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The Neoliberal Construction of Immigration as Crisis

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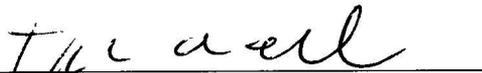
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The Neoliberal Construction of Immigration as Crisis

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DEDICATION

This thesis is dedicated to all of those seeking refuge from atrocities that make home an impossible place to thrive, and even survive. You are victims of a system that never sought to include you, and it is my hope that one day you will be repaired.

ACKNOWLEDGMENTS

I am incredibly grateful to all of the people who have offered me guidance, lent me books, and believed in me over last two years. They cannot all be named here, but I would like to thank Dr. Judah Schept for his unwavering support and perseverance throughout this endeavor, and for encouraging me to stay the course since reaching the end has proven to be rewarding. Dr. Kishonna Gray, Dr. Victoria Collins, and Dr. Gary Potter, thank each of you for providing me with motivation, encouragement and the occasionally necessary dose of reality over the course of my drafting of this paper. I also want to thank my partner Amador, estoy bien agradecido por tu apoyo. Este es nuestro exito.

Abstract

Historically, Americans have been concerned with immigration, with a particular emphasis on Mexican immigration arising toward the end of the twentieth century. The purpose of this research is to question the framing of current immigration patterns as crises and argue that they are better understood as 'business as usual' in the neoliberal state. This paper highlights the connection between neoliberal policies and negative public perceptions of immigrants. Neoliberal policies disenfranchise citizens and immigrants alike, yet the public's misinterpretation of both economic and immigration issues allows society to blame immigrants for deeply structured social problems. I have outlined the neoliberal economic system's need for flexible labor and how this system is served by the public's propensity to exclude immigrants from mainstream society while also drawing attention to the history of immigration policy, the social construction of the Mexican immigrant, and the role of the growing carceral state in managing surplus immigrant bodies. This consideration of the relationship between political economy and immigration, along with an understanding of the history of immigration law in the United States, suggests we should consider divorcing immigration from crisis in our analyses of United States immigration policy and practice.

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CHAPTER 1 Introduction

On November 20, 2014 President Barack Obama gave a speech to the American people formally announcing his Executive Order for Immigration Reform. He was addressing a nation divided on the issue of immigration, specifically focusing on the issue of the undocumented segment of the population. In this speech he framed his plan as the only solution for a broken system that has allowed certain people to “break rules” and “get ahead” by doing so. He even went as far as to say “all of us take offense to anyone reaping the rewards of living in America without taking the responsibilities of living in America” (Obama, 2014). Obama’s solution to the crisis of undocumented immigration includes stemming the flow of new undocumented entrances into the United States by staffing the border with more Border Patrol agents, amplifying the model put into place during the previous six years effectively decreasing the amount of illicit border crossers by fifty percent (Obama, 2014). Obama also promised expedited deportation capabilities of new and recent undocumented border crossers, along with promising to foster the creation of legislation to right the wrongs done by undocumented people already living in the country (Obama, 2014). He assured that his administration would target “felons, not families, criminals, not children, gang members, not a mom who’s working hard to provide for her kids” (Obama, 2014). The highlights of this speech on immigration reform include the indication that the Obama Administration is concerned with criminals in the traditional

sense, as well as those who cross borders without authorization to live and work in the country without permission. The President made clear that mass deportations were not in the best interests of the country, and that the undocumented living within the United States should be recognized officially as a segment of the population (Obama, 2014). Although on the face of it Obama's plan seems to represent a change from previous immigration reform, in essence it does not since it falls in line with restrictive immigration policies characteristic of previous administrations. The purpose of this research is to frame the current immigration crisis as 'business as usual' in the neoliberal state. More specifically, the purpose is to provide an understanding of how immigration from Mexico to the United States is the product of neoliberal policies--those which the United States adopts and those that it exports to the world. This research also aims to illustrate the connection between neoliberal policy and negative public perception of immigrants. Neoliberal policies disenfranchise citizens and immigrants alike, yet the public's misinterpretation of both economic and immigration issues allows for the maintenance of those policies. I will outline the neoliberal economic system's need for flexible labor and how it is served by the public's propensity to exclude immigrants from mainstream society. Providing an understanding of this along with an understanding of the history of immigration law in the United States will achieve the goal of divorcing immigration from crisis in the United States. The goal of this research is to instead place immigration issues under the category of symptoms of the neoliberal modus operandi.

There is a perceived divide where immigration issues are concerned that places liberals on the side of the so-called pathway to citizenship (Grant, 2013) while placing conservatives on the side calling for mass deportations of undocumented workers and their families (Cilliza & Sullivan, 2013). The perceived divide still largely exists today even as President Obama is reserving a place in history books as the deportation President placing more than two-million deportations under his belt during his time as president (Vicens, 2014). The truth is that both of these sides currently and historically work to maintain conditions which create a pool of exploitable labor that must be controlled. The neoliberal state operates in the service of capital and thus neoliberal policies ensure that corporations can profit comfortably with state protections. Since labor is a large expense for any venture corporations benefit from state legislation that marginalizes workers. When laborers are documented and thus protected not just by labor laws, but also with the promise of food and healthcare benefits they are not as easy to exploit. This is not to say that the average American laborer lives an easy life with a cushy wage. It is simply to say that those not protected by labor laws are even easier to exploit which arguably disenfranchises the average American laborer even more since some will be compelled to forego their rights in order to keep their jobs.

Put simply, neoliberalism is the process of implementing less government spending on social programs coupled with significant privatization of state functions. Neoliberal policies become a tool for wealthy countries to use to extract primary resources from developing countries, and if history tell us

anything people are resources ripe for extraction. Varsanyi (2008) presents a definition of the aims of neoliberalism as that which attempts to

“purge the system of obstacles to the functioning of ‘free markets’; restrain public expenditure and any form of collective initiative; celebrate the virtues of individualism, competitiveness, and economic self-sufficiency; abolish or weaken social transfer programs while actively fostering the ‘inclusion’ of the poor and marginalized into the labor market on the market’s terms”.

This quote can be mapped beside immigration issues in summing up what led to the perceived crisis of immigration in the United States. Obstacles to the functioning of free markets are things like laws that prohibit slavery, demand minimum wages, and provide for healthcare and safe working conditions. These obstacles are basically non-existent when using a pool of undocumented workers whom business-owners can exploit, and that the social safety net is exempt from covering, effectively restraining some public expenditures. This is the embodiment of fostering inclusion of the poor and marginalized into the labor market on the market’s terms. The United States labor market is more than willing to include poor and marginalized people because neoliberal policies allow them to extract their labor for as close to free as possible. Varsanyi’s explanation of neoliberalism is accurate, but one thing that she does not adequately address is how carceral growth in the United States is a symptom of the state’s divestment from social welfare programs and its seemingly simultaneous

hyperinvestment in in the surveillance and imprisonment of people in order to control the surplus population (Wacquant, 2010), something which I will address further when I analyze immigrant crime and detention facilities.

As the market opened up and flourished, borders became increasingly open to trade (goods), while becoming increasingly closed to migration (people) (Pickering & Weber, 2006). This is not to say that the borders have closed to people, it is simply to say that the strictures for legal migration have become tighter. The border is very porous, but now more than in previous years it is basically a one-way street since undocumented people can get in, but return home in decreasing numbers since once they leave getting back in is risky. This selectively-open border allows employers to have access to a pool of exploitable labor that no longer fluctuates with the seasons. Under what Bauman (1998) calls the global hierarchy of mobility, people who migrate to follow labor are closely monitored and thus controlled. Essentially there is no such thing as freedom of movement if you lack citizenship in the United States. The border with Mexico in all of its militarized glory does not exist to keep people out, nor does it exist for safety and insured sovereignty (Brown, 2010). It exists to control and govern people, albeit in most cases this is a soft governing, since the federal government simply has to exist to maintain order, which is in-line with Foucault's notion of the (1972) mechanisms of power. Places like the border, and the implications of crossing the border without authorization become a part of the very people they are intended to control. If identity includes where we live and where we are, it makes sense to understand that our very identities are innately

territorial (Agnew, 2008), allowing the border to exist in the mind and express itself on the body. When states create legislation that makes it difficult for the undocumented to be in public without the fear of apprehension and detention or deportation it forces them into the shadows. Their identities become rooted in being present without belonging. The state does not have to exercise its power on a majority of undocumented people, but it can compel them to govern themselves by forcing them to stay within the margins only emerging to serve the purpose that this system intends for them, which has historically been solely wage-labor.

Since the inception of the United States, immigration, and immigration law in particular, have played a significant role in forming the national identity: that is, who we are, and who we imagine ourselves to be. Unfortunately, race has also been intimately linked to immigration and the solidification of a national identity, as evidenced by the 1882 Chinese Exclusion Act, the 1907 Gentleman's Agreement, and the 1924 Johnson-Reed Act, which all sought to restrict, or blatantly exclude potential immigrants based on ethnicity and race. Although recent legislation is not overtly racist, historical legislation was specifically designed to hinder or altogether prevent non-white migration into the United States. It would be premature to assume that immigration legislation of today reflects a post-racial, colorblind stance. In focusing on legislation that has impacted Mexican immigrants, the United States' current immigration policy continues the same trend by negatively affecting these immigrants due to the historical and mediated representation of the immigrant as criminal.

CHAPTER 2 An Historical View of United States Immigration Policy

The Harding administration passed the Emergency Quota Act (Johnson Quota Act) in 1921 which limited the number of immigrants who could enter the United States from any nation to 3% of the total number of persons from that specific nation already residing within the United States. These numbers were based on national origin numbers taken from the 1910 census which contained a total of about 357,802 immigrants. Over half of this number was allocated for Northern and Western Europeans and the remainder for Eastern and Southern Europeans. The average annual arrival rate of immigrants prior to 1921 was 176,983 from Northern and Western European countries, and 685,531 from other countries, principally in Southern and Eastern Europe (Higham, 1963).

The Emergency Quota Act was passed for numerous reasons – restricting the flow of immigrants after World War I, and improving the economic conditions of native workers, while preserving American nationalism and nativism (Higham, 1963). Although this Act was temporary, it proved to be critical in directing American immigration policy. Primarily, it enacted numerical limits on European immigration for the first time; secondarily, it established a quota system based upon nationality (Higham, 1963). Thirdly, and most importantly, it continued the ethnic bias initiated by the Chinese Exclusion Act. Although this Act set no limits on immigration from Mexico or the rest of Latin America, it continued to exclude immigration from Asian countries, which achieved its goals at that time. After its passage, the incoming immigrant population had decreased to 198,082 from

Northern and Western Europe, and 158,367 from Southern and Eastern Europe in 1921 (Higham, 1963).

In order to restrict the flow of immigration even further, the Coolidge administration passed the Immigration Act of 1924. This law's goal was clearly to restrict the entry of immigrants from Southern and Eastern Europe (who at the time were not yet considered White), while still welcoming relatively large numbers of newcomers from Britain, Ireland, and Northern Europe (Higham, 1963). Numerically, this Act decreased immigration levels from 3% with the Emergency Quota Act to 2%. This act also achieved its purpose - the 2% level was reached where levels dropped to 140,999 for Northern and Western Europe, and 21,847 for other countries, principally Southern and Eastern Europe (Higham, 1963). This effectively kept immigration levels low while still allowing 'desired' immigrants to enter.

These acts both stopped "undesirable" immigration by implementing quotas and barred specific populations, namely those from the Asia-Pacific Triangle, including Japan, China, the Philippines, Laos, Singapore, Korea, India, and others. According to the Naturalization Act of 1790, these immigrants, being non-white, were not eligible for naturalization, and the Act forbade further immigration of any persons ineligible to be naturalized. Because there were no restrictions on Latin American immigration, Mexican nationals began to enter the United States at increasing rates.

CHAPTER 3 World War II and the Bracero Program

By the 1940's, the world was in the midst of yet another World War. The deployment of American troops into World War II caused the United States to experience a labor shortage. Employers sought the labor of Mexican immigrants along with Blacks and women in order to ease this labor force shortage caused by men of working age entering into World War II. The solution within the agricultural industry during the early 1940s was the Bracero Program which was launched on August 4, 1942 originally beginning in Stockton, California but soon expanding throughout the United States. The railroad Bracero program also sought cheap Mexican labor for track maintenance and other skilled and unskilled positions (Calavita, 1992). By 1945, the quota for the agricultural program was more than 50,000 braceros to be employed in United States agriculture at any one time, and for the railroad program 75,000. The railroad program ended with the conclusion of World War II, but the agricultural program under various forms survived until 1964. Over the span of its existence, about 4.5 million Mexican workers were employed through the Bracero Program (Calavita, 1992).

The Bracero era ran concurrent the dramatic need for labor in all economic sectors primarily in California. With the increased ability to outsource labor and with the growing need for laborers, Mexicans soon became the primary source of labor in California and made significant strides into manufacturing and service industries as well (Durand, Massey, & Charvet, 2000). The Bracero

Program formally ended in 1964, and the main reason given for its discontinuation was the assertion that the program depressed the wages of native-born Americans in the agricultural industry. The conclusion of the Bracero Program should have drastically reduced the number of Mexican laborers within the United States, but the workers of Mexican origin increased rapidly after 1970 (Borjas & Katz, 2005). Further, there is a clear link between the end of the Bracero program and the beginning of the 'illegal alien epidemic', at least as measured by the number of Mexican nationals apprehended as they attempted to enter the United States illegally (Borjas & Katz, 2005). Specifically, in 1964, Border Patrol apprehended only about forty-one thousand undocumented Mexicans. By 1970, apprehensions were up to about 348,000 annually, and in 1986, about 1.7 million were apprehended (Dillin, 2006).

The decision to end the Bracero program did not have the same effect as other government initiatives (Immigration Acts, Repatriation), but it is important to note that the increased number of legal and illegal immigrants from Mexico led to another form of Mexican Repatriation. Operation Wetback was a 1954 plan devised and enforced by the Immigration and Naturalization Service [INS]. Its focus was to remove illegal immigrants with a focus on Mexican nationals. The operation began in California and Arizona with the coordinated effort of Border Patrol and state and local police agencies. They performed sweeps in neighborhoods with significant numbers of Mexican 'looking' people in agricultural areas with about 750 agents whose goal was 1000 apprehensions per day (Garcia, 1980). In addition to the high number of Mexican and Mexican

'looking' individuals apprehended, about half a million people fled the country for fear of being caught (Dillin, 2006). To discourage re-entry, buses and trains took many people deep within Mexico before being set free. Operation Wetback deported more than 130,000 Mexican nationals in the space of almost a year, although local INS officials claimed that an additional 1 million to 1.2 million had fled willingly (Dillin, 2006). Operation Wetback was the brainchild of the Eisenhower administration which was concerned with corruption amongst law enforcement officials within the United States (Dillin, 2006). Citizenry, especially in the southwestern United States, were concerned with the wage depression that undocumented immigrants seemingly caused within the agricultural sector during and after the Bracero Program's most active years (Dillin, 2006). Operation Wetback was undertaken in order to restore legitimacy to the state, and to quell the citizens who felt slighted by a seemingly failed government program.

In 1965, President Lyndon B. Johnson signed the Immigration Act of 1965 (Hart-Cellar Act) ending the national origins quota system and establishing the symbolic model of fairness in immigration contending that all men are entitled to equality regardless of race or nationality, in-line with the civil rights speak of the time. That said, Ngai (2004) points out that the inclusion of a numerical ceiling, which imposed limits on immigration, created new forms of restriction and did not address the issue of Mexican immigration. Specifically, unauthorized immigration from Mexico continued to increase. In addition to the problem of undocumented entry there was no strategy put into place to address these

increasing migratory patterns. This Act, or rather this Act's oversights, resulted in the flow of over 18 million legal immigrants and millions more undocumented immigrants since its passing. (Steinberg, 2006). The unexpected result of the Hart Cellar Act has been one of the greatest waves of immigration in the nation's history. Those who proposed and researched the law did not see it as changing the flow of immigration in the country. It was seen symbolically by the designers as a means to extend civil rights not only domestically but also beyond the border. Another significant change brought by the Immigration Act of 1965 was that it repealed the National Origins Act of 1924. The Act now placed global quotas that were evenly distributed at 20,000 per country, raising the ceiling on admissions to a total of 300,000 immigrants per year. The Act also established preferences for family unification and labor based immigration. So, with the elimination of the Bracero program, combined with the passage of the Immigration Act of 1965, an informal system of migration was established increasing incidences of clandestine entry. Since the front door of legal entry became more regulated, the backdoor of illegal entry became preferential (Andreas, 2000).

The 1980's were a time of a number of important pieces of legislation which had lasting impacts on Mexican immigrants as well. With the United States reliant on migrant labor, the passage of the Immigration and Reform Control Act of 1986 (IRCA) under Reagan granted amnesty to undocumented workers who had been living in the United States on a long-term basis and legalized undocumented agricultural workers who had resided in the United

States prior to 1982 (Portes, 1996). This created a legal status for millions of Mexicans affording them the ability to permanently settle in the country and often resulted in higher wages (Portes, 1996). Yet the IRCA also enacted provisions that made it illegal to knowingly hire or recruit undocumented immigrants and required employers to attest to their employees' immigration status, an effort to deter future undocumented migration (Portes, 1996). In addition to intensified efforts of employer sanctions, the IRCA also increased funding for the Border Patrol.

The IRCA also contained a provision that set up a Commission for the Study of International Migration and Cooperative Economic Development to study the causes of immigration to the United States. The commission held hearings, and made a report to President George H.W. Bush and Congress in 1990, finding that the main motivation for migration to the United States was poverty. The remedy for poverty and subsequent immigration, the commission argued, lie in the United States forging economic policy that would promote a system of open trade in order to bolster the Mexican economy thus reducing poverty, and making immigration to the United States less desirable for the Mexican people. This recommendation came wrapped in a warning that it could take generations to reach the desired effect of such policies. The North American Free Trade Agreement, signed into law by President Clinton in late 1993 and taking effect on January 1, 1994, was the result of these findings (Carlsen, 2011).

There were additional negative impacts on Mexican immigrants resulting from the passage of the IRCA. One study found that the IRCA caused some employers to discriminate against workers who appeared foreign, resulting in a small reduction in overall Hispanic employment. Additionally, if hired, wages were lower to compensate employers for the perceived risk of hiring foreigners (Lowell, Teachman, & Zhongren, 1995). This Act's passage also increased employer's dependence on subcontractors. Under a subcontracting agreement, a specific number of workers is provided to an employer for a certain period of time to complete a task at a fixed rate of pay per worker. By using a subcontractor the firm is not held responsible since the workers are not their employees, the subcontractors are. A problematic factor of the use of subcontractors is that their usage decreases the worker's wages since a portion is kept by the subcontractor (Massey, 2007). Employer sanctions enacted by the IRCA restructured the market for unskilled labor in the United States, increased discrimination on the basis of legal status, increased discrimination on the basis of ethnicity, and contributed to subcontracting becoming the principal hiring method. As Massey (2007) explains, even documented Latinos are now working for lower wages and in bad working conditions in return for the opportunity to work since they are technically protected by the tenets of the social contract, but its breakdown has left them vulnerable just as it has their citizen counterparts.

In the 1990's, the North American Free Trade Agreement was passed which negatively impacted Mexico's economy and arguably even the economy of the United States. NAFTA created a trade corridor along the US-Mexico border,

where American factories in Mexico could import unfinished products across the border and ship them back to the United States paying only a tax on the added value (Portes, 1996). Industries throughout Mexico relocated formerly American jobs to the border, and migrants from rural communities in Mexico followed suit in order to meet emerging border labor demands. With NAFTA's passage jobs began to look different in Mexico and things which used to provide a living did not any longer. This created a severe economic crisis for cities and communities of Mexico's interior. This led to many communities within Mexico experiencing high levels of unemployment and poverty due to industry relocation. This further compelled Mexican families to trek northward into the United States (Portes, 1996).

In addition to the economic hardships imposed upon the Mexican economy, the United States and Canada witnessed increased economic strains also highlighted by the passage of NAFTA. This agreement had a negative impact on job growth and lowered wages. This worsened poverty and inequality, which were already on the rise due to the slashing of social programs that the neoliberal model calls for (Weintraub, 2004). The lasting impacts of NAFTA will be teased out further in the following sections, and are especially important in understanding the focus that this research places on labor.

CHAPTER 4 Neoliberal Policies in Mexico

The North American Free Trade Agreement (NAFTA) promised many things, mainly opportunities for economic prosperity for our neighbors to the south, but in many ways it simply secured a pool of highly exploitable laborers for the United States' labor needs. Blaming this solely on the implementation of NAFTA is a bit short-sighted though as there were policies that predate NAFTA which led up to the beginning of out-migration from Mexico. One such policy was The Immigration Reform and Control Act of 1986 (IRCA), discussed above, which acted as a marriage of trade negotiations and immigration policy. On its face the IRCA appeared to set boundaries for undocumented immigrant workers, making it illegal to provide jobs to the undocumented and even justifying the militarization of the border with Mexico as an effort to prevent illicit border crossing. Once drafted, Mexico's then president, Carlos Salinas de Gortari, a Harvard educated man, toured the United States reassuring Americans that NAFTA would make things much better in Mexico which would ensure that his people would not feel the need to migrate north in large numbers anymore. In his commencement speech at MIT in May 1993 he told the audience of a globalized world where "isolation is a self-defeating dream" (Salinas de Gortari, 1993) and "globalization is a fact of economic life" (Salinas de Gortari, 1993). This commencement speech occurred during the drafting of NAFTA, months before it would be signed into law by Clinton. It reads like the concession speech of a man realizing that he must give-in to the globalized market. He appeared to be sold on the notion

that NAFTA would create jobs in and bring money to Mexico, turning it into a first-world country, but whether he bought the idea, or simply gave into the pressure of his powerful neighbor to the North is debatable.

The economic climate in Mexico did not change in the ways that Salinas de Gortari seemed to think it would. Prior to NAFTA, Mexico's peasant farmers only really had to compete with one another, and in bad economic times the government subsidized major crops like corn and coffee in order to keep the farmers afloat (Bacon, 2014). Once NAFTA became the law of the land government subsidization was prohibited and these small farmers were forced to compete with agri-businesses from the United States. The sheer volume by which agri-business is able to produce and export grains into Mexico forces prices down making it impossible for small farms to turn a profit. In Mexico, between 1992 and 2008 corn imports skyrocketed from 2,014,000 tons per year to 10,330,000 tons per year (Carlsen, 2011).

If success can be measured on how dependent Mexico is on the United States, then NAFTA was certainly a success since Mexico is now incredibly food-insecure due to policies that not only prevent government subsidization of agricultural products and things like tortillas, but also caused it to be dependent on other nations for its food-staples. This dependence makes them sensitive to market fluctuations in places like the United States. For example, in 2006 when President G.W. Bush created a subsidy to produce corn-based ethanol, the price of corn climbed sharply, and the price of tortillas increased by 60% within Mexico

(Roig-Franzia, 2007). Another indicator of food-insecurity is malnutrition which is highest among the peasant farm families, who at one time could produce enough food to feed themselves. Reports show that the number of people living in “food poverty” (the inability to purchase the basic food staples) climbed from 18 million in 2008 to 20 million by late 2010 meaning that around one-fifth of Mexican children suffer from malnutrition. Data from Mexico’s Institute for Nutrition registered a daily total of 728,909 malnourished children under five in October 2011, with the government reporting that 25 percent of the population did not have access to basic food. Since the 2008 food crisis, the population without adequate access to food has risen by three percent, and newborns present the highest for indications of malnutrition (Carlsen, 2011). This shows that mothers suffering from malnutrition find it difficult and even impossible to feed their children. Food insecurity, a symptom of poverty that is exacerbated by neoliberal policies, is a major clue of the low quality of life available to many Mexican peasants.

CHAPTER 5 The Influence of Public Perception on Immigration Legislation and The Influence of Neoliberal policy on The Mind of the Citizen

As I highlighted earlier, neoliberal policies like NAFTA diminished job security for American workers since some American jobs were outsourced to Mexico with its passage. In 2010 the Economic Policy Institute estimated that around 700,000 United States jobs had been lost due to outsourcing to Mexico since NAFTA had been enacted. The knowledge that Mexicans took American jobs has helped shape sentiment regarding Mexicans in general, and migrants specifically in the years since. The dominant class: in this case average American citizens, believe that law and order are sacred, protectionary and supreme, things which cause them to see illegality as threatening (Foucault, 1972). Therefore, those who operate outside of the law, by immigrating without authorization are criminals who must be dealt with. Young (1999) describes essentialism as being necessary to individual ontological security in the late-modern exclusionary society, a society which is a direct result of neoliberal policies in-action. Essentialism reduces everything to its socially constructed, simplest form making things seem simpler than they are, allowing people to hold a false understanding of social problems which can cause them to react in certain ways. Specifically, cultural essentialism allows people to believe in their own superiority while also justifying their own demonization of others which serves many purposes, one of which is scapegoating the problems of society onto those least responsible, then creating conflict with those people.

“Demonization is important in that it allows the problems of society to be blamed upon ‘others’ usually perceived as being on the ‘edge’ of society. Here the customary inversion of casual reality occurs: instead of acknowledging that we have problems in society because of basic core contradictions in the social order, it is claimed that all the problems of society are because of the problems themselves.” (1999, p. 110)

This scapegoating, and a focus on the symptom rather than the problem, allow neoliberal policies which harm Americans to continue without pushback from the populace. This creates a preoccupation with the criminal element—the undocumented, while ignoring the fact that undocumented migration is merely a symptom of bad economic policy. Accusing immigrants of crimes allows for society to exclude them with impunity. We cannot discriminate on the basis of race or ethnicity, but we certainly do so on the basis of criminality, and with legal justification (Alexander, 2012). The media frames the undocumented as illegal and it associates them with criminal behavior (La Jeunesse & Prabucki, 2014, 2013; Winter & Berger, 2014) which serves to demonize Mexicans as a whole. Young explains that when demonization is taken to the extreme it allows for and excuses vicious actions against the ‘other’. I would argue that undocumented Mexican immigrants in the United States are victims of neoliberal policies that the United States encouraged Mexico to adopt making northern migration the only viable option for survival. Based upon current and previous immigration policy, often billed as reform, the American public does not see them as victims, but instead as criminals requiring punishment. The United States blames the victims

of its crimes of empire by framing them as criminal invaders, and then it seeks to punish those who are left with little other choice than leaving their own countries to labor in the same system that bankrupted them in the first place. The most vicious actions carried out against the undocumented (and often the documented as well) within the United States include the purposeful re-routing of migration of the undocumented through dangerous, even deadly zones of the borderlands by amplifying security in the safer regions (Shivone, 2012), racial profiling by police, and disproportionate representation in the criminal justice system (Prison Policy Initiative, 2014).

CHAPTER 6 Il/legal

The term illegal is typically understood as behavior that goes against the law, for example it is illegal to exceed the posted speed limit. Opposite of that, 'legal' is something that describes behavior permitted or expected by the law, such as "It is legal to drive with your lights on during the day." Both the Oxford and Webster dictionaries define illegal similarly to the above definition, but both list an alternative definition for the word, a noun meaning a person present within a country without official documentation. This is the definition that people on the anti-immigration right tend to stick to. They attribute il/legality to human beings and thus remove it from describing simple behavior and instead marry it with simple existence. This is where the term "illegals" comes from. People who enter the United States without first obtaining proper documentation can do their best to follow every law, but will still be referred to as 'illegal'. While there certainly are immigrants who cross the southern border without proper documentation (ICE, 2014), along with those who obtain proper documentation like Visas-and then stay past their expiration (ICE, 2014), there are many Mexican immigrants who do obtain their documents, along with the descendants of the immigrants who have actually been born in the United States and are citizens—these people are not exempt from being labeled illegal. This is because this descriptor does not even need to be married with a concrete definition in order to perform its important cultural and political work. 'Illegal' is a coded racist term that allows people to be racist without sounding like it. Bonilla-Silva (2012) describes a racial grammar that is used by the dominant (white)

class to “reproduce the racial order as just the way things are”. Mexican immigrants go against ‘the way things are’ since, often they do not look like the dominant class, nor do they speak, act, dress, or garner wages like the dominant class. And while few would argue that the United States is a nation of immigrants, Young (2009) would posit that the descendants of the ‘old’ immigrants who demonize the ‘new’ immigrants in order to exclude them from society is resultant of their own self-essentialism which provides them with a sense of security in an ever-changing world, removes responsibility for this fact from themselves, helps them rationalize the blatantly unequal order of things, and allows them to feel superior to the ‘new’ immigrants and therefore place their rights to “life, liberty, and the pursuit of happiness” above the ‘other’s’. This is important in that it legitimizes the state’s pursuits of controlling the populace, since in the globalized world dangers from the outside are increasingly present. The state, in its perceived effort to protect the citizen can act contrary to the well-being of its citizens and even blatantly violate their rights. An excellent example of this is the existence of Constitution Free Zones that exist within 100 miles of the geographic border of the entire United States. Within these zones anyone is subject to being stopped without suspicion, and searches can be conducted legally and with less probable cause or suspicion than is normally required. Two-thirds of the United States populace live within these zones (ACLU, 2014), and yet they are accepted and seen as necessary to protect citizens from the foreign threat.

When people are caught doing illegal acts they are generally dealt with in some official capacity. Speeding involves tickets, possible court dates, and potential loss of privileges (driving). When someone is caught existing in the United States without documentation the repercussions vary based upon location. Some states have chosen to enforce federal immigration laws based upon the belief that the feds simply are not doing their jobs (Varsanyi, 2008). Arizona passed its own senate bill (SB1070) that required local law enforcement to detect, detain, and ready for deportation anyone in the state without the proper documentation. It is important to note that this bill was eventually amended (HB2162) due to its problematic nature as among other things it relied upon officers to use racial profiling to seek out immigration law-breakers by requiring them to act if they believed someone appeared to be illegal. It is also important to note that the very passing of this bill required the public to be so concerned with “illegals” that they were willing to allow behavior from law enforcement that would never have normally been deemed acceptable if carried out against the dominant group.

Basically, the public sees new immigrants, essentializes them, demonizes them, blames them for social problems, and demands that something be done about them. To those who prescribe to this line of thinking immigrants are illegal, illegals are criminals, and criminals need to be incarcerated. They also believe that since the numbers of incarcerated illegals are high so that it means that immigrants are criminals (Gilmore & Gilmore 2008). Under Fordism the state expanded and contracted its social welfare programs to respond to the cyclical

ups and downs of the economy (Wacquant, 2010). As the demand for labor fell the welfare state intervened to quiet the masses and prevent their demands for real social change. Eventually, the demand for labor would rise as the welfare programs became more restrictive and forced people back into undesirable jobs. This cycle has been rendered obsolete by the neoliberal restructuring of the state. While welfare still exists it is restrictive and has been replaced by what Wacquant (2010) calls prisonfare. Prisonfare is the process by which the state offers a penal response to social problems where it previously would have offered a social welfare response. Wacquant explains that prisonfare cannot be separated from workfare because both aim to control the 'other'. Staying in-tune with neoliberal tenets, the United States has participated in the scaling back of the welfare state by fostering a state of 'workfare' outlined in Clinton's welfare reform legislation. This effectively allowed for funds to be allocated away from the social safety net and into the expansion of the carceral state.

CHAPTER 7 Immigrants and Prisonfare

While the carceral state primarily aims to imprison those whose marginality leads them to disrupt the proper flow of capital, the purpose of workfare is to bring the unemployed members of the populace back into a relationship of exploitation by reducing welfare benefits and forcing them onto the edges of the labor market. In the event that they refuse to stay there and pursue illegal means of accumulation they are relegated to the prison system. Prisonfare and workfare represent two components of a single system for the management of poverty which aims to control and when necessary, modify the behaviors of unruly populations when they threaten the economic and symbolic order (Wacquant, 2010).

The undocumented are not entitled to the protections of the social safety net and in fact they are largely ineligible, but as the demand for labor in-general decreases the undocumented become part of the surplus population. This justifies the restriction of their movement, which is carried out through surveillance by law enforcement, detention in immigration detention facilities and eventual deportation with bans on reentry for a set number of years. Immigration facilities act as warehouses for criminal migrants, just as regular prisons warehouse the criminal element of the citizenry, stagnating them since they either cannot or will not partake in workfare.

There is certainly a monetary aspect present in immigration detention and the private prison, which acts as a holding location for the immigration detainee,

is the embodiment of punishment in the neoliberal age. Neoliberal policies have both dispossessed the Mexican migrant and imprisoned him for reacting to his own dispossession. Private prisons also illustrate that prisons in the neoliberal age exist outside of their stated functionality as punishment for, or prevention of crime. Rather, prison in the neoliberal age manages surplus and threatening bodies which when privatized, are themselves businesses with investors, corporate executives and annual reports on profitability (Loyd, et al 2009). Increased policing of immigrant bodies has created a demand for more space to detain them. When Corrections Corporation of America (CCA) noticed the possibility of a demand for bedspace after the Department of Homeland Security announced in 2009 that it would be amplifying its efforts to combat illegal immigration they immediately began formulating their business plan (Loyd, et al 2009).

The violence, both symbolic and overt, that the state inflicts on the bodies and minds of the undocumented is naturalized through the use of arbitrary migratory policies, criminalization of migration, and sentiments that these labels incite in citizens. Those who fill prisons, especially the prisons designated for immigrants only are not treated as human beings by the state since it exempts these prisons from laws that regular prisons are required to follow.

“Criminals can be put to good use, if only to keep other criminals under surveillance” (Foucault, 1972: 37).

This quote can be read literally, in that criminals sometimes guard other criminals, but it can also explain how the state legitimizes its methods of control since only when people fear crime and criminals do they give up their rights. The social contract, that intangible and proverbial document which outlines which rights the citizens sacrifice to the state in return for its protection, is something that falls by the wayside when neoliberal policies shape governance. When the state scales back its welfare programs, it does not also scale back its surveillance and punishment programs, thus taking freedom from citizens without paying for it with the currency of protection. If fear is present this can be overlooked. Prisons, and for the sake of this research, immigration prisons can be built, staffed and filled without question from the populace so long as they feel they are necessary. When people are labeled as illegal, criminal, dangerous, and thieves (whether it be of property or of jobs) fear can be created and even fostered amongst the dominant class making prisons seem necessary.

Borders are certainly important geographically, and their significance to the discussion surrounding the undocumented is important, but in order to understand the crisis of immigration, and the very real crisis of hyper-incarceration we must ignore borders for a bit. Consider North America as one land mass with no internal borders. In this line of thinking consider the effects of neoliberal policies, which have been adopted by the whole of North America. Neoliberal restructuring created an environment where cheap labor was chief-in Mexico this meant first, that small peasant owned farms were made obsolete when they could no longer profit from their crops causing the people to flood

cities and border towns for low wage jobs made available through outsourcing by the United States. There they could earn wages, even though they were meager. Those who could not work here, and those who did but eventually lost their jobs to places like China had little other choice than to move al norte, to the United States. Once there, their labor was utilized by those seeking to make a profit while expending as little as possible on the labor side. The undocumented worker's willingness to work for less seemingly places the position of the citizen in jeopardy since they will not work for less than the legal minimum wage. This is threatening and legitimizes the state's action against the "illegals", and its expenditures on imprisonment even as the social safety net continually shrinks.

When Clinton signed the country up for responsibility via the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [PRWORA], which sought to eliminate dependence on welfare, he ushered in an era where employment equaled responsibility and unemployment meant prison. PRWORA made failing to fall in line by joining in workfare punishable in the growing prison industrial complex. Economic crises have, for the last 50 plus years been handled through mass incarceration (Gilmore, 1998/99; Parenti, 1999). In this same line of understanding it makes sense that the state's response to the immigration crisis which is in every way imaginable, an economic crisis is also incarceration. As Gilmore and Gilmore argue, "Cages have become catch-all solutions to social and political problems" (2008: 142). In this line of thinking, the prison is the result of the contradictions between the demands of capitalism on labor, and the need for order maintenance to maintain the power structure which

allows those who labor the least to benefit the most. Criminalization and racialization of certain segments of the population allow for their control and exclusion. Concerning the act of existing in the country without proper documentation and therefore, without permission, we tend to look at the crime being committed as one of trespassing against the state. In the same ways that some Americans are targeted for driving while Black, the act of simply driving in an area where (it appears) they do not belong, the undocumented are targeted for not belonging as well (Loyd, et al., YEAR). Since the system has relegated the migrant worker to the shadows, his very visibility is an affront which is punishable by detention, and even deportation.

Neoliberal capitalist restructuring in the global South has resulted in the displacement of people from their rural livelihoods (Loyd, et al) and because of this international migration became a survival strategy for families in Mexico. Regardless of the reality of migration as survival, migration policies have become increasingly restrictive. Repressive policing strategies and the amplification of nativist sentiments (bolstered by fear of the criminal illegal alien, and of job loss to lower wage-accepting migrants) harbor a climate of fear that keeps immigrants from organizing, demanding rights, and better working conditions. These facts are both positives for the state, and for its employers.

At the outset of this research I believed that I would find that immigration detention served as a warehousing agent for immigration population that were also surplus laborers. I feel like I have reached the conclusion that

undocumented immigrants in detention are there for two reasons. First, there simply are not enough jobs to employ all of them, and second a profit can be made off of security-theater. Many citizens feel threatened by the presence of immigrants, especially those who can be labeled criminal or illegal, so security-theater can calm those sentiments, therefore making it useful. The undocumented are framed as threats to citizens—to their jobs and personal safety--by the state's use of the terms 'criminals', 'aliens', and 'illegals' and thus punishment and dispossession of these threatening people is accepted and even encouraged. As Loyd et al. argue, "Absolute control over movement and territory is an unachievable goal and inevitable failures are used as justifications for new spatial strategies of deterrence and ever more repressive controls" (2009: 81). The state meets its ends without being forced to accept or admit any guilt for its lopsided treatment of a population displaced and forced into Northern migration by neoliberal policies.

In line with my inclusion of Young's (1999) statements on exclusion as stated previously, the immigration prison reinforces the need to exclude the immigrant from the rest of the populace. Criminal Alien Requirement prisons are all privately owned (ACLU, 2014) while technically under the same umbrella as other prisons within the Federal Bureau of Prisons, but they do not house citizens, or native offenders and due to their private ownership they are not held to the same oversight rules as public prisons since their methods can be guarded as 'trade secrets' (ACLU, 2014). These prisons are domains that for all intents and purposes exist outside the scope of the United States even though they are

geographically within the United States. Prisoners held in these locations are often denied basic human rights (Fusion, 2015) with little chance for those violated to seek reparation. An excellent example of this is the Criminal Alien Requirement facility located in Raymondville, Texas, which has documented major issues concerning the treatment of its inmates (ACLU, 2014). On February 20, 2015 prisoners overtook the prison after suffering from inhumane conditions at the privately owned facility nicknamed “Ritmo” by locals to liken it to the notorious Guantanamo Bay facility. According to a report released by Fusion (2015) prisons like this one imprison only immigrants for mostly immigration convictions. There are around 33,000 prisoners in the immigration detention system on a given day and of those sixty-seven percent have unauthorized entry listed as their primary offense. Twenty-two percent are imprisoned on drug offenses, while around eleven percent are held for offenses labeled as ‘other’. Illegal reentry, the crime for which most of these prisoners are serving time was not even a highly prosecuted offense until 2005 with the implementation of Operation Streamline.

CHAPTER 8 Conclusion/Discussion

I tend to agree with Wacquant's (2010) argument that othering, criminalization and imprisonment are key components of 'state craft'. Prison expansion in the United States under neoliberalism is the outcome of policies which de-funded social welfare programs under the guise of 'responsibility' and funded the prison industrial complex under the guise of punishing irresponsibility. The present research suggests that the immigrant, and in particular the undocumented Mexican immigrant, figures importantly into this analysis. First, undocumented immigrants come to exist in the United States due to neoliberal economic policies both within their home countries, and within the United States. They are simultaneously pushed and pulled across the border. Once here they are marginalized and criminalized making them subject to detainment and even outright imprisonment. The United (carceral) States has a flourishing prison system and it is no exaggeration to call this an industry, especially with the advent of the private prison. Private prisons are certainly not a majority within the United States, but they seem to be the go-to where immigration detention is concerned. In 2011 the Department of Homeland Security imprisoned around 429,000 immigrants in 250 locations across the United States and currently maintains a daily capacity of around 33,000 immigrant-prisoners within its Criminal Alien Requirement prisons (ACLU, 2014).

I have decisively chosen not to discuss the drug war here for two reasons. First, if it is going to be discussed it should be done from every angle, something

that would not have fit into this paper. Second, while the drug war is a huge contributor to the carceral state, as well as a major push factor for immigration into the United States due to fear of narco-violence, I feel that looking at the data on immigration detention reveals that immigration legislation performs the same task as the drug war in terms of incarceration rates. In fact, the ACLU reports that more than half of all federal criminal prosecutions initiated in fiscal year 2013 were for illegally crossing the border into the United States, and that in 2009 more people entered the system for immigration infractions than for property offenses, weapons offenses, and violent offenses combined. What this illustrates is that even if the drug war ever comes to an end, the Prison-Industrial Complex will still thrive since offenses such as unauthorized entry is a crime, and repeated unauthorized reentry is a felony.

I outlined the neoliberal policies that force migration of people out of Mexico and into the United States showing that immigrants, especially the undocumented, face many obstacles within the United States due to policies put in place to prevent them from becoming part of the average populace. These include the informal othering that takes place which allows citizens to not only treat immigrants poorly, but also compels citizens to expect the state to punish them, accepting it once it happens. Neoliberalism affects average citizens negatively and they in turn feel most threatened by migrants and the undocumented who are “below” them only by virtue of being less American, or as a criminalized body due to undocumented status. This not only allows the state to punish the undocumented, but also provides a scapegoat for the social

problems that plague citizens, which in turn quells radical social change in a society where inequality is rampant.

I expected to discover that immigrant detention rates increased as the economy slumped. For example I assumed that I would find that immigration detention after the Great Recession in 2008 increased annually, and it did, but there may be false causation present. Wacquant (2010) suggests that the growing penalty of the state is “an ongoing routine feature of neoliberalism” and that it is “not economic failure, but economic success that requires the deployment of the police, court, and prison in the nether sectors of physical space”. Bearing this in mind perhaps we should take another look at the way the world views the United States economy during and after the economic slump which began 2008. Did wealth disparities not become greater? Who lost the most? Did the rich not get richer? Does this explain the expansion of imprisonment of immigrants? Future research can engage the questions that need to be asked about immigration and the state’s responses to it during economic booms, busts and otherwise.

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