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# (Re)Constituting the Immigrant Body through Policy: A Rhetorical Analysis of the Narratives within the Discourses of the Development, Relief, and Education for Alien Minors Act (DREAM Act)

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(RE)CONSTITUTING THE IMMIGRANT BODY THROUGH POLICY:  
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DISCOURSES OF THE DEVELOPMENT, RELIEF, AND EDUCATION  
FOR ALIEN MINORS ACT (DREAM ACT)

A thesis submitted in partial fulfillment  
of the requirements for the degree of  
Master of Arts in Communication

By

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May 2011  
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## **ABSTRACT**

Using the testimonies surrounding the Development, Relief, and Education for Alien Minors Act (DREAM Act) as a primary case study, this project provides a rhetorical investigation of the interplay between narratives, nation building, national identity, policymaking, and the American immigrant. This project first identifies the grand narrative of exclusionary nationalism as the primary narrative constituting the American identity. Then, this project examines the rhetoric of policymakers to demonstrate how an Anglo-Saxonized, elitist notion of American identity is rhetorically constituted by assimilationist, racist, xenophobic, and classist discourses. Moreover, it argues policymakers maintain the narrative dominance of exclusionary nationalism through restrictive immigration policies aimed at subjugating immigrant “Others” believed to threaten the homogeneity of the national ideal. Finally, this project investigates the material consequences of upholding exclusionary nationalism as the dominant national narrative, and provides rhetorical suggestions for DREAM Act advocates who wish to challenge its narrative dominance in order to constitute an inclusive American identity, control the public debate on comprehensive immigration reform, and liberate all non-White immigrant “Others” from their marginalized position.

This thesis approved for  
Recommendation to the  
Graduate Council

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## **DEDICATION**

I dedicate this project to my sister, Claire, for teaching me to always seek out and listen to the voices of those traditionally marginalized from mainstream society. I am forever grateful for her impact on my life and promise to continue my commitment to challenging the status quo by creating space for the expression of subjugated knowledge.

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## **Introduction**

### **Constituting Nations and Narrative Policy Formation**

As a multiracial and multicultural society built on immigration, both voluntary and involuntary, the United States' acceptance of its immigrant culture has been easier in principle than in practice. Beginning in the nineteenth century, U.S. policymakers have been involved in heated debates about whom they should permit to enter, reside, and naturalize within the country's borders.<sup>1</sup> Over 200 years later, these highly publicized disputes regarding immigration remain at the forefront of political controversy, providing considerable space in which scholars may investigate the rhetorical constitution, maintenance, and reconstruction of the immigrant.

The immigrant body has been rhetorically managed by U.S. policymakers since the 1800's. As international migration into the United States has increased over time, the rhetorical meaning of the immigrant has transformed from hero and dreamer to thief and social leech. Immigrants have been both celebrated for their courageous pursuit of a better life as well as blamed for the demise of national culture, health, and economic stability. The state has crafted the dominant discourses and definitions of immigration, leaving marginalized immigrant populations to rhetorically negotiate their own meanings.<sup>2</sup> According to rhetorical scholars Kent Ono and John Sloop, "[immigration] rhetoric shifts borders, changing what [borders] mean publicly, influencing public policy, altering the ways borders affect people, and circumscribing political responses."<sup>3</sup> Taken further, rhetoric determines where, and what, the border and its people are. Thus, understanding the ways in which the U.S. immigration debate takes place within the

country's discursive and rhetorical boundaries is critical to the creation of contemporary immigration policy.

Law is best understood as a subjectively informed branch of rhetoric by which communities and cultures are created, sustained, and transformed. Legal scholar James Boyd White contends, “[Law] is a language in which our perceptions of the natural universe are constructed and related, in which our values and motives are defined, and in which our methods of reasoning are elaborated and enacted.”<sup>4</sup> Law is historically and culturally situated, representing the prevailing beliefs of its time, though many people view the U.S. legal system as a neutral, objective, and value-free “machine acting on the rest of the world.”<sup>5</sup> Citizens and noncitizens become the objects upon which the system of rules is enacted. They have the choice to follow or defy the law, each action resulting in a series of institutionally pre-defined consequences. Furthermore, leaders within the bureaucratic governing body are in a position of political superiority and have the opportunity to create the policies that affect the lives of citizens and noncitizens. It is in this act of policy creation that the machine metaphor is invalidated and the importance of the subjectivity of law emerges. Law is not merely “a fixed body of knowledge, but . . . a performance that tells both of rhetorical practice and of itself being told.”<sup>6</sup>

While the language of law may be determined by multiple rhetorical constructs, the primary influence on policy formation is the narrative. Rhetorician Walter R. Fisher contends, “We experience and comprehend life as a series of ongoing narratives, as conflicts, characters, beginnings, middles, and ends. The various modes of communication—all forms of symbolic action—then may be seen as stories.”<sup>7</sup> He emphasizes the importance of “narrative probability,” whether or not a story is coherent,

and “narrative fidelity,” whether or not a story is truthful, as being fundamental in the transformation of a narrative into action.<sup>8</sup> Fisher proposes this narrative paradigm as a philosophy of reason, value, and action necessary for “transforming technical logic and empirical knowledge into a force for civilized existence.”<sup>9</sup> A story that exhibits both probability and fidelity has the ability remain viable as long as historical circumstances permit.

Most researchers have focused purely on the discursive formations of narratives; however, John Lucaites and Celeste Condit argue for a functional study of narratives.<sup>10</sup> In order to understand how narratives “function in and act upon the meaning and structures of culture and society,” scholars must move away from the dominant poetic models of narratives and shift towards a rhetorical conception of narration.<sup>11</sup> By reestablishing the ancient Roman tradition of *narratio*, scholars gain a critical vantage point from which to explore the narrative’s role in the transformation of social and political consciousness, something which the more poetic and literary traditions of narrative theory ignore. The core of the rhetorical narrative is the way in which a narrator persuades his or her audience by using “cultural fragments . . . [to invite] participation in [his or her] vision of the social world.”<sup>12</sup> This project investigates such rhetorical functions of narrative theory, focusing on the relationship between the narrator, the speech, the audience, the occasion, and the change. Furthermore, it examines how the rhetorical narrative serves “as an interpretive lens through which the audience is asked to view and understand the verisimilitude of the propositions and proof before it.”<sup>13</sup> Rhetorical narratives provide a lens into the past, help to create future visions, and orient audiences to particular a historical moment. Viewed this way, narratives inform law by constructing historical and

political reality for its policymakers; therefore, law, in turn, is constructed based on this perceived reality. There cannot be a law without “a real story about real people actually located in time and space and culture . . . that is where the law begins.”<sup>14</sup> Law, then, becomes historically salient through the multiple narratives that communicate the stories of people and their relationship to one another at any given time.

Perhaps the most influential narrative informing law is that of “the nation.” Historian Benedict Anderson sees the nation as an “imagined community,” a cultural phenomenon by which political ideologies are established through language.<sup>15</sup> He argues nations and nationalisms are “cultural artifacts of a particular kind” that have evolved in both meaning and enactment throughout history.<sup>16</sup> Sociologist Anthony D. Smith adds, “Of all the visions and faiths that compete for men’s [*sic*] loyalties in the modern world, the most widespread and persistent is the national ideal . . . none has been so successful in penetrating to every part of the globe, and in its ability to attract to its ideals men and women of every sort, in all walks of life and in every country.”<sup>17</sup> Although the notion of nation is slippery, many scholars agree that the essence of the nation is constituted by “the people.” Sociologist Walker Connor adds that essence of the nation is “a psychological bond that joins a people and differentiates it” from others.<sup>18</sup> Historian Eric Hobsbawm believes nations are a “dual phenomena, constructed essentially from above, but which cannot be understood unless also [analyzed] from below.”<sup>19</sup> Only through an analysis of the assumptions, hopes, needs, longings, and interests of ordinary people, as well as how these ideals are communicated, may scholars attempt to define the multiple meanings of nation. Furthermore, the complex ways in which human beings rhetorically define and redefine themselves as members of the nation precedes the existence of the

nation itself. This claim that nations are first and foremost socially constituted, both by the elite and the ordinary subject, emphasizes the role of narratives in the construction the nation. As people and their stories evolve so too does the national narrative and, consequently, the construction of law.

Central to this investigation is Connor's description of the United States as the archetype of the "immigrant state" characterized by the narratives of its immigrating peoples.<sup>20</sup> He claims the national ideals of the United States have been shaped by the many narratives accompanying the assimilation of the country's highly variegated population. Furthermore, Anderson describes the "creole" nation of the United States as being "formed and led by people who shared a common language and common descent with those against whom they fought."<sup>21</sup> Differing greatly from provincial European conceptions of nationalism based on linguistics, creole nations were among the first to develop conceptions of nation-ness because their collective national conscious focused on the concept of "us" versus "them." Thus, an "imagined community" was at once created in the minds of early Americans, establishing a hegemonic nation from its very inception and creating a dominant national narrative that would constitute U.S. policy throughout history. Rhetorician James Boyd White terms this evolutionary, rhetorical process of nation-building "constitutive rhetoric."<sup>22</sup>

The rhetorical positioning of subjects is central to investigating the constitutive processes of nation-building. Rhetorical scholar Maurice Charland contends social subjects are as much a "rhetorical effect" as the texts they write and critique.<sup>23</sup> Theorists must consider how groups come to identify themselves as well as how the process of identification affects the powers of national discourse. The ways in which subjects are



rhetorically constituted is central to understanding how U.S. policymakers have assumed a national identity for their people, as well as how those people have assumed the same national identity for themselves. This shared national identity is an ideology enacted by its subjects as they reconstitute its image in their material world via constitutive rhetoric. The concept of constitutive rhetoric is inherently ideological because it creates the narratives subjects inhabit and, most importantly, “[inserts] ‘narratized’ subjects-as-agents into the world.”<sup>24</sup> Thus, nations are imagined communities rhetorically constituted by their “narratized” subjects.

In the case of the United States, the “narratized” subject of the immigrant has been a rhetorically evolving subject since the country’s inception. During the seventeenth century, the New World saw millions of settlers from areas including Scotland, Ireland, Germany, France, the Netherlands, Italy, Russia, Poland, Scandinavia, Greece, China, Japan, Africa, and Latin America; however, those Protestants from England were the first to successfully colonize the new land.<sup>25</sup> British settlers quickly realized the economic benefit to encouraging significant members of their home country to travel to the New World. Though the Dutch, French, and Spanish claimed large empires of land, the British encouraged its people to cross the Atlantic for the reported “golden opportunities” via strategic policies, setting in motion the greatest population movement in history and quickly establishing a dominant culture of English Protestantism in the mainland colonies.<sup>26</sup> Though the English government was generally tolerant of newcomers, British colonists were not as gracious towards those immigrants from varying backgrounds. As the British colonists searched for economic opportunity and freedom from religious persecution, they also feared the arrival of those different than themselves would corrupt

their established customs and upset the balance of society. Even prior to the writing of the *Constitution*, state laws such as the 1698 South Carolina law that gave bounties to all newcomers except Scots-Irish and Roman Catholicism were established to subvert the immigration of non-English Protestants in state-instituted policies.<sup>27</sup> Though the faces of feared newcomers have changed overtime—from Scots-Irish to Italians, Chinese, Jews, African Americans, Poles, Puerto Ricans, Irish, and Mexicans—the settlers of colonial America established a paradox which still holds true today: “whereas on the one hand we have welcomed strangers to work and live among us, on the other hand we have scorned and abused immigrants or minority groups who have deviated from the dominant culture.”<sup>28</sup> The narrative that immigrants will subvert the dominant culture and threaten the process of nation-building has been repeated generation after generation in the United States, constituting policies addressing the flow of immigrants into its borders.

The narrative of immigrant subversion not only constituted policy, but also bolstered the narratives of U.S. national unity, national development, national citizenship, and national preservation through racially-based tactics.<sup>29</sup> Legal scholar Ian F. Haney López argues, “Race mediates our politics. It alters electoral boundaries, shapes the disbursement of local, state, and federal funds, fuels the creation and collapse of political alliances, and twists the conduct of law enforcement . . . it mediates every aspect of our lives.”<sup>30</sup> The influence of race on the national narrative establishes socially constructed racial hierarchies of power in which “Whiteness” is rendered as superior and “non-Whites” are assigned to an inferior status, often “excluding [non-Whites] altogether from the social, political, and cultural life of a nation.”<sup>31</sup> Historically, United States has established racial hierarchies through a notion of White superiority that has been

recognized and upheld by courts and is perpetuated in all socio-economic levels of society, beginning with the founding documents of the nation such as the *Constitution*.<sup>32</sup>

Racial theorists Michael Omi and Howard Winant investigate this “racial formation” of U.S. policy as they argue the creation of a White, Anglo-Saxon hegemonic national ideal established a “color code” of racial distinctions reinforcing colonial domination hidden under the auspices of nation-building.<sup>33</sup> Racial oppression was considered a national imperative legitimized by the right to self-determination and liberty of a small, but self-asserted privileged, group of people who exploited and excluded all others in order to maintain their position of national power through policy. For example, the U.S. government’s first attempt to define American citizenship, the Naturalization Act of 1790, was inherently racial as it specified only White immigrants could qualify for citizenship.<sup>34</sup> Influenced by the dominant cultural assumptions of a homogenous U.S. national identity, this Act perpetuated divisive social hierarchies favoring Anglo-Saxons and northern Europeans while sealing the fate for Asian, African, and eastern European immigrants as second-class immigrants. Such racially informed policies enforce racial politics at all levels of society as policymakers administer, negotiate, and encode racial hierarchies into law, making a system of racial ideology an institutionalized, permanent feature of U.S. society.

Though the racially-based narratives of United States are psychologically and rhetorically imagined, they have finite boundaries by which other nations and identities are excluded. Often policy makers disguise the racially-informed narratives of immigrant subversion within the narrative of legality, a narrative that legitimizes the exclusion of those unwilling or unable to adhere to the dominant Anglo-Saxon narrative of nation. In

the case of immigrants who are inside the United States but outside the law, a definition of legal disobedience emerges. A simple act of crossing the physical border of the nation without legal documentation, or remaining inside the border after the expiry of legal status, constructs the immigrant in a perpetual state of disobedience to the law. Thus, the identity of the illegal immigrant is manufactured through policy as well as rhetorically constituted as a disobedient member of a legal nation through the process of “Othering.”<sup>35</sup> They are rhetorically constructed as “inherently un-American, perhaps even anti-American. Their continued presence threatens the national body from within.”<sup>36</sup> Social theorist Tomás Summers Sandoval states, “If ‘we’ are a nation of laws and law-abiding people, and if (by definition) illegal immigrants are not following these laws, then ‘they’ are not and cannot become part of the nation.”<sup>37</sup> This process of “Othering” is dangerous as it creates a “fixed, binding, and immutable” definition for illegal immigrants, leaving little room for them to negotiate their own situation.<sup>38</sup> Sandoval argues the discourse of disobedience “undergirds the rationale of the U.S. system of immigration regulation, shaping both policy and the lives of unauthorized migrants.”<sup>39</sup> Therefore, investigating the interplay of constitutive rhetoric, law, and the establishment of the national narrative is critical to understanding the rhetorical situation of the immigrant within contemporary U.S. immigration policy.

Law is not only informed by narratives, it also exerts control over its narratives through discipline. According to philosopher Michel Foucault, law is not imposed but rather used as a series of tactics in order to achieve a desired end.<sup>40</sup> In the case of immigration, law serves as a series of rhetorical and political tactics to define, monitor, and control the immigrant body, thereby reducing the body to “the place it occupies, the

interval it covers, the regularity, the good order according to which it operates its movements.”<sup>41</sup> Using Foucault’s scholarship, point of entry (POE) inspection procedures and decision-making at the border are reiterations of the practices of record-keeping and writing which serve as a “means of control and a method of domination” objectifying and subjectifying the immigrant.<sup>42</sup> Through a system of “intense registration and of documentary accumulation,” the immigrant body becomes a “describable, analyzable, object” controlled in order to regulate its movement and neutralize the possibility of counter-powers forming and challenging the dominant power of state.<sup>43</sup> The mundane practices of inspection serve as regimes of power that organize the body in space and schedule every movement through rules, regulations, check points, and documentation. Immigrant bodies are classified by the state according to sex, age, skills, citizenship, and immigrant intent; therefore, upon entry, the bodies at once become subordinated subjects under the law. This subjugation of the body becomes the norm as immigrants internalize the power of the state and its disciplines, constituting an identity of obedience and placing themselves under the surveillance of the law. This surveillance is not merely a gaze, but a reification of the borders of power that reduce its objects to symbolic spaces in which this power is enacted, and consequently immigrants become both the objects of surveillance as well as the agents through which the active principle surveillance is realized.<sup>44</sup>

Foucault argues people are distributed along a scale around societal norms and then positioned within a hierarchical structure of power according to whether or not they adhere to these norms. When necessary, some people are altogether disqualified from this hierarchy of power in order to more clearly define those who remain within the norm and

maintain a position of power. In the case of immigration, the concept of “illegality” emerges as a means to “sum up symbolically all the others” who fall outside the conventional boundaries of the law and power.<sup>45</sup> Illegality, then, is especially useful in regulating the behavior of delinquent immigrant bodies, and the state is responsible for this regulation of behavior. With more than 10.8 million “illegal aliens” residing in the United States in 2009, the state is charged with managing the mass phenomenon of illegality if it wishes to maintain its dominant hierarchical status of power.<sup>46</sup> Thus, how a state rhetorically defines *itself* and *its* people in relation to *other* states and *their* people is paramount to creating policy, particularly in the case of immigration. This project seeks to identify the various ways in which nation-building has constructed U.S. immigrant identities as well as how policies have managed these identities through tactics of discipline and control.

### **An Exploration of the Narrative, Nation, and the Immigrant within the Rhetoric Surrounding the DREAM Act: Research Goals and Primary Case Study**

Understanding law as a rhetorically constitutive process, both informed by and informing of multiple narratives within civil society is paramount to this investigation. Through an investigation of the narrative construction of law, I explore the rhetorical co-construction of the immigrant body and immigration policy in the United States from the eighteenth century to the first decade of the twenty first century. I investigate the interplay among narratives, the formation and implementation of immigration policy, and the disciplining of the immigrant body from a rhetorical perspective by asking, *What is the role of the narrative in the strategic formation of immigration policy and how have narrative representations of the immigrant affected the disciplining of the immigrant*

*body through policy?* Central to my thesis is the immigrant representation as “Other,” of being outside the dominant narrative of national citizen; therefore, requiring surveillance and control via restrictive policies.

I begin this project by tracing the rhetorical history of United States immigration policy, exploring how various cultural and political national narratives have transformed the legal and social definitions of immigration over time. Using White, Fisher, Charland, and others, I discuss the constitutive rhetoric that surrounded the early discourse on the relationship between the nation and the immigrant. I trace how and when the U.S. immigrant was first recognized and as well as how the narrative of immigration has developed throughout U.S. history.

In chapter one I explore the shifting intersections between immigration policy and U.S. national identity-making beginning in the eighteenth century to present day. Specifically, I investigate how the dominant narrative of “exclusionary nationalism” is manifested within immigration policy, creating cultural and social relations of power while constituting the national narrative as inherently Anglo-Saxon and elitist.<sup>47</sup> In addition, I use the work of Foucault and other scholars to argue the immigrant body is disciplined by policies informed by this imagined, yet dominant, homogeneous narrative of nation. Ultimately, I seek to expose the exclusive policies and practices by which the U.S. national identity has been strategically defined by the elite. This rhetorical analysis of the shifting narratives of U.S. national identity and immigration will provide the context needed for my principal examination of the discourses surrounding the Development, Relief, and Education for Alien Minors Act (DREAM Act).

Chapter two moves towards a comprehensive textual analysis of my primary source: the 2007 House congressional hearing regarding the DREAM Act presented before the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary. The DREAM Act, in its various forms, lifts the ban on postsecondary education benefits placed by the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and allows for certain unauthorized alien students to adjust their U.S. immigration status to legal permanent resident (LPR) through higher education, military service, or employment. In my rhetorical examination of the testimony surrounding the DREAM Act, I will consider the following questions: *What are the major rhetorical themes and patterns used by supporters and opponents of the DREAM Act? How do these themes and patterns (re)construct the meaning of the immigrant, and for whom is it (re)constructed? What are the political consequences of this (re)construction?* I conclude the project with an analysis of the material consequences of the rhetoric surrounding the DREAM Act and the comprehensive immigration reform movement, and provide rhetorical suggestions for the future of the movement.

I seek to make a valuable contribution to the conversations surrounding the creation and implementation of immigration policy by investigating the relationship between narratives and immigration. In critiquing current rhetorical and discursive methods of persuasion within the U.S. immigration debate, one can identify problematic devices and change the direction of policymaking for future generations. Through a historical and rhetorical analysis of U.S. immigration policy and the contemporary discourses of the DREAM Act, I argue the dominant narrative of exclusionary



nationalism controls the public debate on immigration reform. Additionally, I demonstrate the ways in which immigrant “Others” fail to resist the narrative dominance of exclusionary nationalism and, therefore, fail to challenge their marginalization from the national narrative. In investigating the rhetorical construction of the immigrant body through the DREAM Act, I provide new insights into the rhetorical implications of the DREAM Act on the larger public debate on immigration reform as well as demonstrate how the Act currently fails to redefine the immigrant body for both policymakers and the public. Ultimately, this project offers a varying prospective from which to evaluate the current and future states of U.S immigration policy and provides a new rhetorical direction for actors involved in the public debate on immigration reform.

## Chapter One

### Exclusionary Nationalism and a Rhetorical History of Immigration Control

“Give me your tired, your poor, your huddled masses yearning to breathe free . . . send these, the homeless, tempted-tossed, to me: I lift my lamp beside the golden door.”—Poem by Emma Lazarus inscribed on the Statue of Liberty.

Since the country’s inception, Emma Lazarus’ poem has symbolized acceptance and hospitality for hopeful immigrants journeying to the United States; however, many immigrants do not find the welcome as described in Emma Lazarus’ poem and, instead, encounter an elite narrative of American citizenry from which they are systematically and rhetorically excluded. Historian Walker Connor argues the strategy of American conquest during the sixteenth, seventeenth, and eighteenth centuries combined with the pattern of early settlement “created a dominant, almost exclusive Anglo-Saxon culture” that sought to eliminate all other cultural competitors, especially those seeking to migrate from competing nations.<sup>48</sup> Such competitors, often referred to as “minorities,” have been perceived by Anglo-Saxon leaders as dangerous ethnic threats to the balance of power relations. According to this theory of ethnic competition, the stronger the perceived ethnic threat, the more likely nationalist attitudes and exclusionist reactions develop within the dominant culture.<sup>49</sup> In the case of the United States, the perceived threat has remained high since the colonial period when the population was comprised primarily of British Protestants whose leaders established an exclusive claim on the state in order to minimize the perceived threat of non-British, non-English speaking minorities.<sup>50</sup> As increasing heterogeneous ethnic populations immigrated into the United States, Anglo-

Saxon leaders institutionalized rhetorical systems of exclusion in order to reinforce the established dominance of their desired homogeneous national narrative.

The Founding Fathers created an Anglo-Saxon narrative of American nationalism when they established a new sense of national identity through the drafting of documents that defined the new nation. Foreign settlers had once been considered transplanted “emigrants” from Europe seeking to establish a new community in the image of the society they left behind. However, at the end of the eighteenth century, the Founding Fathers constituted a collective American national identity through the writing of the *Constitution*, and in their debates over national inclusion they began calling newcomers “immigrants.”<sup>51</sup> Historian Benedict Anderson explains the rhetorical creation of an “official nationalism” is an “anticipatory” strategy of exclusion enacted by a “dominant [group] which [is] threatened with marginalization or exclusion from an emerging nationally-imagined community.”<sup>52</sup> When the population of immigrants began to double at the turn of the century, the Founding Fathers feared their rapidly increasing presence would damage the new and fragile American nationalism.

The Founding Fathers believed uncontrolled migration would damage the newly constituted Anglicized American identity. Thomas Jefferson referred to the perceived threat of immigrants in his 1781 “Notes on the State of Virginia,” arguing that “[foreigners] will bring with them the principles of the governments they leave, imbibed in their early youth. . . . These principles, with their language, they will transmit to their children. . . . They will infuse into it their spirit, warp and bias its directions, and render it a heterogeneous, incoherent, distracted mass.”<sup>53</sup> Jefferson feared large numbers of immigrants would threaten the cultural and political homogeneity of the Anglo-Saxon

national identity, thus he advocated for the “natural propagation” of population from the “desired” people born of British “stock” currently residing in the United States rather than immigrants in order to maintain a more “homogenous, more peaceable, more durable” government.”<sup>54</sup> Benjamin Franklin mirrored Jefferson’s concerns when he wrote of the influx of German-speaking immigrants in 1793, remarking, “Those who come hither are generally of the most ignorant Stupid Sort of their own Nation . . . now they come in droves. They will soon so outnumber us, that all the advantages we have will not [in My Opinion] be able to preserve our language, and even our Government will become precarious.”<sup>55</sup> Like Jefferson, Franklin was concerned that the “droves” of immigrants would prevent the establishment of a coherent, Anglo-Saxon national narrative. Franklin worried about issues concerning language, and he also feared that unrestricted immigration would threaten the stability of the government. In both Jefferson’s and Franklin’s opinions, immigration admitted culturally threatening peoples who weakened the durability of the Anglo-Saxon national narrative of the budding nation.

The Founding Fathers believed assimilation was the primary means of ensuring the newly established government created in the Anglo-Saxon image would prevail. For example, President George Washington expressed his opinion on immigration and assimilation in a letter to Vice President John Adams in 1794, noting, “[Foreigners] retain the [l]anguage, habits and principles (good or bad) which they bring with them. Whereas by an intermixture with our people, they, or their descendants, get assimilated to our customs, measures and laws: in a word, soon become one people.”<sup>56</sup> This concept of “one people” is described by social theorist Christian Joppke as the process of establishing a

national identity through a “notion of ‘ownership’ of the state” by which membership of the state is determined by a particular nation or ethnic group at the cost of “excluding all non-national or non-ethnic others.”<sup>57</sup> According to Washington, all persons entering the United States should become “one people” through the adoption of Anglo-Saxon principles of government. By establishing the Anglo-Saxon political and cultural identity as the dominant national identity, Jefferson, Franklin, and Washington rhetorically enacted Joppke’s “notion of ownership” and constituted a homogenous, exclusive national identity vulnerable to the increasing numbers of non-Anglo-Saxon immigrants.

The Founding Fathers institutionalized their Anglo-Saxon national vision when they offered the first legislative definition of American nationality in the Naturalization Act of 1790. The Act limited naturalization privileges to “free white” immigrants only, requiring two years of residency from these “free white” immigrants before citizenship could be claimed.<sup>58</sup> Racial scholars Michael Omi and Howard Winant argue the Naturalization Act of 1790 was the country’s first “racial policy” as it excluded select populations based on their racial heritage from the privileges of citizenship, thereby excluding racial “Others” from the American national narrative.<sup>59</sup> By constituting Whiteness as a prerequisite of citizenship, the Act widened the gap between free Americans and those who remained in slavery.<sup>60</sup> Thomas Jefferson justified racial inequality under the law in his “Notes on Virginia,” commenting, “I advance . . . that the blacks . . . are inferior to the Whites in the endowments both of body and mind. . . . This unfortunate difference of colour, and perhaps faculty, is a power obstacle to the emancipation of these people.”<sup>61</sup> Jefferson’s ideas on race echoed the philosophers of the European Enlightenment who privileged European ancestry over all others in order to

justify acts of colonization during the Age of Exploration.<sup>62</sup> In the same way, Jefferson used race to validate the exclusion of slaves, native peoples, and other non-Whites from the national narrative of American citizenry as well as to legitimize the exploitative system of slavery.<sup>63</sup>

Additionally, the Naturalization Act of 1790 targeted non-White voluntary immigrants for exclusion because they were considered threats to national homogeneity and stability. Alexander Hamilton argued, “The safety of the republic depends essentially on the energy of a common National sentiment. . . . Some reasonable term ought to be allowed to enable aliens to get rid of foreign and acquire American attachments; to learn the principles and imbibe the spirit of our government.”<sup>64</sup> Non-White voluntary immigrants brought with them habits and customs from their home countries that endangered the formation of a collective national identity; therefore, the residency requirements that mandated immigrants reside in the United States for two years promoted assimilation into the Anglo-Saxon national narrative and upheld the Anglo-Saxon position of power during an era of nation-building. Through the establishment of residency requirements and the restriction of eligibility for naturalization based on race, the Founding Fathers relegated non-Whites to an inferior status, institutionalizing a White collectivity of national belonging and setting a precedence of maintaining national exclusivity through policy for centuries to follow.

The Founding Fathers were the nation’s first formal narrators of the Anglicized American national narrative, postulating about the unified, homogenous Anglo-Saxon identity as being the key to building a successful government and nation. The dominant narrative told by the Founding Fathers was that of “exclusionary nationalism,” a

rhetorical strategy by which members of a preferred system of racial and class hierarchies produce a dominant national narrative to maintain power.<sup>65</sup> In this chapter, I argue that the narrative of exclusionary nationalism favors the privileged few who occupy the top hierarchical positions within society, granting them the power to rhetorically construct and enforce their own hegemonic narrative of what it means to be American. In exploring over two hundred years of immigration policy, I investigate how the narrative of exclusionary nationalism has manufactured an exclusive, White American national identity based on the inadmissibility of targeted minorities through selective immigration policy. I identify four key features of exclusionary nationalism—assimilationism, racism, xenophobia, and classism—and examine how these features rhetorically constitute the dominant narrative of American identity. Using Foucault, I theorize how the story of exclusionary nationalism results in the surveillance and biological control of immigrant “Others” excluded from the national identity. I argue that immigration policy is constituted by exclusionary nationalism and serves as the primary mechanism for the surveillance and control of the immigrant “Other,” thereby maintaining the dominance of the exclusive narrative that informs it. Taking from Charland’s theory of rhetorical subject making, I contend the immigrant “Other” is a “narratized” subject constituted by restrictive policy, procedure, and the everyday reproduction of citizenship norms for the purpose of ideological control. Finally, I interrogate the rhetorical arguments enacted by policymakers, the principal actors responsible for the institutionalization of exclusionary nationalism, for the purpose of maintaining the Anglo-Saxon notion of American national identity.

## **Narrative Features of Exclusionary Nationalism**

Policymakers enact the narrative of exclusionary nationalism to rhetorically construct a homogenous national identity for the purpose of maintaining political power. Cultural theorist Stuart Hall argues that national identities are rhetorical products of varying cultural elements serving as “discursive devices” by which difference or unity is constituted.<sup>66</sup> The purpose of creating a unified national identity is to uphold power relations by creating a cohesive national narrative that “transcends the limitations of the individual body and will” and remains intact over time.<sup>67</sup> Rhetorician Maurice Charland argues such rhetorically constructed national identities become “transhistorical subjects” and establish a “collectivity” among people able to transcend any given historical moment.<sup>68</sup> In the case of the United States, policymakers have sought to establish a hegemonic national identity in their own image for the purpose of creating unity and maintaining their position of power. I highlight the discourses within this process that have been utilized by presidents representing popular sentiment and setting the agenda for Congress as well as the congressional leaders who, then, institutionalize exclusionary nationalism through policy. As leadership shifts, so should the narrative of exclusionary nationalism; however, the primary features of the homogenous, Anglicized national identity institutionalized by Founding Fathers ensured a dominant narrative of exclusionary nationalism would transcend history.

### *Assimilationism*

Assimilationism is the first rhetorical feature of exclusionary nationalism and it is the rhetorical process by which minority groups discard their unique cultural identity and absorb the values of the dominant culture. Beginning in the eighteenth century, political



leaders have expected immigrants to take on Anglo-Saxon social and political democratic values in order to “become” American. The popular metaphor of the “melting pot” romanticizes the process of assimilation in the United States by creating an inclusive image of diverse cultural ingredients effortlessly blending together to form a unified nation; however, historian Desmond King argues the “melting pot” metaphor has “neither been an open or inclusive process” and, instead, has precluded diversity by preventing undesirable ethnic groups from assimilating while privileging others.<sup>69</sup> Those privileged for assimilation possessed the cultural markers of a “desirable American”—“White in race, ‘Anglo-Saxon’ in speech and surname, and Protestant in religion”—while those excluded possessed qualities outside of the WASP norm.<sup>70</sup> The WASP ethnicity, however, was a rhetorically constructed myth because it overlooked the true ethnic origins of Europeans. Ethnic scholar Winthrop Jordan argues that eighteenth and nineteenth century Americans identified themselves as “modified Englishmen” descending from a pure ethnic background rather than a mixture of the European ancestors, some of whom were African, who originally settled England. Just as they ignored the dynamics of the cultural amalgamation that took place in Europe, so-called Anglo-Saxons disregarded the same process taking place in America.<sup>71</sup> This cultural and historical ignorance resulted in the exclusion of immigrants who shared racial traits but differed ideologically from Anglo-Saxon principles, as well as those immigrants who shared ideological traits but differed racially. These strategic patterns of exclusion constituted the myth of Anglo-Saxonism as “American” and preserved the rhetorical prominence of exclusionary nationalism.

## *Racism*

The privilege of assimilability into the American national narrative is intrinsically linked to one's European heritage, making racism—the social construction and preservation of White privilege—a primary rhetorical feature of exclusionary nationalism. Racial scholars Michael Omi and Howard Winant claim that “the state *is* inherently racial” and is “the pre-eminent site of racial conflict;” therefore, all narratives generated by the state are racially-based.<sup>72</sup> Narratives based upon exclusionary nationalism privilege the dominance of Whites over non-White “Others.”<sup>73</sup> Whiteness, then, is best defined as a narrative construct, “a function of what people believe, a mutable category tied to particular historical moments, a mechanism for excluding those of unfamiliar origin,” existing only as a superior antonym to non-Whiteness.<sup>74</sup> The rhetorical power of Whiteness is created by those who construct it, and in the case of American exclusionary nationalism, White policymakers from Anglo-Saxon background were the first to imagine and constitute its political dominance.

In the context of immigration, the definition of Whiteness has shifted over time as various groups of immigrants have been rhetorically (re)defined within its racial borders. The Founding Fathers established the first White racial category in their own Anglo-Saxon image; however, during the influx of non-Anglo European immigrants in the nineteenth century, the definition of White was expanded first to those of English-speaking countries and then to all immigrants of Caucasian heritage.<sup>75</sup> This nineteenth century “racial order” drew the line of Whiteness around Western Europe rather than within the culturally diverse countries of Europe because the majority of these immigrants possessed physical and cultural features more closely related to WASPs than

those of the existing non-Whites (Native Americans, Africans, and Asians).<sup>76</sup> In addition, coding the majority of Europeans as “Whites” strengthened existing exclusive institutions built on White/non-White binaries such as slavery and the Chinese coolie trade. By widening the gap between Whites and non-Whites in the United States, the White state justified its own preeminence and institutionalized a binary system of race relations, establishing and preserving a privileged White narrative of exclusionary nationalism.

### *Xenophobia*

The establishment of the White/non-White binary in the American narrative of exclusion perpetuates apprehension among Whites towards the potentially threatening non-White “Other,” constituting xenophobia as a third feature of exclusionary nationalism. Xenophobia is characterized by an irrational fear or hatred of racial “Others” and is expressed through discourses that unite Whites against non-White immigrant “Others.” Philosopher Michel Foucault argues that discourses “keep the [feared] object at a distance, differentiating oneself from it . . . protecting oneself from it. . . and destroying it through hatred” in order to keep the collective power and unity of Whites while ensuring the inferiority of the non-White immigrant “Other.”<sup>77</sup> This process of “Othering” rhetorically constitutes the immigrant as a feared object requiring control and deserving of destruction in order to defend the existing racial hierarchy. Exclusionary nationalism as a xenophobic narrative reinforces the differences of culture and race within the context of fear. In the United States, xenophobic narratives ran rampant among nativist groups during the nineteenth and twentieth century, perpetuating the Anglicized national narrative as socially, economically, and politically superior to all others.<sup>78</sup> Non-White immigrants deemed threatening to American sovereignty were criminalized,

marginalized through discourses of disease, and relegated to second and third class statuses via xenophobic narratives. These narratives were popular not only among nativist groups but also among policymakers, resulting in a string of xenophobic immigration policies.<sup>79</sup> Such policies institutionalized the xenophobic narrative of exclusionary nationalism, reinforcing the Anglicized, White narrative as the dominant national narrative.

### *Classism*

In addition to cultural and racial tensions forming an exclusive national narrative, class antagonisms between White laborers and non-White immigrants greatly inform the narrative of exclusionary nationalism. Classism, a fourth feature of exclusionary nationalism, is inextricably intertwined with discourses of race and nation. The preservation of a hegemonic national narrative depends on the maintenance of White economic superiority over all other competitors that threaten the Anglo-Saxon cultural, racial, and economic positions of power. Foreign laborers become targets of control in order to preserve the privileged economic position of American (White) laborers. Racial historian Tomás Almaguer states, “Racialized hostility against [immigrant] laborers is best understood in light of the way class-based interests among European Americans were defined in relation to its immigrant population.”<sup>80</sup> Beginning with the influx of Chinese immigrants during the 1800’s, White laborers believed non-White foreign laborers threatened their unstable class position as well as the underlying racial entitlements that White supremacy had reserved for them. Such fears manifested themselves within the narrative of exclusionary nationalism and immigrant laborers became the targets of vicious discursive attacks against their racial and biological

inferiority. For example, Chinese migration was described as a “yellow plague” that threatened the health of both the racial and economic power of White laborers.<sup>81</sup>

Policymakers responded to the concerns of White laborers, implementing restrictive immigration policies to slow down the migration of foreign laborers and preserve economic opportunities for White workers.<sup>82</sup> Classism, as a feature of exclusionary nationalism, is institutionalized via immigration policy and upholds the Anglo-Saxon position of economic power while reinforcing the exclusion of non-Whites from future capitalist opportunities.

These key features of exclusionary nationalism—assimilationism, racism, xenophobia, and classism—are institutionalized through the multiple discursive and systemic technologies of immigration control. Foucault speaks of discourse as a phenomenon occurring within the established order of things; however, he argues that narrators give discourse its power.<sup>83</sup> Policymakers have historically narrated the discourse of exclusionary nationalism, creating the narrative’s power through the institution of immigration policies that define, restrict, and manage immigration in the United States. In this way, immigration law provides the text for understanding the ways in which policymakers craft definitions of national belonging. According to feminist scholar Eithne Luibhéid, “Immigration control is not just a powerful symbol of nationhood and people but also a means to *literally* construct the nation and people in particular ways.”<sup>84</sup> Immigration control naturalizes the United States as a nation distinct from others whose border defines both the geographical territory of the nation as well as the people who rhetorically belong to this territory.

Additionally, Foucault's concept of "governmentality" is particularly relevant in the rhetorical construction of the nation because it defines immigration control as a mechanism of "calculations and tactics" used by the state to organize and manage its domain.<sup>85</sup> The state exercises its power over its domain through the various processes of immigration control, institutionalizing the unequal relations created by the narrative of exclusionary nationalism and establishing a "power that insidiously objectifies those on whom it is applied."<sup>86</sup> People, then, are objectified by laws that emerge from unequal conditions, rendering them intelligible, calculable, and manageable while regulating their movements in order to preserve political sovereignty. In this chapter I argue immigration control is the primary technology that gives the narrative of exclusionary nationalism the power to determine which people are excluded from entering the country and, consequently, excluded from participating in the national narrative.

The following section investigates the racist, xenophobic, and classist discourses contrived by White policymakers about nineteenth century Asian migration, and how these discourses became institutionalized through policy. Drawing from presidential and congressional testimony about Asian migration, I demonstrate how exclusionary nationalist discourses of Yellow Peril were legitimized through the implementation of the Chinese Exclusion Act. Moreover, I claim the White state's targeting of the Asian immigrants for exclusion constituted the immigrant body as a racialized, rhetorical symbol over which the state could assert its control. Finally, I examine the rhetorical consequences of Asian exclusion on the racialization of the United States' territorial border.

## **The Institutionalization of Yellow Peril and the Racialization of the Border through 1900**

As immigration into the United States grew throughout the nineteenth century, the privileged position of Anglo-Saxons became increasingly threatened, igniting the spread of exclusionary nationalist narratives throughout the White nation and influencing the implementation of restrictive immigration policies. Following the end of the American Revolution, the Industrial Revolution sparked a mass migration to the burgeoning industries in the United States.<sup>87</sup> The majority of the country saw migration from Western European and Scandinavian countries, nationalities deemed assimilable into the American national narrative; however, the migration patterns along the West Coast were not as well received by the White nation when Chinese immigrants boarded boats by the tens of thousands to find work in the U.S. railroad industry.<sup>88</sup> Even though low wage jobs were plentiful, many West Coast residents feared that the Chinese immigrants would depress wages and provoke unfair job competition.

On the surface, classist rhetoric of economic recourse legitimized anti-Chinese sentiment; however, racism and xenophobia were the driving forces behind the campaigns to restrict Chinese immigration. The Chinese were accused by policymakers of having “low morals, specifically of practicing prostitution and smoking opium; of low health standards; and of corrupt influences and practices.”<sup>89</sup> These exclusionary nationalist discourses of “Yellow Peril” were motivated by xenophobic fear of the ethnic “Other.”<sup>90</sup> Foucault argues fear should be viewed not as an object, but as a “discursive practice” that becomes a “meaningful object of knowledge” used to “master and control” perceived “disorder.”<sup>91</sup> Chinese migration to the West Coast was viewed by Whites as a

“disorder” requiring the “master and control” of the state; therefore, policymakers strategically conjured public fear of Asian immigrants by constituting these immigrants as dangers to American society, the economy, and its people.

Discourses of Yellow Peril exemplified the xenophobic narratives characterizing Chinese immigrants as “demoralizing and degrading” to the nation, thereby legitimizing their discipline by the state through mechanisms of immigration control.<sup>92</sup> For example, in a report submitted to Congress by the Committee on Education and Labor on April 12, 1882, President James A. Garfield utilized discourses of fear to sway policymakers to control their migration. He argued that the Yellow Peril narratives about the Chinese were premised upon “undisputed and indisputable facts” and he justified the characterization of the Chinese by remarking,

That they come to this country without families. . . . and without the intention to make it their permanent residence; that they are packed together like sardines in a box . . . that they retain their distinctive peculiarities and characteristics, refusing to assimilate themselves to our institutions, and remaining a separate and distinct class, entrenched behind immovable prejudices; that their ignorance or disregard of sanitary laws, as evidenced in their habits of life, breeds disease, pestilence, and death; that their claim of superiority as to religion and civilization destroys all hope of their improvement from contact with our institutions; these are the known and undenied facts in the problem of Chinese immigration.<sup>93</sup>

The fear-based rhetoric in Garfield’s remarks address the classist concerns White citizens had regarding the transitory Chinese laborers. White workers believed temporary Chinese workers would lower competitive wages because they didn’t have families to feed or houses to maintain; therefore, they urged policymakers to control their negative economic influence by stopping immigration from China. Garfield criticized Chinese immigrants for their lower class living standards, suggesting they were altogether a sub-class of human beings deserving of the state’s discipline.



In addition to expressing classist concerns, President Garfield used racially-charged metaphors to compare the immigrants to “sardines,” suggesting they were animals who “[bred] disease, pestilence, and death.” Philosopher James Collins Ross claims that “bodily metaphors presented convenient tropes for representing certain immigrants as threats and enacting policies to control them.”<sup>94</sup> In the case of immigration, metaphors create difference between the immigrant body and the Anglicized American body, justifying their exclusion from the American identity through policy. Metaphors also allow the rhetorical imagination to run wild with exaggerated images of immigrants “breeding” like animals, creating fear among the White nation that if immigration is left uncontrolled, it will become an unnatural pandemic infecting American society with its “Otherness.” Thus, by reducing the Chinese immigrant to a sub-human status, xenophobic discourses of Yellow Peril both justified and created a social necessity for Congress to control their immigration into the United States, resulting in the passage of the country’s first legislation restricting an entire population based on race and national origin known as the 1882 Chinese Exclusion Act.<sup>95</sup>

The Chinese Exclusion Act contributed to the narrative of exclusionary nationalism by legitimizing the classist, racist, and xenophobic discourses of Yellow Peril while transforming the U.S. borders into sites of control over immigration, race, citizenship, policy, and international relations. By formally stating “the coming of Chinese laborers to this country endangers the good order of certain localities,” the Chinese Exclusion Act reinforced the popular claims that the immigrants were taking over the Pacific Coast and needed to be controlled by law.<sup>96</sup> The Act also established “selective immigration” as a primary mechanism for controlling immigrants.<sup>97</sup> Foucault

argues that greater state power is often achieved through the act of defining and prohibiting abnormalities.<sup>98</sup> By establishing a legal process by which Chinese immigration was prohibited, the state augmented its power over the non-White immigrant body, defining it as deviant and altogether excluding it from the American national narrative.

Legally excluding a group of immigrants from entering the United States creates the possibility for illegal entry, establishing the narrative identity of “undocumented” while moving the sight of immigration control to the territorial borders and introducing mechanisms of border security to the narrative of exclusionary nationalism.<sup>99</sup> The Chinese Exclusion Act made illegal entry a criminal offense and required that “any Chinese person found unlawfully within the United States shall be caused to be removed there from to the country from whence he came.”<sup>100</sup> The threat posed by the illegal entry of Chinese immigrants sparked narratives of discipline and control and initiated the securitization of the border.<sup>101</sup> In Congressional testimony given by Washington state Senator W.R. Forrest in 1891 on the topic of illegal Chinese entries, he stated, “There are a great many coming in [defiance of the law]. . . . I have no means of placing any estimate on that; but the frontier is so unguarded that they may be coming in squads . . . there must be many who are coming in and not discovered . . . it is almost impossible to identify them.”<sup>102</sup> Other policymakers shared Forrest’s uncertainty as to how many Chinese immigrants were illegally entering the United States, claiming the “Chinaman” was “shrewd and cunning,” resorting to “all practices,” legal and illegal, “to obtain admission to the country;” therefore, these policymakers advocated for “strict enforcement” of the Chinese Exclusion Act to ensure the “pest-breeding” Chinese race

did not have a “decidedly demoralizing effect on . . . citizens.”<sup>103</sup> Policymakers believed illegal Chinese immigration threatened the so-called safety of the state and, more specifically, their privileged position of power.

Congress believed the inability to manage the movement of populations across the territorial border placed the White state in a precarious position incapable of ensuring sovereignty over the nation. To maintain power, Foucault argues that the government must ensure the “safety of the territory, or the safety of the sovereign who rules over the territory.”<sup>104</sup> He offers a model by which government ensures this security: the triangle of “sovereignty—discipline—government, which has its primary target the population and its essential mechanism the apparatuses of security.”<sup>105</sup> In the case of immigrants crossing illegally in the United States, the government perceives them as an untraceable and incalculable population; therefore, they are outside of the surveillance and discipline of the state and, thus, perceived as potential threats to the nation’s sovereignty. In an attempt to control the illegal immigration of Chinese along the Mexico border, the federal government enacted narratives of control through policing efforts such as surveillance, patrols, apprehensions, and deportation of illegal Chinese immigrants.<sup>106</sup> These mechanisms of policing the immigrant body symbolized the discursive gaze of the Anglicized national narrative over delinquent illegal border crossers, projecting the power of the national narrative onto the powerless Chinese immigrant for the purpose of maintaining existing power relations.<sup>107</sup> Though many Chinese immigrants successfully challenged these mechanisms through tactics of resistance, such as using fraudulent documents to enter illegally, the objectification of the immigrant body through the

securitization of the border established immigration control as a primary technology through which government would retain its power over the national narrative.

The primary consequence of the Chinese Exclusion Act was the institutionalization of White nationalism and its constitution of racialized understandings of “the illegal immigrant problem.”<sup>108</sup> Erica Lee explains illegal immigration from other nationalities was overwhelmingly ignored, making Chinese border crossers the public image of the illegal immigrant and reinforcing the popular discourses of Yellow Peril that had initially led to the creation of the Chinese Exclusion Act.<sup>109</sup> This racialization did not occur to the same extent among Mexican and European immigrants. Mexican immigrants were seen as seasonal migrants who filled critical economic need and posed no long-term threat to the national narrative, while European immigrants who most closely resembled the Anglo-Saxon identity were establishing permanent settlements; therefore, these groups were “implicitly constructed as white” upon entry, generally avoiding the difficulties experienced by the Chinese.<sup>110</sup> By focusing border patrol efforts on immigrants excluded by the Chinese Exclusion Act, the discourses of Yellow Peril were legally legitimized and the nation’s first illegal immigrant became racialized as Chinese. Thus, the turn of the twentieth century marked the era when selective immigration and border control became the primary mechanisms for racializing the narrative of exclusionary nationalism, setting the precedence for future exclusions of undesirable peoples from the White national narrative based on their race alone.

The Chinese Exclusion Act succeeded only temporarily in “protecting” the American national narrative from perceived racial and economic threats, and as heterogeneous immigration to the United States increased over the next several decades,

policymakers contrived new mechanisms of control such as illiteracy tests and health inspections to legitimize the exclusion of non-White “Others.” Grounded in nineteenth century assimilationist, racist, xenophobic, and classist discourses of exclusionary nationalism, the implementation of illiteracy tests and health inspections perpetuated the established dominance of the White national narrative into the twentieth century. The following section investigates the rise of the twentieth century nativist movement and the influence of its exclusionary nationalist narratives on selective immigration control.

### **Rhetorical Threats of New Immigration: A Renewed Focus on Assimilation and the Rise of Biological Control through 1917**

A resurgence of exclusionary nationalist discourses rooted in classism and racism took place in Congress at the turn of the twentieth century as policymakers felt threatened by a “new” wave of immigrants motivated by short-term economic gain rather than permanent settlement. These discourses focused on the assimilation of “new” immigrants because these they varied in ethnic background and immigrant intent from the “old” immigrants, causing policymakers concern over the stability of the Anglo-Saxon national narrative that, up until this point, had been seemingly well-preserved through selective immigration policy. In its 1911 report to Congress, the Immigration Commission described the difference between “new” and “old” immigration, stating, “The old immigration movement was essentially one of permanent settlers. The new immigration is very largely one of individuals. . . . coming to America to temporarily take advantage of the greater wages paid for Industrial labor.”<sup>111</sup> The majority of “new” immigrants came from impoverished southern and eastern European and Asian countries, where “their highest wage [was] small compared with the lowest wage in the United States.”<sup>112</sup>

Because of their lower economic status, many of these new immigrants were chastised by policymakers for being “unskilled” and “illiterate” economic burdens, constituting “widespread feeling of apprehension as to the effect on the economic and social welfare of the country.”<sup>113</sup> Policymakers discriminated against poor immigrants for fear their presence would lower the living standards for all Americans, creating an explicit hierarchy where citizens’ concerns were prioritized over immigrants and establishing classism as a hallmark discourse of exclusionary nationalism.

Discourses of class in the narrative of exclusionary nationalism were inherently linked to those of assimilationism and racism surrounding the African American dilemma, stirring anxieties about European and Asiatic immigrants alike. In a 1910 report by the Immigration Commission, Prescott F. Hall of the Immigration Restriction League expressed popular nativist discourses comparing the “new” wave of immigrants to African Americans when he stated,

While there are doubtless no races in Europe or Asia as unassimilable with [the Anglo-Saxon] race as the negroes are, yet in many cases it is only the difference in degree, and unless some check is put upon the unrestricted outpouring upon us of these individual degenerates and members of unassimilable races I believe that posterity will rise up to curse us for our folly or neglect.<sup>114</sup>

Hall’s statement held fast to assimilationist and racist discourses of exclusionary nationalism when he claimed the Anglo-Saxon race was superior to all others and that all other races must assimilate into this dominant national narrative of White supremacy. Reflecting the narratives of the Founding Fathers, Hall and other nativists called upon Congress to check unrestricted immigration in order to ensure the Anglo-Saxon narrative maintained its dominance as the national narrative. In response to nativists’ demands,

Congress passed the 1917 Asiatic Barred Zone Act and targeted the exclusion of poor, “unassimilable” immigrants.<sup>115</sup>

Influenced by exclusionary nationalist discourses of classism, assimilationism, and racism, the Asiatic Barred Zone Act institutionalized a new mechanism of control with the creation of literacy requirements. Like the Founding Fathers, twentieth century restrictivists viewed literacy as “an index of Americanization” and the key to proper assimilation into the American ideal.<sup>116</sup> The English language was a symbol of Americanism and created rhetorical simultaneity in the imagined national community; therefore, those desiring to be American were required to have an aptitude towards speaking its symbolic language.<sup>117</sup> English-speaking policymakers feared that the thousands of laborers belonging to the “new” wave of immigration would remain isolated from American culture because they lived in boarding houses with one another and had little incentive or necessity to learn the “sacred” English language. Policymakers believed these isolated foreign workers undermined the centrality of the English language in the American national ideal and weakened Anglo-Saxon (White) political power.

In addition to assimilationism, the attitudes of policymakers towards the “new” wave of immigrant laborers were also rooted in classism. They believed the “new” immigrants represented the “poorest and most illiterate” from their “stricken countries,” and would “erect the lowest standard of living” by “[flocking] to [the United States] and [beating] down the price of labor.”<sup>118</sup> Eight of the nine members of the Commission on Immigration and Naturalization believed “illiteracy tests” were the “the most feasible single method of restricting undesirable immigration” by increasing the probability that assimilable “good citizens” will enter.<sup>119</sup> Majority members of Congress insisted that

instituting literacy requirements would improve the quality and ability of immigrants to assimilate into American social and political culture as well as minimize their perceived threat to the higher standard of living enjoyed by most White Americans. In order to “prevent the hardships and other evils” that result from the immigration of unwanted immigrants, Congress instituted a \$100 dollar fine for bringing in “defective aliens” who fail the illiteracy tests.<sup>120</sup> Such restrictions excluded uneducated immigrants from lower economic statuses, encouraging American prosperity by reducing the immigration of potential economic and cultural burdens. As a result, the 1917 illiteracy tests became a permanent measure of assimilability into the Anglo-Saxon political and social body, institutionalizing assimilationist, racist, and classist discourses as acceptable mechanisms of control over the poor and illiterate immigrant body.

Another consequence of the Asiatic Barred Zone Act was the institutionalization of racism through the biological exclusion of undesirable immigrants. Along with discourses of assimilation and class, popular discourses of health rooted in racism grew in popularity after World War I as the United States government focused on public health as a means to strengthen the nation.<sup>121</sup> In an attempt to recover national health, Congress expanded immigrant exclusions based on undesirable biological attributes in the 1917 Act, adding a subcategory for medical exclusions based on “general conditions,” meaning any disease or physical abnormality that did not fit into one of the two conditions outlined in a previous 1903 law.<sup>122</sup> The Act continued the bar on all “idiots, imbeciles, feeble-minded persons, epileptics, insane persons. . . . Persons *of* constitutional psychopathic inferiority. . . . Persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease,” reinforcing the inclusion of only able-



bodied immigrants in the national narrative.<sup>123</sup> These exclusions were inherently racist as many of the undesirable traits were ascribed to select nationalities. According to Foucault, most “biological threats” are racialized by those holding the position of power who construct these threats as being created by the “other race, the subrace, the counterrace.”<sup>124</sup> For example, polio was labeled an Italian disease because most of the afflicted immigrants happened to arrive from Italy; therefore, the exclusion of non-White Italians was justified by this racialized medical stereotype.<sup>125</sup> Thus, race became a primary indicator of an immigrant’s biological health.

In addition being influenced by racism, biological exclusion was entrenched in classism because Congress feared the United States would “become an asylum for an increasing number of those unable to sustain themselves.”<sup>126</sup> Immigrant bodies were viewed as economic commodities, and only those who would benefit the economy were allowed to enter. Foucault describes this practice of “bio-politics” as an “indispensable element in the development of capitalism” through which policymakers regulate capitalistic opportunity through the biological control of the population.<sup>127</sup> Those immigrants unable to contribute to economic growth are deemed a burden to the state, requiring control in order to ensure the success of capitalist undertakings. The understanding that diseased or disabled immigrant “Others” posed a threat to both the racial homogeneity and economic prosperity of the nation was further normalized through the “medical [policing]” at the border when the Bureau of Immigration put in place the country’s first twenty-four hour immigrant inspection stations.<sup>128</sup> The physical examination of the immigrant body at these stations served as a bio-political “means of control and a method of domination” that, as theorized by Foucault, established relations

of power that normalized the immigrant as an “effect and object of [the government’s] power.”<sup>129</sup> By reducing the immigrant to a racialized, diseased object, the government legitimized the exclusion of culturally and economically threatening immigrants under the auspices of protecting the health of the nation.

The exclusive apparatuses of immigration control instituted in the 1917 Act constructed the territorial border a primary site for the maintenance of White power over the non-White immigrant body. Consequently, border patrol agents and health inspectors became narrators of exclusionary nationalism through the administration of tests and biological inspections. By enacting assimilationist, racist, and classist discourses of exclusionary nationalism, they reinforced the powerless position of the non-White immigrant body and upheld the dominance of the Anglo-Saxon American identity. Maintaining White/non-White power relations through the biological control of the immigrant became of heightened concern the next decade as narratives of nativism, biological superiority, and scientific legitimacy collided during the rise of the eugenics movement. The following section examines the continuing influence of racist, xenophobic, and classist discourses of exclusionary nationalism exhibited during the 1920’s and their impact on new forms of selective immigration control.

### **The Narratives of Eugenics: Science, Race, and Xenophobia during the Tribal Twenties**

The relationships between race, biology, and exclusionary nationalism became more intimately intertwined during the 1920’s as the biological control of immigration served as the primary mechanism for promoting exclusionary nationalism. Prewar trends of ethnocentrism and xenophobia found renewed fervor in the “tribal era” of the 1920’s

when a society hungry for American unity attempted to regain confidence after a period of wartime disillusionment.<sup>130</sup> Historian John Higham argues the war had simply suspended prewar animosities towards Catholics, Jews, Asians, and southeastern Europeans, and that increased immigration, the onset of depression, and a wave of crime associated with prohibition cultivated an environment ripe for nativism.<sup>131</sup> In this era of nativism, self-named patriots insisted upon the “Americanization” of all immigrants already within the country’s borders and rejected the influx of newcomers.<sup>132</sup>

Nativist groups like the Ku Klux Klan gained social prominence during the 1920’s by capitalizing on the popular discourses of nativism and Americanization.<sup>133</sup> Their racist credo was anti-Catholic, anti-African American, and anti-immigrant, targeting African Americans and immigrants from eastern and southern Europe for exclusion because of their perceived threat to the White, Anglo-Saxonized American identity. The Klan claimed eastern and southern Europeans, many of whom practiced Catholicism, should be barred from entering the United States to protect the cultural and political dominance of “old-stock Americans” descending from the “Nordic Race” from the “sinister” immigrants threatening the expansion of “modern civilization.”<sup>134</sup> The conservative discourse of the Klan symbolized the popular belief that the national turmoil experienced during WWI should result in a “purified, regenerate society,” and any barrier to this rebirth of Anglo-Saxon ideals should be eliminated.<sup>135</sup> These racist and xenophobic discourses affirmed cultural homogeneity as a pillar of national strength, reinforcing the American national narrative as an Anglo-Saxon one.

The rhetorical system of eugenics gained momentum during the 1920’s when nativist groups built on ideologies of racism and xenophobia flourished in the United

States. In “Heredity in Relation to Eugenics,” eugenicist Charles Davenport defines eugenics as “the science of the improvement of the human race by better breeding.”<sup>136</sup> Eugenists argued hereditary factors, rather than environmental factors, produced unalterable human inequalities. The emphasis on science as a mechanism to measure the strength of the human race represented the rising of “scientific race-thinking,” a rhetorical movement in which scientific experts were funded by the government to provide a so-called “objective” lens by which to view differences of race.<sup>137</sup> This “objective” lens legitimized popular notions of White supremacy by scientifically proving the inferiority of non-Whites, greatly influencing twentieth century notions of nationalism. Eugenists argued for a White nationalism based on the “fundamental fact that all men are created *bound* by their protoplasmic makeup and *unequal* in their powers and responsibilities.”<sup>138</sup> They used this so-called science to prove the superiority of Anglo-Saxons over all other races, describing Anglos as having “the most active, ambitious and courageous blood . . . the crème de la crème” in comparison to the “weaker minds” of other races.<sup>139</sup>

Foucault’s concept of state racism is particularly useful when analyzing how science institutionalizes racial supremacy. He argues that the discourse of race is used to preserve the sovereignty of the state through “medico-normalizing techniques” that link cultural norms to biology.<sup>140</sup> Furthermore, Foucault argues that the discourse of race is a “battle” waged by the “race that holds the power and is entitled to define the norm” and against those who fall outside this norm and “pose a threat to the biological heritage.”<sup>141</sup> As such, the eugenics movement furthered the notion that the American norm was a pure (White) Anglo-Saxon one, establishing racism as a primary discourse of

exclusionary nationalism used to protect the sovereignty of the nation. As part of this process, eugenicists institutionalized a “biological-type caesura” in which the state could “[subdivide] the species it [controlled]” into racialized “subspecies” of which all non-White subspecies were biologically inferior to the great Anglicized White subspecies.<sup>142</sup> Such pseudo-scientific discourses were positioned as objective, irrefutable claims that Whites were racially superior and, thus, qualified to construct the dominant national narrative.

The scientific legitimization of White racial superiority through the rhetorical system of eugenics constituted the narrative of an “American Race,” and the main narrators were policymakers of Anglo-Saxon descent. Using the rhetorical strategies invented by the Founding Fathers and applying them to the new “expert” pseudo-science of race, these policymakers utilized the science of eugenics to rationalize their top hierarchical position in the making of the “American Race,” establishing their narrative both authentic and believable. Rhetorician Walter R. Fisher explains the importance of creating rational narratives for the purpose of influencing audiences. He notes, “Rationality is determined by the nature of persons as narrative beings—their inherent awareness of *narrative probability*, what constitutes a coherent story, and their constant habit of testing *narrative fidelity*, whether or not the stories they experience ring true with the stories they know to be true in their lives.”<sup>143</sup> A narrative that lacks both probability and fidelity fails in its ability to influence its audience; therefore, to make the story of the “American Race” influential, policymakers drew on the conclusions of eugenicists to both create a coherent American narrative as well as establish this narrative as true.

Eugenicists claimed Americans from British descent were scientifically “proven” to be the “strongest” and “most fit” of all Americans; therefore, they were qualified to construct the narrative of the American race.<sup>144</sup> Harry Laughlin, Director of the Eugenics Record Office and member of the Committee on Eugenic Legislation, outlined the racial hierarchies constituting the “American Race” at a Congressional conference on immigration restriction in 1924. He argued,

If the American race is composed, first, of descendants of immigrants of the British Isles; then immigrants coming from Germany, Scandinavia, from the Netherlands, from France, then the Jewish group, then from Spain, then, possibly, Hungary, Russia, and the group from other countries, if that is the stuff out of which the American race is made, and if we maintain those proportions, I think we would make a great step in advance.<sup>145</sup>

Laughlin’s narrative of the “American Race” was similar to the early twentieth century assimilationists’ call for the Americanization of all immigrants; however, it differed in that certain races were deemed forever inassimilable based on their “genetic makeup.” His so-called science found Anglo-Saxons to be genetically superior to all others, giving them permanent authority over the rhetorical construction of the American race and taking nativist discourses to a new level of exclusionary physiognomy. This “scientific” construction of the “American Race” constituted a renewed White nationalism that targeted all racial “Others” for exclusion.<sup>146</sup> The immigration question in the 1920’s wasn’t whether or not there would be new restrictions, but rather what form would these restrictions would take. Policymakers feared an “immigrant invasion” of non-Anglo-Saxon immigrants and negotiated a new form of selective immigration control in order to protect the national narrative of the Anglo-Saxon American: the quota system.<sup>147</sup>

The passage of the National Origins Law in 1921, also known as the Emergency Quota Act, marked the moment in U.S. history when immigration policy established a

system of preferences through which quotas could be allocated. These quotas were based on the “national origin” of immigrants, a category conceptualized by the Quota Board in an attempt to classify immigrants based on their ethnic background.<sup>148</sup> Foucault refers to such categorizations as “technical inventions” enacted in order to construct “a body of knowledge about these individuals,” reducing their power while reinforcing the power of the institution.<sup>149</sup> By classifying immigrants based on their national origin, policymakers reduced immigrant bodies to whether or not their country of origin made them eligible for assimilation into the “American Race.”<sup>150</sup> The Quota Act institutionalized this reductionism and, according to eugenicist Henry Laughlin, developed a “practical method by which the United States could regulate immigration by nationalities, roughly in proportion to assimilability.”<sup>151</sup> As a result, assimilationist, racist, and xenophobic discourses of exclusionary nationalism backed by so-called science constructed formal categories of exclusion and upheld the dominance of the Anglicized national narrative for decades to come.

Intended only as a temporary act, the Quota Act was extended twice as restrictivist discourses dominated the legislature. President Calvin Coolidge exemplified this restrictive rhetoric during his 1923 message to Congress, arguing American cultural life was predicated upon knowledge and fidelity to self-government and principles of good citizenship. He asserted, “New arrivals should be limited to our capacity to absorb them into the ranks of good citizenship. America must be kept American. For this purpose, it is necessary to continue a policy of restricted immigration.”<sup>152</sup> Coolidge emphasized assimilation as the main goal of eugenics-inspired restrictive immigration. His statement “America must be kept American” echoed the popular nativist discourses

embraced by the White descendants of Anglo-Saxons who feared increasing immigration would endanger their cultural dominance. Supported by the science of eugenics and institutionalized within the categorization of national origins, these popular discourses of assimilationism and racism supported the narrative fidelity of exclusionary nationalism and provided the context for the future passage of an even more restrictive and permanent quota system in the Johnson-Reed Act of 1924.

The influence of assimilationist, racist, and xenophobic discourses in the rhetorical construction of the “American Race” as well as the political popularity of the 1921 National Origins Act culminated in the passage of one of the most restrictive immigration policies to date, the Johnson-Reed Act of 1924.<sup>153</sup> Commonly referred to as the National Origins Act, the Johnson-Reed Act was a direct consequence of exclusionary nationalist fears that the greatest migration in history would begin July 1, 1924, the day after the expiration of 1921 Quota Act. The Johnson-Reed Act stated, “To endure the United States must have homogeneity of its people. The future depends upon the children of all who are here. For their welfare restriction of immigration is necessary.”<sup>154</sup> This belief validated the narrowing of the number of immigrants admitted under the already restrictive 1921 quota system by allowing only two percent of the foreign-born population to enter the United States. In a report delivered to the sixty-eighth Congress on February 9, 1924, the Committee on Immigration and Naturalization called for an “immediate and urgent” enactment of restrictive immigration legislation to control the immigrants they deemed unable to assimilate:

The naturalization process cannot work well with the continued arrival in large numbers of the so-called new immigration. The new type crowds the cities. . . . It gains but slight knowledge of America and American institutions. It has grown to be the undigested mass of alien thought, alien sympathy, and alien purpose. It is a



menace to the social, political, and economic life of the country. It creates alarm and apprehension. It breeds racial hatreds which should not exist in the United States and which need not exist when the balance shall have been restored.<sup>155</sup>

Similar to the Founding Fathers, the committee expressed commonly held concerns regarding the inability of large numbers of immigrants to assimilate. Using bodily metaphors, they likened immigrants to an “undigestable” mass of people, blaming immigrants for “breeding” racial hostility rather than pointing the finger inward at racist Americans. These xenophobic metaphors mirrored those used in Congressional testimony over the Chinese Exclusion Act of 1882, constructing undesirable non-White immigrants as grotesque beings preventing the healthy functioning of the nation. Just as they did forty years ago, Congress embraced the committee’s exclusionary nationalist rhetoric and passed the Johnson-Reed Act with an overwhelming majority.<sup>156</sup>

The nativist 1920’s marked the decade in which the narrative of exclusionary nationalism became intrinsically linked to the White notion of a biologically superior Anglicized “American Race” and was institutionalized through the implementation of the national origins quota system. Scientifically “legitimized” assimilationist, racist, and xenophobic discourses resulted in a restrictive policy that would control the racial landscape of the United States for decades to come. As a consequence, the quota system forced all non-White cultural competitors to assimilate into an Anglo-Saxon American ideal or else risk complete exclusion. In addition, it ensured the dominance of existing power relations that favored the Anglo-Saxon national narrative over all others. Furthermore, it justified existing race relations between White and non-White citizens, preserving the homogenous narrative of White supremacy.

The systematic exclusion of all non-White immigrants “Others” based on national origins remained a primary mechanism of exclusionary nationalism throughout the next several decades; however, the onset of the Great Depression and the coming of World War II inspired new mechanisms of control to take a more prominent role in maintaining the Anglo-Saxon national narrative. The following section discusses the development of internal enforcement in the mid twentieth century, a new mechanism of control used to reinforce exclusionary nationalism.

### **Constituting Rhetorical Enemies through Fear: Exclusionary Nationalism and the Control of Mexican Laborers, Japanese Residents, and Communist Subversives**

The 1930’s brought about a shift in the rhetorical construction of the Mexican border-crosser from friendly neighbor to an enemy of the state. The Great Depression led to an increased competition for jobs along the American Southwest, igniting anti-immigrant sentiments among White workers who believed immigrant laborers were the cause of the economic downturn.<sup>157</sup> As a result, Mexican immigrants who were once constructed as “White” participants in the national narrative were now constituted by racist, xenophobic, and classist discourses as being national enemies.<sup>158</sup> This rhetorical shift is documented in congressional testimony.

A 1921 report on foreign relations gave preference to Mexican immigrants, stating, “All other conditions being equal, the neighbor of a place shall be preferred to those of a distance.”<sup>159</sup> Just nine years later, these neighborly sentiments were replaced by classist concerns as demonstrated in a report by the Committee on Immigration and Naturalization that defined Mexican neighbors as a “different type,” and that “it is the peon type that has been sucked into the United States in large numbers since 1917.”<sup>160</sup>

Policymakers feared that Mexicans would “in a comparatively short time change the complexion of the population . . . and bring about a hyphenised, politically unstabilized [*sic*], Latinized majority throughout the Southwest.”<sup>161</sup> Whereas policymakers once welcomed Mexican neighbors, they were now terrified of the influx of lower class Mexican “peons” with dark complexions and redefined them as racial and economic enemies of the state.<sup>162</sup> According to rhetorician Maurice Charland, the making of subjects is “always social, constituted in language,” and this temporal, rhetorical construction creates an “illusion” of an “unified and unproblematic subjectivity” that is ahistorical in nature.<sup>163</sup> Thus, the new rhetorical construction of Mexican border-crossers as national threats in the 1930’s erased any historical evidence of their previous inclusion in the national narrative.

Just as selective immigration policy had served as a mechanism by which to legitimize the narrative of exclusionary nationalism, strategies of internal enforcement furthered the institutionalization of this exclusive narrative while simultaneously constituting the Mexican immigrant as a national threat. Internal enforcement differed from selective immigration policy in that it focused its control within the country’s territorial borders. Whereas selective immigration policy targeted those with the potential to enter the country, internal enforcement directed disciplinary tactics on subjects already residing in the United States. In the case of the 1930’s labor crisis in the American Southwest, the government instituted its largest strategy of internal enforcement to date: the Mexican Repatriation Drive. The Mexican Repatriation Drive was a government sponsored campaign that encouraged and forcibly removed Mexican immigrants from the United States in an attempt to lessen the amount of economic competition. Although all

Mexican immigrants and their descendents were victims of the Mexican Repatriation drive, those immigrants who had entered the country illegally became the primary targets of internal enforcement tactics.<sup>164</sup> Such tactics included raids, mass deportations, inspections, and public arrests; however, it was the tactic of criminalizing the Mexican immigrant that achieved the most rhetorical prominence.<sup>165</sup>

Racist, xenophobic, and classist discourses of fear triggered the Mexican Repatriation Drive, remaking the Mexican immigrant as inherently criminal to validate his or her deportation. Historian Tomás Summers Sandoval notes that prior to the 1930's, the term "illegal immigrant" was reserved for Asian and southern and eastern European immigrants who encountered more barriers to legal entries because of their perceived threat to American cultural homogeneity; however, in the 1930's a rhetorical shift took place when White workers felt increasingly threatened by the number of Mexican laborers entering the United States, and the term "illegal immigrants" expanded to meet local demographics and concerns of "Mexican overpopulation."<sup>166</sup> This racial (re)articulation of the illegal immigrant as being Mexican occurred alongside the growth of classist fears regarding economic strife and unemployment, resulting in the rhetorical construction of the Mexican immigrant as inherently "disobedient" and "dangerous" to the Anglicized national narrative.<sup>167</sup> Although most Mexican immigrants were not dangerous, Foucault contends that the power in criminalizing subjects lies not in the level of the subject's actions or actual violations of the law, but "at the level of the behavioral potentialities [the criminal] represented."<sup>168</sup> Simply the potential that a subject could act criminally is enough to justify that subject's discipline; therefore, the discipline of the entire population of Mexican immigrants was validated through their possible

criminality. Through the act of criminalizing, policymakers made rhetorical connections between “Mexican” and “criminal” such that all Mexican immigrants, legal and illegal, were constructed as inherently criminal. Rhetorician Lisa Flores argues the “catch-all term ‘criminal’ allows the criminal nature of Mexicans to be tapped whenever rhetorically needed, constituting Mexicans as potentially significant threats.”<sup>169</sup> Discourses of fear, then, became powerful disciplinary techniques that “[reduced] the [Mexican] body to a ‘political force,’” forever defining it as disobedient to the obedient White citizen, and consequently, disobedient to the national narrative.<sup>170</sup> Thus, the internal enforcement of the Mexican Repatriation Drive institutionalized narratives of fear rooted in racism, xenophobia, and classism while constituting the “problem” of illegal immigration as a Mexican problem and excluding these “conquered natives” from the national narrative.<sup>171</sup>

Just as policymakers used exclusionary nationalist discourses of fear to exclude Mexicans in the 1930’s, they constructed Japanese residents as latent threats to the security of the nation. The 1941 Japanese attack on the U.S. naval base Pearl Harbor in Hawaii ignited a new wave of Yellow Peril characterized by racist, xenophobic, and classist discourses that constructed Japanese residents as targets of internal enforcement. The onset of WWII sparked a resurgence of xenophobic discourses of fear concerned with safeguarding the “welfare and security” of the nation from the potential “sabotage” of all non-White Communist “Others,” and Asians became the scapegoats for this American anxiety.<sup>172</sup> Policymakers capitalized on discourses of fear by alluding to a potential government take-over by Japanese residents and creating a widespread feeling of distrust towards the racial group. This suspected disloyalty of Japanese residents

provides the context for understanding how the mass internment of Japanese immigrants and citizens alike was achieved through the implementation of Executive Order 9066, an order made by President Franklin D. Roosevelt mandating the forced evacuation and internment of over 120,000 Japanese residents into military internment camps across the United States until the war ended.<sup>173</sup>

The racial targeting of Japanese residents by E.O. 9066 mirrored the same strategy of criminalization under the guise of national security previously used against Mexican laborers. In the order, Roosevelt stated,

Whereas the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense . . . therefore . . . I hereby authorize . . . the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave.<sup>174</sup>

Roosevelt gave the U.S. military complete control over the allocation and management of all military areas, thereby approving the removal of Japanese residents from West Coast communities for the purpose of “protection against espionage and against sabotage.” This order constituted Japanese residents as potential traitors, calling their loyalty to the state into question to justify their discipline. Furthermore, the Select Committee Investigating National Defense Migration validated the internment of all Japanese residents, including citizens, by stating, “Loyalty is a characteristic that cannot be measured with a yardstick, and between the obviously loyal and obviously disloyal will fall many cases lacking positive evidence one way or the other.”<sup>175</sup> The inability to measure loyalty constituted suspicion in the minds of policymakers; therefore, Congress faced little opposition when they called for the elimination of “all elements dangerous to the security and well-being

of the Nation,” even though innocent people would inevitably be marked with the “badge of the traitor.”<sup>176</sup>

The discourses of loyalty used to justify E.O. 9066 and uphold the dominance of the exclusionary nationalism were inherently racist. Though Germany and Italy were also enemies of the war, residents of German and Italian heritage were not subject to the internment Japanese residents faced because the physical racial features that had been used in exclusionary discourse to proclaim the inferiority of Asian peoples could readily identify Japanese. Policymakers targeted only those Germans and Italians suspected of having connections to the war, arresting and trying the offenders individually. On the other hand, in the same way the state targeted all persons of Mexican heritage (including U.S. citizens) for deportation in the 1930’s, Japanese residents were disciplined as a racial mass whether or not they had been involved in suspicious activities. Earl Warren, the attorney general of California, explained this difference in treatment, “We believe that when we are dealing with the Caucasian race we have methods that will test the loyalty of them. . . . But when we deal with the Japanese we are in an entirely different field and cannot form any opinion that we believe to be sound.”<sup>177</sup> Warren’s remarks represented policymakers’ racist constructions of Germans and Italians as White, sanctioning their more liberal treatment over the Japanese non-White “Others.” By making a rhetorical connection between national loyalty and race, policymakers supported the exclusion of racial “Others” from participation in the national narrative and justified their control by the state. Thus, the internment of thousands of Japanese residents during WWII exemplified the racist discourses of exclusionary nationalism, confirming the xenophobic narratives of Yellow Peril as rhetorical strategies for creating policy.

In addition to justifying the internment of thousands of Japanese residents during WWII, racialized discourses of national loyalty legitimized rhetorical strategies of assimilation and constituted Japanese bodies as powerless sites of government control. Foucault argues that wartime politics focus on reinscribing “the relationship of force” of the dominant nation within “institutions, economic inequalities, language, and even the bodies of individuals.”<sup>178</sup> In the case of the United States during WWII, the government administered this relationship of force through the creation of the War Relocation Authority (WRA), a civilian agency under the Department of the Interior charged with the “mass social engineering” of loyal Japanese residents through strategic “rehabilitative” activities of assimilation.<sup>179</sup> These activities included classes, seminars, trainings, recreational activities, and required labor duties that were meant to encourage an understanding of American democratic self-government, education, and employment as well as to instill a sense of loyalty to the American nation. To justify these practices of racial and national “rehabilitation,” the WRA infantilized Japanese residents, calling them “racial children in need of democratic tutelage” in order to fully assimilate into mainstream society upon their release.<sup>180</sup> These racist discourses reinforced the dominant position of the paternal White state over the subordinate, non-White Japanese resident, making the Japanese body a rhetorical pawn in the enforcement of power relations and the maintenance of exclusionary nationalism.<sup>181</sup>

The emphasis on the rhetorical relationship between national loyalty and assimilation continued into the next decade as the onset of the Cold War brought with it a renewed fear of the political “Other.” Previous xenophobic discourses constituting rhetorical enemies in both Mexican and Japanese residents reinforced the discursive



strategy of “Othering” all populations considered threatening to the Anglicized national narrative, including those deemed to be ideological enemies of the state.<sup>182</sup> This rhetorical strategy was widely used during the 1950’s when the United States government sought to create rhetorical enemies out of Communists who supported an ideology deemed menacing to Anglo-Saxon democratic values. In an effort to control the influence of Communism, democrat Senator Pat McCarran of Nevada began an extensive review of immigration policies to ensure the continued exclusion of “aliens who would seek to overthrow [the] present government by force or violence.”<sup>183</sup> This two and a half year investigation was driven by racist and xenophobic discourses of fear that “Othered” suspected Communists under the guise of national security, resulting in the reinforcement of the Anglo-Saxon privileged position as the narrator of American nationalism through the passage of the Walter-McCarran Act of 1952.<sup>184</sup>

Senator McCarran capitalized on the widespread fear of Communist subversives to justify the maintenance of the racist system of quotas based on national origins through the passage of the Walter-McCarran Act of 1952. Through exclusionary nationalist discourses, McCarran moved forward his agenda of continuing selective immigration policies by playing on the deeply held fears policymakers held against Communism. He claimed the bill would “weed out subversives and other undesirables,” protecting the democratic nation against Communist takeover.<sup>185</sup> He argued that unrestricted immigration was a threat to national security and that immigrants were a “stream of humanity [flowing] into the fabric of our society” that, if “polluted” with Communist ideals, would have the potential to “infect” American institutions and way of life.<sup>186</sup> Mirroring turn of the century nativist discourses of Yellow Peril and eugenics,

McCarran's use of bodily metaphors likened Communist immigrants to diseases that, if left untreated, would contaminate the cultural homogeneity of the American national identity and threaten the narrative dominance of exclusionary nationalism.

McCarran's subcommittee reinforced the institutional dominance of exclusionary nationalism by promoting the current system of national origins quotas. When testifying before Congress, they were careful not to point to the fact that the original 1924 national origins system was rooted in notions of Nordic supremacy because the concept of racial hierarchies was now considered faux pas among many policymakers; therefore, McCarran's committee reverted to the "objectivity" of the quotas, claiming the national origins system "provided a fixed and easily determinable method for controlling immigration which is not subject to the whims and caprice of administrative interpretation."<sup>187</sup> Although McCarran was strategic to avoid any racialized arguments for the Act, his true intentions were revealed when he was asked whether or not unused quotas should be reallocated to countries under-utilizing their quotas such as southern and eastern Europe. McCarran responded, "If we scrap the national origins formula, we will, in the course of a generation or so, change the ethnic and cultural composition of this Nation."<sup>188</sup> McCarran's reply emulated 1920's nativist discourses focused on protecting the Anglo-Saxon position of privilege, and despite opposition from anti-restrictionists McCarran's subcommittee kept the national origins quota system intact in the 1952 Act.<sup>189</sup> This preservation of the national origins quota system in the first major review of U.S. immigration policy since the turn of the century upheld assimilationist, racist, xenophobic, and classist discourses as strategies for policy making, promoting the narrative dominance of exclusionary nationalism.<sup>190</sup>

The rhetorical process of “Othering” within the narrative of exclusionary nationalism continued as policymakers expanded the relief given to refugees fleeing Communist persecution through refugee policies that embodied nativist agendas of maintaining White power. In a letter to Senate president Richard M. Nixon, President Dwight D. Eisenhower called for emergency legislation aiding refugees who had “braved death to escape from behind the Iron Curtain . . . searching desperately for freedom [and looking] to the free world for haven.”<sup>191</sup> Just as the Founding Fathers favored the Anglo-Saxon national narrative over all others, Eisenhower rhetorically privileged the United States as a “haven” for those escaping Communism. The Senate responded to Eisenhower’s request by passing the Refugee Relief Act of 1953, the Refugee-Escape Act of 1957, and the Fair Share Refugee Relief Act of 1960, all of which validated the United States’ claims about the “evils of Communism” and the “desirability of capitalism” by favoring those fleeing from Communist countries.<sup>192</sup> In fact, the Refugee-Escape Act of 1957 highlighted this bias by defining refugees as “victims of racial, religious, or political persecution fleeing Communist or Communist-occupied or -dominated countries, or a country in the Middle East.”<sup>193</sup> These policies strengthened the binary of power relations between the White “free world” and the non-White Communist oppressed, and since power is only understood within the context of opposition, the passage of the refugee relief acts granted the American national narrative rhetorical dominance as a consequence of the other nations’ weaknesses.<sup>194</sup> The implementation of these refugee acts upheld the culturally and economically informed image of the United States as enlightened and progressive in comparison to the immigrant’s oppressive home

country, thereby reinforcing the dominance of exclusionary nationalism through the marginalizing the non-White immigrant “Other.”<sup>195</sup>

Policymakers from the 1930’s to the 1950’s reinforced the assimilationist, racist, xenophobic, and classist discourses of the 1920’s by instituting new mechanisms of internal enforcement as well as extending the use of the national origins quota system to restrict immigration. They legitimized these policies by “Othering” undesirable immigrants as rhetorical enemies of the state, justifying their discipline under the auspices of protecting the American national narrative. The consequences of juxtaposing obedient White democratic American and disobedient non-White immigrant “Other” validated selective immigration and internal enforcement as the primary mechanisms by which to promote exclusionary nationalism. Furthermore, it inscribed a permanent inferior status for the immigrant “Other” within the rhetorical system of national power relations. This pattern of exclusivity continued over the next several decades as concerns regarding illegal immigration into the United States increased, pressuring the state to regain control of its territorial borders. The following section investigates late twentieth century rhetorical shift towards controlling undocumented immigration via exclusionary nationalist narratives of surveillance.

### **Constructing Undocumented Immigrants as “Marked Populations”: Border Control, Tracking, and Surveillance from 1980-1990**

During the last half of the twentieth century, classist narratives of exclusionary nationalism collided with a renewed focus on national security as policymakers focused on securing the “porous” territorial borders and taking control of the “problem” of illegal immigration.<sup>196</sup> The quotas of the 1950’s failed to meet the needs of Latin American

immigration, and thousands of immigrants determined to pursue economic opportunity in the United States were unable to obtain legal documents due to restrictive quotas; therefore, they were left no choice but to cross the border illegally if they wanted to work in the United States.<sup>197</sup> This pattern of illegal immigration steadily increased over the next several decades, contributing to heightened classist anxieties during the economic decline of the 1970's and sparking a reaction among anti-immigrant activists to stop the immigrant "invasion."<sup>198</sup> A 1974 report submitted by the Committee on Government Operations warned against failing to control "the massive infusion of illegal aliens" because they would inevitably "displace Americans from jobs" and "place heavy burdens on . . . education, welfare, and health services," ultimately jeopardizing the strength of the nation.<sup>199</sup>

These classist discourses continued in 1976 when the Immigration and Naturalization Services (INS) commissioner Leonard Chapman spoke of the "vast and silent invasion of illegal immigrants" that threatened the working class.<sup>200</sup> Rhetorical scholar Otto Santa Ana argues the invasion metaphor is part of the domain of war and likens the subject to an "organized attack by armed forces with the objective of taking over a region or country."<sup>201</sup> Influenced by the ending of the Cold War, policymakers redirected former security narratives focused on protecting the nation from a Communist take-over to classist narratives constituting illegal immigration as an aggressive, organized campaign "invading" working class America.<sup>202</sup> Just as Mexican immigrants were targets of classist discourses during the 1930's Mexican Repatriation Drive, immigrants crossing the U.S.-Mexico border illegally over fifty years later were constructed as threats to national security and stability.

To stop the “invasion” of undocumented immigrants, policymakers in the 1980’s and 1990’s used xenophobic and classist discourses of exclusionary nationalism to define these untraceable immigrants as a “security problem” and to justify the increase of state control over the territorial border.<sup>203</sup> Political scholar Ronnie D. Lipschultz argues “security . . . is meaningless without an ‘other’ to help specify the conditions of insecurity.”<sup>204</sup> In the case of immigration, policymakers defined “insecurity” through the “Othering” of undocumented immigrants, thus validating the increasing of border security to control these unwanted border crossers.<sup>205</sup> For example, a 1981 report submitted by the Select Commission on Immigration and Refugee Policy (SCIRP) criminalized undocumented immigrants as a “fugitive underground class” that would cause “unhealthy” effects on society and the economy if left uncontrolled.<sup>206</sup> The report’s xenophobic discourse summarized the “pernicious effects” this “uncontrolled hemorrhage of people” by stating,

Most serious is the fact that illegality breeds illegality. The presence of a substantial number of undocumented/illegal aliens in the United States has resulted not only in a disregard for immigration law but in the breaking of minimum wage and occupational safety laws, and statues against smuggling as well. As long as undocumented migration flouts U.S. immigration law, its most devastating impact may be the disregard it breeds for other U.S. laws.<sup>207</sup>

Similar to the bodily metaphors used to the characterize previous waves of unwanted Chinese immigrants at the turn of the twentieth century, the language used by SCIRP dehumanized undocumented immigrants by constructing their illegality as a uncontrollable breeding entity capable of consuming all of U.S. law. This xenophobic metaphor defined undocumented immigrants as dangerous “animals” requiring state control rather than as human beings seeking economic opportunity. Foucault argues such dehumanization is a form of bio-power by which the people are distributed along a

continuum of “value and utility” so that those in power may “hierachize” society to their advantage.<sup>208</sup> By relegating undocumented immigrants to the category of animals, policymakers ensured their subordinated status. Additionally, SCIRP’s report portrayed undocumented immigrants as economic threats that intentionally “break” wage and safety laws, ignoring the state’s role in allowing the systematic exploitation of these untraceable laborers by employers. SCIRP’s depiction of undocumented immigrations as lawless, breeding “animals” relegated them to a position of powerlessness and stripped them of the political agency to resist Congress’ closing of the “half-open door of undocumented/illegal migration” through increased border security and tracking mechanisms.<sup>209</sup>

The classist and xenophobic narratives of SCIRP’s report incited fear in policymakers, redirecting their focus on the territorial borders and placing the primary site of state control at the locations where illegal entries occurred. SCIRP pushed their border control agenda forward by creating a sense of urgency to the problem of illegal immigration, warning policymakers that failing to “reduce illegal entries sharply” would result in “grave” social costs.<sup>210</sup> These exclusionary nationalist narratives of security charged policymakers with controlling the border and influenced a large-scale overhaul of border security, placing “faith in the power of technology and manpower to guide and regulate international borders” and encouraging the borrowing of militarized solutions to bring America’s borders “under control.”<sup>211</sup> Anthropologist Josiah McC. Heyman draws from Foucault to argue that policymakers constitute the border as a “locus and means of [state] domination” over “criminalized aliens,” establishing the border as a “modern expertise of creating and tracking a marked population.”<sup>212</sup> SCIRP’s report set a

precedent for immigration reform debates for the next two decades that concentrated on tracking the “marked population” of immigrant “fugitives,” eventually leading to the passage of both the Immigration Reform and Control Act (IRCA) of 1986 and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996.<sup>213</sup>

The IRCA and the IIRIRA institutionalized the classist and xenophobic discourses of exclusionary nationalism circulating in Congress, continuing to see undocumented immigrants as threats requiring increased surveillance and control. The IIRIRA mandated “an increase in the border patrol and other inspection and enforcement activities . . . in order to prevent and deter the illegal entry of aliens,” allocating over 400 million dollars to border security, hiring and training more border patrol officers, installing sensor systems, increasing the number of search planes and helicopters, and building detention cells.<sup>214</sup> Following suit, the IIRIRA instituted the deployment of “border patrol agents in those areas of the border identified as areas of high illegal entry . . . in order to provide a uniform and visible deterrent to illegal entry.”<sup>215</sup> To accomplish this “uniform and visible deterrent,” the IIRIRA increased the number of border patrol officers to 10,000 and expanded the use of existing technologies, contributing to an increase of \$1.5 billion spent on border control in 1994 to \$3.9 billion in 1999.<sup>216</sup> These tactics were celebrated by policymakers as having “moved the Border Patrol into the 21<sup>st</sup> century of law enforcement . . . [enabling] field managers to more effectively apprehend and accurately track the crossing patterns of illegal entrants.”<sup>217</sup> As a result, little space remained for “illegal entrants” to resist state discipline.

Foucault argues that such complex and visible systems of technology are implemented solely for the purpose of reinforcing the position of the nation-state as a



“super-power” over its trackable subjects.<sup>218</sup> In the case of the U.S.-Mexico border, the “super-power” of the United States demonstrated its strength through the militarization of the border and the implementation of technologies focused on disciplining the illegal immigrant body. The act of locating the problem of immigration at the border simultaneously institutionalized and rationalized the discourse of disobedience attributed to illegal immigrant bodies because their immigration could be viewed as a direct violation of the law.<sup>219</sup> Furthermore, these narratives of disobedience surrounding undocumented immigrants legitimized the use of technologies to seal the most popular points of illegal entry, redirecting the flow of illegal immigration through the treacherous deserts of Arizona and increasing the risk of immigrant deaths.<sup>220</sup> Sociologist Wayne Cornelius argues the increased physical risk of crossing the border should not be treated as an “unintended” consequence of tightened border security since this risk is an “integral part of INS’ ‘prevention through deterrence’” strategy; therefore, the risk of death became yet another technology of control exerted over the immigrant body.<sup>221</sup>

The xenophobic and classist narratives of national security influencing the immigration policies of the 1980’s and 1990’s constructed the border as a site to regain control of undocumented immigration and constituted the illegal immigrant as a powerless object in need of discipline and undeserving of participation in the national narrative. The rhetorical consequences of this control reified the state as the ultimate authority over its subjects within the post-Cold War era, continued the exclusion of lower class, non-White undocumented immigrants from the American national narrative, and legitimized the use of disciplinary technologies to control those “Othered” by discourses of exclusionary nationalism. These patterns continued through the turn of the twenty first

century when the terrorist attacks of September 11, 2001, ignited the spread of exclusionary nationalist discourses constructing immigration policy as the ultimate safeguard of national security. The following section examines the xenophobic and racist narratives of exclusionary nationalism dominating the debate on immigration after the attack on the World Trade Center towers and the Pentagon in 2001, and how these narratives influenced the creation of sophisticated tracking systems of the PATRIOT Act that further reduced the political and social power of the non-White immigrant body.

### **Constituting Terrorists through Immigration Policy: The Rhetorical Creation of the Terrorist Enemy and Narratives of Defense after September 11, 2001**

At the turn of the twenty first century, narratives focused on loosening immigration restrictions briefly surged with the spread of the worker's justice movement and the liberalized, pro-immigrant agenda of labor unions. However, the growing influence of these narratives on immigration policy came to a sudden halt after the terrorist attacks of September 11, 2001, sparked an international anti-terrorism campaign.<sup>222</sup> After September 11<sup>th</sup>, the national narrative dramatically shifted to protecting the United States from the enemy that attacked the Twin Towers of the World Trade Center and the Pentagon.<sup>223</sup> Attorney General John Ashcroft summarized this rhetorical shift when he spoke to the Senate Committee just days after the attack. "This new terrorist threat to Americans on our soil is a turning point in America's history. . . . Our fight against terrorism is not merely or primarily a criminal justice endeavor—it is defense of our nation and its citizens."<sup>224</sup> Ashcroft's emphasis on defending the nation against the threat of terrorism marked the turning point in U.S. history when racist,

xenophobic, and fear-driven narratives of national security against a terrorist enemy dominated the discourses of policymakers.

In the wake of September 11<sup>th</sup>, members of President George W. Bush's administration used racist and xenophobic narratives to create a sense of urgency for increasing border security, rhetorically constituting an invisible terrorist enemy to legitimize the immediate implementation of policies focused on surveillance, discipline, and control. Rhetoricians David Domke, et. al. argue that presidential administrations strategically "dominate public discourse" after a national crisis, controlling all information disseminated to Congress and the public in order to "foster support for, and adoption of, government policies."<sup>225</sup> Much like President Roosevelt's administration played off of public fears after the attack on Pearl Harbor to justify the internment of thousands of Japanese residents, Bush's administration capitalized on the fear of future acts of terrorism, encouraging political solidarity against Muslim extremists and swaying policymakers to enforce some of the most restrictive policies to date in the name of the "War on Terrorism." In his address to "Congress and the American people," Bush spoke of the "enemies of freedom" who "kill not merely to end lives" but to "disrupt and end a way of life."<sup>226</sup> He went on,

The terrorists practice a fringe form of Islamic extremism . . . that perverts the peaceful teachings of Islam. The terrorists' directive commands them to kill Christians, Jews, to kill all Americans, and make no distinction among military and civilians, including women and children. . . . They are the heirs of all the murderous ideologies of the 20<sup>th</sup> century.<sup>227</sup>

Bush's racially-based rhetoric juxtaposed the innocent, rational American people against the radical, dishonest, and dangerous Islamic enemy. He likened them to savages

“sacrificing” lives for their violent ideologies, distancing them from the civilized Christian world.<sup>228</sup>

Furthermore, President Bush racialized the terrorist enemy as inherently Arab, constructing a rhetorical image of terrorists as being the newest model of non-White racial “Others” threatening the dominant White American narrative. Bush’s rhetorical strategy of “Othering” was not only meant to persuade Congress to support efforts to strengthen national security (and, by extension, fund the “War on Terror”), but also to reestablish the dominant position of American national narrative (as well as his presidency) as a symbol of all that is good and virtuous.<sup>229</sup> By juxtaposing the White American national narrative against the “dark and evil” Islamic narrative, Bush created a terrorist enemy worthy of discipline, requiring surveillance, and deserving control. Bush’s narrative of political solidarity left little room for policymakers to negotiate alternative narratives in response to the crisis of September 11<sup>th</sup>, and policymakers were forced to stand with the president in pursuing his administration’s agenda to avoid being labeled “hazardous and unpatriotic.”<sup>230</sup> The timing and context of this racist, xenophobic, fear-driven rhetorical strategy inevitably resulted in the overwhelming passage of controversial and restrictive Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, commonly referred to as the PATRIOT Act, just six weeks after the attacks on September 11<sup>th</sup>.<sup>231</sup>

The exclusionary nationalist narratives expressed within the expedited Congressional hearings of the PATRIOT Act blurred the rhetorical division between foreign nationals and terrorists. Though policymakers stated the importance of continued immigration into the United States, many of them constructed the border and its crossers

as potential sites for danger. Senate Chairman Edward M. Kennedy (D-MA) stated in the opening testimony, “Strengthening the security of our borders is an indispensable part of this Nation’s effort to prevent future terrorist attacks. We must develop policies and enact laws that meet the serious security threats we face from abroad.”<sup>232</sup> Senator Sam Brownback (R-KS) added to Kennedy’s comments when he stated, “The terrorist attacks of September 11<sup>th</sup> have unsettled the public’s confidence in our Nation’s security . . . clearly, our immigration laws and policies are instrumental to the war on terrorism. While the battle may be waged on many fronts, for the man and woman on the streets immigration is the front line.”<sup>233</sup> Both Kennedy and Brownback framed border control as a weapon of war against terrorism. They argued that failing to secure the border would inevitably lead to a future terrorist attack. This rhetorical construction of the border as an indispensable weapon of national security automatically constitutes the 31 million foreign nationals legally entering the United States as possible terrorists.<sup>234</sup>

By placing the border at the heart of the war on terrorism, the rhetorical distinction between immigrant and terrorist collapses since both traverse the border; therefore, both require discipline and control. Ashcroft championed a strict approach to control when he stated to Congress, “We cannot wait for terrorists to strike to begin investigations and make arrests. The death tolls are too high, the consequences too great. We must prevent first, prosecute second.”<sup>235</sup> He supported the arrests and detainment of suspicious immigrants, whether or not proof of their criminality existed. Foucault argues this “[tactic] of intervention over all criminals, actual or potential” is based upon the power relations between the state and the delinquent immigrant body, ultimately leading to “the objectification of criminals and crimes,” real or imagined, by the dominant

state.<sup>236</sup> All immigrants, then, were constituted as suspects of terrorism in order to legitimize the state's increased control over their movements, resulting in the implementation of the sophisticated electronic tracking and reporting systems such as those outlined in the PATRIOT Act.<sup>237</sup>

As a result of the increased internal enforcement instituted in the PATRIOT Act, Arab and Muslim immigrants were objectified by racially informed narratives of exclusionary nationalism and victimized by state-sanctioned acts of racial profiling. A reporter on race relations, Harriet Barovick defines profiling as “police practicing of viewing certain characteristics as indicators of criminal behavior.”<sup>238</sup> Racial profiling, then, is the practice of using racial characteristics to define criminal behavior. Just as Japanese residents were victims of racial profiling after the attack on Pearl Harbor, Arabs and Muslims were profiled as potential terrorists by the state. Though policymakers did not outwardly define terrorists as Arabs or Muslims, the fact that the hijackers of September 11<sup>th</sup> were Arab immigrants representing a Muslim extremist ideology constituted a public image of terrorism as inherently Middle Eastern. This shared image of terrorism influenced anti-Muslim backlash, countering Congress' condemnation of discrimination towards Arabs and Muslims in H.Con.Res.227 and contributing to more than 60,000 cases of racial profiling against Arab or Muslim individuals in the year following the terrorist attacks.<sup>239</sup> The historical parallels between the profiling of Japanese residents during WWII and the criminalization of Arabs and Muslims in the wake of September 11<sup>th</sup> demonstrate the continued dominance of exclusionary nationalism, suggesting the White American national narrative set forth by the Founding Fathers will maintain its position of political power for decades to come.

In the nine years following September 11<sup>th</sup>, the institutionalization of exclusionary nationalism via immigration policy has become a more localized phenomenon. Sociologist Robyn Rodriguez argues that the PATRIOT Act marked a trend toward the “securitization” of migration through the “interiorizing” and “localizing” of immigration enforcement.<sup>240</sup> The securitization of migration rhetorically constructs the immigrant as a disobedient object under surveillance, disciplining their bodies not only via check points, computer tracking systems, and documentation, but also by their rhetorical positioning as a perceived threat to American society in need of such tough surveillance. This process of securitization is further normalized as the state encourages ordinary U.S. citizens to report “suspicious activity” to local and state officials.<sup>241</sup> Over the past decade, many citizens have taken this charge, including the Minutemen who pledge to “use every legal means at [their] disposal to assist law enforcement authorities in identifying and apprehending those who violate our borders.”<sup>242</sup> This trend towards interiorizing and localizing immigration enforcement has also influenced a string of restrictive policies enacted at the state level including California’s Proposition 187 in 1994, Arizona’s Senate Bill 1070 in 2010, and increasing partnerships between Immigration and Customs Enforcement (ICE) and local law enforcement in counties participating in 287(g). Such policies aimed at limiting access as well as identifying and deporting undocumented immigrants are rooted in over two hundred years of assimilationist, racist, xenophobic, and classist narratives. As a result, United States immigration policy in the twenty first century continues to legitimize anti-immigrant rhetoric, widen social divisions between legal and illegal immigrants, and codify the exclusion of unwanted (undocumented) immigrants from the American national narrative.

## Conclusion

The rhetorical and ideological dominance of exclusionary nationalism and its four key features—assimilationism, racism, xenophobia, and classism—has shaped Congressional discourses and influences exclusive immigration policy, resulting in the maintenance of American nationalism’s privileged position. Consequently, the objectification of non-White immigrant “Others” through mechanisms of surveillance of control has remained a reoccurring tactic for maintaining power relations throughout U.S. history. This objectification has systematically excluded non-White immigrants from the national narrative and relegated them to a position of permanent social and political inferiority.

The constitutive subordination of non-White immigrant “Others” within the American national narrative has real material consequences for those marginalized. Social hierarchies are structured in a way to provide those in power certain “favorable outcomes” including material goods, access to resources, life chances, social and economic status, individual autonomy, and ideological privileging.<sup>243</sup> The rhetorical and institutional exclusion of immigrant “Others” from the national narrative has denied them access to these favorable outcomes, perpetuating their subordination in a hierarchical society that privileges the elite few. Furthermore, their marginalization from the public sphere prevents non-White immigrant “Others” from forming politically relevant counternarratives to resist the dominant rhetoric of exclusionary nationalism. Thus, the institutionalization of exclusionary nationalism through policy constitutes an indestructible hierarchical system of race and class relations in the United States that privileges White elitists over non-White immigrant “Others.”



Through a historical and rhetorical exploration of how the American national narrative has been strategically constituted by policymakers via exclusionary nationalist discourses, and then institutionalized through restrictive immigration policy focused on controlling the immigrant body, I have set the stage for an investigation of my primary case study: the American DREAM Act. The following chapter provides a comprehensive analysis of the contemporary testimonies surrounding the DREAM Act. Using a 2007 hearing before the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, I consider the following questions: *What are the major rhetorical themes and patterns used by supporters and opponents of the DREAM Act? How do these themes and patterns (re)construct the meaning of the immigrant, and for whom is it (re)constructed? What are the political consequences of this (re)construction?*

Through an exploration of the testimonies provided by supporters of the DREAM Act, I argue that subordinated immigrant “Others” and their political allies fail to challenge the narrative dominance of exclusionary nationalism and, instead, reify the rhetorical power of assimilationist, racist, xenophobic, and classist discourses within the public debate on immigration reform. Additionally, I argue policymakers who oppose the DREAM Act exemplify over two hundred years of exclusionary nationalist discourses and preserve an elitist definition of American identity that excludes unwanted immigrants from its purview. Finally, I conclude the project with an analysis of the larger scale rhetorical and material consequences of the narratives surrounding the DREAM Act, suggesting new rhetorical strategies for immigrant “Others” who wish to challenge their marginalization from the national narrative and incite long term social change.

## Chapter Two

### Resisting and Reinforcing Exclusionary Nationalism in the DREAM Act Debates

On November 10, 2010, a dozen students dressed in high school graduation caps and gowns gathered at the University of Texas at San Antonio to declare a hunger strike and to urge the passing of a federal bill that would provide a path to legal status for undocumented immigrant youth.<sup>244</sup> Since 2001, student-led groups around the country have fought for the passage of the Development, Relief, and Education of Alien Minors Act, or DREAM Act, a bill that would provide a path to legal status for thousands of undocumented immigrant youth who have been raised in the United States. “It’s been 10 years and we are still here struggling and fighting,” said Claudia, a University of Texas at San Antonio student hoping for a path to legal status. “We are tired that our voices have not been heard.”<sup>245</sup> Claudia is one of thousands of young immigrants struggling to have her voice heard in a public sphere that privileges the White political elite. If it were to pass, the DREAM Act would break down institutionalized barriers to citizenship for undocumented immigrant youth who are currently excluded from the American national narrative. The possibility of the bill’s passage has spurred national debate over the definition of “American,” allowing undocumented youth like Claudia the possibility to challenge the hegemonic definition of citizenship and resist the exclusivity of the American identity.

As demonstrated in chapter one, the American national identity is constituted by the dominant narrative of exclusionary nationalism. Through assimilationist, racist, xenophobic, and classist discourses of exclusionary nationalism, policymakers of Anglo-

Saxon heritage narrate an American identity that privileges the White elite over the marginalized non-White “Other.” Historian Benedict Anderson explains that nations are “imagined communities” in which the political elite strategically constitutes an illusionary “American people” that is Anglicized in its heritage and upper class in its status in order to maintain their privileged position of power.<sup>246</sup> In the case of immigration, policymakers make up the political elite and have used law to preserve the dominance of their homogenous national narrative, making immigration policy a “culture of argument” that reifies the dominant narrative of exclusionary nationalism.<sup>247</sup> This institutionalization of exclusionary nationalism rhetorically constructs a dominant hegemonic public favoring the narratives that strengthen the Anglo-Saxon national identity while subordinating the narratives of non-White immigrant “Others” that threaten this homogenous ideal.

The notion of the hegemonic public is first and foremost ideological. It assumes its own dominance and perpetuates its own power by institutionalizing the terms of political discourse. Philosopher Jürgen Habermas explains that in the emergence of the modern state, the “line between state and society . . . divided the public sphere from the private realm” and constituted the state and the court as “public authority” over the familial, personal, and private domain.<sup>248</sup> By “defining what is ‘political’ in the discourse sense” through policy, the state has maintained its privileged position as a dominant public and reinforces the exclusion of the private sphere.<sup>249</sup> Rhetorician James Boyd White contends that the exclusion of the personal from the political often goes unnoticed. He states, “Whatever cannot be talked about in these bureaucratic ways is simply not talked about . . . this kind of bureaucratic talk is largely unself-conscious about what it

excludes. The world it sees is its whole world.”<sup>250</sup> Thus, the state remains the official site for political debate, participation, and opinion formation whereas the private sphere is exiled to a nonpolitical, personal domain.

Foucault’s concept of “subjugated knowledge” is central to the study of marginalized personal narratives and their ability, or inability, to challenge the state’s hegemonic public. This “disqualified . . . insufficiently elaborated . . . naïve . . . hierarchically inferior” knowledge makes up the experiences of the subordinated.<sup>251</sup> The state suppresses the public expression of subjugated knowledge because the seeming absence of dissent implies that silence is compliance; therefore, the state can suggest these groups are willing to participate in their own marginalization as well as justify the maintenance of unequal power relations.<sup>252</sup> Foucault suggests that the political elite fears these “nonlegitimized knowledges” because they question the validity of state’s hegemonic knowledge and challenge their position of power. As long as the state controls the terms of public discourse, it eliminates the possibility for marginalized groups to make their subjugated knowledge politically relevant, thereby maintaining the state’s privileged position of power. According to social scholar Bob Pease, the fears of the state are warranted because subordinated groups that are successful in resisting the state’s authority often do so through the “insurrection of subjugated knowledge;” whereas, those that fail in challenging their own oppression also fail in making their subjugated knowledge known.<sup>253</sup> Rhetorician Pierre Bourdieu adds to this argument, stating, “dominated individuals . . . cannot constitute themselves as a separate group, mobilize themselves or mobilize their potential power unless they question the categories of perception of the social order.”<sup>254</sup> Thus, the “insurrection of subjugated knowledge” is

essential to politically empowering marginalized groups who wish to challenge the status quo and bring about long-term social change.

In order to understand the possibility for marginalized immigrant groups to defy the oppressive “unitary theoretical instance that claims to be able to filter them, organize them into a hierarchy,” scholars must investigate the processes by which these groups both succeed and fail in challenging the state’s oppressive authority through the expression of subjugated knowledge.<sup>255</sup> Feminist scholars lead the charge in challenging the authority of institutional knowledge that subjugates all other knowledge.

Scholars such as Patricia Hill Collins argue that one’s personal, marginalized experience is ultimately political and encourage marginalized groups to expose social and scientific gender-biases through the expression of their subjugated knowledge.<sup>256</sup> Hill draws on Foucault’s concept that knowledge, or “truth,” is socially constructed; therefore, what is regarded by the masses as “truth” has political power and influence over societal norms.<sup>257</sup> Hence, the ability of subordinated immigrant groups to make their subjugated “truths” known and understood by the masses determines the extent to which they will be successful in challenging the status quo of exclusionary nationalism.

Viewing the political discourse surrounding immigration policy through a critical feminist lens, one finds the personal experiences of subordinated immigrants constitute a subjugated knowledge that challenges hegemonic notions of nation and citizenship. The features of this subjugated knowledge are constituted in the ways marginalized experiences depart from the dominant ideology of exclusionary nationalism. Feminist scholar Gayatri Chakravorty Spivak explains that subjugated knowledge is recognized only as a “deviation from an ideal;” therefore, in order for subjugated knowledge to be

realized, one must identify the knowledge, or narrative, defined as the norm.<sup>258</sup> In the case of immigration, the narrative of exclusionary nationalism—marked by its assimilationist, racist, xenophobic, and classist rhetoric—constitutes the normative national identity. Within this context, the subjugated knowledge of non-White immigrant “Others” is that which challenges the hegemonic notions of exclusionary nationalism that reserve the American identity for White elitists. Although the possibility for subjugated knowledge exists among immigrant groups, these groups may not always succeed in insurrecting this knowledge as politically relevant. Therefore, investigating the processes by which subordinated immigrant “Others” either fail or succeed in politicizing their truths, norms, and identities is essential to understanding the possibility for them to resist the narrative dominance of resist exclusionary nationalism.

In this chapter I explore the narratives employed by both supporters and opponents of the Development, Relief, and Education for Minors Act (DREAM Act), analyzing how these narratives maintain the narrative of exclusionary nationalism. Using Charland, Habermas, Foucault, and others, I analyze the rhetorical features found within the congressional testimony surrounding the DREAM Act, investigating the ways in which DREAM Act supporters and opponents adopt the dominant discourses of exclusionary nationalism when debating the bill. I argue that opponents of the bill control the terms of the debate by drawing on exclusionary nationalist notions of American identity, while supporters fail to politicize their subjugated knowledge in a way that would eradicate the narrative dominance of exclusionary nationalism and spur long term social change. In this analysis, I ask the following questions: *What are the major rhetorical themes and patterns used by supporters and opponents of the DREAM Act?*

*How do these themes and patterns (re)construct the meaning of the immigrant, and for whom is it (re)constructed? What are the political consequences of this (re)construction?*

My primary case study will be based on the congressional hearing held on May 18, 2007, regarding the future of undocumented students.<sup>259</sup> I begin analyzing the three main rhetorical themes within the testimony of supporters, demonstrating how their discourse reflects assimilationist, racist, xenophobic, and classist ideals. First, I explore the ways in which supporters uphold restrictive the ideology of assimilationism by framing the DREAM Act as a pathway toward integration into the American (White) culture. Secondly, I discuss how their testimony supports the classist construction of American exceptionalism, a concept that exists because of their own economic oppression. Finally, I argue supporters fail to liberate themselves from state control because they choose not to indict the society in which they desperately want to be included. Subsequently, I argue critics of the DREAM Act further delegitimize the rhetorical and political power of DREAM Act supporters by perpetuating the narrative dominance of exclusionary nationalism as the primary rhetorical frame for the public debate on immigration. Throughout this analysis, I make connections between the 2007 testimonies and the historical immigration debates highlighted in chapter one. The following section provides a brief congressional history of the DREAM Act, setting the stage for the rhetorical analysis of the 2007 hearing.

### **Challenging the Public Debate: Making Space for the DREAM Act**

Discourses of national security have dominated the public debate on immigration since the passage of the PATRIOT Act in 2001. In the decade following the terrorist attacks on September 11, 2001, the conservative agenda has focused on “all the measures

. . . designed to keep Americans safer," with much of the emphasis on border control, the apprehension and deportation of undocumented immigrants, and the preservation of American exceptionalism.<sup>260</sup> During his 2008 Presidential campaign, Senator John McCain (R-AZ), a primary leader in the public debate on immigration, emphasized the need to "secure our borders . . . because it's a matter of national security."<sup>261</sup> As the United States enters its 112<sup>th</sup> Congress, ten years after the infamous terrorist attacks, conservative legislators such as Senator Mike Johanns (R-NB) refuse to address other issues of immigration reform until we "fix the border problems."<sup>262</sup> Johanns believes "border security is important to the safety of U.S. citizens," claiming that "nobody can tell you who came over the border last night or if they're coming for unlawful purposes. That's a serious problem for a nation that's battling with terrorism."<sup>263</sup> By correlating border control with national security, McCain, Johanns, and like-minded policymakers have altered the rhetorical image of the terrorist from inherently Arab to illegal Southwest border crossers. Stemming from the hegemonic conflation of "Mexicans" with "illegal aliens," this anti-immigrant sentiment is disguised under the mantle of national security, upholding racial hierarchies of power and perpetuating the racialization of unwanted immigrants.<sup>264</sup> Consequently, these policymakers manipulate the public debate on immigration to center on national security in order to justify increased internal enforcement policies, leaving little rhetorical space for the highly subjugated and vulnerable Hispanic immigrant "Others" to challenge anti-terrorist discourses and liberate themselves from a position of powerlessness.<sup>265</sup>

The rhetorical construction of undocumented immigrants as national threats shifts the public debate on immigration inward, making internal enforcement a pillar of anti-



terrorist strategy while subordinating pro-immigrant policies. As a result of the increased attention on national security starting since 2001, forced removals of undocumented immigrants in 2009 reached close to 400,000 (only 128,000 of which were known criminals), demonstrating a dramatic increase from 200,000 removals in 2005 and 40,000 in 1995.<sup>266</sup> To justify this strengthening of internal enforcement, policymakers have coupled the framing of illegal border crossers as economic threats with fear rhetoric that claims that “uncontrollable” illegal immigrants are potential terrorists.

The coupling of immigration and terrorism was prevalent during a hearing on the 9/11 Recommendations Implementations Act. Representative Lamar Smith (R-TX) expressed his support of “the expansion of expedited removal” because “every day thousands of aliens enter the country illegally. . . . Potential terrorists will attempt to cross our land borders, and we should help the administration stop these terrorists from entering the United States.”<sup>267</sup> Representative Jim Sensenbrenner (R-WI) added that strong deportation laws are designed to “prevent terrorists from coming to our borders; or, if they get inside the United States, making sure that they do not game the system to be able to stay here and have the time to plot to do ill to America and its people and its values.”<sup>268</sup> Just as policymakers defined Mexican border crossers as criminals to justify the Mexican Repatriation Drive of 1930, Smith’s and Sensenbrenner’s statements used fear rhetoric to frame undocumented immigrants as dangerous terrorists. The intensification of these fear-driven, anti-terrorist discourses during post September 11<sup>th</sup> congressional debates have resulted in restrictive immigration measures such as the building of a fence along the U.S.-Mexico border and enhancing security technologies to deter and apprehend so-called “potential terrorists.”<sup>269</sup> As a consequence, immigrants

crossing the Southwest territorial border have become the primary targets of state control and are powerless to influence the public debate on immigration reform in a way that would challenge existing power relations.

In addition to constituting immigrants as threats to national security, many policymakers continue to frame undocumented immigrants as dangers to economic security. They draw on national narratives of prosperity, claiming that the “widespread availability of cheap labor” created by undocumented immigrants entering the country “[depresses] wages,” ultimately threatening to “drive America down into the depths of the third world” and end “American exceptionalism.”<sup>270</sup> Historian Arnon Gutfeld writes of how social mobility is perceived in the United States as a “must” rather than a possibility, assuming a “classless meritocratic society” in which the individual takes his economic fate in his or her own hands.<sup>271</sup> These materialistic myths of American exceptionalism have been fiercely protected by policymakers since the country’s inception, constituting a rhetorical and cultural fabrication that links national identity to wealth.

Under the auspices of protecting the “right” of economic prosperity from unwanted immigrant labor competition, policymakers implement restrictive policies to limit the entry of as well as force the removal of immigrant laborers. They ignore the fact that the United States’ ability to remain globally competitive relies on the exploitation of undocumented workers within numerous industries such as agriculture, poultry, hospitality, and construction.<sup>272</sup> Instead of drawing attention to law-breaking employers that hire and exploit undocumented workers, policymakers take aim at immigrant laborers and construct them as the villains requiring state control. Similarly to the

strategies used to justify the Chinese Exclusion Act of 1882 and the National Origins Act of 1921, policymakers today manipulate the so-called threat of economic competition. They frame illegal border crossers as the ultimate national threats in order to validate heightened border security and stricter enforcement laws, thereby reducing the political power of subordinated immigrants to resist state control.

Pro-immigrant organizations such as Reform Immigration for America and the National Council de la Raza criticize the rhetorical construction of immigrants as national threats. They argue that the use of internal enforcement to “protect the nation,” such as strengthening deportation laws and funding surveillance technology along the land borders, ignores the greater problems of the country’s immigration system. These organizations challenge the public discourses constituting immigrants as dangerous, highlighting the economic benefits for providing a path to legal status for an estimated twelve million undocumented immigrants, the need to increase penalties for employers who abuse undocumented immigrants, and the economic imperative to create new legal channels for laborers to enter the country and maintain America’s global competitiveness.<sup>273</sup> Despite their efforts to pass comprehensive immigration reform bills addressing these issues, the dominant narrative constituting undocumented immigrants as “a serious national security problem” prevails because it establishes narrative fidelity for exclusionary nationalism, allowing policymakers to rationalize restrictive immigration policies.<sup>274</sup> Thus, competing notions of immigration reform that aim to liberalize immigration policies and reconstruct these criminalized peoples as members of the national community continue to be marginalized by anti-terrorism discourses of national security.

The Development, Relief, and Education for Alien Minors Act (DREAM Act), a policy that aims to increase educational and economic access for qualifying immigrant “Others,” is one such policy minimized by the dominant framing of the immigration as a threat to national security.<sup>275</sup> After a six year legislative history, the DREAM Act was introduced to the 110<sup>th</sup> Congress in 2007 by Congressman Howard Berman (D-CA) as H.R. 1275 and Senator Richard Durbin (D-IL) as both part of the comprehensive reform bill S. 1348 as well as the stand-alone bill S. 2205.<sup>276</sup> Introduced as an effort to “keep our country from squandering the promise of thousands of young people who have been raised here,” but who “face tremendous obstacles in reaching their potential because, through no fault of their own, they exist in a legal limbo with no way to adjust their immigration status,” the DREAM Act seeks to provide legal status to undocumented immigrant youth.<sup>277</sup>

Created for young immigrants marginalized from the national narrative, liberal policymakers such as Durbin believe “[the DREAM Act] is not just the right thing to do, it is good for America. The DREAM Act would allow students with great potential and ambitions to contribute more fully to our society.”<sup>278</sup> If passed, the DREAM Act would authorize the “cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children,” stopping the deportation of thousands of young immigrants who qualify for an adjustment of status under the terms the Act sets forth.<sup>279</sup> Additionally, the DREAM Act would overturn section 505 of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) that prohibits states from granting postsecondary education benefits to unauthorized aliens and increasing their access to the “American Dream.”<sup>280</sup>

Throughout the past decade, the DREAM Act has had a tumultuous legislative history. After failing cloture in 2001, 2003, and 2005, the DREAM Act came close to passing in 2007 when it failed in the Senate by a vote of 52-44.<sup>281</sup> The fact that only eight votes were needed to pass the DREAM Act demonstrated to supporters of the bill that pro-immigrant legislation was gaining momentum in the public debate on immigration reform; therefore, Senator Durbin and Congressman Berman made the decision to reintroduce new versions of the DREAM Act (S. 729 and H.R. 1751) to the 111<sup>th</sup> Congress on March 26, 2009.<sup>282</sup>

After S. 729 and H.R. 1751 failed to make it out of committee, Senator Harry Reid (D-NV) attached the Senate version of the bill to the Defense Authorization Bill (S. 3454) in hopes it would pass as an amendment.<sup>283</sup> On September 21, 2010, cloture was defeated for the Defense Authorization Bill and its proposed DREAM Act amendment by a vote of 56-43.<sup>284</sup> The following day, Durbin reintroduced the Senate version of the bill as S. 3827, later revising the bill to include more restrictions addressing oppositional concerns such as a ten year period of conditional nonimmigrant status, a ban on family petitions, and the prohibition of universities from offering in-state tuition rates to beneficiaries of the act.<sup>285</sup> This version never came to a vote because on December 8, 2010, the House passed their version of the DREAM Act, H.R. 6497, with a vote of 216 to 198.<sup>286</sup> Senator Reid, then, replaced the Senate bill with the version passed by the House and introduced it for a vote on December 18, 2010; however, this final version of the DREAM Act failed in the Senate by a vote of 55-41, just five votes short of a 60-vote majority.<sup>287</sup> Despite multiple attempts, the 111<sup>th</sup> Congress failed to pass this landmark

legislation and the battle for the DREAM Act continues as a more conservative Congress enters the 112<sup>th</sup> legislative session in 2011.

As each version of the DREAM Act came before committees and, in some cases, the Senate floor for a vote, policymakers and witnesses who testified on behalf of the bill reinforced the assimilationist, racist, xenophobic, and classist discourses of exclusionary nationalism. Legal scholar Phyllis Pease Chock explains that hearings like these are sites of “cultural reproduction, as canonical versions of national myths and hegemonic ideology encompass the speakers’ disparate renderings of events.”<sup>288</sup> In the case of immigration policies such as the DREAM Act, the national myth perpetuated in the congressional hearing room is exclusionary nationalism. One example of a DREAM Act hearing dominated by exclusionary nationalism is the House hearing held on May 18, 2007, on the future of undocumented students. This hearing might have provided a brief, yet significant, public space in which subordinated immigrant counternarratives could have challenged the exclusionary discourses of national security; however, supporters of the DREAM Act failed to produce any counternarrative that contested the exclusive national narrative and politicized their subjugated knowledge. Rather than making attempts to “break out of the myths’ terms and to undermine the myth-making process,” DREAM Act supporters, albeit unintentionally, reified the rhetorical myth of exclusionary nationalism responsible for their marginalization.<sup>289</sup>

Held as part of a series of hearings on the situation of immigrants in the United States, the objective of the May 18, 2007, hearing was to provide a public space to discuss the implications of the DREAM Act.<sup>290</sup> Those invited to speak to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the

Committee on the Judiciary included three immigrant women and four representatives for political and educational organizations. The three immigrant women invited to testify were Ms. Maria Nazareth Gonzalez of Costa Rica, Ms. Martine Mwanji Kalaw of Zambia, and Ms. Tam Tran of Vietnam and Germany.<sup>291</sup> Following these women, four “expert” panelists spoke on issues surrounding the DREAM Act.<sup>292</sup> These were Ms. Diana Furchtgott-Roth of the Center for Employment Policy, then Mr. Allan Cameron, Ph.D., a retired Arizona high school teacher, Mr. Jamie P. Merisotis of the Institute for Higher Education Policy, and Mr. Kris W. Kobach of the University of Missouri-Kansas City School of Law. After each panelist spoke, policymakers were given the opportunity to comment on their testimony and engage in a question and answer session.

The following section examines the testimonies of the three immigrant women and their “expert” allies, demonstrating how their statements failed to eradicate the dominance of exclusionary nationalism. I highlight three major rhetorical strategies responsible for the reproduction of elitist narratives and argue these rhetorical strategies reinforce rather than resist the narrative of exclusionary nationalism, altogether failing to redefine the White elitist definition “American” and limiting the possibility for long term social change through the passage of the DREAM Act. I begin with an analysis of using discourses of assimilationism to frame immigrant “Others” as Americans, demonstrating how these discourses ultimately sustain the narrative dominance of exclusionary nationalism rather than establish a new inclusive American identity.

### **“We Are American”: Assimilationism and the Erasure of Subjugated Knowledge**

In the 2007 hearing, DREAM Act supporters used assimilationist discourses to establish ethos and enhance credibility with their audience.<sup>293</sup> To accomplish this, they

drew upon familiar symbols of national imagery ethos and constituted the DREAM Act as a “pathway toward assimilation” for already “Americanized” undocumented immigrants.<sup>294</sup> By enacting assimilationist discourses of exclusionary nationalism, supporters connected themselves with the moralistic categories already understood by policymakers and, as rhetorician Maurice Charland reminds us, these policymakers were constituted within the ideology of exclusionary nationalism.<sup>295</sup> Unfortunately, this attempt to connect with the policymakers by employing assimilationist discourses ignored the subjugated knowledge of undocumented immigrants and failed to successfully challenge the dominant ideology responsible for their exclusion.

One way in which supporters of the DREAM Act neglected to make the subjugated knowledge of undocumented immigrants politically relevant was by “Americanizing” undocumented immigrants and ignoring any semblance of difference that could allow for their narratives to challenge the dominance of exclusionary nationalism. In the 2007 hearing, three immigrant women opened the testimony—Maria Nazareth Gonzalez, Martine Mwanji Kalaw, and Tam Tran. At the time of the hearing, Gonzalez and Tran lacked legal status and would have benefited from the passage of the DREAM Act; whereas, Kalaw had recently obtained a successful adjustment of status. In an attempt to persuade policymakers to pass the DREAM Act, each of the women utilized discourses of assimilation to constitute themselves as Americans who deserve the benefits of citizenry. For example, Gonzalez opened by stating, “I will always consider the United States of America my home. . . . I love this country.”<sup>296</sup> Similarly, Kalaw began with, “I am a proud New Yorker,” while Tam Tran opened with, “The truth is I consider myself, culturally, an American as I have been American-raised and educated



for the past 18 years.”<sup>297</sup> The panelists ignored their immigrant heritage and framed themselves solely within the American identity, explaining how they are “part of an American community.”<sup>298</sup> As historian Benedict Anderson explains, nations create a “deep, horizontal comradeship” among members to encourage national fidelity and sacrifice.<sup>299</sup> Expressing their pride in the United States, the witnesses exemplified this fraternal connection to American nationality and authorized their fidelity to the imagined nation. Moreover, speaking of their foreignness would have threatened this imagined solidarity to the United States; therefore, they silenced expression of their subjugated knowledge in order to perpetuate the dominant Anglicized notion of American identity.

Additionally, each of the panelists used a rhetorical strategy highlighting their ability to assimilate to American values in order to reject the popular notion that they are enemies of the state. They drew on symbols of American exceptionalism such as hard work and self determination to tell of how their families came to live in the United States, integrated into the community, and lived an American life. Gonzalez spoke of her family’s migration from Costa Rica to the United States in search of “a better education, a better life, and all together a better future.”<sup>300</sup> “Throughout all our years in the United States,” she recalled, “we worked very hard for what we had, thinking that one day soon we would be citizens.”<sup>301</sup> Gonzalez explained, “I am a junior from Jefferson City, MO, currently attending Westminster College . . . majoring in Political Science and International Business. . . . [I] have been living in the U.S. since the age of 5.”<sup>302</sup> Likewise, Tran shared her American experience. “I graduated with honors in American Literature, was immediately hired full-time as a filmmaker by UCLA and was accepted to a Ph.D. program in Cultural Studies.”<sup>303</sup> Similarly, Kalaw spoke of her job as a financial

analyst with the New York Public Library and her previous jobs in the New York City Mayor's office, two institutional symbols of the American community. As they testified, each of panelists exemplified immigrants who had successfully become part of the American identity, rebuffing popular claims that undocumented immigrants aspire to participate in dangerous and unlawful activities and highlighting that they, instead, adopt the American values of education and hard work.

In addition to framing themselves as Americans and rejecting popular discourses constructing them as terrorists, the panelists drew upon the rhetorical symbols of voting and the Fourth of July to demonstrate their fidelity to the nation. When Representative Sheila Lee Jackson (D-TX) asked them if they were “teary [people] about patriotism and loyalty” who felt a “sense of loyalty and patriotism and pride about America,” Gonzalez responded, “Oh, my goodness, yes. Every Fourth of July, [I] cannot wait until the day that I am a citizen and can proudly say that I am. . . . I am very much [a teary person about patriotism and loyalty].<sup>304</sup> Tran added, “We always feel like we are the ultimate Americans, because it is something we don't have access to. We always say like, ‘oh, my gosh, we would totally go vote if we could. We would totally go do all these things if we could.’”<sup>305</sup> When tested by Representative Lee to demonstrate their fidelity to the nation, both Gonzalez and Tran expressed their ardent desire to participate in “all [those] things” American to prove their worth as future citizens. Anderson explains that one's attachment to the national “invention of their imagination” is born through language.<sup>306</sup> Thus, rhetorical symbols such as the process of voting and the singing of the national anthem on national holidays create an “experience of simultaneity” and reinforce one's patriotism, loyalty, and subservience to the nation.<sup>307</sup> Gonzalez and Tran described the

Fourth of July and the process of voting as essential pillars of American identity and fidelity, insinuating that those excluded from participating in these events remain permanent outsiders. This rhetorical strategy did little to renegotiate the position of both legal and undocumented immigrants because it reified the power of the state over the immigrant body. They framed themselves as the “ultimate Americans” willing to blindly serve the state, rather than as subjugated objects of state control demanding a shift in power liberate themselves from their marginalization.

Gonzalez’s, Kalaw’s, and Tran’s use of assimilationist discourses to redefine themselves as Americans rather than terrorists maintained the dominant ideology of exclusionary nationalism. Not only were their testimonies delegitimized when policymakers asked them to state their desires to participate in American society, they also failed to create a counternarrative critiquing the processes by which policymakers constitute their foreignness as a national threat. Instead of defying exclusionary nationalism, challenging its elitist cultural assumptions, or underscoring its injustice, these immigrants only reaffirmed the dominant discourses responsible for their subordination. By downplaying their subjugated human experience as marginalized immigrants and constituting themselves as American, they authenticated the hegemonic assumptions of an exclusive, White national identity. As a result, their testimonies greatly limited the possibility for long term social change for undocumented immigrant youth because they upheld the existing power relations within exclusionary nationalism.

Policymakers in favor of the DREAM Act also perpetuate the exclusivity of the American identity through by using assimilationist discourses. For example, in the 2007 hearing Representative Lee remarked “these children are as American as apple pie.”<sup>308</sup>

Though Lee was speaking in support of the DREAM Act, her rhetoric both infantilized and delegitimized the narratives of undocumented youth, reinforcing their participation in the “paternal” and powerful state. Additionally, many supportive policymakers argued in favor of the DREAM Act by framing it as a policy that will complete the process of assimilation for already “Americanized” undocumented youth. Representative John Conyers (D-MI) stated,

We want to provide *incentives for people to acquire American values and culture*. And the pathway to assimilation for most immigrants is through their children. They are the ones who first learn English. They are the ones who learn American history and culture from school and their friends. It is *our history and culture* that they think of as theirs. And they are the ones who help their parents navigate bureaucracies, health care, and jobs. In other words, these children are . . . *Americanized*. The law should recognize and encourage this dynamic.<sup>309</sup>

Representative Zoe Lofgren (D-CA) added to Conyers’ statement, exclaiming, “We want people who speak wonderful English. We want people who have great educations. We want people who are assimilated and who love America. You are the answer to our dreams. And hence the DREAM Act.”<sup>310</sup> Conyers’ and Lofgren’s statements reflected those of the Founding Fathers as they expressed the same desire for immigrants to acquire “American culture and values.” Just as Alexander Hamilton called for immigrants “to learn the principles and imbibe the spirit of our government,” Conyers and Lofgren advocated for the assimilation of undocumented immigrant youth and constituted the DREAM Act as the legal strategy to fully achieve Americanization.<sup>311</sup> Although they recognized the subordinated immigrant “Others” as rhetorical members of the American identity, Conyers and Lofgren perpetuated the narrative dominance of exclusionary nationalism and neglected to challenge hegemonic assumptions of the Anglicized national ideal.

Using exclusionary nationalist discourses of assimilationism to reframe marginalized immigrants as Americans rather than enemies of the state creates a rhetorical tension through which DREAM Act supporters must cautiously navigate. Although the familiar theme of assimilation creates ethos and closes the gaps privileging “Americans” over immigrant “Others,” it also reifies their own their subordination by preserving the dominance of exclusionary nationalism. Feminist scholar Audre Lorde speaks to marginalized black feminists attempting to eradicate racism within White feminist discourse, arguing that “the master’s tools will never dismantle the mater’s house.”<sup>312</sup> Lorde’s warning applies to all subordinated groups who use dominant, elitist discourse to bring about genuine social change. She argues its very usage reinforces “the master’s” position of power and prevents social transformation; therefore, subordinated immigrants who wish to challenge their position of powerlessness and encourage long-term social change should understand the rhetorical consequences of reenacting the discourses of exclusionary nationalism. Using assimilationist discourses to persuade policymakers to expand the definition of American to include immigrant “Others” ultimately fails to destroy the institutionalized dominance of the exclusive national narrative responsible for their exclusion. In order to challenge the state’s control over the American identity, undocumented immigrants and their allies must master the art of difference and redefine themselves outside of the dominant exclusionary nationalist discourses.

In addition to employing exclusionary nationalist discourses of assimilation to persuade policymakers to pass the DREAM Act, the panelists speaking in the 2007 hearing upheld the classist rhetoric of economic competition, constructing themselves as

valuable assets to the American economy. They took on the myth of American exceptionalism as their own, claiming that they are the key to maintaining the economic power of the United States as global competition increases. Although this rhetorical strategy challenges the notion that undocumented immigrants are potential terrorists, it ultimately constitutes them as economic pawns of the state, further reducing the possibility for long-term social change that liberates undocumented immigrants from their marginalized position. The following section investigates how class-driven testimonies reinforce the dominant narrative of exclusionary nationalism and perpetuate the economic subordination of undocumented immigrants.

#### **“We Are the American Dream”: The Conundrum of Classist Discourses**

The panelists speaking in support of the DREAM Act in the 2007 hearing strategically used classist discourses of exclusionary nationalism to construct undocumented immigrant youth as economic necessities. Historically, the notion of economic competition has been used to label unwanted immigrants as competitors who threaten the financial security of the nation and, therefore, endanger the livelihood of its citizens. Immigration policies such as the Chinese Exclusion Act of 1882, the mass deportation of Mexican laborers in the 1930’s, and the seizure of property of interned Japanese in the 1940’s all were the result of widespread fears unwanted immigrants were stealing American jobs and threatening the national economy. In the case of the 2007 hearing on the DREAM Act, supporters utilized classist discourses of economic competition by constructing undocumented immigrant youth as valuable assets whose skills and determination will improve the economy, labeling those who deny legal access to these young workers as the new economic threat. Unfortunately, this rhetorical

strategy did nothing to challenge exclusionary nationalism and, as a result, perpetuated the reduction of immigrants as laborers serving the state's economic interests.

Classist discourses of exclusionary nationalism constructed undocumented youth as a necessary investment in the nation's economy. Diana Furchtgott-Roth, a panelist representing the Center for Employment Policy, stated of undocumented students,

They are hardworking and talented, and produce streams of income taxes and Social Security payments that bolster our fiscal position. . . . This total of about 1 million potential workers represents .7 percent, less than 1 percent of our labor force . . . even though these undocumented young people are a small group, they have the potential to make an important contribution to our economy. . . . This makes the educational investment worth it both for the students, but more importantly for the rest of us. . . . because we have more productive citizens who fill needed job openings and who can pay taxes. . . . the United States needs these young workers.<sup>313</sup>

Contrary to the dominant classist discourses blaming the immigrant “invasion” for “[displacing] Americans from jobs” and “[placing]” heavy burdens” on the economy, Furchtgott-Roth constituted immigrant youth as outstanding entrepreneurs who will fill needed job openings and contribute to the strength of the American economy.<sup>314</sup> Additionally, Furchtgott-Roth used statistics from a 2005 Harvard University study to argue that immigrants actually help raise average American wages by 0.1%, demonstrating how increasing access to employment for immigrants would not have the negative impact suggested by opponents of the DREAM Act. Although Furchtgott-Roth's testimony challenged the conventional rhetoric that frames immigrant laborers as economic threats, it reinforced the classist construction of immigrants as token laborers needed for the economic prosperity of the White nation. Moreover, her “expert” testimony delegitimized the witnesses testifying before her. Rhetoricians Lorraine Higgins and Lisa Brush argue that marginalized “Others” “rarely constitute a public

perceived as capable or ‘expert’ enough to contribute anything valuable to public debate.”<sup>315</sup> By inviting “expert” witnesses representing the “master’s language” to speak after the immigrant “Others,” policymakers reduced the rhetorical power of the immigrant women and their personal narratives.

Supporters of the DREAM Act perpetuated the myth of American exceptionalism, thereby maintaining the narrative dominance of exclusionary nationalism. The “expert” panelists in the 2007 hearing reinforced classist discourses when they portrayed immigrant youth as contributors to the myth of American exceptionalism. For example, Mr. Jamie Merisotis of the Institute for Higher Education Policy commented,

If you consider what our national workforce needs are in the specific sense of human capital, it is clear we are looking at an enormous shortage of educated workers in the not-too-distant future. . . . Investing in those who are already here is our best hope for remaining competitive on a global scale. . . . The DREAM Act is a common-sense piece of bipartisan legislation that provides these talented and industrious future workers a pathway to citizenship.<sup>316</sup>

Additionally, Representative Zoe Lofgren (D-CA) argued,

Our Nation is faced with ever increasing economic competition from developed and developing nations. To effectively compete in an ever expanding global market, we must ensure that we can continue to have the most educated workforce in the world. Whether in college or in the military, we must give all qualified young people the opportunity to contribute in ways that will keep America strong.<sup>317</sup>

Both Merisotis and Lofgren drew on the myth of maintaining American exceptionalism to support the passage of the DREAM Act. They legitimated the rhetorical constructs connecting economic status to national strength, claiming the key to keeping “America strong” is to invest in undocumented immigrant youth. By doing so, they objectified immigrants as being “human capital” only needed for the economic benefit of the state. Additionally, Merisotis and Lofgren preserved the notion that uneducated immigrants



remain a danger to society when they suggested that only educated immigrants would benefit the U.S. economy. Just as policymakers excluded “unskilled” and “illiterate” immigrants from participating in the national narrative in 1917 through the implementation of illiteracy tests, Merisotis and Lofgren reserved access to the American identity for only educated, skilled undocumented immigrants.<sup>318</sup>

Using classist discourses of exclusionary nationalism, policymakers framed skilled undocumented immigrant youth as integral parts of the capitalist machine rather than as humans who deserve equal access to economic and social privilege. As Foucault reminds us, a primary way in which the state preserves its position of power is to render its people objects of its control. He argues that the state views the body as a “docile that may be subjected, used, transformed, and improved” for the purpose of stripping it of its individual force of power and transforming it into an “aptitude” or “capacity” of the state.<sup>319</sup> Labeling immigrants as “human capital” reinforces their powerless position as docile and utilitarian objects, reducing immigrants to economic pawns needed to uphold the power of the state. Thus, the rhetorical strategy of framing undocumented immigrant youth as economic contributors fails to challenge the economic, racial, and social hierarchies of power and severely limits the passage of future policy benefiting the economic status of all marginalized immigrants, especially those immigrants furthest away from the status quo.<sup>320</sup>

Not only did the use of assimilationist and classist discourses fail to contest the narrative dominance of exclusionary nationalism, this strategy also restricted the ability for immigrants to resist mechanisms of state control. In the 2007 hearing, supporters of the DREAM Act utilized discourses of fear to highlight the injustices of detaining and

deporting undocumented youth. They described the pain and anxiety resulting from the fear of deportation and family separation, making known the experiences of those living in the shadows cast by restrictive immigration policies. However, these panelists had previously stated their desire to become staunch members of the same society responsible for their fear; therefore, their testimonies lacked the rhetorical power needed to overturn centuries of state control. The following section investigates the strategic shortcomings of immigrant panelists who used discourses of fear to challenge mechanisms of internal enforcement.

### **“We Are Powerless Victims”: Maintaining State Control over Immigrant Bodies**

A primary rhetorical strategy of DREAM Act supporters was to expose the injustices of restrictive immigration policies through personal narratives of deportation and detention. As demonstrated in chapter one, policymakers employ fear rhetoric rooted in racism, xenophobia and classism to justify the state’s implementation of restrictive immigration policies and internal enforcement. Policies such as the Chinese Exclusion Act of 1882, the Asiatic Barred Zone Act of 1917, the Johnson-Reed Act of 1924, and the Patriot Act of 2001 have all been influenced by various racist, xenophobic, and classist discourses that, according to Foucault’s theory of surveillance and power, were designed to keep so-called threatening immigrants under control through their differentiation and isolation.<sup>321</sup> In order to draw attention to the prejudices imbedded in fear-driven policy, the immigrant panelists testifying in the 2007 described their personal experiences with state control. Their testimony aimed to persuade policymakers “constituted with an identity and within an ideology” of exclusionary nationalism to consider the effects of state control from the perspective of the disciplined object.<sup>322</sup>

The immigrant panelists in the 2007 hearing used discourses of fear to describe their personal experiences with state control in order to highlight the injustices of current internal enforcement policies. Marline Mwanj Kalaw told of how she lived in constant fear of the “looming prospect of removal” to a country in Africa where she does not know the language.<sup>323</sup> Despite her excellent academic record, Kalaw explained how she could not “escape the stifling nature” of an “immigration nightmare” that had “marginalized” her for years, sending her at times into “the depths of human frailty.”<sup>324</sup> She stated,

At the same time [you are excelling in school], you are falling apart; you are in deportation proceedings and you do not know from day-to-day whether the immigration services will come to your home or not. . . . You still have to try to survive. You still have to go on. There are no other choices. Your only choice is to, essentially, give up and be deported to a country you do not know.<sup>325</sup>

Kalaw’s statement exposed the lack of power undocumented immigrant youth have over their lives. They are completely dominated by the fear of state control, and managing the fear and anxiety resulting from this domination has become a matter of survival. As Foucault explains, “the formal homogeneity of power . . . corresponds [to] the general form of submission in the one who is constrained by it. . . . A legislative power on one side, and an obedient subject on the other.”<sup>326</sup> In the case of immigration, policymakers constitute immigrants as “[dis]obedient subjects” requiring state control.<sup>327</sup> Since the very presence of undocumented immigrants in the United States is considered a violation of the law, these disobedient subjects have no ability to resist state control and have no choice but to submit to whatever discipline the state establishes over them.

Deportation is the mechanism of state control most feared by undocumented immigrants. Maria Nazareth Gonzalez explained how her life has been a “roller coaster,”

her emotions oscillating between feeling like she was “on top of the world” as she lived out her and her parent’s dream of becoming a “successful young woman,” but also in fear of being “brought down by the realization that at any moment it can be taken away.”<sup>328</sup>

Gonzalez described the emotional challenges resulting from the fear of deportation:

In the course of fighting to remain here, I have been lucky to meet many other students who would also benefit from the DREAM act. . . . I share with them in their fear and their pain and uncertainty. I can personally attest to how life in limbo is no way to live. I have been torn apart from my parents for almost two years and have been struggling to make it on my own. I know what it is to face difficulty and how hard it is to fight for your dreams.<sup>329</sup>

In an attempt to establish ethos with her audience, Gonzalez revealed the “fear” and “pain” of having to live with the “uncertainty” of deportation. She constituted herself and other undocumented youth as powerless victims of state control. Gonzalez told of how parents had been deported two years previously after a “haze of meetings with attorneys, hearings and rallies,” and at the time of 2007 hearing, she awaited her forced departure from the country in June 2008 when her approved petition to defer deportation would expire.<sup>330</sup> Similarly to Kalaw’s comments, Gonzalez used the personal narrative to demonstrate the harmful effects of fear-driven policy on immigrants, providing policymakers an insight into the subjugated experiences of undocumented immigrant youth.

Kalaw and Gonzalez were unsuccessful in persuading policymakers to end state control of undocumented youth. Although they attempted to make known their subjugated experiences with state control, they were ultimately unsuccessful in resisting or redefining the terms of their powerlessness and failed to shift the public debate on internal enforcement policies. Moreover, they were doubly victimized by the state—first for being undocumented living in fear of deportation, and second for having to relive

their pain by testifying in front of the state institution responsible for their fear. Neither Kalaw nor Gonzalez prosecuted the hierarchy of power responsible for their subjugation; therefore, they eliminated any possibility of liberation. For fear of being deported, they failed to indict the policymakers responsible for their discipline as well as neglected to call for the emancipation of all immigrants suffering from state control. Instead, they maintained the inevitability of discipline over powerless immigrant bodies that have “no choice” but to “go on” and “survive” as permanent objects of state control.

Additionally, Kalaw’s and Gonzalez’s earlier testimony expressing their strong desires to become staunch members of the same society responsible for their subjugation delegitimized any potential critique of that society. As a result, their attempts to garner sympathy and support from policymakers to end the deportation of undocumented immigrant youth lacked the rhetorical power needed to challenge their subjugation and ignite a public critique of internal enforcement policies.

Not only did the panelists in the 2007 hearing fail to challenge their subjugation under state control, policymakers in support of the DREAM Act also neglected to critique their own mechanisms of internal enforcement. Serving as members of the state, these policymakers did little to redirect internal enforcement’s object of control and, instead, reaffirmed the criminalization of the immigrant within the narrative of exclusionary nationalism. For example, a primary rhetorical strategy employed by policymakers speaking in support of the DREAM Act was to highlight the innocence of undocumented immigrant youth. Representative Zoe Lofgren stated, “Fairness and justice have always been hallmarks of our great Nation. We should not penalize these children for the acts of their parents.”<sup>331</sup> Not only did Lofgren infantilize the immigrant panelists again by

referring to undocumented immigrant youth as “children,” she also propagated centuries of restrictivist rhetoric responsible for the criminalization of unwanted immigrants.

As demonstrated in chapter one, discourses of exclusionary nationalism have historically been used by policymakers to constitute undesirable immigrants as criminals, justifying the implementation of restrictive policies such as the Chinese Exclusion Act of 1882, the Mexican Deportation Drive in the 1930’s, and most recently the Patriot Act of 2001. Lofgren continued this dominant rhetorical construction of immigrants as criminals by insinuating undocumented youth are innocent bystanders to the unlawful “acts of their parents.” This rhetorical strategy failed to liberate undocumented immigrants from the injustices of state control because it perpetuates their illegality, limiting the possibility for future reform aimed at increasing access to citizenry for these subjugated peoples. Although Lofgren attempted to frame undocumented youth as blameless victims unjustly disciplined by the state, she ultimately maintained existing power relations by reinforcing exclusionary nationalist definitions of immigrant criminality.

Another rhetorical shortcoming employed by policymakers who supported the DREAM Act was to constitute the bill within the context of imagined national values. Representative William D. Delahunt (D-MA) exemplified this strategy when stating,

Law is a process of change and a reflection of hopefully moral principles. Just imagine in these cases, would it be moral to send these three young women to a place that they have never been, where they don’t speak the language, where they don’t understand the culture? You know, America, above all, is a moral country. . . . America is great because America is good.<sup>332</sup>

Delahunt drew upon the rhetorically imagined national value “morality” to indicate current deportation laws defy this shared ideal. In doing so, he maintained the myth of American exceptionalism and insinuated that the “places,” or home countries, of the

immigrant women were morally inferior to the United States. Not only did Delahunt reinforce existing power relations over “lesser” immigrants and their cultures, he also brought forth a weak rhetorical strategy that is easily manipulated by opponents to justify internal enforcement policies. The vague values of “morality” and upholding America’s “greatness” are often co-opted by opponents of the DREAM Act to make the case for deporting immigrant “criminals” who threaten the so-called moral integrity of the United States. Here, Delahunt handed opponents a rhetorical strategy that could be used to indict the same undocumented immigrants he attempted to liberate, and he was unsuccessful in constituting undocumented youth as being undeserving of state control. Delahunt failed to frame undocumented youth as valuable human beings deserving of participation in the national narrative. Instead, he constituted them as pawns of White America’s so-called morality whose fate remains under the control of a benevolent state that can choose, or not, to spare them the hardships of deportation. Thus, the hierarchies of power responsible for the disciplining of undocumented immigrants remained unchallenged.

The testimony provided by supporters of the DREAM Act in the 2007 hearing fortified the narrative dominance of exclusionary nationalism. DREAM Act advocates failed to reconstitute undocumented immigrants as participants rather than threats to the national narrative. By taking on the dominant vocabulary and ideology of exclusionary nationalism as their own, the immigrant panelists were unable to establish themselves as significant rhetors capable of shifting the public debate on immigration reform to include the subjugated experiences of immigrants. Their rhetorical strategies did not succeed challenging Habermas’ concept of an exclusive public sphere, nor do they dismantle the dominant narrative of exclusionary nationalism responsible for their exclusion.

Additionally, the supporters failed to introduce any substantial “nonlegitimized knowledges” to the public debate on immigration reform.<sup>333</sup> Instead, they reified the same assimilationist, racist, xenophobic, and classist notions American national identity that perpetuate the subordination of non-White immigrant “Others.”

Although policymakers such as Lofgren and Berman were sympathetic to the experiences of undocumented immigrant youth and supported the DREAM Act, other policymakers disagreed with the panelists, arguing for continuing the exclusion of the immigrant “Other” from the national narrative. Because the 2007 hearing highlighted supporters of the DREAM Act, only those policymakers present were invited to comment on the topic. Representative Steve King (R-IA) led the oppositional charge against the DREAM Act, while Representative Daniel Lungren (R-CA) and Representative John Conyers (D-MI) added their comments to King’s statements. The following section analyzes King’s, Lungren’s, and Conyer’s oppositional discourses during the 2007 hearing on the future of undocumented immigrant youth. I demonstrate how these policymakers reinforced the public dominance of exclusionary nationalism through classist, racist, and xenophobic discourses. Using their statements as a foundation, I argue that the primary rhetorical strategy of DREAM Act opponents is to use discourses of exclusionary nationalism to constitute undocumented immigrants as national threats that endanger the American identity, national security, and the economy. In addition, I make connections between their testimonies, the historical debates surrounding immigrant “Others,” and the American national narrative that excludes them. Throughout this analysis, I contend that DREAM Act oppositional testimonies represent the dominant public narratives surrounding immigration reform, thereby diminishing the rhetorical



strength of counternarratives that argue for the inclusion of immigrant “Others” in the American identity through the passage of the DREAM Act.

**“They are Dangerous”: Reinforcing the Dominant Narrative of Exclusionary Nationalism to Oppose the DREAM Act**

DREAM Act opponents controlled the terms of the immigration debate by reinforcing classist, racist, and xenophobic narratives of exclusionary nationalism through narratives emphasizing economic protectionism that criminalize the undocumented immigrant. The statements of Representatives King, Lungren, and Conyers during the 2007 hearing exemplified the exclusive national narrative, perpetuating the elitism of public discourses surrounding the public immigration debate and reducing the narrative power of undocumented immigrants attempting to resist their exclusion from the American identity.

King’s statements in the 2007 hearing reified the exclusivity and narrative dominance of the Anglicized American national identity. Much like the concerns expressed by the Founding Fathers regarding the effects of uncontrolled immigration on the national narrative, policymakers speaking out against the DREAM Act feared the influx of undocumented immigrants threatened the security of the nation. For instance, King asked,

What should the population of the United States be in 25 years or 50 years? Who should be allowed to come to the United States, and who should be sent back to the country of their origin? . . . Should that immigration policy be set by people who come here illegally and the mass of those numbers weighs on our consciences so much that we are willing to sacrifice the essential pillar of American civilization, American exceptionalism, called the rule of law? . . . We have an obligation to the destiny of the United States of America, and we need to move it to a higher destiny, not a lower destiny.<sup>334</sup>

King's civilizationist rhetoric emulated those of the Founding Fathers that argued unwanted immigrants jeopardize the continued dominance of the White national narrative. His call to protect "American exceptionalism" mirrored Thomas Jefferson's racist and classist plea to restrict immigration in order to maintain a "homogenous, more peaceable, more durable" government.<sup>335</sup> King argued non-White undocumented immigrants threaten the "pillar of American civilization . . . called the rule of law," thereby endangering the stability and security of the nation. By framing the "mass" of non-White undocumented immigrants as threats to White America's "destiny," he reinforced the same xenophobic discourses that have excluded unwanted immigrants from participating in the national identity since the country's inception. As a result, King employed Foucault's concept that the power of the state relies on the "insidious [objectification]" of those who threaten its stability, thereby maintaining the need for state control via restrictive immigration policies and weakening the rhetorical power of those arguing for the DREAM Act.<sup>336</sup>

In addition to constituting undocumented immigrants as dangerous to the "essential pillar of American civilization," King drew upon classist discourses of exclusionary nationalism to construct the unwanted immigrants as economic competitors. As demonstrated in chapter one, classist claims of economic protectionism are ultimately rooted in racism. Similar to the claims of White laborers in the 1800's that non-White immigrant workers competing for employment threatened their unstable class position, King argued the DREAM Act would set up a "special protected status," creating "disadvantages for citizens who . . . presumably pay taxes and are engaged in the responsibilities of citizenship."<sup>337</sup> Rather than investigating the racist processes by which

undocumented immigrant youth came to be so marginalized that they might actually need a “protected status” to liberate themselves from their position of powerlessness, King reinforced the classist myth of the American Dream that correlates financial success with individual aptitude and performance. Such claims ignore the racial hierarchies privileging White citizens over non-White immigrants and, instead, provide a non-controversial, utilitarian argument to explain the economic disparities between racial groups.

Additionally, King’s statements ignored the overwhelming evidence that undocumented immigrants pay billions in nonrefundable taxes annually, inferring that undocumented immigrants are not worthy of participating in the “responsibilities of citizenship” because they evade state-defined acts of citizenry such as paying taxes.<sup>338</sup> His rhetorical strategy connected paying taxes to being a responsible American, diverting attention from the racism of the state by upholding the classist definition of citizenship and establishing an invisible line of exclusion between those who follow the so-called “rules of citizenship” and those who break them.

King further reinforced classist discourses of exclusionary nationalism by framing in-state tuition as an unfair discount given to undocumented students over U.S. citizens. He suggested the DREAM Act would give those who are “unlawfully present” a “tuition discount that is greater and disproportional to that of a citizen who might live in another State,” creating an “inequity” that privileges unwanted immigrants over citizens.<sup>339</sup> This statement referred erroneously to in-state tuition as a “discount” for which citizens from another state are not eligible. Even if the DREAM Act were to have passed, individual states would decide whether or not to grant in-state tuition rates to previously undocumented students. Additionally, citizens from other states would have remained

ineligible for in-state tuition based on university residency requirements that often require a student graduate from a state high school and reside in the state for a designated amount of time.<sup>340</sup> King's arguments that an "inequity" would be created is false; however, by propagating the myth of the tuition "discount," he maintained the rhetorical image of the undocumented immigrant as an economic competitor who threatens the privileged status of the American elite. King focused on protecting the economic privileges of the American identity, discounting the racial hierarchies responsible for class inequalities. His use of classist discourses to justify the exclusion of undocumented immigrants from the national narrative ultimately reinforced exclusionary nationalism as the dominant public narrative influencing immigration policy.

Critics of the DREAM Act not only used classist discourses to reify American exceptionalism and constitute undocumented immigrants as economic competitors, they also drew upon xenophobic notions of exclusionary nationalism to criminalize these subordinated people. Just as policymakers constructed the Mexican immigrant as inherently criminal in order to justify the Mexican Repatriation Drive in the 1930's, policymakers arguing against the DREAM Act during the 2007 hearing utilized criminalized undocumented immigrants to rationalize their exclusion from the American identity. Echoing the xenophobic rhetoric of the 1981 SCIRP report that "illegality breeds illegality," policymakers testifying in the 2007 hearing argued the DREAM Act will encourage breaking the law and jeopardize the so-called integrity of what it means to be an American.<sup>341</sup> For example, Representative Lungren questioned,

If we were to pass the DREAM Act . . . should we legislators be concerned about . . . [encouraging] others to continue to break the law and come here giving their children the best gift they could possibly give them. . . . We must close the back door of illegal immigration so that we can open the front door of legal

immigration . . . if we don't control illegal immigration, the sentiment in the country may very well be to slam the door on legal immigration. And what do you say to someone who, let us say was from Vietnam or the Congo or somewhere else who didn't come here illegally, but stayed in their country and waited for the number to come up to allow them to come here?<sup>342</sup>

Lungren perpetuated the dominance of the American national narrative over all others by calling it the “best gift” a parent can give to their child. Additionally, he argued that providing a path to citizenship to those who “break the law” would encourage more immigrants to enter illegally. Mirroring the rhetoric used in the SCIRP report, he highlighted the state’s responsibility to “close the back door of illegal immigration” through mechanisms of surveillance and control such as increased border security and internal enforcement policies. This metaphor assumed only two doors for immigrants—the “front door” of legal immigration including family unification, refugees, education, and authorized employment; and the “back door” through which undocumented, or unwanted, immigrants must sneak through without permission. By rhetorically constructing undocumented immigrants as devious criminals slipping through the “back door” of state control, Lungren diminished the human experience of undocumented immigrants to that of their illegally entry and constructed them as inherently criminal. Thus, he reasoned providing a path to legal status for undocumented youth would reward and encourage the continuance of so-called “criminal behavior” and weaken the American national narrative.

To strengthen Representative Lungren’s argument that illegal immigration threatens the national narrative, Representative King utilized xenophobic discourses of fear to make rhetorical connections between the undocumented immigrant “criminal” and

the weakening of national security. For example, King addressed the three immigrant women panelists after they provided their testimonies:

I revere this rule of law, and I think one of the reasons that you are all here is to escape that lack of rule of law in the countries that you left, and so I do not want to recreate the circumstances here in the United States where slowly we erode this rule of law that is the attraction that brings such talented people here to the United States.<sup>343</sup>

King objectified the panelists as people who “erode” the rule of law and, therefore, “erode” the sacred American identity. Similar to the policymakers in the 1800’s claiming Chinese laborers “[endangered] the good order of certain localities” because they traveled from corrupt countries, King insinuated all undocumented immigrants are from “law-less” countries and threaten the national security of the United States by their very presence.<sup>344</sup> As discussed in chapter one, Foucault has argued that a government must be able to manage its population through discipline in order to maintain sovereignty.<sup>345</sup> According to this assumption, policymakers who fail to maintain the so-called “rule of law” also fail to uphold sovereignty and, more importantly, are at risk for losing their position of power. Here, King played on the fears of policymakers who worry about losing their authority by reducing the undocumented immigrant to a national threat requiring state control. Furthermore, he strengthened the dominance of the narrative of exclusionary nationalism by constituting undocumented immigrants as law-less people whose uncontrolled presence threatens the government’s power over the national narrative.

In addition to using racist, xenophobic, and classist discourses of exclusionary nationalism to constitute undocumented immigrants as national threats, critics of the DREAM Act established an imagined public voice for the “American people” that

excludes undocumented immigrants from its purview. Chapter one demonstrated that the American identity is rooted in racist assumptions of White national loyalty and has excluded those who challenge these assumptions from its participation. Since the country's inception, policymakers have rhetorically created a homogenous national ideal for the public modeled after their own exclusive interpretations of citizenship. They then used this imagined ideal to frame the dominant public opinion as being the shared opinion of the "American people" in order to influence policy and sway voters; however, this narrow concept of the "American people" rarely constituted an accurate representation of public opinion. Despite its inherent flaws, the concept of the "American people" remains a dominant rhetorical strategy in political testimony. Speaking to the House Subcommittee during the 2007 hearing, Representative Conyers draws upon the imagined concept of the "American people":

You reminded me that also the American people weigh in on these decisions. It isn't really just us Senators and us Congresspersons. The American people are influencing us as well. So they are looking and listening trying to get this straight. Should we keep these people? Everybody wants to come to America. You know, there is a line. We got to draw the line somewhere.<sup>346</sup>

Conyers rhetorically separated the "American people" from "these [undocumented] people." Additionally, he constituted "these [undocumented] people" as a material commodity that the "American people" can choose to keep or discard. He rhetorically drew a "line" around who is included in the imagined national ideal, and who is excluded. As a result, Conyers maintained the exclusivity of the American identity while further reducing the undocumented immigrant to a powerless object unworthy of citizenry and requiring state control to keep them on the right side of the "line."

The oppositional testimonies in the 2007 hearing emphasized exclusionary nationalism as the dominant narrative shaping public debate on the DREAM Act and immigration reform. Policymakers used classist and xenophobic discourses to constitute the undocumented immigrant as a criminal that endangered American exceptionalism and economic security. Their narratives not only excluded undocumented immigrants from the American identity, they also constructed them in opposition to the national ideal. As a result, the oppositional narratives eliminated the possibility for panelists to express counternarratives during the debate. By controlling the terms of the debate, these policymakers maintained the dominance of exclusionary nationalism and ensured the continued exclusion of unwanted immigrant “Others” from the national narrative.

### **Conclusion**

As the 2007 hearing on the future of undocumented immigrant youth demonstrates, the narrative dominance of exclusionary nationalism remains unchallenged in contemporary political discourse surrounding immigration reform. The public debate on the DREAM Act is controlled by assimilationist, racist, xenophobic, and classist discourses constituting undocumented immigrants as national threats. Foucault explains, “Discursive practices . . . are embodied in technical processes, in institutions, in patterns for general behavior, in forms for transmission and diffusion, and in pedagogical forms which, at once, impose and maintain them.”<sup>347</sup> In the case of immigration, discourses of exclusionary nationalism are both embodied in and maintained by the state through policy. For centuries, policymakers have utilized exclusive rhetoric to justify restrictive immigration policies and maintain strict internal enforcement laws. This trend continues



within the DREAM Act debates where the narrative of exclusionary nationalism dominates public discourse in the hearing room and society at large.

The failure of DREAM Act supporters to challenge exclusionary nationalism is due in part to the fact that the power of participants speaking at congressional hearings is far from equitably distributed. Rhetorician Valérie Fridland explains that formal legal spaces such as a courtroom or hearing room create a context where “the negotiation of discourse and discursive expression rests in the mouths of those granted the institutional authority to speak.”<sup>348</sup> In a congressional hearing room, policymakers constitute those with the institutional authority to speak while witnesses remain controlled and censored by the state’s gaze. Drawing from Foucault’s notion of truth and power, the authority of policymakers in a congressional hearing room ensures that they have complete jurisdiction over the knowledge created. Not only do policymakers select which witnesses to invite and, most importantly, which to exclude, they also control the schedule, procedures, and organization of the meeting. This exertion of state power over the hearing room creates a rhetorical space in which witnesses rarely, despite their often central position as an actual participant in the circumstances leading the hearing, qualify as an authority.

Due to the unequal distribution of power within the congressional hearing room, the dominance of exclusionary nationalism within public DREAM Act debates remains unchallenged. Drawing on centuries of assimilationist, racist, xenophobic, and classist rhetoric, opponents of the DREAM Act control the terms of the debate both in congress and for the general public. Their position of power over the debate eliminates the possibility for the politicization of subjugated knowledge, especially within the

congressional hearing room. This hierarchy of power favors an elite, exclusionary nationalist notion of American identity over all others and ensures the continued marginalization of any dissenting narrative. As a result, subordinated immigrants remain powerless under state control, limiting the possibility for implementing immigration policies aimed at increasing their access to the exclusive national narrative.

## Conclusion

### Challenging Exclusionary Nationalism by (Re)Constituting the Immigrant Body

Although the DREAM Act movement has gained momentum over the past few years, advocates continue to fail to get the votes needed to pass the bill. The DREAM Act originated as a set of provisions to be included in comprehensive immigration reform (CIR) bills; however, advocates grew weary of the possibility for CIR to gain the bi-partisan support needed to pass and decided to push the DREAM Act forward as a stand-alone bill. As a result, DREAM Act advocates split from the larger reform movement led by groups such as Reform Immigration FOR America (RIFA), La Raza, and the National Immigration Law Center (NILC). This shift in strategy has brought more public attention to the DREAM Act, but has yet to prove successful in Congress.

Undocumented immigrant youth are among the most disenchanting with comprehensive immigration reform prospects. They believe that the “CIR strategy has utterly failed . . . relying on disinterested Democrats to push immigration reform forward has failed. . . . Incremental reform is the best option now, especially the DREAM Act.”<sup>349</sup> To counter the efforts of RIFA, La Raza, and the NILC to push for comprehensive immigration reform, undocumented immigrant youth have attempted to establish a separate political movement advocating solely for the passage of the DREAM Act. These youth have created organizations such as DREAM Activist, National Immigrant Youth Alliance (NIYA), and the United We Dream Network (UWD), focusing on “leadership development, organizing, policy advocacy, alliance building, training and capacity building . . . at the local, state, and national levels.”<sup>350</sup> Although these groups are youth-

led, they are operating outside of the larger CIR movement only in mission since they still receive funding and accreditation from RIFA, La Raza, and NILC. Unfortunately, this fragmentation of DREAM Act advocacy efforts from the larger CIR movement limits the rhetorical and political power of marginalized undocumented immigrants and their allies. By redirecting their rhetorical and political strategies to focus only on the DREAM Act, youth advocates reduce their strength in numbers and, in turn, diminish their ability to establish widespread solidarity capable of producing social change.

In addition to weakening their political power by isolating themselves from the CIR debate and focusing on a narrow and incremental goal, DREAM Act advocates employ rhetorical strategies that hinder their ability to encourage long term social change for all immigrants. According to rhetorician Maurice Charland, knowing how to manipulate constitutive rhetoric is crucial for advocates trying to “interpolate” or “persuade” audiences to adopt an ideology in order to spur social change.<sup>351</sup> To successfully interpolate an audience within a shared ideology, advocates must use the narratives that constitute the audience as a “coherent subject.”<sup>352</sup> In the case of immigration, DREAM Act advocates draw upon the dominant narrative of exclusionary nationalism in an attempt to constitute themselves as participants of the same American identity shared by policymakers. This rhetorical strategy is an attempt to create an imagined solidarity among undocumented immigrant youth and policymakers and is used to encourage policymakers to empathize with the plight of undocumented immigrant youth. Unfortunately, by adopting the narrative responsible for their subjugation rather than establishing their own counternarrative, they ultimately reinforce the future exclusion of non-White immigrant “Others” from the American identity.

The following section investigates the ways in which DREAM Act supporters and their allies utilize “failed constitutive rhetoric” that uphold the dominance of exclusionary nationalism and weaken the rhetorical strength of those immigrants furthest away from the status quo.<sup>353</sup> First, DREAM Act advocates fail to constitute a new definition of American identity outside of the dominant narrative of exclusionary nationalism. Second, I demonstrate that in adopting assimilationist rhetoric, DREAM Act advocates silence the expression of their subjugated knowledge through counternarratives. Finally, I argue that failed constitutive rhetoric neglects to challenge existing power relations and, therefore, lessen the possibility for long-term social change.

### **Failed Constitutive Rhetoric: Reinforcing the Narrative of Exclusionary Nationalism**

The rhetorical strategies employed by DREAM Act supporters create “constitutive paradoxes” that reify their subordination as “Others” rather than resist the exclusivity of the American identity. Rhetorician Kenneth Burke explains that a “constitutive paradox” occurs when groups attempting to define a new audience and reconstitute their identities actually “usher in precisely the gloom they thought they were ushering out.”<sup>354</sup> Although DREAM Act advocates attempt to usher out the discriminatory beliefs alienating them from the American identity, they actually contribute to their continued exclusion from this identity by upholding the discourses of exclusionary nationalism. In an attempt to persuade policymakers to pass the DREAM Act, advocates perpetuate an assimilationist, racist, xenophobic, and classist public position on immigration reform that is diametrically opposed to the long-term social transformation they hope to achieve.

DREAM Act supporters enact failed constitutive rhetoric when they uphold an exclusionary nationalist, homogenous notion of American identity rather than providing a new definition of the American identity that embraces difference. As demonstrated in chapter one, the Founding Fathers established an exclusive American national identity modeled after Anglicized, elitist ideologies. They intentionally excluded non-Anglo Saxon immigrants whose “language” and “principles of government” they left behind were believed to “warp and bias” the new direction of the national community, threatening to leave it a “heterogeneous, incoherent, distracted mass.”<sup>355</sup> For the centuries to follow, policymakers used restrictive immigration policies such as the Chinese Exclusion Act of 1882, the Asiatic Barred Zone Act of 1917, and the Johnson-Reed Act of 1924 to exclude non-White immigrants believed to threaten the homogeneity of the Anglicized American identity. Today, the same strategies are employed by policymakers to ensure the strength of a state-controlled American identity.

The exclusive American identity is rooted in racist and classist assumptions of exclusionary nationalism, reigning over the national community and informing the contemporary debate on immigration reform. Contemporary discourses of exclusionary nationalism continue to constitute undocumented immigrants as “a serious national security problem,” thereby rationalizing their marginalization from the American identity and the social status it affords its members.<sup>356</sup> Chapter two demonstrates how DREAM Act supporters do little to change the marginalized position of undocumented immigrants. Supporters focus on assimilation instead of redefining the American identity in a way that would include subjugated “Others,” embrace difference, and consider heterogeneity a strength rather than a threat to national sovereignty. They perpetuate the same

assimilationist and classist assumptions that limit the participation in the American identity to those who “speak wonderful English. . . . have great educations. . . . who are assimilated and who love America.”<sup>357</sup> By upholding the exclusionary nationalist discourses informing the American identity, DREAM Act supporters all but ensure the continued social and economic marginalization of those immigrants furthest from the status quo.

A second way in which DREAM Act advocates employ failed constitutive rhetoric is by neglecting to express their subjugated knowledge through counternarratives. Feminist scholar Gayatri Chakravorty Spivak draws on Foucault and Deleuze to explain that “the oppressed . . . *can speak and know their conditions,*” however the real question is whether or not the oppressed will actually articulate these conditions in a way that encourages political solidarity through alliance.<sup>358</sup> As demonstrated in the 2007 hearing, DREAM Act supporters fail to speak of their “conditions” as marginalized “Others” in a way that encourages political solidarity. Rather than focusing on their personal experiences as immigrant “Others” and highlighting their immigrant values, traditions, and beliefs to demonstrate how these attributes positively contribute to the American community, they downplay their foreignness and frame themselves as the “ultimate Americans” willing to abandon their unique heritage in exchange for participating in the Anglicized national narrative.<sup>359</sup> Their cultural uniqueness is traded for an idealized notion of “American,” extinguishing any ability to build political solidarity based on the shared subjugated knowledge of immigrant “Others.” As reinforced in the 2007 congressional hearing, undocumented immigrant youth “repeat the Pledge of Allegiance, liberty and just for all. They root for

their favorite baseball and football teams, and they ponder their future.”<sup>360</sup>

Undocumented immigrant youth constitute themselves as White in order to convince policymakers that they deserve access to the (White) privileges of citizenry.

Legal scholar Clare Sheridan explains Mexican immigrants and their American descendents intentionally frame themselves as the “other white race,” grouping themselves with other “nationality groups” such as Germans or Czechs that are recognized as White in order to gain access to legal and material White privilege.<sup>361</sup> This strategy also distinguishes them from what they consider to be lower class, “less desirable groups” such as blacks, Native Americans, and Chinese.<sup>362</sup> Thus, Mexican immigrants and their American descendents rely on existing racial hierarchies that reinforce a dichotomous perception of race as being either black or White so that when they self identify as White, they constitute themselves within rather than outside privilege. However, in focusing on assimilation and constituting themselves as White, they neglect to politicize their subjugated knowledge. Consequently, they reinforce the same power relations responsible for their exclusion and, as a result, all but ensure the continued economic and social marginalization of non-White immigrant “Others” from the national narrative.

Failing to create a new definition of “American” that embraces the subjugated knowledge of immigrant “Others” weakens the possibility for non-White immigrant “Others” to control the terms of the public debate on immigration reform. As demonstrated in chapter two, the unequal power distributions within the congressional hearing room make the process of giving congressional testimony an unlikely occasion for the expression of subjugated knowledge. Foucault’s notion of truth and power



explains that the authority of policymakers in a congressional hearing room ensures that they have complete jurisdiction over the knowledge created in that space. As a result, witnesses rarely qualify as significant rhetors informing the debate within the hearing room. This lack of control over the formal debate on immigration reform guarantees non-White immigrant “Other” will never have the authority to resist their position of powerlessness in the congressional hearing room. Unless these marginalized immigrants begin to constitute a significant public outside of state-controlled spaces, policymakers enacting the narrative of exclusionary nationalism will continue to control the public debate on immigration reform.

Despite the rhetorical shortcomings of using assimilationist rhetoric that focuses on ways undocumented youth “identify with the American culture, speak English fluently, and . . . are patriotic and love this country,” this is the only rhetorical strategy currently available to undocumented youth.<sup>363</sup> As long as undocumented youth lack legal status, they lack the legal protections required to form a more radical movement that challenges exclusionary nationalism. The following section explains the political necessity of DREAM Act supporters to continue using failed constitutive rhetoric until undocumented youth obtain legal status. First, I explain how using assimilationist discourses might advance the passage of the DREAM Act, even if the strategy limits future immigration reform. I argue that in the short term, incremental change provided by the DREAM Act would allow qualifying undocumented youth to become legitimate members of the system, and, in turn, create the space needed for a radical movement that could more ardently resist the subordination of all non-White immigrant “Others.” Next, I call for the future reunification of immigrant youth with the larger comprehensive

immigration reform movement as well as the creation of multiracial coalitions. I argue long-term social change for all non-White immigrant “Others” will only be achieved through a large-scale, radical social movement that takes place outside of state-controlled spaces and publicly resists the Anglo-Saxonized notion of American identity. Finally, I suggest these future coalitions should focus on politicizing their subjugated knowledge in order to dismantle the narrative dominance of exclusionary nationalism and liberate themselves from their marginalized position.

**Towards a New Radicalism: Using Assimilationist Discourses to Create  
Future Possibilities of Resistance**

Since DREAM Act supporters fail to challenge the narrative dominance of exclusionary nationalism and, instead, uphold existing power relations that privilege elite notions of American identity, the passage of the DREAM Act would do little to redirect the long-term public debate on immigration reform. However, until undocumented youth obtain the protections afforded by legal status, they have few options outside of using assimilationist discourse to fight for incremental change. Therefore, using assimilationist discourses to pass the DREAM Act is a rhetorical necessity that can only be rectified after undocumented immigrant youth are legally legitimized.

Using assimilationist discourses fails to challenge the narrative dominance of exclusionary nationalism and limits the possibility of long-term social change, but this rhetorical strategy is needed in the interim to advance the passage of the DREAM Act. Undocumented immigrant youth who qualify for legal status under the DREAM Act are culturally distinct from than their parents who migrated as adults. As demonstrated in the 2007 hearing, many undocumented immigrant youth enter the United States at very

young ages and have adopted the language and cultural values associated with the American identity such. As a result, these youth identify with the Anglo-Saxonized American culture before they identify with the foreign culture of their parents. This cultural amalgamation allows them to more easily frame themselves as members rather than outcasts of the American national narrative, attracting public attention to the situation of these “Americanized” youth and establishing empathy among policymakers. For example, empathetic policymakers identify with these immigrant youth, stating, “You are not much different than I am . . . you are patriotic and love this country like I do . . . little difference remains between you and me.”<sup>364</sup> By drawing on assimilationist discourse to constitute themselves as “coherent subjects” worthy of citizenship, undocumented immigrant youth interpolate policymakers to see them as Americans who deserve an opportunity to obtain legal status, increasing the possibility for the DREAM Act to pass.

Using assimilationist discourses to pass the DREAM Act as a stand-alone bill reinforces the marginalization of all other non-White immigrant “Others;” however, legal status is required before undocumented youth can employ a more radical rhetoric. The DREAM Act only benefits those who demonstrate their ability to assimilate into American culture via their length of stay in the United States, academic success, military service, or pursuit of higher education. These requirements fail to address the needs of those immigrants furthest away from the status quo, such as the criminalized, uneducated parents of undocumented immigrant youth; therefore, a more radical movement is needed to liberate all non-White immigrant “Others.” However, until undocumented immigrant youth obtain legal status, they are unable to employ radical rhetoric to challenge

exclusionary nationalism or resist state control. Without legal status, undocumented immigrants are unable to engage in legal employment, they are banned from participating in public benefits such as certain health, financial, and education services, and, more importantly, they risk detention and deportation each and every day.<sup>365</sup> According to legal scholar Catherine L. Merino, undocumented immigrants make up a “subclass” that is “in a particularly vulnerable position relative to . . . legalized aliens.”<sup>366</sup> She explains voluntary surrender is not a viable option for unauthorized aliens because deportation “carries serious, life-long consequences” including felony prosecutions and the barring of future legal entry into the United States.<sup>367</sup> Thus, until they achieve legal status, most undocumented immigrants are unwilling to risk deportation by publicly protesting their marginalization. Legal legitimization is required before these immigrants shift their rhetorical strategies towards a new radicalism that will challenge the narrative dominance of exclusionary nationalism.

If the DREAM Act passes and undocumented immigrant youth achieve legal legitimization and protection, they must reunite with the larger movement for comprehensive immigration reform as well as establish multiracial coalitions that seek justice for all racially excluded “Others.” Black feminist Audre Lorde argues that marginalized groups must “make common cause with those others identified as outside the structures in order to define and seek a world in which we can all flourish.”<sup>368</sup> Undocumented youth must reconnect with those “Others” within the Hispanic and larger immigrant communities, especially those immigrants who may be furthest away from the status quo. Additionally, they should form coalitions with lesbian, gay, bisexual, and transsexual (LGBT) immigrant activists who are fighting for marriage equality and the

recognition of same-sex union within immigration policy.<sup>369</sup> These coalitions must be multiracial and address the marginalization of all non-White “Others” from the national narrative if they are to succeed in challenging the homogeneity of the national narrative. In establishing multiracial coalitions, non-White immigrant “Others” intensify their rhetorical and political power and create the possibility for a broad-based civil rights movement.

Despite their political necessity, creating multiracial coalitions will be extremely challenging due to existing tensions between racial minorities. Legal scholars Kevin R. Johnson and Bill Ong Hing believe the racism between African American and Latino communities will be the most challenging to overcome in the formation of a “new, truly broad-based civil rights movement” that fights for immigrant rights and against the discrimination of all racial minorities.<sup>370</sup> They explain that perceived job competition between the two groups combined with a strong sense of cultural nativism contribute to racial divisions between the two minority groups. Despite their racial tensions, racial minorities must acknowledge they are all excluded by the same White, capitalist power structure. Therefore, if they are to dismantle the narrative dominance of exclusionary nationalism, non-White “Others” must put their racial tensions aside to fight for liberation together.

In addition to establishing multiracial coalitions, immigrant youth legalized under the passage of the DREAM Act must trade their current assimilationist discourse for more radical rhetoric of resistance if they are to defy the exclusion of all non-White “Others” from the national narrative. As part of this shift towards radical rhetoric, I suggest they embrace their difference and politicize their subjugated knowledge. Since

the strategy of assimilation establishes a cultural norm that is blind to difference, it disadvantages all “Others” whose experience and culture differ from that norm. Social theorist Iris Marion Young explains, “The real differences between oppressed groups and the dominant norm . . . tend to put them at a disadvantage in measuring up to these standards, and for that reason assimilationist policies perpetuate their disadvantage.”<sup>371</sup> Under these circumstances, it is imperative that “Others” politicize their subjugated knowledge and assert the positivity of group difference.

The act of reclaiming the identity silenced by the dominant culture is not only liberating and empowering, but also challenges the hegemonic assumptions that one should reject and devalue his or her difference to become members of that society. Additionally, politicizing difference forces the “relativizing” of the norm, forcing the dominant culture to admit to its specificity and debunking the myth that the norm is neutral and universal.<sup>372</sup> In the case of immigration, non-White immigrant “Others” should band together with multiracial allies to politicize their collective difference from the homogenous, Anglo-Saxonized American identity. They should highlight their personal experiences as “Others” and constitute their unique values, traditions, languages, and beliefs as contributions rather than threats to the national community. By insisting whole groups who differ from the norm are deserving of national membership, they will encourage group solidarity among racial “Others” and move towards eliminating the hierarchy that privileges an Anglo-Saxonized American identity.

If the DREAM Act passes and undocumented immigrant youth are able to obtain legal status, these newly legalized advocates must end the use of assimilationist discourses, form multiracial coalitions, and embrace radical rhetoric of resistance in order

to challenge the narrative of exclusionary nationalism responsible for their marginalization. As the fight for immigrant access persists, I encourage researchers, political activists, policymakers, and subjugated immigrant “Others” to continue investigating ways in which American nationalism contributes to the rhetorical exclusion of various populations. In regards to the DREAM Act debate, a much needed area of investigation would be the 2010 congressional debates regarding the DREAM Act wherein policymakers reinforced the narrative dominance of exclusionary nationalism when arguing for and against the bill. Additionally, future research is needed in the areas of how institutions such as education systems and the mass media maintain an exclusive notion of American identity. If the primary goal of the DREAM Act is to provide access for excluded immigrants, we must need to better understand how these immigrants might continue to be excluded even after gaining legal access. Finally, a comprehensive study on how legal status creates divisions among immigrant communities, especially between legalized and undocumented immigrant youth, would help determine the possibility for group solidarity if the DREAM Act were to continue to fail. The issue of immigration reform is complex and involves analyses from varying disciplines and perspectives; however, research in this area remains critical to the future of our national community. Only through criticizing the “prevailing knowledge” of the American identity will we empower ourselves to define “our own realities *on our own terms*,” changing not only our individual actions and ideas, but also the hierarchy of power and national identity.<sup>373</sup>

## References

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- <sup>2</sup> Jennifer L. Willis, "Rhetorically Constructing the Immigrant: Elite Discourse and Immigration Policy" [PhD diss., Bowling Green State University, 1997]: 3.
- <sup>3</sup> Kent A. Ono and John M. Sloop, *Shifting Borders: Rhetoric, Immigration, and California's Proposition 187*, [Philadelphia, PA: Temple University Press, 2002], 5.
- <sup>4</sup> James Boyd White, "Law as Rhetoric, Rhetoric as Law: The Art of Cultural and Communal Life," *University of Chicago Law Review* 52 [Summer 1985]: 692.
- <sup>5</sup> James Boyd White, "Law as Rhetoric, Rhetoric as Law: The Art of Cultural and Communal Life," 686.
- <sup>6</sup> James Boyd White, "Law as Rhetoric, Rhetoric as Law: The Art of Cultural and Communal Life," 133.
- <sup>7</sup> Walter R. Fisher, *Human Communication as Narration: Toward a Philosophy of Reason, Value and Action* [Columbia, South Carolina: University of South Carolina Press, 1987], 24.
- <sup>8</sup> Walter R. Fisher, *Human Communication as Narration: Toward a Philosophy of Reason, Value and Action*, 47.
- <sup>9</sup> Walter R. Fisher, *Human Communication as Narration: Toward a Philosophy of Reason, Value and Action*, 48.
- <sup>10</sup> John Louis Lucaites and Celeste Michelle Condit, "Re-constructing Narrative Theory: A Functional Perspective," in "Homo Narrans: Story-telling in Mass Culture and Everyday Life," ed. George Gerbner, *The Journal of Communication* 35, no. 4 [Autumn 1985]: 90-108.
- <sup>11</sup> John Louis Lucaites and Celeste Michelle Condit, "Re-constructing Narrative Theory: A Functional Perspective," 91.
- <sup>12</sup> Lisa A. Flores, "Constructing Rhetorical Borders: Peons, Illegal Aliens, and Competing Narratives of Immigration," *Critical Studies in Mass Communication* 20, no. 4 [December 2003]: 366.
- <sup>13</sup> Lisa A. Flores, "Constructing Rhetorical Borders: Peons, Illegal Aliens, and Competing Narratives of Immigration," 94.



- <sup>14</sup> James Boyd White, "Law as Rhetoric, Rhetoric as Law: The Art of Cultural and Communal Life," 692.
- <sup>15</sup> Benedict Anderson, *Imagined Communities* [London, England: Verso, 1983], 145.
- <sup>16</sup> Benedict Anderson, *Imagined Communities*, 4.
- <sup>17</sup> Anthony D. Smith, *Nationalism in the Twentieth Century* [New York: New York University Press, 1979], 1.
- <sup>18</sup> Walker Connor, *Ethnonationalism: The Quest for Understanding* [Princeton: Princeton University Press, 1994], 92.
- <sup>19</sup> E.J. Hobsbawm, *Nations and Nationalism Since 1780* [Cambridge, United Kingdom: Cambridge University Press, 1990], 10.
- <sup>20</sup> Walker Connor. *Ethnonationalism: The Quest for Understanding*, 79.
- <sup>21</sup> Benedict Anderson, *Imagined Communities* [London, England: Verso, 1983], 47.
- <sup>22</sup> James Boyd White, "Law as Rhetoric, Rhetoric as Law: The Art of Cultural and Communal Life," 686.
- <sup>23</sup> Maurice Charland, "Constitutive Rhetoric: The Case of the *Peuple Québécois*," *The Quarterly Journal of Speech* 73, no. 2 [May 1987]: 133.
- <sup>24</sup> Maurice Charland, "Constitutive Rhetoric: The Case of the *Peuple Québécois*," 143.
- <sup>25</sup> Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 4<sup>th</sup> ed., New York, NY: Columbia University Press, 1999.
- <sup>26</sup> Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 1. Between 1680 and 1760, the British colonial population increased dramatically from 250,000 to over 2 million.
- <sup>27</sup> Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 1.
- <sup>28</sup> Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 2.
- <sup>29</sup> Hemant Shaw, "Race, Nation and Citizenship: Asian Indians and the Idea of Whiteness in the U.S. Press, 1906—1923," *The Howard Journal of Communications* 10, no. 4 [October 1999]: 251.

<sup>30</sup> Ian F. Haney López, “The Social Construction of Race,” *Critical Race Theory: The Cutting Edge*, 2<sup>nd</sup> ed., ed. Richard Delgado and Jean Stefancic [Philadelphia, PA: Temple University Press, 2000], 163-175.

<sup>31</sup> Hemant Shaw, “Race, Nation and Citizenship: Asian Indians and the Idea of Whiteness in the U.S. Press, 1906—1923,” 251.

<sup>32</sup> Derrick A. Bell, Jr., “Property Rights in Whiteness: Their Legal Legacy, Their Economic Costs,” *Critical Race Theory: The Cutting Edge*, 2<sup>nd</sup> ed., ed. Richard Delgado and Jean Stefancic, [Philadelphia, PA: Temple University Press, 2000], 71-8. I have chosen to capitalize variations of the word “White” in order to expose its ethno-racial position of power in the American national narrative. Its capitalization discursively symbolizes the dominance of the “White” racial category, allowing for a critique of “Whiteness” as the assumed standard in the social construction of knowledge.

<sup>33</sup> Michael Omi and Howard Winant, *Racial formation in the United States from the 1960s to the 1980s* [New York, NY: Routledge & Kegan Paul, Inc.], 53.

<sup>34</sup> Michael Omi and Howard Winant, *Racial formation in the United States from the 1960s to the 1980s*, 75.

<sup>35</sup> Tomás F. Summers Sandoval, Jr. “Disobedient Bodies: Racialization, Resistance, and the Mass (Re)Articulation of the Mexican Immigrant Body,” *American Behavioral Scientist* 52, no. 4 [December 2008]: 589.

<sup>36</sup> Tomás F. Summers Sandoval, “Disobedient Bodies: Racialization, Resistance, and the Mass (Re)Articulation of the Mexican Immigrant Body,” 589.

<sup>37</sup> Tomás F. Summers Sandoval, “Disobedient Bodies: Racialization, Resistance, and the Mass (Re)Articulation of the Mexican Immigrant Body,” 589.

<sup>38</sup> Tomás F. Summers Sandoval, “Disobedient Bodies: Racialization, Resistance, and the Mass (Re)Articulation of the Mexican Immigrant Body,” 589.

<sup>39</sup> Tomás F. Summers Sandoval, “Disobedient Bodies: Racialization, Resistance, and the Mass (Re)Articulation of the Mexican Immigrant Body,” 583.

<sup>40</sup> Michel Foucault, *Society Must Be Defended*, ed. Mauro Bertani and Alessandro Fontana, trans. David Macey, New York: Picador, 1997.

<sup>41</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan [New York: Random House, Inc., 1977], 164.

<sup>42</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 192.

<sup>43</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 227, 219.

- <sup>44</sup> Larry Catá Backer, "Global Panopticism: States, Corporations, and the Governance Effects of Monitoring Regimes," *Indiana Journal of Global Legal Studies* 15, no. 1 [Winter 2008]: 101-148.
- <sup>45</sup> Larry Catá Backer, "Global Panopticism: States, Corporations, and the Governance Effects of Monitoring Regimes," 277.
- <sup>46</sup> Steven Camarota and Karen Jensenius, "A Shifting Tide: Recent Trends in the Illegal Immigrant Population," Center for Immigration Studies Backgrounder, July, 2009, <http://www.cis.org/IllegalImmigration-ShiftingTide> [accessed December 28, 2009].
- <sup>47</sup> Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border* [Minneapolis, MN: University of Minnesota Press, 2002], 134.
- <sup>48</sup> Walker Connor, *Ethnonationalism: The Quest for Understanding* [Princeton: Princeton University Press, 1994], 21.
- <sup>49</sup> Edwin Poppe and Louk Hagendoorn, "National Identification of Russians in Five Former Soviet Republics," in *Nationalism and Exclusion of Migrants: Cross-national Comparisons*, ed. Mérove Gijssberts, Louk Hagendoorn, and Peer Scheepers, Burlington: Ashgate Publishing Company, 2004.
- <sup>50</sup> Stephen Steinberg, *The Ethnic Myth: Race, Ethnicity, and Class in America*, Boston: Beacon Press, 2001. Sixty one percent of the White population in the U.S. in 1790 was of English descent and ninety nine percent was Protestant.
- <sup>51</sup> Stephen Steinberg, *The Ethnic Myth: Race, Ethnicity, and Class in America* [Boston: Beacon Press, 2001], 7.
- <sup>52</sup> Benedict Anderson, *Imagined Communities* [London: Verso, 1983], 101.
- <sup>53</sup> Thomas Jefferson, "Notes on the State of Virginia: Query VIII on Population," in *Writings 1743-1826* [New York: Literary Classics of the United States, Inc.], 210-12.
- <sup>54</sup> Thomas Jefferson, *Writings 1743-1826*, 212.
- <sup>55</sup> Benjamin Franklin, *The Papers of Benjamin Franklin July 1, 1750-June 30, 1753*, ed. Leonard W. Labaree [New Haven: Yale University Press, 1961], 484-5. Brackets used in original. Letter written to Peter Collinson, a colleague in London with whom Franklin often corresponded about political issues in the United States. Collinson is best known for his correspondence with Franklin regarding electricity.
- <sup>56</sup> George Washington, *The Writings of Washington*, ed. John C. Fitzpatrick [Washington, DC: The Government Printing Office, 1940], 34, 23.
- <sup>57</sup> Christian Joppke, "Exclusion in the Liberal State: The Case of Immigration and Citizenship Policy," *European Journal of Social Theory* 8, no. 1 [2005]: 44.

<sup>58</sup> Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 4<sup>th</sup> ed. [New York: Columbia Press University, 1999], 21. The residency requirements were later extended to fourteen years under John Adam's presidency, and then reduced back to five years during Thomas Jefferson's presidency. At the time of this writing, the residency requirements remain at five years.

<sup>59</sup> Michael Omi and Howard Winant, *Racial Formation in the United States from the 1960's to the 1980's* [New York: Routledge and Kegan Paul, Inc., 1986], 75. At the time of the Act's implementation, non-Whites were primarily considered those of African descent, mostly involuntary immigrants such as slaves, because very few voluntary immigrants during this era were categorized as non-White; however, the significance of the Act lies in the exclusion of a population based on race.

<sup>60</sup> I have chosen to capitalize variations of the word "White" in order to expose its ethno-racial position of power in the American national narrative. Its capitalization discursively symbolizes the dominance of the "White" racial category, allowing for a critique of "Whiteness" as the assumed standard in the social construction of knowledge.

<sup>61</sup> Thomas Jefferson, "Notes on the State of Virginia: Query XIV on the Administration of Justice and Description of the Laws," in *Writings 1743-1826* [New York: Literary Classics of the United States, Inc.], 210-12.

<sup>62</sup> For an example of European Enlightenment's ideas of race, see the writings of Immanuel Kant, *Observations on the Feeling of the Beautiful and the Sublime*, trans. John T. Goldthwait [Berkeley: University of California Press, 2003], 97.

<sup>63</sup> American society has long differentiated among individuals on the basis of race; however, a precise legal definition of race has yet to be determined. For a history of the American legislative definitions of race, see Luther Wright, Jr., "Who's Black, Who's White, and Who Cares: Reconceptualizing the United States's Definition of Race and Racial Classifications," *Vanderbilt Law Review* 48, no. 513 [March 1995]: 514-569.

<sup>64</sup> Alexander Hamilton, "Examination Number VII," in *The Papers of Alexander Hamilton: July 1800-April 1802*, vol. 25, ed. Harold C. Syrett [New York: Columbia University Press, 1977], 496-7.

<sup>65</sup> Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border* [Minneapolis: University of Minnesota Press, 2002], 134.

<sup>66</sup> Stuart Hall, "The Question of Cultural Identity," in *Modernity: An Introduction to Modern Societies*, ed. Stuart Hall, David Held, Don Hubert, and Kenneth Thompson [Malden, MA: The Open University Press, 1996], 617.

<sup>67</sup> Maurice Charland, "Constitutive Rhetoric: The Case of the *Peuple Québécois*," *The Quarterly Journal of Speech* 73, no. 2 [1987]: 139.

<sup>68</sup> Maurice Charland, "Constitutive Rhetoric: The Case of the *Peuple Québécois*," 140.

<sup>69</sup>Desmond King, *Making Americans: Immigration, Race, and the Origins of the Diverse Democracy* [Cambridge: Harvard University Press, 2000], 19.

<sup>70</sup>Eric Kaufmann, "American Exceptionalism Reconsidered: Anglo-Saxon Ethnogenesis in the 'Universal' Nation, 1776-1850," *Journal of American Studies* 33, no. 3 [1999]:449. Excluded ethnic groups included Asian immigrants and African American descendants of slaves. The continued exclusion of these groups from assimilation was ensured through policy, such as the Chinese Exclusion Act of 1882, and acts of violence, such as the twentieth century lynchings carried about by the KKK.

<sup>71</sup> Winthrop Jordan, *White Over Black: American Attitudes Toward the Negro, 1550-1812* [Chapel Hill, NC: University of North Carolina Press, 1968], 339. Jordan argues the sixteenth century European concept of racial hierarchy, which had previously established the people of Africa as the lowest ranking on the "Chain of Being," scientifically codified the concept that African Americans were ancestors an inferior class, thus it was virtually inconceivable to the superior class of Anglo-Saxons that they could play a significant role in the complex act of nation-building.

<sup>72</sup>Michael Omi and Howard Winant, *Racial formation in the United States from the 1960's to the 1980's*, 76, emphasis original.

<sup>73</sup> Racial scholar Juan f. Perea introduces the black/White binary racial paradigm, describing it as the conception that race in American consists, either exclusively or primarily, of only two constituent racial groups, the black and the White. I draw on his theory of an American black/White binary, suggesting immigrants are categorized in one of two racial groups: White or non-White. Juan F. Perea, "The Black/White Binary Paradigm of Race," in *Critical Race Theory: The Cutting Edge*, 2<sup>nd</sup> ed., ed. Richard Delgado and Jean Stefancic [Philadelphia: Temple University Press, 2000], 344-53.

<sup>74</sup> Ian F. López Haney, "White by Law," in *Critical Race Theory: The Cutting Edge*, 630-1.

<sup>75</sup> European imagination of the Middle Ages formed the belief that only three distinct races existed: the Caucasoid, Negroid, and Mongoloid. All of Europe was included in the Caucasoid race, though language and cultural differences existed. Centuries later, the early national identity of the United States was more narrowly defined than the encompassing racial categories of the Middle Ages; however, as more immigrants from diverse backgrounds settled in the country, these racial categories reemerged as a way to organize people into racial hierarchies. Caucasoid became the privileged White race, Negroid became the racial category for African American descendents of slaves, and Mongoloid became the Asian immigrant category [Ian F. Haney López, "The Social Construction of Race," in *Critical Race Theory: The Cutting Edge*, 166].

<sup>76</sup> Michael Omi and Howard Winant, *Racial formation in the United States from the 1960's to the 1980's*, 65-6.

<sup>77</sup> Michel Foucault, *Power*, vol. 3, ed. James D. Faubion, trans. Robert Hurley and others [New York: The New Press, 2000], 11.

<sup>78</sup> Historian John Higham outlines the major ideological developments in the seventeenth and eighteenth centuries that laid the foundation for the rise of xenophobic nativism in America. He writes of anti-Catholic, anti-radical, and Anglo Saxon traditions being the primary narrative patterns responsible for the crisis of xenophobia in the nineteenth and twentieth centuries. John Higham, *Strangers in the Land: Patterns of American Nativism, 1860-1925*, New Jersey: Rutgers, the State University, 1955.

<sup>79</sup> Chinese Page Law of 1875, Chinese Exclusion Act of 1882, Immigration Act of 1891, Immigration Act of 1917, and the National Origins Act of 1924.

<sup>80</sup> Tomás Almaguer, *Racial Fault Lines: The Historical Origins of White Supremacy in California* [Los Angeles: University of California Press, 1994], 154.

<sup>81</sup> Erika Lee, “The ‘Yellow Peril’ and Asian Exclusion in the Americas,” *Pacific Historical Review* 76, no. 4 [2007]: 547.

<sup>82</sup> Chinese Exclusion Act of 1882 and the 1885 head tax on Chinese entering through Canada were the first formal policies addresses the labor crises on the West Coast.

<sup>83</sup> Michel Foucault, “The Discourse on Language,” trans. Rupert Sawyer, in *The Archaeology of Knowledge*, trans. A.M. Sheridan Smith [New York: Pantheon, 1972], 215-37.

<sup>84</sup> Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border*, xviii, emphasis original.

<sup>85</sup> Michel Foucault, *Power*, 219.

<sup>86</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan [New York: Random House, Inc., 1977], 220.

<sup>87</sup> Two major migration waves occurred in the nineteenth century: from 1845-1854 more than 3 million people landed at American ports, the bulk of whom were German and Irish immigrants; and from 1865-1875, English and Scandinavians made up the majority of the 3.5 million immigrants coming to America [Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 18].

<sup>88</sup> By the end of the 1800’s, anti-Chinese sentiment peaked as Chinese immigration to the West Coast increased from 40,000 in 1860 to over 100,000 in 1880 [Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 74].

<sup>89</sup> Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 74. These xenophobic discourses of “Yellow Peril” were most popular among Californians who lived in a state where mobs organized and harassed Chinese

immigrants, legislators instituted head taxes that required Chinese immigrants to pay for entry, and city ordinances were passed to restrict the opportunities for Chinese-owned businesses.

<sup>90</sup>Erika Lee, “The ‘Yellow Peril’ and Asian Exclusion in the Americas,” 550.

<sup>91</sup> Michel Foucault, *The Archaeology of Knowledge*, 228.

<sup>92</sup> Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 86.

<sup>93</sup>House Committee on Education and Labor 1867-1883, *Report on Chinese Immigration*, 47<sup>th</sup> Cong., 1<sup>st</sup> sess., 1882, H. Rpt. 1017 [Washington D.C.: The Government Printing Office]: 1.

<sup>94</sup> James Collins Ross, “Talking Immigration: A Rhetorical Analysis of U.S. Senate Debates, 1924-1965-1996”[PhD diss, University of Colorado University of Colorado at Boulder, 2002], 88, in Proquest Dissertations and Theses, Publication No. AAT 3043561 [accessed December 9, 2009].

<sup>95</sup> The Chinese Exclusion Act was not the first law to restrict the flow of Chinese immigrants, but it was the most exclusive. In 1875, Congress passed the Page Law, an exclusionary law banning the entry of contract laborers, felons, and Chinese women brought to the United States for prostitution. The Page Law is significant in that it singled out women for exclusion, contributing to the systems of human trafficking and the overall sexualization of the border; however, the Chinese Exclusion Act is most appropriate for the purposes of this study in that it extended the exclusions to all prospective Chinese immigrants based on race and national origin. For more information on the Page Law’s exclusionary characteristics, refer to Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border*, Minneapolis: University of Minnesota Press, 2002.

<sup>96</sup>*Chinese Exclusion Act of 1882*, S. 71, 47<sup>th</sup> Cong., 1<sup>st</sup> sess. [Washington D.C.: The Government Printing Office, 1882]: 1.

<sup>97</sup>Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border*, Minneapolis: University of Minnesota Press, 2002.

<sup>98</sup> Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977-78*, ed. Michel Senellart, trans. Graham Burchell [New York: Palgrave Macmillan, 2007], 46.

<sup>99</sup> The term “undocumented” is a popular term describing those immigrants residing in the United States without legal status. This term typically includes those immigrants who entered into the country illegally as well as those who entered legally but have remained in the country after their legal status expired. I have chosen to use the term “undocumented” rather than “illegal” because the term “illegal” is used to criminalize immigrants by the media, political leaders, and general public in order to push the conservative immigration reform agenda. It must be noted that the legal term for

immigrants lacking legal status is “illegal alien;” however, most pro-immigrant advocates functioning outside of the courtroom believe this term possesses a negative connotation. Additionally, the term “undocumented” is not necessarily an accurate descriptor of all immigrants who lack legal status because many undocumented immigrants possess legal documentation such as passports, driver’s licenses, social security cards, etc. Subsequently, some immigrants who lack certain legal documents may have legal status. Despite the inaccuracies of the term, referring to immigrants who lack legal status as “undocumented” has become the preferred term among immigrant rights groups. For more information about documentation and legal status, visit <http://www.uscis.gov/portal/site/uscis>.

<sup>100</sup> *Chinese Exclusion Act of 1882*, sec. 12. According to social theorist Erika Lee, an estimated 17,300 Chinese immigrants entered the U.S. through the “back doors” of Canada and Mexico between 1882 and 1920 [Erika Lee, “The ‘Yellow Peril’ and Asian Exclusion in the Americas,” 543].

<sup>101</sup> Along the Canadian border, where the majority of illegal entries first occurred, efforts centered on diplomatic solutions between the U.S. and Canada. Canadian immigration law first required Chinese immigrants to pay a head tax, then called for their complete exclusion. On the other hand, Mexico did not restrict the entry of Chinese immigrants into their ports and the U.S.-Mexico border quickly became the site for the greatest number of illegal entries in the U.S. by Chinese immigrants, shifting the focus of border control south [Erika Lee, “Enforcing the Borders: Chinese Exclusion along the U.S. Borders with Canada and Mexico, 1882—1924,” *The Journal of American History*, 89, no. 1, June 2002].

<sup>102</sup> W.R. Forrest quoted in a report submitted by the Select Committee on Immigration and Naturalization, *Chinese Immigration*, by Herman Lehlbach, 51<sup>st</sup> Cong., 2<sup>nd</sup> sess., H. Rpt. 4048 [Washington, DC: The Government Printing Office, 1891]: 137.

<sup>103</sup> Select Committee on Immigration and Naturalization, *Chinese Immigration*, III.

<sup>104</sup> Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977-78*, 46.

<sup>105</sup> Michel Foucault, *Power*, 219. Societies must employ all three aspects to ensure the control of population and, likewise, maintain the power of the nation.

<sup>106</sup> Erika Lee, “Enforcing the Borders: Chinese Exclusion Along the U.S. Borders with Canada and Mexico, 1882-1924,” *The Journal of American History* 89, no. 1, June 2002.

<sup>107</sup> Foucault defines the discursive gaze as an institutional component internalized by the object of surveillance. He claims there is an active relationship between the surveyed and surveyor as the surveyed exercises discipline over itself. Michel Foucault, *A History of Sexuality Volume 1: An Introduction*, trans. Robert Hurley, New York: Vintage Books, 1980.



<sup>108</sup> Erika Lee, “Enforcing the Borders: Chinese Exclusion along the U.S. Borders with Canada and Mexico, 1882-1924, 56.

<sup>109</sup> Erika Lee, “Enforcing the Borders: Chinese Exclusion along the U.S. Borders with Canada and Mexico, 1882-1924, 70.

<sup>110</sup> Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border*, 6. The construction of European “Whiteness” would only last until the 1920’s when the eugenics movement took center stage in the formation of immigration policy. During this decade, southern and eastern Europeans in addition to Asians were excluded from the “White” narrative due to their so-called “inassimilable” characteristics; however, the true threat stemmed from a great increase in the numbers of immigrants from these countries during the early twentieth century.

<sup>111</sup> The Immigration Commission, *Brief Statement of the Conclusions and Recommendations of the Immigration Commission, with Views of the Minority*, by William Stiles Bennett and William Paul Dillingham, 61<sup>st</sup> Cong., 3<sup>rd</sup> sess., Sen. Doc. 783 [Washington D.C.: The Government Printing Office, 1911]: 16. Between 1819 and 1910, 91.5% of immigrants came from European countries. In the years preceding 1893, the majority of these European immigrants were from the United Kingdom, Germany, Scandinavia, the Netherlands, Belgium, France, and Switzerland. After 1893, a dramatic shift in immigration occurred and 70% of European immigrants came from eastern and southern Europe.

<sup>112</sup> The Immigration Commission, *Brief Statement of the Conclusions and Recommendations of the Immigration Commission, with Views of the Minority*, 16.

<sup>113</sup> The Immigration Commission, *Brief Statement of the Conclusions and Recommendations of the Immigration Commission, with Views of the Minority*, 16.

<sup>114</sup> Prescott F. Hall as quoted by the Immigration Commission, *Reports of the Immigration Commission: Statements and Recommendations Submitted by Societies and Organizations Interested in the Subject of Immigration*, by William Paul Dillingham, 61<sup>st</sup> Cong., 3<sup>rd</sup> sess., S. Doc. 764 [Washington, D.C.: The Government Printing Office, 1910]: 124.

<sup>115</sup> The Asiatic Barred Zone Act continued the exclusion of Asian immigrants by barring “persons who are natives of islands not possessed by the United States adjacent to the Continent of Asia.” For a summary of the Act, see Committee on Immigration and Naturalization, *Report on Regulation of Immigration*, by John Lawson Burnett, HR 10384, 64<sup>th</sup> Cong., 2<sup>nd</sup> sess., H. Rpt. 1266 [Washington, D.C.: The Government Printing Office, January 8, 1917]: 1. This Act followed decades of Asian restriction rooted in economic competition. For example, the Chinese Exclusion Act of 1884 restricted the entrance of merchants into the U.S., allowing only laborers with valid re-entry certificates who had exited the U.S. before May 6, 1882 and remained abroad until July 5, 1884 to enter the country. In addition, term “merchant” was more clearly defined to not include

“hucksters, peddlers,” or fishermen. The Chinese Treaty of 1888 extended restrictions yet again, barring entry and requiring deportation of all Chinese laborers, irrespective of their occupation or length of residence. For a complete summary, see Senate Immigration Commission, “Chinese Exclusion Legislation,” *Reports of the Immigration Commission. Immigration Legislation*, by William Paul Dillingham, 61<sup>st</sup> Cong., 3<sup>rd</sup> sess., S. Doc. 758 [Washington, D.C.: The Government Printing Office, 1910]: 67-80.

<sup>116</sup> Senate Immigration Commission, “Abstract of the Report on Distribution of Immigrants, 1850 to 1900,” *Abstracts of Reports of the Immigration Commission*, by William Paul Dillingham, 61<sup>st</sup> Cong., 3<sup>rd</sup> sess., S. Doc. 747, vol. 2 [Washington, DC: The Government Printing Office, 1911]: 157.

<sup>117</sup> Benedict Anderson, *Imagined Communities*, 145

<sup>118</sup> House Committee on Immigration and Naturalization, *Immigration of Aliens into the United States*, by John Lawson Burnett, 64<sup>th</sup> Cong., 1<sup>st</sup> sess., H. Rpt. 95 [Washington, D.C.: The Government Printing Office, 1916]: 5

<sup>119</sup> House Committee on Immigration and Naturalization, *Immigration of Aliens into the United States*, by William Stiles Bennett, 61<sup>st</sup> Cong., 3<sup>rd</sup> sess., H. Rpt. 1956 [Washington, DC: The Government Printing Office, 1911]: 1. Not all members of Congress believed illiteracy tests would effectively restrict the immigration of undesirable immigrants. The members of the minority claimed illiteracy tests could prohibit the immigration of many able bodied men and women who, through no fault of their own, were denied access to education in their home country. In addition, President Woodrow Wilson vetoed the bill, stating, “This bill embodies a radical departure from the traditional and long-established policy of this country, a policy in which our people have conceived the very character of their Government to be expressed, the very mission and spirit of the Nation in respect to the peoples of the world outside their borders.” Majority members of Congress, however, did not agree with Wilson’s sentiments and overturned his vetoes, insisting literacy requirements would improve the ability of immigrants to assimilate into American social and political culture and minimize their perceived threat to the homogenous national narrative. For Wilson’s full veto statement, see Woodrow Wilson, *Message from the President of the United States Vetoing H.R. 6060, An Act to Regulate the Immigration of Aliens to and the Residence of Aliens in the United States*, 63<sup>rd</sup> Cong., 3<sup>rd</sup> sess., H. Doc. 152 [January 28, 1915] Washington, DC: The Government Printing Office.

<sup>120</sup> Senate Committee on Immigration, *Regulation and Restriction of Immigration*, 64<sup>th</sup> Cong., 1<sup>st</sup> sess., S. Rpt. 352 [Washington D.C.: The Government Printing Office, 1916]: 10.

<sup>121</sup> In a letter written in 1917 to President Wilson, W. G. McAdoo, Secretary of the Treasury stressed the importance of protecting the health of the nation when he stated, “the need of conserving life and health is all the more urgent, in order to permit recovery from war losses in the shortest possible time and to render the safe development of new agricultural and industrial resources” [W.G. McAdoo, *Conservation of Public Health*.

*Letter from the Secretary of Treasury, Transmitting Information and Recommendations Relative to Deficiency Estimate of Appropriation for the Conservation of Public Health, 65<sup>th</sup> Cong., 3<sup>rd</sup> sess., H. Doc. 1539 (Washington, D.C.: The Government Printing Office, 1918): 2].*

<sup>122</sup> The Immigration Act of 1903 established two classes of excludable immigrants based on medical grounds: Class A excluded immigrants with “dangerous contagious diseases,” including leprosy, epilepsy, chronic alcoholism, and tuberculosis. Class B excluded immigrants with “all diseases and deformities which are likely to render a person unable to earn a living” including heart disease, varicose veins, anemia, and malaria. In the 1917 Act, pregnancy was the only formal addition for newly formed Class C, but exceptions could be made for pregnant women accompanied by a male guardian. For more information on excluding immigrants for medical conditions, see Alan M. Kraut, *Silent Travelers: Germs, Genes, and the “Immigrant Menace,”* New York: Basic Books, Inc., 1994.

<sup>123</sup> Committee on Immigration, *Immigration Act of 1917*, 45. Retrieved from Academic Search Premier database. Homosexuals were excluded from entry under the definition of “psychopathic personality disorder” until 1990. This further elevated heterosexuality as the national norm and required all immigrants adhere to this norm in order to obtain entry. For more information on the exclusion of LGBT immigrants, refer to Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border*, Minneapolis: University of Minnesota Press, 2002.

<sup>124</sup> Michel Foucault, *Society Must Be Defended*, ed. Mauro Bertani and Alessandro Fontana, trans. David Macey [New York: Picador, 1997], 61-2.

<sup>125</sup> Alan M. Kraut, *Silent Travelers: Germs, Genes, and the “Immigrant Menace”* [New York: Basic Books, Inc., 1994], 78, 110.

<sup>126</sup> New York State Board of Alienists report quoted in *Immigration of Aliens into the United States*, 64<sup>th</sup> Cong., 1<sup>st</sup> sess. [Washington, D.C.: The Government Printing Office, January 31, 1916]: 2.

<sup>127</sup> Michel Foucault, *The History of Sexuality Volume I: An Introduction*, 139-41.

<sup>128</sup> Michel Foucault, *Society Must Be Defended*, 83.

<sup>129</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 191-2. At most inspection stations, including the largest station located on Ellis Island, arriving immigrants were organized into single-file queues and inspected by PHS officers who assessed potential medical conditions in only moments. Often immigrants were wrongly accused of having an illness and were excluded from admission based only on their outward appearance. Public Health Service officers had complete authority over the admissibility of immigrants, leaving immigrants powerless at the point of entry. For an in-depth analysis of the medical inspection of immigrants, see Alan M. Kraut, *Silent*

*Travelers: Germs, Genes, and the "Immigrant Menace"* [New York: Basic Books, Inc., 1994], 78.

<sup>130</sup> Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 84.

<sup>131</sup> Higham argues the association of immigrants with crime came about during Prohibition. Immigrants who broke the law were charged with possessing an inherent tendency towards criminality, increasing their conspicuousness as lawbreakers and "bringing down up on their heads the wrath of 100 percent American morality." The criminalization of immigrants combined with existing racial tensions, a renewed interest in Americanization, and a resurgence in nativist groups led to a type of tribal nativism in the 1920's. John Higham, *Strangers in the Land: Patterns of American Nativism 1860-1925* [New Brunswick: Rutgers University Press, 1988], 264-99.

<sup>132</sup> Mae M. Ngai, "The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924," *The Journal of American History* 86, no. 1 [1990]: 70.

<sup>133</sup> As a result of this campaign, the Klan became the largest nativist group in the United States with a membership of over 4 million.

<sup>134</sup> Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 85.

<sup>135</sup> John Higham, *Strangers in the Land: Patterns of American Nativism 1860-1925*, 269.

<sup>136</sup> These theories were based on the racial ideologies developed during Europe's Age of Enlightenment [Charles Benedict Davenport, *Heredity in Relation to Eugenics* (New York: Henry Holt and Company, 1911), 1].

<sup>137</sup> John Higham, *Strangers in the Land: Patterns of American Nativism 1860-1925*, 273

<sup>138</sup> Charles Benedict Davenport, *Heredity in Relation to Eugenics*, iv, emphasis original.

<sup>139</sup> Charles Benedict Davenport, *Heredity in Relation to Eugenics*, 211. These other races included southeastern Europeans, Asians, and both voluntary and involuntary African immigrants. Davenport claimed non-Anglo immigrants were "defective germ [plasms]" and endangered the genetic superiority of Anglo-Saxons [221]. He criticized unrestricted immigration of non-Anglo Saxons, measuring the admissibility of all other peoples against the superior Anglo-Saxon race. For example, he claimed the Irish brought with them traits of "alcoholism, considerable mental defectiveness and a tendency to tuberculosis" and the Hebrews carried genetic tendencies of "thieving, [committing] offenses of personal violence" as well as a propensity towards "individualism and ideals of gain at the cost of any interest" [213]. Such undesirable traits represented the "opposite extreme" from early English immigrants who were valued "ideals of community life . . .

advancement by the sweat and of the brow, and the uprearing of families in the fear of God and the love of country” [216].

<sup>140</sup> Michel Foucault, *Society Must Be Defended*, 81.

<sup>141</sup> Michel Foucault, *Society Must Be Defended*, 61.

<sup>142</sup> Michel Foucault, *Society Must Be Defended*, 255.

<sup>143</sup> Walter R. Fisher, *Human Communication as Narration: Toward a Philosophy of Reason, Value and Action*. [Columbia: University of South Carolina Press, 1987], 5, emphasis original.

<sup>144</sup> Desmond King, *Making Americans: Immigration, Race, and the Origins of the Diverse Democracy*, 130. Those born on the British Isles were considered the absolute strongest race. Those from other northern European countries were considered comparable in strength, while immigrants from Asia, the Middle East, and Africa constituted the weakest races.

<sup>145</sup> NA RG 233 Records of the US HR, 69<sup>th</sup> Cong., Committee on Immigration, Committee Papers, Box 345, Folder: HR69A-F20.3, Immigration Restriction Conference, under the auspices of The Clergy Club of New York and Neighborhood, New York [April 21, 1924]: 67-68. Quoted in Desmond King, *Making Americans: Immigration, Race, and the Origins of the Diverse Democracy* [Cambridge: Harvard University Press, 2000], 135.

<sup>146</sup> Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 86.

<sup>147</sup> Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration*, 86. Over 800,000 immigrants traveled to the United States in 1921, spurring the vision of an immigrant invasion among opponents of immigration.

<sup>148</sup> Mae M. Ngai, “The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924,” 72.

<sup>149</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 220.

<sup>150</sup> The Act allowed the admission of only three percent of the foreign-born population from the Eastern Hemisphere residing in the U.S. based on the populations recorded in the 1910 census. According to Ngai, the fact that the quota system was based on the census created a system of racial hierarchies hidden within the rhetoric of nationality. She explains the census subtracted all “descendents of slave immigrants,” all descendents of “free Negroes,” all voluntary immigrants from Africa, all Asian immigrants who were “ineligible for citizenship,” and all populations of Hawaii, Alaska, and Puerto Rico in order to give higher quota percentages to certain European immigrants. Had the excluded populations been included in the census, the quota allocations would have failed to

prevent the immigration of groups considered inassimilable. For example, African immigrants would have received roughly 9 percent of the total quota allocation, resulting in 13,000 fewer slots for Europeans. Also, indigenous people of Alaska and Hawaii were classified not as American citizens, but as Native American Indians and indigenous peoples [Mae M. Ngai, “The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924,” 73].

<sup>151</sup> Henry H. Laughlin and John B. Trevor, *Immigration and Conquest: A Study of the United States as the Receiver of Old World Emigrants Who Became the Parents of Future-Born Americans* [New York: 1939], 55. In the same report, Laughlin also stated, “[T]he quota law is trying to include the proportion, not connected with any one race, that has an integral part here. They [its drafters] have attempted to exclude races that are not subject to naturalization, because they are not integrals in the American race. I feel, after we determine what the American race is, and the biological components of it in the proper proportion, then or immigration policy should be to recruit each element of these races, and only to bring in such individuals of personal qualities and good family stock qualities whose progeny will improve the natural talents, the emotions, instinct, intellect, quality of the American people. We ought to breed up the American people by immigration.” The concept of “breeding” an American race through immigration exemplified the narrative of exclusionary nationalism by creating a unified American identity in which participation was regulated, or “bred,” through policy. The quota system, then, was meant to encourage the reproduction of desirable Americans.

<sup>152</sup> President Calvin Coolidge, *Annual Message of the President of the United States to a Joint Session of the Senate and House of Representatives*, 68<sup>th</sup> Cong., 1<sup>st</sup> sess., H. Doc. 1 [Washington, DC: The Government Printing Office, December 6, 1923 ]: 10.

<sup>153</sup> The two percent allowed to enter was based on the 1890 census, rather than the 1910 census used in the 1921 Act. The change in censuses was a direct attempt to reduce the number of immigrants from southern and eastern Europe since the 1890 census was taken during their migration peak and recorded higher percentages of these immigrants residing in the United States. A second stage of the 1924 Act, implemented in 1929, established a national origins quota based specifically on the White population as counted in the 1920 census, ensuring approximately eighty five percent of immigrants would be from northern and western Europe. Finally, it continued the barring of all Asians under the inclusion of the Asian Exclusion Act. In total, the 1924 Act reduced the number of immigrants into the United States to 150,000, making it one of the most exclusive immigration policies to date.

<sup>154</sup> House Committee on Immigration and Naturalization, *Restriction of Immigration: Report to Accompany H.R. 6540*, by Robert Low Bacon, 68<sup>th</sup> Cong., 1<sup>st</sup> sess., H. Rpt. 176 pt. 1 & 2 [Washington, D.C.: The Government Printing Office, 1924]: 17.

<sup>155</sup> House Committee on Immigration and Naturalization, *Restriction of Immigration: Report to Accompany H.R. 7995*, by Albert Johnson, 68<sup>th</sup> Cong., 1<sup>st</sup> sess., H. Rpt. 350 pt. 1 & 2 [Washington, DC: The Government Printing Office, 1924]: 3-4.

<sup>156</sup> Though the majority of Congress believed in the science of eugenics and fully supported the legislation, minority members opposed the quota system, arguing the discriminatory policy was founded on an “unfounded anthropological theory” favoring the “progeny of fictitious and hitherto unsuspected Nordic ancestors.” They believed Congress was wrongly influenced by the “journalistic imagination” of the eugenicists and that in instituting a quota system, Congress would declare select immigrants to “an inferior class” based solely on their country of birth. Despite their criticisms, the exclusive and xenophobic rhetoric of eugenics dominated Congress and the quota system remained as the new mechanism for selective immigration. Ultimately, by creating a formal system by which undesirable immigrants were excluded from the national narrative, the quota systems implemented in the 1921 and 1924 Acts served as legally legitimized rhetorical strategies of exclusionary nationalism, both constituting and maintaining an imagined, homogenous Anglo-Saxon national identity [House Committee on Immigration and Naturalization, *Restriction of Immigration: Report to Accompany H.R. 7995*, 4].

<sup>157</sup> According to a 1932 Congressional report on the state of the union, Mexican immigration had increased steadily over the past several decades mainly due to economic opportunity in the agricultural sectors. Census reports from 1910 showed approximately 103,993 foreign born Mexicans residing in the United States, while the 1920 census showed 486,418 and the 1930 census showed 616,998, totaling an average net gain of 13,058 each year of the decade. This influx of Mexican immigrants contributed to the already tight competition for labor in the southwest, and in an attempt to appease angry and frightened unemployed in America, President Herbert Hoover requested the State Department tighten its enforcement of existing immigration law. Mexican consuls responded by increasing the number of visa refusals for Mexican laborers, decreasing immigration from 58,747 a year during the late 1920’s to 3,333 in 1931 [House Committee on Immigration and Naturalization, *Restriction of Immigration. April 7, 1932: Committed to the Committee of the Whole House on the State of the Union*, by John William Moore, 72<sup>nd</sup> Cong., 1<sup>st</sup> sess., H. Rpt. 1016 (Washington, DC: The Government Printing Office, April 7, 1932): 6].

<sup>158</sup> The Treaty of Guadalupe Hidalgo, that specified the terms of Mexico’s defeat in 1848, stipulated that all inhabitants of the ceded territory who did not announce their intentions to remain Mexican citizens or leave the territory within one year would become citizens of the United States. At that time, naturalization was reserved for free, White men; therefore, Mexicans were at once racialized as White. The Immigration Act of 1924 furthered this racialization by exempting Mexico and other countries of the Western Hemisphere from the quota restrictions [Mae M. Ngai, *Impossible Subjects* (Princeton, NJ: Princeton University Press, 2004), 50-1].

<sup>159</sup> The Department of State, *Papers Relating to the Foreign Relations of the United States*, vol. 2, 67<sup>th</sup> Cong., 2<sup>nd</sup> sess., H. Doc. 405 [Washington, D.C.: The Government Printed Office, 1921]:483.

<sup>160</sup> House Committee on Immigration and Naturalization, *Immigration from Countries of the Western Hemisphere*, by Samuel Dickstein, 71<sup>st</sup> Cong., 2<sup>nd</sup> sess., H. Rpt. 898 pt. 1 & 2 [Washington D.C.: The Government Printing Office, 1930]: 3.

<sup>161</sup> House Committee on Immigration and Naturalization, *Immigration from Countries of the Western Hemisphere*, 4.

<sup>162</sup> The increase in Mexican immigration was a direct result of the exemption of the Western Hemisphere from the previous quota laws as well as the economic dependency of the southwest agricultural sector on cheap labor.

<sup>163</sup> Maurice Charland, “Constitutive Rhetoric: The Case of the *Peuple Québécois*,” 139.

<sup>164</sup> Although immigrants who had entered the United States illegally were the primary targets, studies show legal permanent residents, legal temporary workers, and citizens who were believed to be Mexican were also forced out of the country. By 1933 sixty-two percent of the 400,000 people deported to Mexico were native-born U.S. citizens Total deportation numbers reached close to one million between 1929 and 1939 [Francisco E. Balderrama and Raymond Rodríguez, *Decade of Betrayal: Mexican Repatriation in the 1930's*, Tucson: University of Arizona Press, 2006].

<sup>165</sup> The federal government refused to fund deportation programs due to the difficulty of efficiently identifying illegal immigrants; therefore, they charged each state with the individual responsibility of enforcing the program. This lack of funding led state governments to capitalize on discourses of fear as the primary enforcement tactic [Tomás F. Summers Sandoval, Jr. “Disobedient Bodies: Racialization, Resistance, and the Mass (Re)Articulation of the Mexican Immigrant Body,” *American Behavioral Scientist* 52, no. 4 (2008): 589].

<sup>166</sup> Tomás F. Summers Sandoval, Jr. “Disobedient Bodies: Racialization, Resistance, and the Mass (Re)Articulation of the Mexican Immigrant Body,” 588.

<sup>167</sup> Tomás F. Summers Sandoval, Jr. “Disobedient Bodies: Racialization, Resistance, and the Mass (Re)Articulation of the Mexican Immigrant Body,” 585, 589. By labeling illegal Mexicans as dangerous, policymakers constructed public knowledge about them as being uncontrollable and in need of the state’s discipline. The mass media perpetuated this knowledge through the publications of newspaper articles that reinforced a menacing and dangerous image of the Mexican illegal immigrant. For example, headlines such as “detective shot down by a Mexican,” “Mexican offender reported,” and Mexican “alien ‘dope’ dealers” criminalized the Mexican immigrants for the general public and legitimized their deportation [Headlines from the *Los Angeles Examiner* (1931) and *Los Angeles Times* (1931) as quoted in Lisa A. Flores, “Constructing Rhetorical Borders: Peons, Illegal Aliens, and Competing Narratives of Immigration,” *Critical Studies in Mass Communication* 20, no. 4 [December 2003]: 374, 376].

<sup>168</sup> Michel Foucault, “Truth and Juridicial Forms,” *Power*, 57.



<sup>169</sup> Lisa A. Flores, “Constructing Rhetorical Borders: Peons, Illegal Aliens, and Competing Narratives of Immigration,” 377.

<sup>170</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 221.

<sup>171</sup> Mae M. Ngai, “The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924,” 91. The Mexican racialization of illegal immigration was further institutionalized over the next several decades through the Bracero Program, a government-sponsored labor initiative designed to fill labor shortages created by WWII. Between 1942-1964, the Bracero Program allowed approximately 200,000 Mexican workers into the United States each year for agricultural seasonal employment across twenty-six states. The long term goals of the Bracero Program were two-fold: to provide an established work force for the agribusinesses of the American southwest and to discourage future illegal immigration by providing more opportunities for legal entry. Ultimately, braceros were the economic solution to the commercializing of agribusiness in the United States, eventually displacing most domestic workers because farmers could pay them significantly less than the average domestic worker. Ngai likens the use of Mexican laborers in America’s southwest for the benefit of economic gain to the colonial production of a stable workforce through the enslavement of natives or the importation of indentured servants. She claims these immigrants have been rhetorically constructed as a “commodity function and utility” for the production of agricultural economic gain, thus rendered “disposable,” “cheap,” and unworthy of participating in the American national narrative. Although braceros were successfully exploited as the background of the United States’ agricultural industry, the second goal of the Bracero Program to limit illegal immigration eventually failed, making the program a primary site for the constitution of the illegal immigrant as inherently Mexican. By establishing a firm system of labor flowing between Mexico and the United States, the Bracero Program created an infrastructure composed of transportation, communication, and networks that connected the interior of Mexico to work sites in the United States, thereby facilitating the movement of people across the border, both legally and illegally. In addition, farmer’s intentionally recruited undocumented workers, or “wetbacks,” because they were not required to pay them the prevailing wage required of domestic workers or legal braceros. To address this problem, U.S. Attorney General Herbert Brownell mandated a mass deportation of illegal Mexican immigrants in 1954. Brownell’s “Operation Wetback” was instituted to deter immigrants from entering the U.S. without legal inspection and to deport those illegal immigrants already in the country. Although Operation Wetback was responsible for the deportation of nearly 4 million Mexican immigrants, it did little to stop undocumented entries from Mexico. Additionally, the increased apprehension procedures within Operation Wetback influenced immigrants to establish more sophisticated migration networks in order to avoid deportation. Thus, the pattern of exploiting undocumented workers remained intact while the contemporary rhetorical image of the undocumented immigrant became constructed as inherently Mexican. For a comprehensive review of the Bracero Program and its construction of the undocumented immigration as Mexican, see Ngai, *Impossible Subjects*, 127-166.

<sup>172</sup> Pacific Coast Delegation Regarding Alien Enemies and Sabotage, Letter to the President found in a report by the National Defense Migration, *Fourth Interim Report of the Select Committee Investigating National Defense Migration, House of Representatives*, by John Harvey, 77<sup>th</sup> Cong., 2<sup>nd</sup> sess., H. Rpt. 2124 [Washington D.C.: The Government Printing Office, 1942]: 3.

<sup>173</sup> Sixty two percent of interned Japanese residents were U.S. citizens.

<sup>174</sup> Executive Order no. 9066, *Authorizing the Secretary of War to Prescribe Military Areas* [Washington D.C.: The Government Printing Office, February 19, 1942]: 1.

<sup>175</sup> National defense migration. *Fourth interim report of the Select Committee Investigating National Defense Migration, House of Representatives*, 29.

<sup>176</sup> National defense migration. *Fourth Interim Report of the Select Committee Investigating National Defense Migration, House of Representatives*, 30. The internment of Japanese residents based on perceived disloyalty was later legitimized in the landmark decision of *Korematsu v. United States*, a Supreme Court case challenging the constitutionality of the internment of Japanese residents. The Supreme Court ruled, “We cannot reject as unfounded the judgment of the military authorities and of Congress that there were disloyal members of that population, whose number and strength could not be precisely and quickly ascertained.” The ruling was based on a previous Supreme Court decision made in *Hirabayashi v. United States* that challenged the constitutionality of curfews for Japanese residents in the months following the attack on Pearl Harbor. Both cases upheld the constitutionality of limiting the rights of Japanese residents for the purposes of national security [*Korematsu v. United States*, 323 U.S. 214 (1944)].

<sup>177</sup> Earl Warren’s testimony at House Select Committee Investigating National Defense Migration hearings, quoted in Mae N. Ngai, *Impossible Subjects*, 176

<sup>178</sup> Michel Foucault, *Society Must Be Defended*, 15-6.

<sup>179</sup> Mae N. Ngai, *Impossible Subjects*, 177. The success of this racial “rehabilitation” relied on the reduction of the Japanese body to a powerless object; therefore, as part of the evacuation plan, the U.S. government strategically stripped Japanese residents of their economic status by seizing their property and selling their businesses. Forcing the Japanese body into a state of economic dependency, the United States government not only justified the “rehabilitation” of this new sub-class, but also limited the power of Japanese residents to resist.

<sup>180</sup> Mae N. Ngai, *Impossible Subjects*, 179.

<sup>181</sup> The power of Japanese residents was further reduced through the administration of a lengthy loyalty questionnaire designed to measure their readiness to assimilate. Foucault discusses the use of administrative technologies, such as questionnaires, as a means of “examination,” reinforcing the power of those asking the questions over those answering.

The WRA mirrored the assimilationist concerns of the Founding Fathers by requiring Japanese residents, many of whom were citizens by claiming the questionnaire was intended to expedite the removal of those ready to assimilate; however, the questionnaire was ultimately used as a mechanism to ensure existing power relations, exerting the discursive power of exclusionary nationalism over the perceived childlike ideals of non-White Japanese nationalism. Those Japanese residents who refused to denounce loyalties to their home country by taking the questionnaire were threatened with imprisonment or deportation. Carried out under the auspices of ensuring national loyalty, the state's racist "rehabilitation" of the powerless Japanese residents constituted their bodies as sites of government control and strengthened the privileged position of the White national narrative over the non-White "Other" [Michel Foucault, "Truth and Juridical Forms," *Power*, 58].

<sup>182</sup>The process of "Othering" is described by feminist scholar Patricia Hill Collins as "binary thinking, one element is objectified as the 'Other,' and is viewed as an object to be manipulated and controlled" for the purpose of upholding power relations [Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, 2<sup>nd</sup> ed. (New York: Routledge, 2000),70].

<sup>183</sup> Senate Committee on the Judiciary, *The Immigration and Naturalization Systems of the United States. Report of the Committee of the Judiciary Pursuant S. Res. 137*, by Patrick Anthony McCarran, 81<sup>st</sup> Cong., 2<sup>nd</sup> sess., S. Rpt. 1515 [Washington, DC: The Government Printing Office, April 20, 1950]: 789. Before organizing the Senate Judiciary Committee, McCarran headed the Senate Internal Subcommittee and drafted a report the results of which led to the passage of the Internal Security Act of 1950, the nation's first comprehensive act addressing "un-American and subversive activities" of both citizens and immigrants within the United States.

<sup>184</sup> A few of the major provisions in the 1952 Act included strengthening of exclusion and deportation procedures, improving naturalization and denaturalization procedures, increasing administrative efficiency, and continuing the exclusion of immigrants from the Asia-Pacific Triangle by capping total immigration from these countries combined at 2,000 immigrants per year; however, the Act is most noted for its retention of the national origins quota system.

<sup>185</sup> Senate Committee on the Judiciary, *Revision of Immigration and Nationality Laws*, by Carey Estes Kefauver, 82<sup>nd</sup> Cong., 2<sup>nd</sup> sess., S. Rpt. 1137 [Washington, DC: The Government Printing Office, 1952]: 3.

<sup>186</sup> Senate Committee on the Judiciary, *Revision of Immigration and Nationality Laws: Senate Report No. 1137*, 1-2; *Congressional Record* (May 13, 1952): 5089-90. Quoted in Robert A. Divine, *American Immigration Policy, 1924—1952* [New Haven, CT: Yale University Press, 1957], 179.

<sup>187</sup> Committee to the Judiciary, *The Immigration and Naturalization Systems of the United States: Report No. 1515*, 448.

<sup>188</sup> *Congressional Record*, 82<sup>nd</sup> Cong., 2<sup>nd</sup> sess. [Washington, DC: The Government Printing Office, 1952]: 5772, 5773. Quoted in Robert A. Divine, *American Immigration Policy, 1924—1952*, 180.

<sup>189</sup> Anti-restrictionists refused to support the bill, arguing the continuation of the national origins quota system was “restrictive, exclusionist, and oppressive” founded on xenophobia. They worried the preservation of a system that excluded select immigrants based on nationality would have a disastrous effect on America’s image worldwide. President Truman sided with anti-restrictionists and vetoed the bill; however, his veto was overturned by a vote of 278 to 113 in the House, and 57 to 26 in the Senate [*Congressional Record*, 82<sup>nd</sup> Cong., 2<sup>nd</sup> sess. (Washington, DC: The Government Printing Office, May 13, 1952): 5100, 5110. Quoted in Robert A. Divine, *American Immigration Policy, 1924—1952*, 178].

<sup>190</sup> The Walter-McCarran Act of 1952 remained in place until the passage of the Hart-Cellar Act of 1965.

<sup>191</sup> Senate Committee on the Judiciary, *Report to Accompany S. 1917 Emergency Migration Act of 1953*, by James Oliver Easton, 83<sup>rd</sup> Cong, 1<sup>st</sup> sess., S. Rpt. 629 [Washington D.C.: The Government Printing Office, July 23, 1953]: 2.

<sup>192</sup> Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border*, 101.

<sup>193</sup> Norman L. Zucker and Naomi Flint Zucker, *The Guarded Gate: The Reality of American Refugee Policy* [San Diego, CA: Harcourt Brace Javanovich, 1987], 23-24 in Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border*, 19.

<sup>194</sup> Michel Foucault, *Society Must Be Defended*, 1997.

<sup>195</sup> Refugee testimonies were another means to reinforce power relations. Drawing from the work of feminist scholar Chandra Talpade Mohanty, this construction of power through the testimonies of refugees perpetuated and sustained “the hegemony of the idea of the superiority of the West” while reproducing rhetorical conceptualizations of non-White, lower class immigrants as being marginalized and oppressed peoples in need of rescuing [Chandra Talpade Mohanty, *Feminism without Borders: Decolonizing Theory, Practicing Solidarity* (Durham, NC: Duke University Press, 2006), 41].

<sup>196</sup> Daniel J. Tichenor, *Dividing Lines: The Politics of Immigration Control in America* [Princeton: Princeton University Press, 2002], 242.

<sup>197</sup> Legal entries also increased during this decade after the passage of the Hart-Cellar Act of 1965, an act that eliminated the national origins quota formula of the 1924 National Origins Act and raised the annual ceiling to 290,000. It also overturned the ban on immigration from the Asia-Pacific Triangle by allocating 170,000 quota slots to countries from the Eastern Hemisphere, and provided 120,000 non-country specific quota slots to the Western Hemisphere. Eliminating the national origins quota system formula

established in the National Origins Act of 1924 and upheld in the Walter-McCarran Act of 1952 was one of President Kennedy's top priorities when he entered office, and though he did not live to see the passage of the bill, President Johnson committed his presidency to ensure its passage. Just as the 1952 Act was influenced by the Cold War narratives of the 1950's, the 1965 Act was a product of the Civil Rights Movement and other liberal critiques of American nationalism during this decade. Narratives of the 1960's centered on race relations, equal rights, and improving the international image of the United States as a model for democracy for other countries to follow. These narratives influenced policymakers to readdress the national origins quota system and resulted in the system of "formal equality" of the 1965 Act that treated all countries fairly in regards to immigration. For more on the cultural and political influences leading to the passage of the Hart-Cellar Act of 1965, see Ngai, *Impossible Subjects*, 226—264.

<sup>198</sup> Susan González Baker, "The 'Amnesty' Aftermath: Current Policy Issues Stemming from the Legalization Programs of the 1986 Immigration Reform and Control Act," *International Migration Review* 31, no. 1 [Spring 1997]: 8.

<sup>199</sup> House Committee on Government Operations, *Law Enforcement on the Southwest Border (Problems of Coordination between Immigration and Naturalization Service and Customs Service)*, by Chester Earl Holifield, 93<sup>rd</sup> Cong., 2<sup>nd</sup> sess., H. Rpt. 1630 [Washington, D.C.: The Government Printing Office, December 18, 1974]: 26.

<sup>200</sup> Leonard Chapman quoted in Justin Akers Chacón and Mike Davis, *No One Is Illegal: Fighting Racism and State Violence on the U.S.-Mexico Border* [Chicago: Haymarket Books, 2006], 202.

<sup>201</sup> Otto Santa Ana, *Brown Tide Rising: Metaphors of Latinos in Contemporary American Public Discourse* [Austin, TX: University of Texas Press, 2002], 70.

<sup>202</sup> A main influence on the criminalization of undocumented immigrants was the shifting of political narratives at the end of the Cold War. Narratives of defense once used by policymakers to warn against organized internal Communist subversion were now redirected toward the perceived internal threats of undocumented immigrants on American workers. This rhetorical shift allowed policymakers to maintain their position of power by pushing forward new policy objectives focused on securing the nation's borders. For more information on the security rhetoric of the Cold War, see Martin J. Medhurst, *Cold War Rhetoric: Strategy, Metaphor, and Ideology* [East Lansing, MI: Michigan State University, 1997], 190.

<sup>203</sup> Jason Ackleson, "Constructing Security on the U.S.-Mexico Border," *Political Geography* 24 [2005]: 166.

<sup>204</sup> Ronnie D. Lipschutz, *On Security* [New York: Columbia Press, 1995], 9.

<sup>205</sup> This characterization of immigrants as security threats occurred at the same time policymakers cracked down on drug trafficking across the U.S.-Mexico border. By tackling both the problems of drug trafficking and illegal immigration at the same time,

policymakers could leverage the widespread fear of drug-related violence as a strategy to gain public support for the securitization of the border against all threats, including unwanted immigrants.

<sup>206</sup> Select Commission on Immigration and Refugee Policy, *U.S. Immigration Policy and the National Interest*, 97<sup>th</sup> Cong., 1<sup>st</sup> sess. [Washington, D.C.: U.S. The Government Printing Office, 1981]: 11.

<sup>207</sup> Select Commission on Immigration and Refugee Policy, *U.S. Immigration Policy and the National Interest*, 35, 41, 42.

<sup>208</sup> Michel Foucault, *A History of Sexuality Volume 1: An Introduction*, 144.

<sup>209</sup> Select Commission on Immigration and Refugee Policy, *U.S. Immigration Policy and the National Interest*, 35.

<sup>210</sup> Select Commission on Immigration and Refugee Policy, *U.S. Immigration Policy and the National Interest*, 14. Social costs included job displacement, wage depression, and creating more illegality.

<sup>211</sup> Jason Ackleson, “Constructing Security on the U.S.-Mexico Border,” 171.

<sup>212</sup> Josiah McC. Heyman, “United States Surveillance over Mexican Lives at the Border: Snapshots of an Emerging Regime,” *Human Organization* 58, no. 4 [1999]: 431.

<sup>213</sup> The IRCA presented three main policy tools. First, it institutionalized a requirement that all workers had to prove their eligibility to work, penalizing those employers who intentionally hired undocumented immigrants. This policy instituted the use of the I-9, and employment verification document used by employers to determine an employee’s right to work. Second, the IRCA increased the resources to the Immigration and Naturalization Service (INS) for the enhancement of border security, allocating an additional \$400 million for the hiring and training of more border patrol officials. Finally, the Act authorized the legalization of nearly 3.6 million undocumented immigrants who had either resided in the United States since January 1, 1982 or qualified for legalization under the Special Agricultural Workers clause. Implemented ten years later, the IIRIRA focused on doubling the amount of border patrol agents to 10,000 over the next five years, enhancing enforcement and penalties against alien smuggling and document fraud, broadening the grounds for exclusion and deportation, tightening employer sanctions and verifications of employment eligibility, limiting immigrant eligibility for state and federal benefits, restructuring the refugee and asylum procedures, implementing mandatory removal for a broad range of offenses, eliminating administration oversight and judicial review in deportation cases, and excluding certain legal and illegal immigrants from selected public benefits.

<sup>214</sup> United States Congress, *Immigration Reform and Control Act*, Public Law 99-603, 99<sup>th</sup> Cong., 2<sup>nd</sup> sess. [Washington, D.C.: The Government Printing Office, 1986]: Part B, sec. 111(1).

<sup>215</sup> United States Congress, *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, Public Law 104-208, 104<sup>th</sup> Cong., 2<sup>nd</sup> sess. [Washington, D.C.: The Government Printing Office, 1996]: Subtitle A, sec. 101(d).

<sup>216</sup> Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border*, 119.

<sup>217</sup> Barry R. McCaffrey, *The 1997 National Drug Control Executive Overview*, as quoted by Jason Ackleson in “Constructing Security on the U.S.-Mexico Border,” 172.

<sup>218</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 57.

<sup>219</sup> IRCA further constituted the undocumented immigrant as a “marked” population in need of control by strengthening the state’s ability to track immigrants through the legalization of nearly 3.6 million undocumented immigrants. Those immigrants who qualified for legalization had either resided in the United States since January 1, 1982 or qualified under the Special Agricultural Workers clause. The process of legalization allowed the government to obtain information on the origins of migration and patterns of visa abuse as well as enhanced the state’s control over a previously unregulated population.

<sup>220</sup> The most deadly policies implemented to seal the border were Operation Gatekeeper in 1993 and Operation Hold the Line in 1994. Though the number of fatalities is typically understated because it is dependent upon the number of bodies recovered by Border Patrol and does not include the number of bodies never found, it is estimated that the number of deaths along the southern border between 1994 and 2000 increased approximately 474%, [Wayne Cornelius, “Death at the Border: Efficacy and Unintended Consequences of US Immigration Control Policy,” *Population and Development Review* 27, no. 4 (December 2001): Table 2].

<sup>221</sup> Wayne Cornelius, “Death at the Border: Efficacy and Unintended Consequences of US Immigration Control Policy,” 667. Another controlling feature implemented during this decade was the prohibition of certain social benefits set forth in IIRIRA. Undocumented immigrants were restricted from obtaining grants, contracts, loans, licenses, public housing, welfare, health and disability benefits, and postsecondary education tuition assistance. Policymakers hoped that by limiting the social and economic benefits associated with residing in the United States, they would lessen the desire for immigrants to enter illegally. Meanwhile, the exclusion of undocumented immigrants from certain benefits further institutionalized the relegation of undocumented immigrants to a sub-class not worthy of participation in the national narrative

<sup>222</sup> In 2000, the Executive Committee of the AFL-CIO, a national labor union with strong immigrant ties, stated they would support expanded immigration, lenient enforcement of immigration laws, and the legislative agenda of immigrants. This shift in rhetoric was monumental because the AFL-CIO has long supported reasonable and enforceable immigration policies; however, their ever-growing immigrant membership made it an essential goal for the union to take on policies that were restricting these worker’s rights.

These pro-immigrant narratives dominated the immigration landscape until the terrorist attacks of September 11, 2001. [Vernon M. Briggs, Jr., “Immigration Policy and Low Wage Workers: The Influence of American Unionism,” *Testimony before the Subcommittee on Immigration, Border Security and International Claims of the Judiciary Committee of the U.S. House of Representatives*, 108<sup>th</sup> Cong. (October 30, 2003): 3].

<sup>223</sup> Between the hours of 8:46 a.m. and 10:03 a.m. on September 11, 2001, four planes high-jacked by terrorists crashed into symbols of American capitalism and democracy, killing approximately 2,600 people at the World Trade Center, 125 people at the Pentagon, and 256 passengers of the planes involved in the attacks. The death toll surpassed that at Pearl Harbor in December 1941. The attacks were carried out by 19 Arab men acting on behalf of Islamic extremists believed to be headquartered in Afghanistan. [*Final Report of the National Commission on Terrorists Attacks upon the United States*, July 22, 2004, from <http://www.gpoaccess.gov/911/index.html> (accessed September 7, 2010)].

<sup>224</sup> Attorney General John Ashcroft, *Testimony before the Senate Committee on the Judiciary* (September 25, 2001) <http://www.justice.gov/archive/ag/testimony/2001/0925AttorneyGeneralJohnAshcroftTestimonybeforetheSenateCommitteeontheJudiciary.htm> [accessed September 7, 2010].

<sup>225</sup> David Domke, Erica S. Graham, Kevin Coe, Sue Lockett John, and Ted Coopman, “Going Public as Political Strategy: The Bush Administration, an Echoing Press, and the Passage of the Patriot Act,” *Political Communication* 23 [2006]: 292.

<sup>226</sup> George W. Bush, *Address to a Joint Session of Congress and the American People*, September 20, 2001.

<sup>227</sup> George W. Bush, *Address to a Joint Session of Congress and the American People*, September 20, 2001.

<sup>228</sup> Referencing the differences between the “civil” and the “savage” to gain political solidarity was a popular rhetorical strategy among administrators. Attorney General Ashcroft mirrored Bush’s rhetoric when he stated, “Today I urge the Congress, I call upon the Congress to act, to strengthen or ability to fight this evil wherever it exists, and to ensure that the line between the civil and the savage, so brightly drawn on September 11<sup>th</sup>, is never crossed again.” [Attorney General John Aschcroft, “Attorney General Ashcroft Outlines Mobilization Against Terrorism Attack,” September 24, 2001].

<sup>229</sup> Following the attacks, Bush’s ratings surged to nearly 90% public approval

<sup>230</sup> David Domke, Erica S. Graham, Kevin Coe, Sue Lockett John, and Ted Coopman, “Going Public as Political Strategy: The Bush Administration, an Echoing Press, and the Passage of the Patriot Act,” 294.



<sup>231</sup> Signed into law October 26, 2001, the PATRIOT Act reorganized the federal branches of immigration control by replacing INS with Department of Homeland Security (DHS), establishing the Customs and Border Protection (CBP) to manage enforcement at all land and airport points of entry, and creating the office of U.S. Immigration and Customs Enforcement (ICE) to oversee internal immigrant enforcement. In addition, the Act focused on enhancing the surveillance and tracking of immigrants via multiple computer databases, exempted cases of deportation linked to suspected terrorist activity from process of judicial review, and extended immigration enforcement capabilities to local police units in order to expand the federal government's policing networks.

<sup>232</sup> Senator Edward M. Kennedy, "Effective Immigration Controls to Deter Terrorism," *Hearing before the Subcommittee on Immigration of the Committee on the Judiciary, United States Senate, 107<sup>th</sup> Cong., 1<sup>st</sup> sess.* [Washington, D.C.: The Government Printing Office, October 17, 2001]: 1, 2.

<sup>233</sup> Senator Sam Brownback, "Effective Immigration Controls to Deter Terrorism," *Hearing before the Subcommittee on Immigration of the Committee on the Judiciary, United States Senate, 107<sup>th</sup> Cong., 1<sup>st</sup> sess.* [Washington D.C.: The Government Printing Office]: 8.

<sup>234</sup> The arrest and detention policies of the PATRIOT Act broadened the definition of "terrorist," justifying the objectification of both actual criminals and potential criminals while rendering a greater number of immigrants either inadmissible or deportable. . Section 411 of the PATRIOT Act deems those who represent "terrorist organizations" or those who may advocate terrorism both inadmissible and detainable. "Terrorist organizations" are defined to include: (i) organizations expressly recognized as such by the Secretary of State; (ii) organizations otherwise designated by the Secretary of State through publication in the Federal Register as terrorist organizations in consultation with the Attorney General, after finding that such organizations engage in terrorist activities or support terrorist activities; or (iii) any group of two or more individuals that commits, plans, or prepares to commit terrorist activities. The Act also removed the prefatory language concerning whether the person must "know or reasonably should know" that his or her actions support a terrorist activity, placing the burden on him or her to prove lack of knowledge. This change in language resulted in the detention of all immigrants suspected of terrorist activities, constituting them as guilty until proven innocent [Lawrence M. Lebowitz and Ira L. Podheiser, "A Summary of the Changes in Immigration Policies and Practices after the Terrorist Attacks of September 11, 2001: The USA PATRIOT Act and other Measures," *The University of Pittsburgh Law Review* [2002]: 876-77].

<sup>235</sup> Attorney General John Ashcroft, *Testimony before the Senate Committee on the Judiciary*, September 25, 2001, <http://www.justice.gov/archive/ag/testimony/2001/0925AttorneyGeneralJohnAshcroftTestimonybeforetheSenateCommitteeontheJudiciary.htm> [accessed September 7, 2010].

<sup>236</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 101.

<sup>237</sup> The PATRIOT Act implemented several new databases to increase information sharing between the state department, the FBI, and local law enforcement. A particular focus of the technology initiatives of the PATRIOT Act concerned the monitoring of foreign students in the United States. The Act required previously proposed Foreign Student Visa Monitoring Program, established by Congress in 1996 as part of IIRIRA, be fully implemented. Section 641 of IIRIRA mandated that the INS establish electronic reporting of foreign student data, wherever feasible, thus the Student and Exchange Visitor Program (SEVP) was established by the INS in order to automate the manual data schools and exchange visitor programs were using to gather information on their students, scholars, and exchange visitors. SEVP is created the Student Exchange Visitor Information System (SEVIS), a database storing all of the information required by Section 641(c) of IIRIRA including names, addresses, nationality, courses of study and degree programs, credits completed each quarter and disciplinary violations. Universities participating in international exchange are required to employ Designated School Officials (DSO) and Alternative Responsible Officers (ARO) to manage the upkeep of SEVIS [Lawrence M. Lebowitz and Ira L. Podheiser, "A Summary of the Changes in Immigration Policies and Practices after the Terrorist Attacks of September 11, 2001: The USA PATRIOT Act and other Measures," 883].

<sup>238</sup> Harriet Barovick, "DWB: Driving While Black," *Time Magazine*, June 15, 1998, 35.

<sup>239</sup> Public incidents of violent racial profiling have included the firebombing of mosques and temples, acts of vandalism and property destruction, and numerous instances of verbal and physical harassment. Such discriminatory practices had been on the increase for decades due to diplomatic anxieties between the U.S. and the Middle East, but Cankar argues September 11<sup>th</sup> created an unprecedented anti-Muslim backlash that would continue for decades to come [Louise Cankar, "No Longer Invisible: Arab and Muslim Exclusion after September 11," *Middle East Report*, no. 224 (Fall 2002): 22-9]. Reports of government-sanctioned racial profiling included the interviews conducted by the Department of Justice with over 5,000 Middle Eastern men, ages eighteen to thirty-three, who entered the United States during the previous two years on nonimmigrant visas [Deputy Attorney General, "Guidelines for the Interviews Regarding International Terrorism," *Memorandum for All United States Attorneys, All Members of the Anti-Terrorism Task Force*, November 9, 2001, <http://www.justice.gov/dag/readingroom/terrorism2.htm> [accessed September 7, 2010].

<sup>240</sup> Robyn M. Rodriguez, "(Dis)unity and Diversity in Post-9/11 America," *Sociological Forum* 23, no. 2 [June 2008]: 381.

<sup>241</sup> Robyn M. Rodriguez, "(Dis)unity and Diversity in Post-9/11 America," *Sociological Forum* 23, no. 2 [June 2008]: 382.

<sup>242</sup>Minutemen Civil Defense Corps, “Minutemen Civil Defense Corps Border Operations Headquarters,” <http://www.minutemanhq.com/hq/mmpledge.php> [accessed March 1, 2010].

<sup>243</sup> Michael Dawson, “A Black Counterpublic?: Economic Earthquakes, Racial Agenda(s), and Black Politics,” *Public Culture* [1994]: 199.

<sup>244</sup> The term “undocumented” is a popular term describing those immigrants residing in the United States without legal status. This term typically includes those immigrants who entered into the country illegally as well as those who entered legally but have remained in the country after their legal status expired. I have chosen to use the term “undocumented” rather than “illegal” because the term “illegal” is used to criminalize immigrants by the media, political leaders, and general public in order to push the conservative immigration reform agenda. It must be noted that the legal term for immigrants lacking legal status is “illegal alien;” however, most pro-immigrant advocates functioning outside of the courtroom believe this term possesses a negative connotation. Additionally, the term “undocumented” is not necessarily an accurate descriptor of all immigrants who lack legal status because many undocumented immigrants possess legal documentation such as passports, driver’s licenses, social security cards, etc. Subsequently, some immigrants who lack certain legal documents may have legal status. Despite the inaccuracies of the term, referring to immigrants who lack legal status as “undocumented” has become the preferred term among immigrant rights groups. For more information about documentation and legal status, visit <http://www.uscis.gov/portal/site/uscis>.

<sup>245</sup> Melissa Ludwig, “Students Stage DREAM Act Hunger Strike,” *mySA*, News Section, Education, [http://www.mysanantonio.com/news/education/students\\_stage\\_hunger\\_strike\\_for\\_dream\\_act\\_107070103.html](http://www.mysanantonio.com/news/education/students_stage_hunger_strike_for_dream_act_107070103.html) [accessed November 11, 2010].

<sup>246</sup> Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalisms*, rev. ed. [New York: Verso, 1983], 6.

<sup>247</sup> James B. White, “Law as Rhetoric, Rhetoric as Law: The Art of Cultural and Communal Life,” *University of Chicago Law Review* 52 [1985]: 691.

<sup>248</sup> Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, trans. Thomas Burger [Cambridge, MA: The Massachusetts Institute of Technology Press, 1989], 30. The emergence of the public sphere resulted from the institution of finance and trade capitalism. The origin of stock markets, postal services, and the press institutionalized public contacts and public communication at the same time the modern state, nationalism, and official economies took shape. Thus, the public became a palpable object to which private people were subject.

- <sup>249</sup> Nancy Fraser, *Unruly Practices: Power, Discourse, Gender in Contemporary Social Theory* [Minneapolis, MN: University of Minnesota Press, 1989], 167.
- <sup>250</sup> James B. White, “Law as Rhetoric, Rhetoric as Law: The Art of Cultural and Communal Life,” 686.
- <sup>251</sup> Michel Foucault, *Society Must Be Defended*, ed. Mauro Bertani and Alessandro Fontana, trans. David Macey [New York: Picador, 1997], 7.
- <sup>252</sup> James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* [New Haven, CT: Yale University Press, 1985], 36.
- <sup>253</sup> Bob Pease, “Rethinking Empowerment: A Postmodern Appraisal for Emancipatory Practice,” *British Journal of Social Work* 32, no. 2 [2002]: 141.
- <sup>254</sup> Pierre Bourdieu, “Description and Prescription: The Condition of Possibility and the Limits of Political Effectiveness,” in *Language and Symbolic Power*, ed. John B. Thompson, trans. Gino Raymond and Matthew Adamson [Cambridge, MA: Harvard University Press], 131.
- <sup>255</sup> Michel Foucault, *Society Must Be Defended*, 9.
- <sup>256</sup> Feminist scholar Patricia Hill Collins exposes the subjugated knowledge of the Black woman, a knowledge marginalized by patriarchal institutions and White feminist movements [Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, 2<sup>nd</sup> ed. New York: Routledge, 2000].
- <sup>257</sup> Michel Foucault, “Truth and Juridical Forms,” in *Power*, vol. 3, ed. James D. Faubion, trans. Robert Hurley and others [New York: The New Press, 2000], 1-81.
- <sup>258</sup> Spivak clarifies that the purpose of investigating subjugated knowledge is not to privilege one narrative over the other, but rather to offer an account as to how one narrative of reality came to be constituted as the normative one. Additionally, she states that researchers often write from within the normative narrative; therefore they must suspend their own consciousness and understand that their position of privilege creates an intellectual tension in which they must navigate [Gayatri Chakravorty Spivak, “Can the Subaltern Speak,” in *Marxism and the Interpretation of Culture*, ed. Cary Nelson and Lawrence Grossberg (Urbana, IL: University of Illinois Press, 1988): 285].
- <sup>259</sup> House of Representatives Committee on the Judiciary, *Comprehensive Immigration Reform: The Future of Undocumented Students*, 110<sup>th</sup> Cong., 1<sup>st</sup> sess. [Washington, D.C.: The Government Printing Office, May 18, 2007]: I-81.
- <sup>260</sup> Tom DeLay floor statement, *H. 8664 9/11 Implementations Act*, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., October 7, 2004, in Lexis Nexis Congressional, <http://0-web.lexis-nexis.com.library.uark.edu/congcomp> [accessed November 26, 2010].

<sup>261</sup> Michael Luo, “McCain Says Immigration Reform Should Be Top Priority,” *The New York Times*, May 22, 2008, <http://thecaucus.blogs.nytimes.com/2008/05/22/mccain-says-immigration-reform-should-be-top-priority/> [accessed November 26, 2010].

<sup>262</sup> Mike Konz, “Johanns: U.S. Must Secure Border Before Talking Reform,” *KearnyHub.com*, News/Local, January 12, 2011, [http://www.kearneyhub.com/news/local/article\\_86d50126-1e7c-11e0-b62b-001cc4c002e0.html](http://www.kearneyhub.com/news/local/article_86d50126-1e7c-11e0-b62b-001cc4c002e0.html) [accessed January 15, 2011].

<sup>263</sup> Mike Konz, “Johanns: U.S. Must Secure Border Before Talking Reform,” *KearnyHub.com*, News/Local, January 12, 2011, [http://www.kearneyhub.com/news/local/article\\_86d50126-1e7c-11e0-b62b-001cc4c002e0.html](http://www.kearneyhub.com/news/local/article_86d50126-1e7c-11e0-b62b-001cc4c002e0.html) [accessed January 15, 2011].

<sup>264</sup> Mae M. Ngai, *Impossible Subjects* [Princeton, NJ: Princeton University Press, 2004], 247.

<sup>265</sup> Undocumented immigrants are excluded from public services such as healthcare, housing, and the protection of labor laws. They are victims of human trafficking, economic exploitation, and cultural marginalization. These immigrants constitute one of the poorest sections of society and have limited access to higher education. Furthermore, the realities of deportation and family separation cause them to live in fear on a daily basis. In addition to being institutionally subjugated, the great majority of them do not claim their human rights due to lack of knowledge, language barriers, and feelings of disempowerment.

<sup>266</sup> Office of Immigration Statistics Policy Directorate, “Immigration Enforcement Actions,” *Department of Homeland Security Annual Report* [August 2010]: 1. For deportation statistics and analyses from previous years, see Jacqueline Hagan, Karl Eschbach, and Nestor Rodrigues, “U.S. Deportation, Family Separation, and Circular Migration,” *The International Migration Review* 42, no. 1 [Spring 2008]: 64-88.

<sup>267</sup> Rep. Lamar Smith, *9/11 Implementations Act*, H.R. 10, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess. [October 7, 2004]: 8688.

<sup>268</sup> Rep. Jim Sensenbrenner, *9/11 Implementations Act*, H.R. 10, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess. [October 7, 2004]: 8689. The Act passed the House on October 8, 2004 with a vote of 282-134.

<sup>269</sup> Two years after the passage of the *9/11 Recommendations Implementation Act* in October 2004, Congress passed *H.R. 6061: An Act to Establish Operational Control Over the International Land and Maritime Borders of the United States* on September 14, 2006. Commonly referred to as the Secure Fence Act of 2006, the act funded the building of a 700 mile fence along the border as well as increased the use of security technologies such as surveillance cameras, aerial vehicles, satellites, lighting, and vehicle barriers to apprehend and deport illegal border crosses.

<sup>270</sup> Rep. Steve King, “Comprehensive Immigration Reform: Business Community Perspectives,” *Hearing Before the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law*, 110<sup>th</sup> Cong., 1<sup>st</sup> sess. [June 6, 2007]: 4-5.

<sup>271</sup> Arnon Gutfeld, *American Exceptionalism: The Effects of Plenty on the American Experience* [Portland, OR: Sussex Academic Press, 2002], 36.

<sup>272</sup> A study conducted by the Center for Urban Economic Development at the University of Chicago in 2003 found that forty-four percent of the employees whose authorization to work could not be confirmed were still working for the employer after receiving the final notice from the Social Security Administration. They surmise employers run the risks associated with retaining unauthorized workers because firing them would negatively impact their profit margin. Additionally, they found that some employers used the knowledge of an employee’s lack of work authorization to take advantage of them by reducing their pay and benefits [Chirag Mehta, Nik Theodore, and Marielena Hincapié, “Social Security Administration’s No-Match Letter Program: Implications for Immigration Enforcement and Workers’ Rights,” Chicago, Illinois: Center for Urban Economic Development at University of Illinois at Chicago (2003), [http://www.nilc.org/immseplymnt/SSA\\_no-match\\_survey\\_final\\_report\\_11-20-03.pdf](http://www.nilc.org/immseplymnt/SSA_no-match_survey_final_report_11-20-03.pdf) (accessed January 22, 2011)].

<sup>273</sup> National Council de la Raza, “Summary of Comprehensive Immigration Reform Act of 2010,” [http://www.nclr.org/index.php/issues\\_and\\_programs/immigration/immigration\\_reform/](http://www.nclr.org/index.php/issues_and_programs/immigration/immigration_reform/) [accessed December 28, 2010].

<sup>274</sup> John McCain, “2007 GOP debate at St. Anslem College, Manchester, New Hampshire,” June 5, 2007, [http://www.ontheissues.org/celeb/John\\_McCain\\_Immigration.htm](http://www.ontheissues.org/celeb/John_McCain_Immigration.htm) [accessed November 26, 2010].

<sup>275</sup> The DREAM Act provides individual states with the ability to determine their own residency requirements for in-state tuition purposes. In addition, it addresses the legal status of undocumented persons brought to the United States under the age of sixteen, establishing provisions for such persons to obtain accelerated LPR status upon graduation from high school and completion of two years of college or military service. Persons granted LPR status under these provisions will be eligible for naturalization three years thereafter. These provisions for legalization, termed “earned legalization” by supporters and “amnesty” by opponents, have proven to be highly controversial among politicians and the general public alike [Andorra Bruno, “Unauthorized Alien Students: Issues and ‘DREAM Act’ Legislation,” *Congressional Research Service Report for Congress*, May 27, 2009, [www.crs.gov](http://www.crs.gov) (accessed November 11, 2010)].

<sup>276</sup> The first bill entitled “Student Adjustment Act” H.R. 1918 was introduced to the 107<sup>th</sup> Congress in 2001 and did not pass cloture. Two years later, Senator Orrin Hatch (R-UT)

reintroduced the bill (S. 1545) to the 108<sup>th</sup> Congress, this time using the current name of the DREAM Act. After failing a second time, Senator Richard Durbin (D-IL) introduced the Senate version of the DREAM Act (S. 2075) in 2005 while Congressman Lincoln Diaz-Balart (R-FL) introduces a House version called the American DREAM Act (H.R. 5131) in 2006. The 109<sup>th</sup> Congress failed to pass either bill as a stand-alone bill, and the DREAM Act was reintroduced again by Durbin in 2007 as S. 774 and by Congressman Howard Berman (D-CA) as H.R. 1275. The DREAM Act was also attached to the comprehensive immigration reform bill (S. 1348); however, cloture for this bill was defeated. The most recent version of the DREAM Act was introduced by Durbin as S. 729 and by Berman as H.R. 1751. Failing to make it out of committee, Senator Harry Reid (D-NV) attempted to attach S. 729 to the Defense Authorization Bill S. 3454 as an amendment; however the motion for cloture was again defeated.

<sup>277</sup> Howard L. Berman, *On the Introduction of the American Dream Act of 2009*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess. [March 26, 2009]: 797.

<sup>278</sup> Richard J. Durbin, *Floor Statement: Development, Relief, and Education for Alien Minors (DREAM) Act*, 108<sup>th</sup> Cong. [July 24, 2004]: 3.

<sup>279</sup> U.S. Senate, *DREAM Act of 2007*, S. 2205, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., October 19, 2007. Qualifying individuals include those immigrants who have been physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of the enactment of the Act, who were under the age of 16 upon entering the United States, who is a person of good moral character, who has been admitted to an institution of higher education or has earned a high school diploma in the United States, who has not yet reached the age of 30 years, and who has remained in the country under color of law. A military provision was later added by Durbin to include immigrants who had served at least two years in the United States military.

<sup>280</sup> IIRIRA is Division C of P.L. 104-208, September 30, 1996. Since the IIRIRA's inception, several states have passed legislation overturning section 505 of the act, arguing that the provisions of IIRIRA are unclear and do not specify the types of benefits unavailable for unauthorized aliens. The ten states that have passed legislation granting in-state tuition eligibility based on academic eligibility rather than legal status are California, Illinois, Kansas, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah, Washington, and Wisconsin [Gary Reich and Alvar Ayala Mendoza, "Educating Kids' Versus 'Coddling Criminals': Framing the Debate Over In-State Tuition for Undocumented Students in Kansas," *State Politics and Policy Quarterly* 8, no. 2 (2008): 177-197].

<sup>281</sup> S. 2205 was introduced as a stand-alone bill after the 110<sup>th</sup> Congress defeated S. 1639, a comprehensive immigration reform bill that included DREAM Act provisions.

<sup>282</sup> Tom Curry, "Lessons of the Dream Act Defeat: Senate Vote Reveals Staying Power of Illegal Immigration Issue," *MSNBC.com*, October 24, 2007, Politics Section, <http://www.msnbc.msn.com/id/21456667/> [accessed October 15, 2009]. S. 729 was referred to the Senate Committee on the Judiciary while H.R. 1751 was introduced to

both the House Committee on the Judiciary and the House Committee on Education and Labor.

<sup>283</sup> The repeal of Don't Ask Don't Tell was also slated to be attached as an amendment, increasing the controversy over the passage of the Defense Authorization Bill. At the time the vote was taken, S. 729 had 40 co-sponsors (2 Republicans, 2 Independent, and 36 Democrats) and H.R. 1751 had 126 co-sponsors (5 Republicans and 121 Democrats).

<sup>284</sup> Sixty votes were needed to pass cloture. Republic Senators voted “nae,” while all but two Democratic Senators voted “yea.” Senator Blanche Lincoln (D-AR), who was a co-sponsor of the DREAM Act and had previously voted “yea” in 2007 for the bill, and Senator Mark Pryor (D-AR) were the two Democrats who voted “nae.”

<sup>285</sup> The revised version of the bill was S. 3992. Other restrictive edits included increasing the types of criminal charges disqualifying eligibility, lowering the age for eligibility from 35 to 29, instituting a one-year application deadline requiring applicants to apply within one year of eligibility or the passage of the act, whichever comes later.

<sup>286</sup> H.R. 6497 was supported by 208 Democrats and 8 Republicans, and was opposed by 38 Democrats and 160 Republicans. A total of 9 Democrats and 11 Republicans did not vote.

<sup>287</sup> The DREAM Act failed in the Senate by just 5 votes: 53 Democrats, 1 Republican, and 1 Independent supported the bill; 36 Republicans and 5 Democrats opposed it; and 4 Senators did not vote. At the time of this writing, no new version has been introduced.

<sup>288</sup> Phyllis Pease Chock, “ ‘Illegal Aliens’ and ‘Opportunity:’ Myth-making in Congressional Testimony,” *American Ethnologist* 18, no. 2 [May 1991]: 280.

<sup>289</sup> Phyllis Pease Chock, “ ‘Illegal Aliens’ and ‘Opportunity:’ Myth-making in Congressional Testimony,” 280.

<sup>290</sup> On May 16, 2007, the House hosted a hearing on comprehensive immigration reform entitled “Becoming Americans—U.S. Immigrant Integration,” on May 17<sup>th</sup>, they hosted “Impact of Immigration on States and Localities,” and on May 22<sup>nd</sup>, they hosted “Perspectives from Faith-Based and Immigrant Communities.”

<sup>291</sup> It is unknown whether immigrant men were also asked to testify; however, the fact that only women immigrants testified could be interpreted as a perpetuation of gender stereotypes by the state that label male immigrants as being more dangerous than female. Immigrant women are inherently subordinated by the intersection of their race and gender; therefore, they present less of a threat to the patriarchal state than their male counterparts.

<sup>292</sup> By scheduling the “experts” to speak after Gonzalez, Kalaw, and Tran completely delegitimized the immigrants’ testimonies, exemplifying one way in which the state maintains control over the narratives spoken in the hearing room.



<sup>293</sup>Taking from Aristotle, Higgins and Brush define *ethos* as “a speaker’s perceived reputation—her prudence, virtue, and demonstration of moral purpose through action—in short, her *character*.” [Lorraine D. Higgins and Lisa D. Brush, “Personal Experience Narrative and Public Debate: Writing the Wrongs of Welfare,” *College Composition and Communication* 57 (June 2006): 698]

<sup>294</sup>Rep. John Conyers, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 5.

<sup>295</sup> Maurice Charland, “Constitutive Rhetoric: The Case of the *Peuple Québécois*,” *The Quarterly Journal of Speech* 73, no. 2 [1987]: 134.

<sup>296</sup>Maria Nazareth Gonzalez, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 9.

<sup>297</sup>Marline Mwanj Kalaw and Tam Tran, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 11-14.

<sup>298</sup>Tam Tran, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 15.

<sup>299</sup> Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, 7.

<sup>300</sup> Maria Nazareth Gonzalez, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 9.

<sup>301</sup>Maria Nazareth Gonzalez, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 9.

<sup>302</sup>Maria Nazareth Gonzalez, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 8.

<sup>303</sup>Tam Tran, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 14.

<sup>304</sup>Maria Nazareth Gonzalez, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 25.

<sup>305</sup>Tam Tran, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 25.

<sup>306</sup>Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, 141.

<sup>307</sup>Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, 145.

<sup>308</sup>Rep. Sheila Jackson Lee, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 7.

<sup>309</sup>Rep. John Conyers, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 5, emphasis original.

<sup>310</sup>Rep. Zoe Lofgren, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 29.

<sup>311</sup>Alexander Hamilton, “Examination Number VII,” in *The Papers of Alexander Hamilton: July 1800-April 1802*, vol. 25, ed. Harold C. Syrett [New York: Columbia University Press, 1977], 496-7.

<sup>312</sup>Audre Lorde, “The Master’s Tools Will Never Dismantle the Master’s House,” *Sister Outsider: Essays and Speeches by Audre Lorde* [Berkeley, CA: Crossing Press, 1984], 112.

<sup>313</sup>Diana Furchtgott-Roth, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 31-2.

- <sup>314</sup> Chester Earl Holifield, House Committee on Government Operations, *Law Enforcement on the Southwest Border (Problems of Coordination between Immigration and Naturalization Service and Customs Service)*, 93<sup>rd</sup> Cong., 2<sup>nd</sup> sess., H. Rpt. 1630 [Washington, D.C.: The Government Printing Office, December 18, 1974]: 26.
- <sup>315</sup> Lorraine D. Higgins and Lisa D. Brush, “Personal Experience Narrative and Public Debate: Writing the Wrongs of Welfare,” 695.
- <sup>316</sup> Jamie Merisotis, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 39.
- <sup>317</sup> Rep. Zoe Lofgren, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 2.
- <sup>318</sup> The Immigration Commission, *Brief Statement of the Conclusions and Recommendations of the Immigration Commission, with Views of the Minority*, by William Stiles Bennett and William Paul Dillingham, 61<sup>st</sup> Cong., 3<sup>rd</sup> sess., Sen. Doc. 783 [Washington D.C.: The Government Printing Office, 1911]: 16.
- <sup>319</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan [New York: Random House, Inc., 1977], 137-8.
- <sup>320</sup> Select Commission on Immigration and Refugee Policy, *U.S. Immigration Policy and the National Interest*, 97<sup>th</sup> Cong., 1<sup>st</sup> sess. [Washington, D.C.: U.S. The Government Printing Office, 1981]: 11.
- <sup>321</sup> Michel Foucault, “Truth and Juridicial Forms,” in *Power*, 11.
- <sup>322</sup> Maurice Charland, “Constitutive Rhetoric: The Case of the *Peuple Québécois*,” *The Quarterly Journal of Speech* 73, no. 2 [1987]: 134.
- <sup>323</sup> Marline Mwanj Kalaw, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 13.
- <sup>324</sup> Marline Mwanj Kalaw, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 13-14.
- <sup>325</sup> Marline Mwanj Kalaw, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration,*

*Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 18.

<sup>326</sup> Michel Foucault, *A History of Sexuality Volume 1: An Introduction*, trans. Robert Hurley [New York: Vintage Books, 1980]: 85.

<sup>327</sup> Michel Foucault, *A History of Sexuality Volume 1: An Introduction*, 85

<sup>328</sup> Maria Nazareth Gonzalez, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 10.

<sup>329</sup> Maria Nazareth Gonzalez, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 9.

<sup>330</sup> Maria Nazareth Gonzalez, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 10.

<sup>331</sup> Rep. Zoe Lofgren, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 2.

<sup>332</sup> Rep. William D. Delahunt, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 27.

<sup>333</sup> Michel Foucault, *Society Must Be Defended*, 9.

<sup>334</sup> Rep. Steve King, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 4.

<sup>335</sup> Thomas Jefferson, “Notes on the State of Virginia: Query VIII on Population,” in *Writings 1743-1826* [New York: Literary Classics of the United States, Inc.]: 212.

<sup>336</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 220.

<sup>337</sup> Rep. Steve King, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 4.

<sup>338</sup> Estimates show that undocumented immigrants pay billions into Social Security and Medicare each year, and yet cannot file for a tax refund or qualify to receive funds from these programs [Francine J. Lipman, “Taxing Undocumented Immigrants: Separate, Unequal without Representation,” *Harvard Latino Law Review* 9, no. 1 [February 2006]: 1-58.

<sup>339</sup> Rep. Steve King, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 3-4.

<sup>340</sup> On June 23, 2008, the U.S. Supreme Court declined to review a federal appeals court ruling that dismissed a challenge to a Kansas statute that discriminates against U.S. citizens who live outside the State. The trial court dismissed the suit on the ground that the plaintiffs lacked standing to challenge the Kansas law. The U.S. Court of Appeals for the Tenth Circuit affirmed “the discrimination does not deprive the person of the ability to compete because he or she is disqualified from competing for other, legitimate reasons” [Day v. Bond, U.S. Ct. App. (10<sup>th</sup> Cir. 2007)]. Additionally, in November 2010 the California Supreme court overruled a lawsuit against the 2001 AB540, the state’s version of the DREAM Act that granted in-state tuition irrespective of legal status. They ruled AB540 did not violate IIRIRA and was constitutional because it determined residency based on graduation from a California high school and not place of residence [Martinez v. Regents of the University of California (and AB540), Ca. Ct. App. (3d App. Dist. 2008)].

<sup>341</sup> Select Commission on Immigration and Refugee Policy, *U.S. Immigration Policy and the National Interest*, 97<sup>th</sup> Cong., 1<sup>st</sup> sess. [Washington, D.C.: U.S. The Government Printing Office, 1981]: 35.

<sup>342</sup> Rep. Daniel Lungren, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 23.

<sup>343</sup> Rep. Steve King, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 20.

<sup>344</sup> *Chinese Exclusion Act of 1882*, S. 71, 47<sup>th</sup> Cong., 1<sup>st</sup> sess. [Washington D.C.: The Government Printing Office, 1882]: 1.

<sup>345</sup> Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977-78*, 46.

<sup>346</sup> Rep. John Conyers, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration,*

*Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 20.

<sup>347</sup> Michel Foucault, "History of Systems of Thought," in *Language Counter-Memory, Practices: Selected Essays and Interviews*, ed. Donald F. Bouchard [Ithaca, NY: Cornell University Press, 1977], 200.

<sup>348</sup> Valérie Fridland, "Quite in the Courtroom: Attorney's Silencing Strategies During Courtroom Cross-examination," in *Discourse and Silencing: Representation and the Language of Displacement*, ed. Janet Thiesmeyer [Amsterdam, The Netherlands: John Benjamins Publishing, Co., 2003], 119.

<sup>349</sup> David Binnion, "RIFA Should Focus on DREAM Act, Reframe Fundamentals," *Citizen Orange* [June 27, 2010], <http://www.citizenorange.com/orange/2010/06/rifa-should-focus-on-dream-act.html> [accessed January 29, 2011].

<sup>350</sup> United We Dream Network, "Vision and Mission," <http://www.unitedwedream.org/whoweare> [accessed 02/15/2011].

<sup>351</sup> Maurice Charland, "Constitutive Rhetoric: The Case of the *Peuple Québécois*," *The Quarterly Journal of Speech* 73, no. 2 [1987]: 138.

<sup>352</sup> Maurice Charland, "Constitutive Rhetoric: The Case of the *Peuple Québécois*," *The Quarterly Journal of Speech*, 139.

<sup>353</sup> Kenneth S. Zagacki, "Constitutive Rhetoric Reconsidered: Constitutive Paradoxes in G. W. Bush's Iraq War Speeches," *Western Journal of Communication* 71, no. 4 [2007]: 273.

<sup>354</sup> Kenneth Burke, *A Grammar of Motives* [Berkeley, CA: University of California Press, 1968], 331.

<sup>355</sup> Thomas Jefferson, "Notes on the State of Virginia: Query VIII on Population," in *Writings 1743-1826* [New York: Literary Classics of the United States, Inc.], 210-12.

<sup>356</sup> John McCain, "2007 GOP debate at St. Anslem College, Manchester, New Hampshire," entry posted June 5, 2007, [http://www.ontheissues.org/celeb/John\\_McCain\\_Immigration.htm](http://www.ontheissues.org/celeb/John_McCain_Immigration.htm) [accessed November 26, 2010].

<sup>357</sup> Rep. Zoe Lofgren, "Comprehensive Immigration Reform: Business Community Perspectives," *Hearing Before the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law*, 110<sup>th</sup> Cong., 1<sup>st</sup> sess. [June 6, 2007]: 29.

<sup>358</sup> Gayatri Chakravorty Spivak, "Can the Subaltern Speak," in *Marxism and the Interpretation of Culture*, ed. Cary Nelson and Lawrence Grossberg [Urbana, IL: University of Illinois Press, 1988], 283, emphasis original.

- <sup>359</sup> Tam Tran, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 25.
- <sup>360</sup> Allan Cameron, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 36.
- <sup>361</sup> Clare Sheridan, “Another White Race: Mexican Americans and the Paradox of Whiteness in Jury Selection,” *Law and History Review* [Spring 2003]: 126.
- <sup>362</sup> Clare Sheridan, “Another White Race: Mexican Americans and the Paradox of Whiteness in Jury Selection,” 126.
- <sup>363</sup> Rep. Linda Sánchez, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 27.
- <sup>364</sup> Rep. Linda T. Sánchez, “Comprehensive Immigration Reform: The Future of Undocumented Students,” *Hearing before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary*, 25.
- <sup>365</sup> See the 1996 IIRIRA for a complete list of banned public benefits.
- <sup>366</sup> Catherine L. Merino, “Compromising Immigration Reform: The Creation of a Vulnerable Subclass,” *The Yale Journal of Law* 98, no. 2 [December 1988]: 411.
- <sup>367</sup> Catherine L. Merino, “Compromising Immigration Reform: The Creation of a Vulnerable Subclass,” 413.
- <sup>368</sup> Audre Lorde, “The Mater’s Tools Will Never Dismantle the Master’s House,” *Sister Outsider: Essays and Speeches by Audre Lorde* [Berkeley, CA: Crossing Press, 1984], 112.
- <sup>369</sup> Many undocumented youth are members of the LGBT community and would benefit from the legal recognition of same-sex marriage. Policies such as Uniting American Families Act (UAFSA) address legal barriers of LGBT immigrants unable to obtain legal residence based on same-sex unions.
- <sup>370</sup> Kevin R. Johnson and Bill Ong Hing, “The Immigrant Rights Marches of 2006 and the Prospects for a New Civil Rights Movement,” *Harvard Civil Rights-Civil Liberties Law Review* 42, no. 99 [2007]: 118.

<sup>371</sup> Iris Marion Young, *Justice and the Politics of Difference* [Princeton, NJ: Princeton University Press, 1990], 164.

<sup>372</sup> Iris Marion Young, *Justice and the Politics of Difference*, 166.

<sup>373</sup> Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, 2<sup>nd</sup> ed. [New York: Routledge, 2000], 274.