chapter four, “Will New Political Calculations and New Actors Overcome Enforcement Inertia”, co-authored by Ali Noorani, executive director of the National Immigration Forum and long-time activist and community organizer, and Brittney Nystrom and Maurice Belanger, organizers, immigration experts, and former Forum colleagues, explores the current state of immigration law and policy in the United States, and assert that the implementation of a system that works for the greatest number of users should come before the enforcement of new and improved laws: “Reforms to our immigration system must include sufficient legal channels for workers filling open jobs and family members reuniting with lobed ones. Reforms must create a system that works for all – migrants, employers, communities, families, and government alike” (135). This chapter seems to present ideas that simply are not feasible or realistic, because there are very few government systems of any kind that work for all.

Chapter five, “Legal and Social Work Responses to the Detained and Deported: Interdisciplinary Reflections and Actions” written Jessica Chicco, an immigration attorney, and Elaine Congress, an academic researcher and advocate for immigrants, highlights the importance for lawyers and social workers to consider the goals of collaboration, the potential obstacles that such collaboration is likely to pose and the value added of working together in varying capacities: “Though trained in different professional paths, both immigration lawyers and social workers relate to clients as individuals” (163). I found this chapter to be very impactful, as not only do the authors very clearly articulate the benefits of working across disciplines (as well as the detriments of not doing so), but they also provide a working example of exactly what the authors are seeking to establish. No legal conflict is purely legal, and I agree that interdisciplinary collaboration between lawyers and social workers can be effective.

Psychologists Kalina Brabeck, Katherine Porterfield, and Maryanne Loughry, are the authors of “Immigrants Facing Detention and Deportation: Psychological and Mental Health Issues, Assessment, and Intervention for Individuals and Families,” which explores the idea that “Mental health professionals may help the legal team and the court understand how trauma can impact memory and result in inconsistent testimonies” (182). This valuable contribution includes discussions of some of the unique characteristics of migrant families, reviews the impact of unauthorized status, detention and deportation on migrants’ mental health and outlines basic principles for mental health assessments and interventions with this population. The authors cross-disciplinary engagement, and employment of personal narratives to highlight the complexities of family and trauma in light of deportation or the threat thereof, was especially compelling.

“Participatory Action Research with Transnational and Mixed-Status Families: Understanding and Responding to Post-9/11 threats in Guatemala and the United States” is co-authored by the book’s editor, M. Brinton Lykes and her colleagues. It discusses mixed-stratus and transnational families, concluding that they require significant policy reform, including family integration and protection of the vulnerable. The chapter draws on findings from seven years of an ongoing interdisciplinary participatory action research (PAR) with unauthorized Central American migrants and their families. The authors of chapter did a great job of articulating the confliction that parents within mixed-status families experience watching their children thrive in the United States: “I’m here because I want my kids to study and speak English, and not go through life cleaning bathrooms like I did” (209). Ultimately, the authors of this chapter assert interdisciplinary and transnational partnerships offer the potential for understanding the historical context behind the contemporary experiences.

The volume concludes with “Unwelcome Returns: The Alienation of the New American Diaspora in Salvadoran Society,” by sociologists Katie Dinegman-Cerda and Ruben G. Rumbaut. Drawing on the lived experience of young people in El Salvador, the authors explore how, within this new American diaspora, Salvadorans are able to negotiate their identities and overcome challenges they face reintegrating into their parents’ country of origin. The authors discussed the complexities of the re-transition into El Salvador that deportees face, particularly as they are treated as undesirable foreign elements. The chapter, however, also highlights ways in which El Salvador can do more to ensure a smoother re-transitioning: “As Ramon, 28, suggested, El Salvador should create a program from different deportees, that might look something like the assistance

program provided to refugee populations in the United States” (245). This chapter was especially interesting, and crucial for this collection, because I think that while deportation is a system that most people are familiar with, they are nonetheless ignorant to its actual proceedings, and furthermore, the chapter explains why deportees are often forgotten once they are deported.

I began this review with two lines from The Star Spangled Banner because of the inherent contradiction embedded in those lyrics. America is the land of the free and the home of the brave: but for whom? *The New Deportations Delirium* does an incredible job at highlighting the contradictions within deportation policy as well as proving insightful new perspectives and ideas. The chapters are unique because not only do they seek to inform readers about the realities which deportees and the families of deportees face, but they also place these narratives within the larger American landscape. Given my own personal experiences with deportation, *The New Deportations Delirium* successfully challenges some of the preexisting notions and debunks many of the myths associated with the system.

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Peter J. Spiro. *At Home in Two Countries: The Past and Future of Dual Citizenship*. Citizenship and Migration in the Americas. New York: NYU Press, 2016. 150 pp. US\$ 16.40 (Hardcover). ISBN 0814785824.

Human migration is extremely complicated: on one hand, there is an intrinsic need for humans to move around in search of protection, better opportunities, and a better life; on the other, states feel the need to protect themselves, and in so doing, restrict the free flow of people crossing their borders. Peter J. Spiro, a professor of law at Temple University, examines the tension that is created by these competing interests through an analysis of dual citizenship in his recent book: *At Home in Two Countries*. A foremost expert in the field, Spiro delivers a thorough account of the history of dual-citizenship, offering a great resource for academics and policymakers trying to acquaint themselves with the topic, and its outlook for the future.

The book opens with an examination of the concept of “perpetual allegiance”, a system adopted by most states prior to the seventeenth century by which individuals were citizens of the state in which they were born, and thus could not naturalize elsewhere. This policy was rarely disputed, since most people were not moving around as much as they are today, unless working in particular trades. This system was later uprooted due to the emergence of trans-Atlantic migration, which created pressure for states to lay exclusive claim to their nationals. Thus, the rules regarding citizenship during those times were strictly based on state interests, such as manpower in the military. Dual nationals represented a threat to states because they were perceived as transferring their allegiance and, moreover, states perceived that dual nationals disrupted international relations, and as a result, most states had a strict approach to dual-citizenship. In the United States, for example, the government implemented an expatriation measure in 1907, followed by the nationality acts of 1940 and 1952. These laws made it impossible for someone to be at the same time a citizen of the United States, and of another country, so individuals would lose their American citizenship if they naturalized somewhere else. Eventually, the U.S. even went as far as removing citizenship from anyone who exhibited conduct showing strong attachments to another state.

The negative attitudes towards dual citizenship eventually started to shift, first, with U.S. court decisions, then with international efforts to manage dual citizenship rather than eradicate it. States became aware that dual-citizenship was becoming too pervasive to be contained, but officials wanted to control it where they could. As a result, U.S. practices changed, so that American citizenship could only be terminated if after naturalizing in another country, a U.S. citizen took *additional* steps to avail him or herself of U.S. citizenship. Eventually, dual citizenship came to be seen as less of a threat on account of pressures and influence that dual-nationals, and the diaspora, have had in the countries of which they are citizens. Today, in the United States, many of the restrictions that were previously placed on dual-nationals have been lifted, and the subject has become less controversial. The same can be said about most other countries, other than a very few who have upheld the status quo.

Throughout the book, there is a clear theme: the rise of dual citizenship is inevitable. With increased globalization, and improvements to transportation, it has become easier for individuals to form strong bonds in more than one country. Those close bonds now apply pressure on states to view dual-citizenship as essential to self-governance. In short, over time, the policies regarding dual-citizenship have changed their focus. Whereas states used to regulate dual-citizenship based

strictly on their self-interest, now, individual interests are increasingly being put at the forefront. Such individual interests favor dual-citizenship because of its accompanying benefits, such as the right of entry, residence, and professional and educational opportunities. Spiro argues that this shift from state interest to individual interest has led to a generally positive outlook on dual-citizenship, which has in turn led to its liberalization.

In spite of the value of this work, I do suggest that Spiro's conclusions have bearing primarily upon developed nations, and that a more thorough analysis of the effects of dual-citizenship on global South countries would have been a valuable addition to this work. In Chapter Six for instance, Spiro found that many global South countries, like the Dominican Republic and Haiti, relaxed their rules on dual-citizenship upon realizing the benefits that such dual-citizenship would bring. However, a question remains about the extent to which these countries actually benefit from dual-citizenship. Furthermore, dual citizenship creates incentives for people to leave global South countries. According to an article published by the *International Migration Review*, migrants with higher human capital, rather than the economically marginalized, are much more likely to embrace dual citizenship¹. This kind of exodus often creates a "brain drain", which in turn causes global South countries to lose capital—especially valuable for poorer countries—in exchange for a large diaspora. Although there are some benefits to having a large diaspora those benefits might be outweighed by the losses incurred. In fact, according to an article published by *The Economist*, although remittances can account for a large portion of the GDP of some poorer countries, they contribute to very little economic growth².

All in all, this book offers a timely analysis of dual-citizenship at a time where immigration has been increasingly controversial not only in the United States, but also abroad. The book does however leave the door open for a further analysis of dual citizenship in the context of global South countries.

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¹ <http://onlinelibrary.wiley.com/doi/10.1111/j.1747-7379.2004.tb00203.x/full>

² <https://www.economist.com/blogs/freeexchange/2014/08/remittances-and-growth>

Amanda Armenta, *Protect, Serve, and Deport: The Rise of Policing as Immigration Enforcement*. Oakland: University of California Press, 2017. 197 pp. US\$25.14 (Paperback), ISBN 0520296303.

As an immigrant, and the wife of an Hispanic man whose family hails from Mexico, I like to think I'm not as oblivious to the plight of minorities in America as my fellow white native-born American counterparts. I wasn't expecting this book to surprise me. If anything, I was only expecting it to confirm what I already knew: immigrants, particularly those who are not white, face marginalization, discrimination, hatred, and exclusion every day in America's communities and on its streets. This timely and poignant book, however, reveals so much more. It exposes the frightening reality that discrimination against non-white immigrants is not only perpetrated by a handful of racist xenophobes—it is built into a complex and interwoven system of criminalization, which Armenta and other experts have come to call "crimmigration."

This book explores the role of 287(g), a program implemented in Nashville in 2006, as a tool used by the local police to pursue, identify, criminalize, and deport undocumented immigrants, most of whom posed no threat to their communities. This program's adoption in Nashville was justified, among other reasons, by pointing to a Tennessee traffic accident in which an undocumented immigrant named Gustavo Reyes Garcia crashed into a vehicle and killed a couple. In addition to being undocumented, Garcia had already been arrested dozens of times and had a 0.34% blood alcohol level at the time of the crash. When the story about the accident broke, the sole focus was Garcia's immigration status, and the idea that if he had just been identified as an illegal immigrant the first time he was arrested, he could have been deported and the accident would have never happened. Instead of focusing on the DUI, which had been the real cause of the accident, the media highlighted his undocumented status, and through this focus, aimed all the blame at unauthorized Latino immigrants.

Davidson County sheriff Daron Hall immediately started looking into the 287(g) program, which had already been implemented in several counties throughout the United States. Just months later, Nashville became part of 287(g), and began training police officers to use traffic stops as a means to identify potential unauthorized immigrants, put the "ICE" stamp on them, and plug them into the state's deportation machine. Under 287(g), if an officer pulled over a person who outwardly had the features society has learned to associate with unauthorized immigrants (dark skin, a Hispanic-sounding name, or the inability to speak perfect English), regardless of how minor the reason for the stop was, that person became a suspect of a much more serious crime. Thus, stops for minor traffic violations ceased being about making Nashville's streets safer and became instead a mission to create a mass exodus of undocumented immigrants *before* they would all presumably commit serious crimes. Turning the local police into the government's on-the-ground immigration enforcers sent a message to Nashville's Latino community: the police aren't here to protect you; they are here to protect your neighbors *from* you.

This book describes the government's efforts, even before the 287(g) program, to ensure that undocumented immigrants became criminals simply by existing in the United States. In Tennessee, this was accomplished by no longer allowing undocumented immigrants to obtain driver's licenses. Of course, not being able to obtain licenses did not eliminate the need for undocumented immigrants to drive—they still had to earn a living, support their families, and live normal lives. Denying them the right to obtain a license simply trapped them in a net of criminality brought on by the fact that driving is a necessary part of living in almost every

American city. This made it easy to label undocumented immigrants as criminals and make them instantly deportable on the pretext that once an individual has committed a crime, he or she is dangerous to the community. Today, it's driving without a license. What will it be tomorrow? It wasn't important that the state gave its undocumented immigrants no choice in the matter: driving without a license is illegal regardless of whether the government has actively dictated that you do not have the choice to obtain a license.

One of the brilliant points this book illustrates is that, deep down inside, everybody involved in the 287(g) program was aware of how innately wrong it was. This book is often comical in spite of its very serious topic, and one of the funniest phenomena it records is the perpetual finger-pointing that was taking place at all levels of Nashville's 287(g) program. When speaking with the police officers making the stops, Armenta describes various ways in which the officers sought to absolve themselves of all blame connected with the program. They made themselves feel better by sometimes giving potentially undocumented residents a "break" and only issuing a citation instead of arresting them. They comforted themselves by reminding her that, after all, they were not immigration officials. They were not ICE. They did not complete the deportation process; they were only the innocent messengers. Inside the jail, which housed the deputized officers who reviewed arrestee files and sent those of undocumented immigrants to ICE, those officers, too, found ways to cope with the sad truth about their jobs. After all, *they* weren't the officers who arrested these people. They were just sitting at their desks completing paperwork for their demanding bosses. One officer found comfort in the fact that, at least when he was interviewing arrestees who would most likely get deported, he made them laugh. Another described with great pride that she was actually very respectful to the people who were sent to her office, as if expecting to be commended for showing basic respect to other human beings.

Some of this book's most gripping moments come at the end. Armenta tells the disturbing story of a woman named Juana who was pulled over in Nashville for "careless driving." The almost nine months pregnant woman had been driving with her three children when officer Coleman pulled her over. What started as a routine traffic stop turned into a nightmare when Juana was only able to present a Mexican ID and no driver's license. The officer became hostile and very angry, arresting Juana and repeatedly telling her and her brother-in-law that she would be deported. Over and over again, he yelled "kiss your baby!" at Juana before putting her in the back of his car, insinuating that this would be the last time she would see her children. Once in jail, Juana went into labor. Though just a day before she had only been suspected of careless driving, when she went into labor, Juana was labeled a medium-security prisoner due to her immigration status. As a medium-security prisoner, Juana was handcuffed and shackled. She delivered her baby in chains, devoid of dignity, and being treated like a dangerous criminal instead of a person who, at most, was only guilty of driving inattentively.

In case you somehow managed to miss this along the way, the book ends by reminding the reader that no one who bears the physical attributes of a Latino person is immune to the presumption of criminality that led to programs such as 287(g). In the final pages, Armenta describes an incident in which she was the victim of exactly the type of traffic stop this book is about: a stop intended to find a way to make a criminal out of her. She details being pulled over, being accused of having contraband in her car, and having to wait for hours by the side of the road for a K-9 unit to come and clear her of the suspicion of criminal activity.

This book is an essential read in the age Donald Trump. As the country starts feeling more and more like the stereotypical cliquish high school cafeteria, this book reminds us of the inequity and unfairness brought about by an "us vs. them" wall-building mentality. Making

Simina Grecu, book review, Amanda Armenta, *Protect, Serve, and Deport*, *AmeriQuests* 14.1 (2017)

undocumented immigrants per se criminals will never solve the country's "immigration problem;" it will only add to our criminal problem.

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Ruben J. Garcia. *Marginal Workers: How Legal Fault Lines Divide Workers and Leave Them Without Protection*. New York: New York University Press, 2013. 195 pp. US\$25 (Paperback). ISBN 978-1-4798-2358-1.

On the cusp of a sociopolitical revolution and polarization in society in the United States, *Marginal Workers* taps into issues that make up present daily discourse in 2017 America. People in the US are more and more privy to the idea that everyone is deserving of protection, and slowly people are gaining the protections they constitutionally are owed, though not without some hiccups and rescissions of protections for some minority groups. It is not unusual today to be engaged in a trope about how “women’s rights are human rights,” or for groups rallying around representation to form movements such as ‘Black Lives Matter.’ The spirit of these alliances and movements underpin *Marginal Workers*, as Garcia taps into the dearth of representation for people who lie at all intersections of marginality. And in US society in 2017, wherein many are seemingly rallying around groups of people, why is such a swath left without solid ground or protection in the workplace? Garcia set out to answer this question, and did so with great breadth—offering a unique, yet commonsense, solution.

“Marginal workers” are defined by Garcia as, not just people underrepresented due to race or gender or sexual orientation, but any group of people that falls outside of the “lines of demarcation in statutes themselves,” those who are being swept to the *margins* of society. (9). Even the way he states the definition represents Garcia’s approachable tone. In a society that constantly chirps about sensitivity and people being “too politically correct,” the definition of “marginal workers” could easily tap into that territory. Garcia, however, removes political undertones, and opts for a respectful pragmatist and legalist view that showcases the examples of legislative and litigious holes left for different workers. The effect is to overcome pervasive political divides, and creates a unifying sensibility that most readers can embrace. This is absolutely ideal to keep dissent out of a human rights issue.

Garcia’s paradigmatic example, which he traces amongst different groups of marginalized peoples, is the retaliatory approach of working against union wishes when the union leaves a person unrepresented. It had never crossed my mind that just because a union is set out to protect its workers, it doesn’t necessarily follow that there is not a tyranny of the majority problem, which can still leave those workers with underrepresented minority status without protections. This scenario plays out in a case he uses throughout the book, *Emporium Capwell*, wherein racial minorities were terminated for attempting to picket their union (44–46). A union regulatory board delegated and deferred to the agency, tautologically reasoning that a union meant to represent cannot leave people unrepresented. Factions and minorities rallied together to stop issues like this, but so beget the problem: regulatory schemes and statutes often leave great deference to the institutions able to abuse them. Stories like these weave through the pages of Garcia’s book, leaving skepticism in the mind of the reader about who the legal systems actually protect, if those most susceptible to abuse are not reaping the benefits.

What I found striking, and Garcia certainly shed sufficient light on, is that Title VII provisions, meant to protect worker retaliation and unjust termination due to racial/ethnic/gender status does not protect undocumented workers, as the courts have determined that this is not in the purview of discrimination due to “national origin” (64). He posits the question that was, admittedly, on my mind: Why care about protecting people who come here through improper channels? I wholeheartedly do, but getting to this point in the book was when I believed he may have a harder hill to climb to get people of opposing positions on board. He suggests an answer

almost immediately, quelling my concerns. It is impossible to divorce race/ethnicity with undocumented status, he says, bringing up the intersectionality of multiple marginalized populations (77). And it is absolutely true: there is no way to not discriminate against people from out of the country without it, at least inadvertently, violating statutory discrimination. It was shocking for me to hear that, until 2002, undocumented workers could be awarded back-pay by the NLRA. In 2002, that progress was reversed, which obviously bodes poorly for these workers. (71).

Garcia criticizes an argument that has always irked me: the “if we don’t stop exceptions, when will it end? People marrying/protecting/regulating pets next?” (82). The biggest pushback to expanding protective legislation is that people are concerned that we will continue to legislate until it gets to ridiculous precedents. Garcia, aptly in my view, suggests that this is ludicrous. Protecting fellow human beings and *likening them* to protecting of non-human species is precisely a problem in the marginalization of people. But if adding protections for undocumented people is the next step, there is likely to be a large lag in its occurrence, because the fact is that a new category has only been added three times to Title VII protections, in nearly twenty year increments between each new group gaining protection.

A line I found particularly poignant was that solving these marginalities in the law would be pertinent for “crossing the borders between us,” which is a particularly neutral goal that should resonate within people, because it drives home the point that all this movement is requesting is equality (85). Additionally, I was stunned to discover that the initial use of manual labor by undocumented immigrants was sanctioned and aided by the US government, for the sheer brute strength of the people, with the added ‘benefit’ of inability to hold bargaining power (89–90). This system that is touted as fundamentally un-American in soundbite politics is American-sanctioned to the core. And the reasons are particularly haunting: a way to utilize people as if they were cattle, pay them a meager sum, and disallow them from requesting additional funding and security. Though hard to hear, Garcia quotes a particularly pointed statement about these workers: that they are the “slaves we rent,” doing jobs American citizens will not do. (103). It is not a far reach to see this conception. This program began as early as World War I, and different systems of what are called “guest programs” emerged from this model. (98). Some scholars actually suggest a solution to granting citizenship to undocumented workers lies in amnesty for workers in these programs. (98–100). I find that implausible in 2017 American politics, but ideal.

What astounds me is that there is still a debate on equal pay for equal work, and Garcia touches on a chapter about the Lilly Ledbetter Fair Pay Act. Garcia continuously aligns each story with a call to action, essentially positing that workers’ rights are human rights, and his reiteration of this should strike people to start considering the implications of that statement. What he does say, which is interesting to me and made me feel as if this may actually be a situation that cannot truly be fixed, is that no change to the law of a specific minority has ever followed a linear path. There is no cookie-cutter approach to solving marginalized people’s unequal protections. Civil rights, gay rights, and immigrant rights have all reached their heyday through different means, generally through some combination of patchwork litigation from state courts, lobbying, the political process, and a crucible of politics that have lined up simultaneously and over time to allow for progressive change (117). But these do not necessarily serve as models to be replicated, especially when many of the people who are affected cannot participate in the political process due to undocumented status.

Oxymoronic as it seems, Garcia seems to suggest that the deluge of piecemeal legislation and regulatory protections leave gaping holes of underrepresentation and deference from the court,

assuming that an employer's noncompliance could be upheld under a technicality. He suggests that the beginning of change will be changing classifications. In his view, more people need to qualify as "employee" under International Labor Organization standards, people need to see immigrants as human, and we need to consider workers' rights as human rights (120–29). Basically, it all comes down to re-framing issues and statutes, and ensuring that people fit into categories that have to this point left them devoid of redress. It will require unbundling the perception of "stealing jobs" and removal of freedoms from the rhetoric against workers' rights. Garcia's beliefs are definitely sensible and broad, but my only qualm with them is that change hardly occurs from a lack of focused agenda, I wonder how to prioritize these changes and goals best.

Overall, *Marginal Workers* presents issues that are of great importance, and this book allows the reader to see the factual, legal, socioeconomic, and historical frameworks of a crucial phenomenon at work in America. Though it may be tough to go in without at least a slight legal framework or some meager background knowledge, this book is essentially made for anyone who wants to do her civic duty to comprehend minority issues and figure out how to engage with legislators and political fodder to effect change. Garcia's objective, but passionate, tone does these issues justice: he sets forth facts that should shake the cores of most, and de-politicizes the issues to create solutions. And he does so succinctly, but packed with all pertinent facts. I would absolutely recommend this book.

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Ben Herzog. *Revoking Citizenship*. New York, NY: New York University Press Paperbacks, 2017. 216 pp. US\$ 49.00 (Cloth). ISBN 978 1-4798 7771-3.

It is a punishment more primitive than torture, for it destroys for the individual the political existence that was centuries in the development... The punishment is offensive to the cardinal principles for which the constitution stands.

Chief Justice Earl Warren wrote these words as part of his opinion in *Trop v. Dulles*, a Supreme Court case that considered the legality of stripping away one's citizenship as punishment for a crime. In *Revoking Citizenship*, Ben Herzog highlights this opinion, as it illustrates the translegal idea of citizenship in a seminal case as part of a long and twisted road that travels alongside the struggle with concepts of citizenship. Herzog explores the history of expatriation from colonial America to the War on Terror, providing the knowledge one *needs* to formulate informed opinions as these issues of citizenship are in the forefront of current affairs.

Citizenship, "the right to have rights", is more than just a definition of nationality that is most often used in everyday language; instead, it becomes a social, political, racial, gender, religious and state term. Herzog weaves his way through modern history highlighting the struggles these different ideas of citizenship have caused from the aftermath of the American Revolution to the present day.

Only with the Fourteenth Amendment and Expatriation Act of 1868 could a citizen officially choose to follow the Hobbesian assertion that allegiance can be transferred and accordingly renounce his American citizenship. However, once the idea of citizenship was potentially divorced from birthplace, the nation-state was able to demand the reverse. In other words, it had the power to revoke citizenship from persons who did not deserve (from a congressional point of view) to be members of the polity anymore. (42)

The United States is often described as the 'land of the free', a country of immigrants that found its identity in rebelling against British oppression; as such, it is (according to this ideology) to be juxtaposed against exclusive totalitarian regimes where a citizen's rights can be stripped away at the drop of a dime. Herzog points out that in fact the stripping away of rights has been a practice that is as American as apple pie, and that furthermore, in many ways this country of immigrants has been just as exclusionary: "[H]istory shows that over 80 percent of this history... most of the world's population was ineligible for American citizenship solely because of race, origins, or gender" (12). After all, "[a]dmission and exclusion are at the core of communal independence. They suggest the deepest meaning of self-determination" (13).

The book begins by laying the ground work with definitions of key terms regarding the loss of citizenship, and a useful roadmap that alerts the reader of things to come, before jumping into history. While delving into the minds of key figures such as Thomas Jefferson, who believed "[o]ur citizens are free to... become subjects of another power, and free to do whatever the subjects of that power may do" (33), or Abraham Lincoln who, in the aftermath of sharply divided post Civil War America, vetoed a bill passed by Congress that would have forced expatriation on Confederate leaders, Herzog shows just how far the treatment of American citizenship has come. On a global scale, Herzog writes of the "final solution" in Nazi Germany—the extermination of all of the Jews, which could only legally be accomplished *first* by passing laws retracting citizenship of any Jew living within the country. Then, once Jews were no longer citizens, they

could be forced into concentration camps. This law, an often overlooked but key step to these abominations, highlights the role of citizenship in one of modern histories darkest times.

Revoking Citizenship highlights the War on Terror, and here Herzog discloses the story of Yaser Esam Hamdi, who was captured in Afghanistan and sent to Guantanamo in the aftermath of September 11th. Later, it was revealed Hamdi was an American citizen, and therefore had the procedural rights of an American citizen. Having studied Constitutional Law, I previously considered *Hamdi v. Rumsfeld* through the lens of basic constitutionality (i.e.: is every citizen of the United States entitled to the proper judicial procedure before indefinite detention?). However, Herzog illustrates that citizenship is so much more than just the rights of one's nationality or the procedures one is entitled to. Using Hamdi as an example, the author puts to the test everything we know legally and socially about citizenship, making one question the legitimacy of how we look at these issues and even makes one question the evolving idea of citizenship as a whole. And while forced expatriation is legally not allowed, socially it is clear that it is still widely accepted as an appropriate punishment in certain situations in today's society. "Regardless of the evolution of the government, it is evident that many people still hold the belief that some actions against the United States should be punished by expatriation" (115).

Overall, *Revoking Citizenship* provides a well-organized and engaging survey of judicial and legislative treatment of expatriation throughout domestic and global conflicts to try and formulate not only what citizenship means at its core, but also where the law and sentiment stands in modern America. Providing legislative history, Supreme Court decisions, helpful graphs, and a mountain of research, Herzog masterly paints a readable and engaging book to understanding this highly complex topic. Arguably, the book could not be written at a more apt time; the foundation Herzog provides in *Revoking Citizenship* is knowledge necessary to making informed opinions that are at the forefront of our political elections, executive-branch agencies, and our society as whole. As Herzog writes in one of the many moving passages in this book: "[L]oss of citizenship is not determined by its location within the field of citizenship, but derives from the fact that the game is played. The policy of expatriation results from the uncontested assumption that the world is divided into sovereign political entities and that rights are dispensed accordingly" (139). This is a most dangerous game indeed.

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