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Rangel-Medina, Evelyn Marcelina

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Multigenerational Illegality: Transforming Indigenous People to “Illegal” Beings

Evelyn Marcelina Rangel-Medina*

This Article integrates multigenerational illegality into the canon by employing conceptual analysis and personal narrative. Multigenerational illegality explains how mixed-status Indigenous, Black, Latinx/e, and Asian and Pacific Islander families are branded as “illegal” and systemically denied pathways to status or citizenship, thereby becoming marginalized across generations. In this way, this Article demonstrates the legal injuries and sacrificios of mixed-status families of color caused by the system of immigration law and enforcement.

* Assistant Professor of Law at Temple University James E. Beasley School of Law. I am grateful to Rachel Fay Moran, Russell Robinson, Leti Volpp, Jaya Ramji-Nogales, Jennifer Lee, Nazune Menka, Kevin Johnson, Rafael A. Porrata-Doria, Tom C.W. Lin, Timothy William Waters, Craig Green, and Emilie K. Aguirre for their valuable suggestions and feedback. I presented this paper at the 2024 Citizenship, Democracy, and Indigeneity Workshop during the New Voices Symposium at the University of California, Berkeley School of Law; the Global Indigeneity Panel during the Indigenous Rights in 2025: A Symposium on Current Legal Issues hosted by the Texas Journal on Civil Liberties & Civil Rights at the University of Texas at Austin School of Law; the Crimmigration Works-In-Progress Conference at the University of Oregon School of Law; the 2025 Emerging Immigration Scholars Conference at The Ohio State University Moritz College of Law; the Global Reflections on Migration & Citizenship Panel during the Law & Society Association Conference in Chicago, Illinois; the *Comunidades en los Márgenes* panel during the South-North Exchange on Theory, Culture and Law & Latinx Critical Legal Theory (LatCrit) at Universidad Autónoma de la Ciudad de Mexico; the Fourth Annual Michael A. Olivas Dialogue at the Indiana University Maurer School of Law; and the Legal Threats and Opportunities for Mixed-Status Families Panel during the Mixed Status Family Conference: Immigration Enforcement, Resistance, and Narratives Through the Lens of Mixed-Status Families hosted by the Civil Rights, Migration and Workplace Law Initiative at the Sandra Day O'Connor College of Law, Arizona State University. I appreciate the depth of feedback I received at these convenings, as well as from the Temple University James E. Beasley School of Law Faculty Colloquium, the Rutgers Law School Faculty Colloquium and the Drexel University Thomas R. Kline School of Law Faculty Workshop. I am indebted to Amális J. Córdova Mustafá, Cinthia A. Ibarra, Joshua P. Dufour, Christine L. Jay, Cheyenne A. Lemonius, Juan Andrés “Juancho” Marroquín Ceballos, Hilary A. Symes, Marco Antonio Ramirez Torres, Jacqueline V. Valadez, and Koren K. Woznicki for their insightful research and editing support. I am also grateful to Cynthia Jung and the U.C. Irvine Law Review Editorial Board for their exemplary editorial assistance. All errors are my own.

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DEDICACIÓN

I dedicate this piece to my ancestors and predecessors—may we never forget our memories and each other. *Nuestro amor no conoce fronteras*.¹

También le dedico esta escritura a mi amá, Chayito. Gracias, amá, por su amor incondicional y por siempre estar a mi lado. Gracias por enseñarme cómo una mujer valiente puede sobrevivir y transformar su vida a pesar de las circunstancias más difíciles. The greatest joy of my life is that we are healing together in this lifetime with Paco and Gus.

I am grateful to my Indigenous [*Wixárika*] ancestors for generously sharing their spirits, memories, brilliance, medicine, and, most importantly, pathways to return home. Thank you for grounding me in our multigenerational commitment to protecting Mother Earth. I am also thankful to my undocumented ancestors for paving the way for me to live with courage, integrity, and devotion. May this writing bring light to your *sacrificios* and justice to our present and future generations. May we never forget each other, and may our tributes and unrelenting commitment to liberation return equilibrium and tranquility to our lands in perpetuity.

INTRODUCTION

[T]he apocalypse has already occurred for those of us standing in the line of cruelty’s fire, and ultimately, for the cruel and the fire-armed “Ground zero,” they call it, the hole that remembers rupture. It is an apt enumeration, according to Maya mathematics. We count backward from there, placing our carbonless footprint across the face of this planet Our scribes record the journey, as our ancestors walk with us

—Xerí L. Moraga²

1. The author selectively translates phrases or words to maintain her authentic voice and to emphasize the richness of her bilingual Spanish-speaking migrant community’s dialectical vernacular. When translations are included, they are intended to assist non-Spanish-speaking readers in understanding multiple layers of meaning. See GLORIA ANZALDÚA, BORDERLANDS/LA FRONTERA: THE NEW MESTIZA 39 (1st ed. 1987) (“Ethnic identity is twin skin to linguistic identity—I am my language.”).

2. CHERRIE (“XERÍ”) L. MORAGA, *Prólogo: A Living Codex*, in A XICANA CODEX OF CHANGING CONSCIOUSNESS: WRITINGS 2000–2010, at xviii (2011).

Colonial violence, combined with failed democracies and extreme poverty, continues to displace millions of Indigenous people, Black people, and Latinx/e people across the American continent.³ We are forced to cross borders *sin papeles* [without a formal immigration status].⁴ Crossing or remaining in the United States *sin papeles* is an incredibly courageous “choice” made only by the bravest or most desperate among us.⁵ Moreover, our migration patterns persist despite the rise of white supremacist governments that drive militarized border enforcement and racialized mass deportations.⁶

This Article reveals that the U.S. system of immigration law and enforcement perpetuates racial subordination across generations.⁷ It demonstrates how the illegalization of mixed-status families⁸ of color prevents our equitable integration

3. See Nazune Menka, *Native Nation Resistance to the Machinations of Settler Colonial Democracy*, 59 HARV. C.R.-C.L. L. REV. 141, 142 (2024) (“Settler colonialism provides a framework to analyze the intersections of structural racism, law, and colonization and illuminates how the United States engages in strategies of elimination, displacement, containment, and the conceptual disappearance of Indigenous and non-Indigenous racialized or othered communities.”); Asad L. Asad & Jackelyn Hwang, *Indigenous Places and the Making of Undocumented Status in Mexico-US Migration*, 53 INT’L MIGRATION REV. 1032, 1039 (2018) [hereinafter Asad & Hwang, *Indigenous Places*] (discussing how Indigenous communities engage in undocumented border-crossing strategies to enter the United States); see also, e.g., William Brown & Mary Odem, *Living Across Borders: Guatemala Maya Immigrants in the US South*, S. SPACES (Feb. 16, 2011), <https://southernspaces.org/2011/living-across-borders-guatemala-maya-immigrants-us-south/> [perma.cc/QH6J-FL4W] (estimating that approximately half a million Mayans have migrated from Guatemala to the United States).

4. See Angela R. Riley & Kristen A. Carpenter, *Decolonizing Indigenous Migration*, 109 CALIF. L. REV. 63, 65 (2021) (“[T]he lines that settlers drew to mark their claims to Indigenous lands are often the very same borders the United States now uses to block global migrants from entry.”); E. Tendayi Achiume, *Migration as Decolonization*, 71 STAN. L. REV. 1509, 1519 (2019) (critiquing “legal scholarship” which “has insufficiently grappled with the implications of colonial and neocolonial subordination for how we should think about the ethics of the international law of migration”).

5. See Emily Ryo, *Deciding to Cross: Norms and Economics of Unauthorized Migration*, 78 AM. SOCIO. REV. 574, 574 (2013) (“[P]erceptions of certainty of apprehension and severity of punishment are not significant determinants of the intent to migrate illegally; however, perceptions of availability of Mexican jobs and the dangers of border crossing are significant determinations of these intentions.”); see also, e.g., JAVIER ZAMORA, *SOLITO: A MEMOIR* (2022) (recounting the journey of an unaccompanied nine-year-old Salvadorian child who crossed three borders to reunite with his parents in the United States).

6. See KATY MURDZA & WALTER EWING, AM. IMMIGR. COUNCIL, *THE LEGACY OF RACISM WITHIN THE U.S. BORDER PATROL* 5 (2021), https://www.americanimmigrationcouncil.org/sites/default/files/research/the_legacy_of_racism_within_the_u.s._border_patrol.pdf [perma.cc/6SJL-ZFDX] (“Beginning in the 1980s, the Border Patrol’s institutional racism became more heavily weaponized as the agency began a profound process of militarization.”); Brent Funderburk, *Operation Wetback: United States Law-Enforcement Campaign*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/topic/Operation-Wetback> [web.archive.org/web/20260302070500/https://www.britannica.com/topic/Operation-Wetback] (last visited Feb. 15, 2026) (detailing how 1.1 million Mexican nationals and U.S. citizens of Mexican descent were mass deported during “Operation Wetback” in 1954); ADAM GOODMAN, *Deportation in an Era of Militarized Borders and Mass Incarceration*, in *THE DEPORTATION MACHINE: AMERICA’S LONG HISTORY OF EXPELLING IMMIGRANTS* 167 (2020) (arguing “formal deportations ha[ve] been a central part of the carceral state’s expansion over the last few decades”).

7. See, e.g., Mae M. Ngai, *The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924*, 86 J. AM. HIST. 67 (1999).

8. Mixed-status families are household units in which family members have different immigration or citizenship statuses, including undocumented immigrants, Deferred Action for Childhood Arrivals (DACA) recipients, temporary protected status (TPS) holders, asylees, legal permanent residents (LPRs), U.S. Nationals, and U.S. citizens. See Leisy J. Abrego, *Relational Legal Consciousness of U.S. Citizenship: Privilege, Responsibility, Guilt, and Love in Latino Mixed-Status Families*, 53 L. & SOC’Y REV. 641, 646 (2019); CASSAUNDA RODRIGUEZ, *CONTESTED AMERICANS:*

due to the multigenerational trauma and legal injuries inflicted by this system.⁹ The Article explicitly concentrates on Indigenous people and undocumented people from the American continent, which the existing legal framework transforms into “illegal” beings.¹⁰ This endeavor involves complex contentions and grappling with identity, belonging, and Indigeneity, particularly of the detribalized and those of us who have been robbed of our mother tongue.¹¹ Moreover, this analysis also includes but does not explicitly center how Black, Latinx/e, and Asian and Pacific Islander (API) mixed-status families are harmed by this system.

The criminalization of undocumented status rather than constructed criminal conduct is also the focus of this work,¹² highlighting the racialization and marginalization of undocumented people.¹³ This inquiry involves grappling with

MIXED-STATUS FAMILIES IN ANTI-IMMIGRANT TIMES 14–17 (2023) (arguing that immigration enforcement is not race-neutral, as Latinx/e mixed-status families face racial profiling and deportation regardless of legal status, reflecting a racist nativism that subjugates Mexican and Mexican American communities to protect White supremacy). Moreover, mixed-status families experience “illegality” collectively, as members with legal status are often deterred from applying to public assistance programs due to the requirement to provide sensitive information about other members who may not have a formal immigration status. *See also* Tal D. Eisenzweig, *In the Shadow of Child Protective Services: Noncitizen Parents and the Child-Welfare System*, 128 YALE L.J. 482, 489 (2018) (arguing that the legal system illegalizes mixed-status families by forcing noncitizens into vulnerable positions where child-welfare proceedings can trigger immigration enforcement).

9. *See* Matthew Lisiecki & Gerard Apruzzese, CTR. FOR MIGRATION STUD., PROPOSED 2024 MASS DEPORTATION PROGRAM WOULD SOCIALLY AND ECONOMICALLY DEVASTATE AMERICAN FAMILIES (2024), <https://cmsny.org/publications/2024-mass-deportation-program-devastate-american-families-101024/> [web.archive.org/web/20260303210014/https://cmsny.org/publications/2024-mass-deportation-program-devastate-american-families-101024/] (finding that there are approximately 4.7 million mixed-status households in the United States, compared with 1.1 million undocumented-only households, and that nearly four million mixed-status households include at least one U.S. citizen); *see also, e.g.*, Kathleen Kim, Kevin Lapp & Jennifer J. Lee, *Critical Immigration Legal Theory*, 104 B.U. L. REV. 1515, 1515 (2024) (“[I]mmigration law and policy create great human suffering through actions such as separating families . . .”).

10. *See generally* Karla Mari McKanders, *The Unspoken Voices of Indigenous Women in Immigration Raids*, 14 J. GENDER, RACE & JUST. (2010), <http://dx.doi.org/10.2139/ssrn.1713374> [web.archive.org/web/20240606044344/https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1713374] (telling the stories of Indigenous women, primarily Mayan, who have been impacted by immigration raids).

11. Hilary N. Weaver states the following: “Indigenous identity is a truly complex and somewhat controversial topic. There is little agreement on precisely what constitutes an [I]ndigenous identity, how to measure it, and who truly has it. Indeed, there is not even a consensus on appropriate terms. Are we talking about Indians, American Indians, Natives, Native Americans, [I]ndigenous people, or First Nations people? . . . [A]bout Sioux or Lakota? Navajo or Dine? Chippewa, Ojibway, or Anishnabe?” Hilary N. Weaver, *Indigenous Identity: What Is It, and Who Really Has It?*, 25 AM. INDIAN Q. 240, 240 (2001), <http://www.jstor.org/stable/1185952> [perma.cc/R9T7-A3SG]; *see* Oscar Ukeme Bautista Muñoz, *Languages Also Die: The Case of the Wixárika*, WIXÁRIKA RSCH. CTR. (Feb. 25, 2008), <https://www.wixarika.org/languages-also-die-case-wixarika> [perma.cc/3NSW-NSWQ] (“In our indigenous culture the mother tongue is the language of the gods, through it we can communicate with our deities, strengthen our customs and traditions.”).

12. Cecilia Menjívar & Daniel Kanstroom, *Introduction—Immigrant “Illegality”, in CONSTRUCTING IMMIGRANT “ILLEGALITY”: CRITIQUES, EXPERIENCES AND RESPONSES 2* (Cecilia Menjívar & Daniel Kanstroom eds., 2013) [hereinafter CONSTRUCTING IMMIGRANT “ILLEGALITY”] (describing the complex intersection among citizenship status, constructed criminality, and immigration status); *see also* Angélica Cházaro, *Challenging the “Criminal Alien” Paradigm*, 62 UCLA L. REV. 594, 598 (2016) (“[A]rguing for the necessity of dismantling the category of criminal alien as a vector for the harms of immigration enforcement.”).

13. *See* Carrie L. Rosenbaum, *Crimmigration—Structural Tools of Settler Colonialism*, 16 OHIO ST. J. CRIM. L. 9 (2018) (arguing that linking deportation to “alleged criminal activity” uses the criminal

and “accepting problematic and dangerous forms of castes.”¹⁴ Although not all undocumented people are people of color, Indigenous people, Black people, Latinxs/es,¹⁵ and APIs overwhelmingly make up the undocumented population.¹⁶ These racialized populations, in part, replaced an enslaved Black population in exploitable labor sectors after Reconstruction.¹⁷

justice system as a “racialized system of control” to justify the disparate treatment of immigrants of color through seemingly “neutral factors”).

14. Menjivar & Kanstroom, CONSTRUCTING IMMIGRANT “ILLEGALITY” 2 (citing Plyler v. Doe, 457 U.S. 202, 218–19 (1982) (“[T]he specter of a permanent caste of undocumented resident aliens [sic], encouraged by some to remain here as a source of cheap labor, but nonetheless denied the benefits that our society makes available to citizens and lawful residents.”)); see also ISABEL WILKERSON, *An Old House and an Infrared Light*, in CASTE: THE ORIGINS OF OUR DISCONTENT 22–23 (2020) [hereinafter WILKERSON, CASTE] (defining a caste system as “an artificial construction, a fixed and embedded ranking of human value that sets the presumed supremacy of one group against the presumed inferiority of other groups . . .”).

15. See generally LAURA E. GÓMEZ, INVENTING LATINOS: A NEW STORY OF AMERICAN RACISM (2020) [hereinafter GÓMEZ, INVENTING LATINOS] (discussing how Latinxs/es are multi-racial and multi-ethnic but how the identity is rooted in anti-Indigenous and anti-Black ideologies of mestizaje, which sought to invisibilize and detribalize most of Latin American Indigenous and Black populations through policies of *blanqueamiento* [whitening] among others); Evelyn M. Rangel-Medina, *Citizenism: Racialized Discrimination by Design*, 104 B.U. L. REV. 831, 837 n.15 (2024) [hereinafter Rangel-Medina, *Citizenism*] (defining the term “Latino” and “Latinx” and explaining its multi-racial make-up).

16. Jeffrey S. Passel & Jens Manuel Krogstad, *What We Know About Unauthorized Immigrants Living in the U.S.*, PEW RSCH. CTR. (Nov. 3, 2023), <https://www.pewresearch.org/short-reads/2023/11/03/what-we-know-about-unauthorized-immigrants-living-in-the-us/> [perma.cc/PL3D-5N1V]; see also BRYAN BAKER & ROBERT WARREN, U.S. DEP’T OF HOMELAND SEC., ESTIMATES OF THE UNAUTHORIZED IMMIGRANT POPULATION RESIDING IN THE UNITED STATES: JANUARY 2018–JANUARY 2022, at 5 (2024), https://www.dhs.gov/sites/default/files/2024-05/2024_0418_ohss_estimates-of-the-unauthorized-immigrant-population-residing-in-the-united-states-january-2018-january-2022.pdf [web.archive.org/web/20240915201109/https://www.dhs.gov/sites/default/files/2024-05/2024_0418_ohss_estimates-of-the-unauthorized-immigrant-population-residing-in-the-united-states-january-2018-january-2022.pdf]; Ariel G. Ruiz Soto, Julia Gelatt & Jennifer Van Hook, *Diverse Flows Drive Increase in U.S. Unauthorized Immigrant Population*, MIGRATION POLY INST. (July 11, 2024), <https://www.migrationpolicy.org/news/us-unauthorized-population-diversifying> [perma.cc/B5GW-HDA7] (finding that 80 percent of undocumented migrants living in the United States in 2022 originated from Latin America and the Caribbean.); Jens Manuel Krogstad & Carlyne Im, *Key Facts About Asians in the U.S.*, PEW RSCH. CTR. (May 1, 2025), <https://www.pewresearch.org/short-reads/2025/05/01/key-facts-about-asians-in-the-us/> [perma.cc/GD6M-7TFM] (providing data on growth in the U.S. Asian population); J. Weston Phippen & Nat’l J., *Asians Now Outpace Mexicans in Terms of Undocumented Growth*, THE ATLANTIC (Aug. 21, 2015), <https://www.theatlantic.com/politics/archive/2015/08/asians-now-outpace-mexicans-in-terms-of-undocumented-growth/432603/> [perma.cc/G6JC-2GDQ] (noting that the growth rate of the undocumented Asian population began outpacing other groups well before the current political era); Brief for The Aoki Ctr. for Critical Race & Nation Stud. et al. as Amici Curiae Supporting Respondents at 13–15, *Trump v. Barbara*, No. 25-365 (1st Cir. Sep. 26, 2025) [hereinafter Brief of The Aoki Ctr. for Critical Race & Nation Stud.].

17. See DEBORAH COHEN, BRACEROS: MIGRANT CITIZENS AND TRANSNATIONAL SUBJECTS IN THE POSTWAR UNITED STATES AND MEXICO 45 (2013) (“For Mexicans—U.S. citizens, residents, and immigrants—nationality was more tightly fused to race under [the] Johnson-Reed [Act of 1942], foreclosing national belonging by making them perennial foreigners; regardless of actual citizenship, the labor Mexican bore the weight of race.”); LAURA-ANNE MINKOFF-ZERN, THE NEW AMERICAN FARMER: IMMIGRATION, RACE, AND THE STRUGGLE FOR SUSTAINABILITY 35–36 (2019) (explaining that Mexican and Latin American immigrant workers “largely replaced” Black agricultural workers following the latter’s transition from enslaved labor and their subsequent migration out of the rural South, a process that “set the racialized backdrop” for immigrants to face similar institutional challenges to their class position).

This Article outlines how the legal injuries inflicted by this system are felt not only by the undocumented but also by members of mixed-status families across generations, even after some of them attain citizenship status.¹⁸ As of 2024, approximately ten to eleven million U.S. citizens are members of mixed-status families in the United States.¹⁹ More than eleven million U.S. citizens and over two million lawful permanent residents live in households with an undocumented family member, and nearly six million U.S. citizen children have at least one undocumented caregiver.²⁰ Moreover, even after a family member gains a formal immigration status or U.S. citizenship, the legal subordination and complex trauma that members of mixed-status families of color experience persist.²¹

18. Rangel-Medina, *Citizenism*, *supra* note 15, at 850 (arguing the citizenship rights of citizens of color are presumptively suspect and precarious under citizenship and the fates of noncitizens and citizens are inextricably linked under the regime of immigration enforcement); *see, e.g.*, AM. IMMIGR. COUNCIL, U.S. CITIZEN CHILDREN IMPACTED BY IMMIGRATION ENFORCEMENT (2021) [hereinafter U.S. CITIZEN CHILDREN IMPACTED BY IMMIGRATION ENFORCEMENT], https://www.americanimmigrationcouncil.org/wpcontent/uploads/2025/01/us_citizen_children_impacted_by_immigration_enforcement_0.pdf [perma.cc/KJR8-GUMZ] (describing how immigration enforcement actions and the “ever-present threat” of such actions result in significant “physical, emotional, developmental, and economic repercussions” for millions of people in mixed-status households, including approximately 4.4 million U.S. citizen children living with undocumented parents); *see, e.g.*, *Dep’t of State v. Muñoz*, 602 U.S. 899, 920–21 (2024) (Sotomayor, J., dissenting) (arguing that the majority decision fails to acknowledge that the fundamental rights of mixed-status families are delimited under the Doctrine of Consular Nonreviewability).

19. Passel & Krogstad, *supra* note 16; Phillip Connor, *New Data Analysis Shows 28 Million People, Including Nearly 20 Million Latinos, Are at Risk of Family Separation in 2025*, FWD.US (Oct. 24, 2024), <https://www.fwd.us/news/mixed-status-families-oct/> [perma.cc/559A-5SYK] (“Some 11.3 million U.S. citizens, and an additional 2.4 million . . . (LPRs) and nonimmigrant (temporary) visa holders, live in ‘mixed-status’ households alongside an estimated 10.1 million undocumented individuals . . . [N]early one-third of the total U.S. Hispanic population are either undocumented or live in a mixed-status family with an undocumented Hispanic individual.”).

20. Families of color tend to rely more often on family members other than parents, such as grandparents, to serve as caretakers for the children in the family. U.S. CITIZEN CHILDREN IMPACTED BY IMMIGRATION ENFORCEMENT, *supra* note 18, at 1; *see* Regina Day Langhout, Sara L. Buckingham, Ashmeet Kaur Oberoi, Noe Ruben Chavez, Dana Rusch, Francesca Esposito & Yolanda Suarez-Balcazar, *Statement on the Effects of Deportation and Forced Separation on Immigrants, their Families, and Communities*, 62 AM. J. CMTY. PSYCH. 3, 4 (2018) (detailing the “numerous detrimental impacts” of deportation on the physical and mental health of families—including cardiovascular risk, anxiety, and long-term emotional and behavioral challenges—for the millions of U.S. citizen children in mixed-status households who face “material hardship” and “forced family separation”).

21. *See, e.g.*, CÉSAR CUAUHTÉMOC GARCÍA HERNÁNDEZ, *Weaponizing Family Ties, in WELCOME THE WRETCHED: IN DEFENSE OF THE “CRIMINAL ALIEN”* 162 (2024) [hereinafter GARCÍA HERNÁNDEZ, *WELCOME THE WRETCHED*] (citing Robert R. Rigg, *The Postville Raid: A Postmortem*, 12 RUTGERS RACE & L. REV. 271 (2011) (explaining a study conducted by the University of Michigan after one of the largest immigration-related workplace raid in the U.S. history) (“Immigration law can say that U.S. citizens are immune from Immigration and Custom Enforcement (ICE) tactics, but in the aftermath of the Postville raid it became clear that Latina U.S. citizens in Iowa weren’t so sure.”); Kathleen M. Roche, Rebecca M. B. White, Sharon F. Lambert, John Schulenberg, Esther J. Calzada, Gabriel P. Kuperminc & Todd D. Little, *Association of Family Member Detention or Deportation with Latino or Latina Adolescents’ Later Risks of Suicidal Ideation, Alcohol Use, and Externalizing Problems*, 174 JAMA PEDIATRICS 478 (2020) (conducting a study of 547 Latinx/e adolescents with family members in detention or facing deportation and finding that they had significantly higher odds of experiencing suicidal ideation, alcohol use, and other clinically significant externalizing behavior problems).

This Article then introduces “*multigenerational illegality*,”²² defining an anti-Indigenous and race-based system of immigration law and enforcement that promulgates structural inequity through complex trauma,²³ deportable wealth, political disenfranchisement, and “illegal”-ization through criminalization.²⁴ *Multigenerational illegality* is an outgrowth of citizenism, which apports civil and political rights based on race and status.²⁵ This concept adds a layer of complexity to citizenism by documenting the generational effects of displacement, marginalization, and criminalization of Indigenous people, undocumented people, and people of color. This Article also defines *sacrificios*²⁶ as the ancestral and ongoing acts of survival rooted in traditions of preserving the collective over the individual, through which undocumented family members forfeit their bodies and labor to sustain their families while upholding the very societies that displace them. These *sacrificios* embody invisible yet immensely courageous acts of *amor* rooted in our

22. CONSTRUCTING IMMIGRANT “ILLEGALITY,” *supra* note 12, at 10 (explaining undocumented people may be perceived as the sole people of this alleged state of illegality; however, the current legal framework allows millions of documented people and U.S. citizens to either manage the repercussions of situations arising from illegality or to be directly categorized within this group and noting not only that the citizenship status of U.S. citizen children of undocumented people is questioned but also that these children are increasingly stigmatized in public discourse and depicted as undesirable threats to society); Kim et al., *supra* note 9, at 1533 (“U.S. Supreme Court jurisprudence has continuously upheld [an] enforcement regime over the rights of immigrant children, families, and workers; see also, e.g., Shane Galvin, *11-year-old Texas Girl Dies by Suicide After Being Bullied over Family’s Immigration Status: Report*, N.Y. POST (Feb. 19, 2025, 23:12 ET), <https://nypost.com/2025/02/19/us-news/11-year-old-texas-girl-dies-by-suicide-after-being-bullied-over-family-immigration-status-report/> [perma.cc/4X7W-SPQS] (reporting the story of Jocelyn Rojo Carranza, who took her own life after her school failed to address her classmates’ bullying, which included threats to report her parents to Customs and Border Protection to deport them).

23. See Raquel E. Aldana, Patrick Marius Koga, Thomas O’Donnell, Alea Skwara & Caroline Perris, *Trauma as Inclusion*, 89 TENN. L. REV. 767, 812–13 (2022) [hereinafter Aldana et al., *Trauma as Inclusion*] (citing Stephen Lee, *Family Separation as Slow Death*, 119 COLUM. L. REV. 2319 (2019) [hereinafter Lee, *Family Separation as Slow Death*] (“Exclusion and deportation can itself yield significant trauma by separating families or by expelling persons to nations they no longer or perhaps never considered home.”); Laura E. Enriquez, *Multigenerational Punishment: Shared Experiences of Undocumented Immigration Status Within Mixed-Status Families*, 77 J. MARRIAGE & FAM. 939, 941 (2015) (“[T]he family is a prime site for [multigenerational punishment] because of the strong social ties between family members and a family’s multigenerational character, which uniquely enables legal violence to extend across generations.”).

24. This Article focuses explicitly on the complex trauma caused by the system of immigration law and enforcement on mixed-status Indigenous families. Significant scholarship discusses the other three dimensions of *multigenerational illegality*, and potential future scholarship by the author might explore how the other aspects of this concept impact mixed-status families of color.

25. Rangel-Medina, *Citizenism*, *supra* note 15, at 867–69.

26. See Carolina Alonso Bejarano, Lucia López Juárez, Mirian A. Mijangos García & Daniel M. Goldstein, *Journeys Toward Decolonizing*, in DECOLONIZING ETHNOGRAPHY: UNDOCUMENTED IMMIGRANTS AND NEW DIRECTIONS IN SOCIAL SCIENCE 39 (2019) (exposing the struggles that undocumented immigrants encounter while living and working in this country); see also, e.g., Stephany Cuevas, “*Con Mucho Sacrificio, We Give Them Everything We Can*”: *The Strategic Day-to-Day Sacrifices of Undocumented Latina/o Parents*, 89 HARV. EDUC. REV. 473, 490 (2019) (“Undocumented Latina/o parents’ *sacrificios* are the intentional parenting behaviors they engage in and choices they make to support their children’s educational aspirations while navigating the consequences of their precarious immigration status.”); STEPHANY CUEVAS, APOYO SACRIFICIAL, SACRIFICIAL SUPPORT: HOW UNDOCUMENTED LATINX PARENTS GET THEIR CHILDREN TO COLLEGE (2021); Carolina Valderramá, *Sacrificios Para La Familia: The Context of Mexican Farm Worker Narratives*, 5 MCNAIR SCHOLARS RSCH. J. 73 (2009).

families' survival and in building pathways of freedom of movement through undocumented bodies.

The Trump administration's white supremacist agenda exemplifies how *multigenerational illegality* is effectuated and how familial *sacrificios* ensure our survival.²⁷ The most glaring example is Executive Order 14160, which seeks to strip birthright citizenship from children of undocumented parents and parents with various temporary statuses.²⁸ These children are almost exclusively born into mixed-status Indigenous, Black, Latinx/e, and API families.²⁹ They will suffer additional multigenerational harms if the Trump administration is successful in re-whitening U.S. citizenship through this Executive Order or other mechanisms.³⁰ Other examples include asylum bans and the revocation of temporary legal status of over half a million Latinx/e migrants from Cuba, Haiti, Nicaragua, and Venezuela.³¹ Additionally, Trump's immigration enforcement agenda echoes "Operation Wetback," the 1954 mass deportation campaign that removed hundreds of thousands of Mexican nationals and illegally deported U.S. citizens of Mexican descent.³² Combined, these policies are tightening the ropes of whiteness while

27. See Jayashri Srikantiah & Shirin Sinnar, *White Nationalism as Immigration Policy*, 71 STAN. L. REV. ONLINE 197, 197 (2019) (defining white nationalism as "the belief that national identity should be built around white ethnicity, and that white people should therefore maintain both a demographic majority and dominance of the nation's culture and public life.").

28. See Exec. Order No. 14160, 90 Fed. Reg. 8449 (Jan. 20, 2025) (seeking to re-introduce parentage-based restrictions on birthright citizenship that were eliminated after Reconstruction).

29. Evelyn M. Rangel-Medina & Hilary Symes, *Blood, Soil, and Race: The Perils of Shredding the Fourteenth Amendment*, 115 GEO. L.J. ONLINE ____ (forthcoming 2026) (discussing how parentage based exclusion to citizenship will result in multigenerational harms, including facilitating economic exploitation, exacerbating health disparities, and increasing the risk of statelessness for mixed-status families of color); Lucía Félix Beltrán, Rosario Majano, Ahmad Ismail, Jie Zong, Silvia R. González & Arturo Vargas Bustamante, *Born Into Uncertainty: The Health and Social Costs of Ending Birthright Citizenship*, UCLA LATINO POL'Y & POL. INST. (Feb. 13, 2025), <https://latino.ucla.edu/research/ending-birthright-citizenship/> [perma.cc/BFR4-PL2V] (finding Latinx/e noncitizens would be the most affected racial and ethnic group if birthright citizenship ends, further destabilizing immigrant and mixed-status families and increasing the risk of statelessness for future generations); Brief of The Aoki Ctr. for Critical Race & Nation Stud., *supra* note 16.

30. Sandra L. Rierson, *From Dred Scott to Anchor Babies: White Supremacy and the Contemporary Assault on Birthright Citizenship*, 38 GEO. IMMIGR. L.J. 1, 44–49 (2023) (analyzing modern legislative and executive attempts to end birthright citizenship); see, e.g., Birthright Citizenship Act of 2011, H.R. 140, 112th Cong. (2011) (proposing to restrict birthright citizenship based on parental immigration status).

31. Noem v. Svitlana Doe, 145 S. Ct. 1524 (2025); see also SECURING OUR BORDERS, EXEC. ORDER 14165, SEC. 7, 90 FED. REG. 8467 (Jan. 20, 2025) (directing the Secretary of Homeland Security to "[t]erminate all categorical parole programs" inconsistent with "policies of the United States . . . including the program known as the 'Processes for Cubans, Haitians, Nicaraguans, and Venezuelans'"); TERMINATION OF PAROLE PROCESSES FOR CUBANS, HAITIANS, NICARAGUANS, AND VENEZUELAN, 90 FED. REG. 13611 (Mar. 25, 2025) (announcing that the temporary parole period for approximately 532,000 individuals "will terminate on [April 24, 2025] unless the Secretary makes an individual determination to the contrary").

32. See Funderburk, *supra* note 6 (describing "Operation Wetback" as a 1954 initiative executed with the "aggressiveness and precision" of a "large-scale military offensive" that resulted in the mass deportation of Mexican nationals and U.S. citizens of Mexican descent). See Kevin R. Johnson, *The Trump Administration's Racial Dragnet: Immigration Enforcement in Los Angeles*, 175 U. PEN. L. REV. ____ (forthcoming 2026) ("Long after President Trump leaves office, the Latina/o community will live with the aftermath of the vicious verbal attacks and policies. As has occurred after past anti-immigrant episodes, the sting of censure and diminished sense of political, economic, and social belonging will remain with generations of Latina/os."). API communities are also affected immensely by this system as they are rapidly becoming the fastest-growing undocumented population in the country. See JONATHAN ONG

restricting access to formal immigration statuses and U.S. citizenship across time and space for mixed-status families of color.

But Trump is not operating in a vacuum. Citizenism is rooted in anti-Indigenous foundations that embed Latinx/e racism into the system of immigration law and enforcement.³³ Extensive legal precedent denied U.S. citizenship to Mexicans who mixed with Indigenous people after the enactment of the Treaty of Guadalupe Hidalgo.³⁴ This legal determination was, and continues to be, based on class, language, and phenotype.³⁵ Today, the legally significant markers of “speaking and looking like an illegal” shape the nature of Immigration and Customs Enforcement (ICE).³⁶

These anti-Indigenous principles are operationalized in legal precedent, as in *United States v. Brignoni-Ponce*.³⁷ The Supreme Court held that “Mexican appearance”—Brownness—was a relevant factor in ascertaining reasonable suspicion and detaining vehicles suspected of carrying undocumented people.³⁸ Extending this precedent in *Noem v. Vasquez Perdomo*, the Court allowed racial profiling in immigration enforcement in Los Angeles and throughout the country,

& PAUL ONG, UCLA CTR. FOR NEIGHBORHOOD KNOWLEDGE & UCLA ASIAN AM. STUD. CTR., ASIAN ICE REMOVALS (2025), https://www.aasc.ucla.edu/resources/policyreports/asian_ice_removals_2025.pdf [perma.cc/LDE4-LF6F] (finding an increase in deportation enforcement targeting Asian communities under the Trump administration).

33. Rangel-Medina, *Citizenism*, *supra* note 15, at 867–69 (describing forced removal projects such as “Operation Wetback” and other strategies to orchestrate the deportation of both citizens and noncitizens of Mexican descent); *see generally* MARLA A. RAMÍREZ, BANISHED CITIZENS: A HISTORY OF THE MEXICAN AMERICAN WOMEN WHO ENDURED REPATRIATION (2025) (explaining how the mass banishment of Mexican Americans allowed the United States to “redefine itself as a white settler nation” through the racialization of citizenship and arguing that anti-Mexican eugenicist discourses during the interwar period helped impose a “transgenerational illegality” that continues to marginalize descendants today).

34. Rangel-Medina, *Citizenism*, *supra* note 15, at 855 (“[T]he Treaty of Guadalupe Hidalgo effectively denied citizenship rights to almost all new Mexican residents . . . [L]ocal, state, and federal entities refused to recognize the citizenship of mixed-race Mexicans.”).

35. *Id.* at 855–57 (citing cases such as *In re Rodriguez*, 81 F. 337 (W.D. Tex. 1897), *Ozawa v. United States*, 260 U.S. 178, 189 (1922), and *United States v. Thind*, 261 U.S. 204 (1923) to illustrate examples of how the Supreme Court has reasoned that factors such as race, phenotype and social caste are integral in filling gaps in laws and treaties in order to determine the status of noncitizens).

36. Rangel-Medina, *Citizenism*, *supra* note 15, at 876 (citing *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975)) (Racial profiling of Latinxs for “speaking and looking illegal” is legally permissible under citizenism. This legal precedent was first established in *Brignoni-Ponce*. While the Court held that “Mexican appearance” is a “relevant factor” in determining suspicion of undocumented status, it failed to provide any directive to immigration and law enforcement agencies to regulate or limit this practice . . .).

37. *Brignoni-Ponce*, 422 U.S. at 884 (holding that roving Border Patrol agents can use “Mexican appearance” as a relevant factor, although not the sole factor, in ascertaining reasonable suspicion).

38. Professor Jennifer Chacón offers the following analysis of this case:

There are many problems with the *Brignoni-Ponce* case, but two are worth noting here. First, given the facts of the case, it should have been evident even in 1975 that “apparent Mexican ancestry” was nothing more than an empty vessel to be filled with racial stereotypes about who belongs in the country and who is “illegal.” Mexico is a multiracial, multiethnic country, which means that the descriptor “Mexican appearance” is about as helpful as one “of human ancestry.” But even if you could figure out what someone of “Mexican ancestry” looks like without resorting to self-reinforcing stereotypes . . .

Jennifer Chacón, *Whose Common Sense? Some Reflections on Noem v. Vasquez Perdomo*, VERFASSUNGSBLOG (Sep. 1, 2025), <https://verfassungsblog.de/noem-ice-supremecourt/> [perma.cc/HK2H-2WYP].

at least until the case is heard on its merits.³⁹ The City of Los Angeles is a predominantly Latinx/e geographic area, where the largest concentration of Indigenous migrants from Mexico and Central America live.⁴⁰ Under *Vasquez Perdomo*, ICE can ascertain reasonable suspicion to detain a person based on a combination of factors, including:

- (i) presence at particular locations, such as bus stops, car washes, day laborer pickup sites, agricultural sites, and the like;
- (ii) the type of work one does;
- (iii) speaking Spanish or English with an accent; and
- (iv) apparent race or ethnicity.⁴¹

These are the same anti-Indigenous markers that continue to drive access to status and citizenship based on class (factors i and ii), language (factor iii), and phenotype (factor iv). The reasoning in *Vasquez Perdomo* is a clear example of how Indigeneity as Brownness is illegalized through the system of immigration law and enforcement and how it operates as a central pillar of anti-Latinx/e racism today.

Justice Sotomayor dissented, stating, “We should not have to live in a country where the Government can seize anyone who looks Latino, speaks Spanish, and appears to work a low wage job.”⁴² Yet, this is indeed how immigration enforcement operates under citizenism.⁴³ The first federal law aimed at criminalizing migration was advanced by an openly white supremacist Congressman who aimed to close the “Mexican loophole” in migration.⁴⁴ This anti-Mexican sentiment, which has expanded into anti-Latinx/e racism, is rooted in anti-Indigeneity and drives the ever-expanding multibillion-dollar investment in the Department of Homeland

39. See *Noem v. Vasquez Perdomo*, 146 S. Ct. 1, 3 (2025) (Kavanaugh, J., concurring) (sanctioning the continued use of racial profiling during immigration enforcement); see also Emmanuel Mauleón, *After Pretext: Race, Reasonableness, and Selective Colorblindness After Vasquez Perdomo*, — MINN. L. REV. — (forthcoming 2027) (arguing that this concurrence “recasts racialized suspicion as admissible evidence within Fourth Amendment reasonableness”).

40. See Joanna Lee, Lupe Renteria Salome & Janet Martinez, *Indigenous Migrants in Los Angeles County*, USC EQUITY RSCH. INST. (2025), <https://dornsife.usc.edu/eri/publications/indigenous-migrants-in-los-angeles-county/> [perma.cc/K75P-UPSP] (noting that Los Angeles County is home to a large and diverse Indigenous migrant population from Mexico and Central America and has the largest concentration of Indigenous migrants in the state).

41. *Vasquez Perdomo*, 146 S. Ct. at 3 (Kavanaugh, J., concurring) (“Here, those circumstances include: that there is an extremely high number and percentage of illegal [sic] immigrants in the Los Angeles area; that those individuals tend to gather in certain locations to seek daily work; that those individuals often work in certain kinds of jobs, such as day labor, landscaping, agriculture, and construction, that do not require paperwork and are therefore especially attractive to illegal [sic] immigrants; and that many of those illegally in the Los Angeles area come from Mexico or Central America and do not speak much English.”); cf. Chacón, *supra* note 38 (“[T]he ‘common sense’ of treating ‘apparent Mexican ancestry’ as a stand-in for unauthorized presence thus turns out not to be commonsensical at all.”).

42. *Vasquez Perdomo*, 146 S. Ct. at 6 (Sotomayor, J., dissenting).

43. See, e.g., *United States v. Brignoni-Ponce*, 422 U.S. 873 (1975); *Immigr. & Naturalization Serv. v. Delgado*, 466 U.S. 210, 212 (1984) (concluding that “factory surveys did not result in the seizure of the entire work forces, and that the individual questioning of the respondents in this case by INS agents concerning their citizenship did not amount to a detention or seizure under the Fourth Amendment” even though the agents were standing by the exit doors precluding people from leaving).

44. See GARCÍA HERNÁNDEZ, *WELCOME THE WRETCHED*, *supra* note 21, at 36–37 (documenting how in the early 1920s, white supremacist legislators—who publicly supported lynching—successfully enacted federal statutes that criminalized entry and re-entry without status).

Security's infrastructure to combat the "Browning of America."⁴⁵ It exemplifies how *multigenerational illegality* harms mixed-status Indigenous families and Latinx/e families by "illegalizing" status, language, and phenotype across generations. These harms extend to Black, API, and other undocumented families of color even after attaining a formal status or U.S. citizenship.

This Article proceeds accordingly: Part I further elaborates on the definition of *multigenerational illegality*, blending conceptual analysis and personal narrative⁴⁶ to illustrate how citizenism harms mixed-status Indigenous and Latinx/e families. Part II discusses the impacts of multigenerational trauma upon mixed-status families of color, which stem from this system. Part III theorizes *sacrificios*, the often unspoken and invisible acts of decolonial memory and *amor* that allow our families to survive displacement and citizenism. Overall, this Article is informed by Professor Raquel Aldana's assertion that "human trauma should guide immigration policy toward meaningful inclusion."⁴⁷

I. TRANSFORMING INDIGENOUS PEOPLE TO "ILLEGAL" BEINGS

To face a Native person is not only to face the reemergence of an erased history—it is to struggle with the problematic moral reality of being both a constitutional democracy and a colonial power that has ruled through conquest. To face a Native person is also to struggle with one's ongoing participation in the erasure of American colonialism

—Maggie Blackhawk⁴⁸

The arrival of European settler colonialism on the American continent has led to nearly seventy million Indigenous fatalities over a century.⁴⁹ This human catastrophe drives the systemic displacement of Indigenous people from our regional homelands and across nation-state borders today.⁵⁰ Additionally, our

45. See William H. Frey, *The Browning of America*, MILKEN INST. REV. (Oct. 19, 2025), <https://www.milkenreview.org/articles/charticle-3> [perma.cc/HTV7-HUNS] (discussing the country's population shift from a majority white country to a majority racially diverse country).

46. See RICHARD A. DELGADO & JEAN STEFANCIC, *Legal Storytelling and Narrative Analysis: Counterstorytelling*, in CRITICAL RACE THEORY: AN INTRODUCTION 49 (3d ed. 2017) (describing the use of narrative to expose the limits of "majoritarian" narratives of law and society); Russell Robinson, *Perceptual Segregation*, 108 COLUM. L. REV. 1093, 1100 (2008) (using a counter story to set the foundation for the argument that "Black and white people tend to perceive allegations of racial discrimination through fundamentally different cognitive frameworks"); Kathryn Abrams, *Hearing the Call of Stories*, 79 CALIF. L. REV. 971, 983 (1991) (describing "feminist narratives" as having "varied relationships to the process of legal change, challenging a legal rule or conceptualization, offering a replacement, or suggesting principles that might lead to a reformulation.").

47. Raquel E. Aldana, *Taming Immigration Trauma*, 44 CARDOZO L. REV. 387, 392 (2022). See generally Aldana et al., *Trauma as Inclusion*, *supra* note 23.

48. Maggie Blackhawk, *On Power & Indian Country*, 1 WOMEN & L. 39, 44 (2020).

49. Alexander Koch, Chris Brierley, Mark M. Maslin & Simon L. Lewis, *Earth System Impacts of the European Arrival and Great Dying in the Americas After 1492*, 207 QUARTERNARY SCI. REV. 13, 20–22 (2019) (estimating the first European arrival in the Americas in 1492 led to fifty-six million deaths by 1600); GÓMEZ, *INVENTING LATINOS*, *supra* note 15, at 70 ("Spanish colonizers encountered an estimated 80 million Indigenous people across Latin America between 1492 and 1600; after their genocide, forced labor, and importation of diseases such as smallpox, only 10 million survived.").

50. GÓMEZ, *INVENTING LATINOS*, *supra* note 15, at 63 ("American imperialism resulted in the exporting of white supremacy to Mexico, Central America, and the Spanish Caribbean. Despite the different forms of American colonialism took in those places, the result was uniformly the displacement of peasants and workers in those countries, such that migration to the United States was preordained.").

regional migration, which brands us as “illegal,” strips us of our political, civil, and human rights as we are forcefully displaced to cross colonial borders *sin papeles*.

From an Indigenous perspective, this movement represents subversive resistance to relatively new governing structures imposed on the lands we have inhabited and protected since time immemorial. From an undocumented perspective, this movement represents a revolutionary act, as it involves moving beyond failed nation-states established by arbitrary borders. From a familial perspective, these migrations are necessary *sacrificios* to ensure our survival.

This part examines the conversion of Indigenous people to “illegal” beings, a shift traceable to European settler colonialism.⁵¹ A personal narrative of migration that connects the violence of colonization to the displacement of Indigenous people lays the roots for this argument. This reality is constructed as modern nation-states aim to de-Indigenize and enable structural subordination through migration, as illustrated in *Timeline 1: Nation-State Policies that Transform Indigenous People to “Illegal” Beings*.⁵² Lastly, this part analyzes existing legal definitions of “Indigenous” to illustrate how nation-states aim to erase us through the construction of arbitrary border systems. To begin, a personal narrative illustrates how allowing our young to journey alone across dangerous borderlands can be the last resort for survival.

A. Becoming an “Illegal” on My Ancestral Lands: An Indigenous/Wixárika Reality

I was born into a world filled with the remnants of colonialism—entrenched poverty, structural racism, and patriarchal violence. This led my family to migrate from our regional homelands, long before and after I was born, to what is now known as the Southwest region of the United States. Believe me, we tried to avoid our displacement. In some ways—through colonial delusions—we are still attempting to do so. Almost every day, I wonder what my life would be like if I had not come here. Who would I be if I had not been labeled an “*India*” [“Indigenous girl” used derogatorily] or an “illegal” during the most formative years of my life? How would my intellectual pursuits look if I did not have to create arguments directed at an entire legal system that fabricated my family’s illegality? What if the trauma of displacement and deportability did not reshape the structure of my brain? But it is too late to ask those questions. This is reality.

See generally Experience of Colonialism in Latin America, TIMOTHY S. Y. LAM MUSEUM OF ANTHROPOLOGY, WAKE FOREST UNIV., <https://lammuseum.wfu.edu/exhibits/virtual/experiences-of-colonialism-in-latin-america> [perma.cc/9KMX-RD6G] (last visited Apr. 12, 2026) (explaining how “European conquest” and the “pursuit of power” dehumanized Native populations and destroyed pre-existing societies, forcing the mass relocation and disappearance of Indigenous communities).

51. While this part centers the analysis on Indigenous people, as this Article proceeds it acknowledges that Black people, Latinxs/es and people of color (including *mulatxs* and *mestizxs*) are also impacted by this system, particularly API communities. Hence, this argument would be incomplete and dishonest if it did not include them in its framework. However, centering Indigenous people for this part is necessary to illustrate a root source of subordination of the system of immigration law and enforcement. My future scholarship might explore additional roots of subordination.

52. GÓMEZ, *INVENTING LATINOS*, *supra* note 15, at 71 (“Whitening required legal flexibility. *Mestizaje* operated as a way of controlling access to whiteness. In this way, the Spanish colonial system of white supremacy operated differently than did Anglo-American white supremacy, which legally banned race mixture as ‘miscegenation’ and ensured children of White slave masters born to their enslaved mothers would inherit their legal status and as Black.”).

My family tried, by any and all means necessary, to prevent our displacement from our ancestral lands—*las tierras de Zacatecas, Durango, and Aguascalientes*.⁵³ I do not write this to convince you that we are not “criminals”; we are, indeed, “illegal”-ized people who have been criminalized for crossing colonial borders. This illegality lives in our bodies and our memories; it has reshaped our brains and our genetic makeup through complex trauma.⁵⁴ It has transformed our humanity and, generally, eroded our ability to feel safe again. It has successfully disrupted our family structures and even altered how we love. However, these borders are a relatively new governance structure imposed upon these lands; we have been here significantly longer.⁵⁵ If criminalizing us is an artifact of our subordination, I will not spend time convincing you otherwise. We are “criminals” by law because the racialized system of immigration law and its increasingly militarized enforcement construct us as such.⁵⁶ But I digress.

By the time I was born, poverty, alcoholism, and violence had uprooted my family’s ability to remain in our homeland.⁵⁷ My dad is Indigenous, primarily of *Wixárika* lineage. *Mi mamá* is primarily of Spanish and Portuguese descent, with some Indigenous ancestry, which our family utterly denies. My parents both grew up in extreme poverty, surrounded by multiple layers of violence and complex trauma. Ever since I can remember, I have been called an *India*. I was treated as one, too. I did not quite understand what this meant, but I felt shame, inferiority, and a sense of ugliness.

My brother, Paco, to this day, experiences more severe forms of discrimination because his skin complexion is darker than mine.⁵⁸ Growing up, I felt my Brown skin was ugly and my Indigenous features worse.⁵⁹ I learned to hate myself at an early age. This conditioning has taken me decades to heal. As a child, I asked myself:

53. Rangel-Medina, *Citizenism*, *supra* note 15, at 834.

54. See, e.g., Roberto G. Gonzales, Carola Suárez-Orozco & María Cecilia Dedios-Sanguinetti, *No Place to Belong: Contextualizing Concepts of Mental Health Among Undocumented Immigrant Youth in the United States*, 57 AM. BEHAV. SCIENTIST 1174, 1174 (2013).

55. *Wixárika* [Huichols] have inhabited the Sierra Madre Occidental range of Nayarit, Jalisco, Zacatecas, and Durango, as well as the states of California, Arizona, New Mexico, and Texas since at least the start of the Anno Domini period. See Juan Negrín, *Notes on Wixárika History: Early History*, WIXÁRIKA RSCH. CTR., <https://www.wixarika.org/early-history-juan-negrin> [perma.cc/Z9TT-MU5K] (last visited Mar. 11, 2026) (“[T]he Wixarika and their Na’ayeri neighbors had deep roots in the area where they are now settled in a sequence that had begun by the Mesoamerican Classic period (ca. 200–700 A.D.).”).

56. See Zoltan L. Hajnal, *Immigration & the Origins of White Backlash*, 150 DAEDALUS 23, 27 (2021) (arguing that Donald Trump’s anti-immigrant platform reflects a decades-long campaign strategy that has successfully consolidated white voters and exacerbated racial division); Bill Chappell, *How ICE Grew to Be the Highest-Funded U.S. Law Enforcement Agency*, NPR (Jan. 21, 2026), <https://www.npr.org/2026/01/21/nx-s1-5674887/ice-budget-funding-congress-trump> [perma.cc/796C-42EQ] (explaining that the agency’s budget tripled following the enactment of the “One Big Beautiful Bill Act,” which provided \$85 billion to “turbocharge” a national immigration crackdown).

57. See Rangel-Medina, *Citizenism*, *supra* note 15, at 834.

58. Luis Noé-Bustamante, Ana Gonzalez-Barrera, Khadijah Edwards, Lauren Mora & Mark Hugo Lopez, *Majority of Latinos Say Skin Color Impacts Opportunity in America and Shapes Daily Life*, PEW RSCH. CTR. (Nov. 4, 2021), <https://www.pewresearch.org/race-and-ethnicity/2021/11/04/majority-of-latinos-say-skin-color-impacts-opportunity-in-america-and-shapes-daily-life/> [perma.cc/TD3K-JA8T].

59. GÓMEZ, *INVENTING LATINOS*, *supra* note 15, at 71 (“At the individual level *blanqueamiento* revolves around the desire for a white appearance and the ambition of having children who are lighter in appearance through the vehicle of interracial intimacy.” (quoting TANYA KATERÍ HERNÁNDEZ, *RACIAL SUBORDINATION IN LATIN AMERICA: THE ROLE OF THE STATE, CUSTOMARY LAW, AND THE NEW CIVIL RIGHTS RESPONSE* 20 (2012))).

Why couldn't I be "white" and beautiful like *mi amá*? Why was my dad's family—*los Indios*—subservient to *mi amá*'s family? Why was my dad so violent?⁶⁰ Why did I have to leave Zacatecas? I did not want to leave. I did not want to grow up detached from my land and away from my dad.

But my dad's violence one day tipped the scales of our vulnerability.⁶¹ We had to leave, or *mi amá* would pay the price with her life. She could not provide or protect us much longer if we stayed in our beloved Zacatecas. She was the first woman in our family to divorce a violent man. Domestic violence was expected and permitted on both sides of my family. "*Así son los hombres*" ["That's the nature of men"]. This common refrain has justified and enabled domestic violence and multiple forms of abuse to travel across generations in my family. This violence travels through borders. It is born out of European colonization, the ensuing patriarchal indoctrination, and the inability to process the complex trauma of exploitation and genocide.⁶² I digress again.

My family's work-related migration to the United States began in 1905.⁶³ For generations, members of my family have worked as *braceros*, farmworkers, construction workers, cooks, servers, waitresses, housekeepers, nannies, and healthcare workers.⁶⁴ After five generations of migration to this country, beginning with my great-great-grandfather, José Martínez Guerra, most members of my family continue to work in the lowest-paid sectors of the economy.⁶⁵ They have undertaken these *sacrificios* without the prospect of attaining U.S. citizenship until very recently. My family, like most mixed-status families of color, is still grappling with our illegalization and the trauma that accompanies displacement and multigenerational subjugation.

60. My father learned and experienced this violence from a very young age. He repeated the same cycle of violence his father inflicted upon him, his siblings, and on *mi abuelita*. This is the pattern that trauma follows: if it is not healed or tended to, it will live on in the next generation. I imagine my grandfather was also subjected to similar forms of violence he later perpetuated upon his wife and children. See Brittany K. Lannert, Antonia M. Garcia, Kathryn E. Smagur, Matthew M. Yalch, Alytia A. Levendosky, G. Anne Bogat & Joseph S. Lonstein, *Relational Trauma in the Context of Intimate Partner Violence*, 38 CHILD ABUSE & NEGLECT 1966, 1972 (2014) (finding that domestic violence can affect children even before they are born).

61. See Minnie Degawan, *Indigenous Peoples: Vulnerable, Yet Resilient*, UNESCO COURIER (2020), <https://courier.unesco.org/en/articles/indigenous-peoples-vulnerable-yet-resilient> [perma.cc/Y8YH-UJL5]; *Racial Trauma*, MENTAL HEALTH AM., <https://www.mhanational.org/racial-trauma> [perma.cc/65DF-2DLE] (last visited Feb. 14, 2025) (defining racial trauma as a mental and emotional injury caused by a "racist system" that manifests in PTSD-like symptoms, including depression and hypervigilance, alongside physical reactions such as "headaches, chest pains, and insomnia").

62. See Jenevieve Mannell, *How Colonialism is a Major Cause of Domestic Abuse Against Women Around the World*, CONVERSATION (Apr. 25, 2022), <https://theconversation.com/how-colonialism-is-a-major-cause-of-domestic-abuse-against-women-around-the-world-179257> [perma.cc/52HM-95AS] (finding the risk of domestic violence increases within colonial patriarchal societies). See generally Maia C. Behrendt, *Settler Colonial Origins of Intimate Partner Violence in Indigenous Communities*, 16 SOCIO. COMPASS 1 (2022), <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1081&context=sociologydiss> [perma.cc/3H78-TVJ3] (arguing that settler colonialism utilizes state-sanctioned violence to dismantle Indigenous social structures and impose patriarchal hierarchies).

63. See Rangel-Medina, *Citizenism*, *supra* note 15, at 834–36 and accompanying notes.

64. *Id.*

65. *Id.* at 834 and accompanying notes ("[M]y great-great-grandfather, great-grandfather, and great-uncles—worked as *braceros* . . . U.S. corporations recruited them along with four and a half million Mexican men through a bilateral agreement between Mexico and the United States to provide cheap sources of racialized labor.").

Some of my ancestors *sacrificaron* most of their lives in the pursuit of migrating and attaining status here, and still others died due to the deplorable living and working conditions they experienced.

[M]y great-uncle Pablo died in Texas while working as a *bracero*, and my family could not recover his body or any form of compensation for his death. He died at the age of eighteen from asphyxiation inside a tiny farmworker home provided by his employer. The stove's gas leaked in the middle of the night.⁶⁶

Even though he died around 1941, my family still feels the tragic loss of his early death. Today, most of my family members continue to work in exploitative conditions without status and citizenship to ensure our survival.⁶⁷

Comparatively speaking, my family migrated only twenty years before Donald Trump's grandfather deserted the German military to settle here.⁶⁸ Yet, the truth is that *Wixárikas* have inhabited the lands of the Southwest United States and Northern and Central Mexico since at least AD 200.⁶⁹ This is almost two thousand years before Donald Trump's first ancestor settled on this continent. I digress once again.

Before I was born, *mi amá* worked in the United States as an undocumented live-in housekeeper and nanny for a middle-class white family from the age of seventeen to twenty-two. She tended to the household's entire needs, including helping raise the family's twin girls, who were eight years old when *mi amá* met them. She tells me stories of how her boss, a psychologist, emotionally abused her daughters and physically abused her husband, a lawyer. She would chase him around the house in her underwear while throwing objects at him. At the time, *mi amá* was a teenager without a fully developed frontal lobe and with English skills developing on the job. She would have to soothe both parties and try to shield the twins from their mother's rageful episodes.

Mi amá was eager to return home, *para nunca volver*.⁷⁰ When she returned to Zacatecas, she landed her dream job as the head accountant at a furniture store in the heart of my hometown, Fresnillo. That is where she met my dad. He went to buy furniture for *mi abuelita* Marcelina. *Mi amá* tells me it was love at first sight; she first admired how he cared for his mom. He was the first person in his family to attend college after leaving his *ranchito*. To finish college, he worked as a custodian, cleaning his institution's buildings during the day and sleeping in the cleaning supply closet by night. Eventually, he graduated with a master's degree in mathematics.

66. See *id.* at 835 n.5.

67. See *id.* at 834–36 and accompanying notes.

68. Natasha Frost, *The Trump Family's Immigrant Story*, HIST. (Sep. 14, 2023), <https://www.history.com/news/donald-trump-father-mother-ancestry> [perma.cc/Y6KJ-XFSC] (“On October 7, 1885, Friedrich Trump, a 16-year-old German barber, boarded a ship with a one-way ticket to the United States, escaping Germany’s compulsory military service. He had been a sickly child, unsuited to hard labor, and feared the effects of the draft. It might have been illegal, but America didn’t care about this lawbreaking—at that time, Germans were seen as desirable migrants—and Trump was welcomed with open arms.”).

69. Although we have existed on these lands long before 200 AD, but this is a helpful metric for those of us who were taught to understand time linearly. See Phil C. Weigand & Acelia García de Weigand, *Huichol Society Before the Arrival of the Spanish*, 42 J. SW. 12, 19 (2000) (noting there was evidence the *Wixárikas* inhabited the region in AD 200); Negrín, *supra* note 55 (citing to Weigand to indicate the *Wixárika* were long settled during the Mesoamerican period of AD 200).

70. This is a common refrain in migrant communities as we are trapped in an imperialistic cycle of poverty that pushes us to return to this cruel country.

He decided to teach in one of the poorest and Brownest public schools in our hometown and retired after decades of service.

My dad was the pride and joy of *mi abuelita* Marcelina. As a powerful Indigenous woman, she fought in the Mexican Revolution as a *soldadera* for “*justicia, tierra y libertad*.”⁷¹ That movement for land reform for Indigenous people ultimately failed to deliver on its promises, and colonial, anti-Indigenous poverty lives on today.⁷² *Mi abuelita* eventually moved from Durango to Zacatecas and gave birth to eighteen children; some of them died during childbirth, but my dad was the first to attend college. She was the last in our line to speak our mother tongue, which she decided not to teach her children, so they would not suffer from humiliation and marginalization as she did. Her *sacrificio* breaks my heart, as my dad’s family is forgetting our mother tongue.

Mi abuelita witnessed parts of her dreams and nightmares come true in my dad. She and *mi tía* Olga baked and sold *pan ranchero* in the streets to help my dad pay for college. *Mi abuelita* may have imagined that through this colonial institution our family could finally escape poverty, societal marginalization, and the horrific violence she and her children survived at the hands of Mexican society and *mi abuelito* Nicolas. But *mi abuelita* did not consider, or maybe she tried to prevent, how coloniality shaped my dad’s fate and ultimately propelled my migration.

Although my dad was an exemplary student, hardworking professional, and entrepreneur, the rage from the violence he faced as a child at the hands of his alcoholic father overcame him. When my dad was a kid, *mi abuelita* would begin beating the kids as soon as *mi abuelito* approached the house so that he would not hit them. His beatings were a more severe form of punishment. After she was done, he would beat her mercilessly, sometimes within inches of her life. He would then hang the kids on trees, including my dad, who was one of the youngest, just like the colonizers hung Indigenous people as a punishment for existing and resisting subjugation. *Mi abuelita* eventually left him, unable to divorce him. But the damage was done.

My dad battled with the illness of alcoholism until very recently, though *mi amá*, Paco, and I were long gone by then. Traumatic rage emerged within him whenever a drop or two of alcohol entered his system. After that, although shame crept in afterward, the damage was already done. He became his father, just as I imagine *mi abuelito* became like his father. It feels like it all happened so quickly, yet this traumatic cycle has taken generations to unravel. I am sick of it!

71. See Mabel Aguirre, *The Lost History of the Adelitas of the Mexican Revolution*, LUZ MEDIA (July 12, 2024), <https://luzmedia.co/the-lost-history-of-adelitas> [perma.cc/55MH-GBYV].

72. See Stuart Easterling, *Mexico’s Revolution 1910–1920: Part One of a Three Part Series*, INT’L SOCIALIST REV. (Sep. 1, 2021), <https://isreview.org/issue/74/mexicos-revolution-1910-1920/> [perma.cc/8KP7-TJ3G] (discussing the aims, achievements, failures, and unrealized possibilities of the Mexican Revolution for Indigenous people in early 20th century Mexico); JOSÉ DEL VAL, JUAN MARIO PÉREZ MARTÍNEZ, CAROLINA SÁNCHEZ GARCÍA & ELIA AVENDAÑO VILLAFUERTE, INT’L WORK GRP. FOR INDIGENOUS AFFS., *Mexico, in* INDIGENOUS WORLD 2020 438, 439 (2020), https://iwgia.org/images/yearbook/2020/IWGIA_The_Indigenous_World_2020.pdf [perma.cc/VX4G-WB98] (quoting MEDICIÓN DE POBREZA 2018: POBLACIÓN SEGÚN PERTENENCIA ÉTNICA, CONEVAL (2018), https://www.coneval.org.mx/Medicion/MP/Documents/Pobreza_Poblacion_indigena_2008-2018.pdf [perma.cc/5H83-KQXW]) (“69.5% of the Indigenous population, that is, 8.4 million persons, are living in poverty, and 27.9%, that is, 3.4 million persons, live in extreme poverty.”).

On Christmas Eve in 1980, *mi amá's* family gathered for a holiday dinner at *mi tía's* house when my dad arrived, engulfed in alcohol. Paco was only twenty-one days old at the time, and *mi amá* was on bed rest due to the heavy hemorrhaging she experienced during and after his birth. My dad attempted to take my brother and *mi amá* to his parents' *ranchito*, which was almost an hour's drive away. *Mi amá* could not travel in those conditions. It was also freezing outside with snow falling, and *mi amá* worried her firstborn would get sick. My dad snuck out of the house with Paco without *mi amá* noticing and put him in the truck seat without a car seat or seat belt. He then tried to take off at full speed, but thankfully, he was so drunk that he crashed into a light post as the car was taking off. *Mi tía* Chiquis (*mi amá's* younger sister), then thirteen years old, took Paco from the side of the truck without my dad noticing. She brought him inside the house and helped to carefully remove the broken glass from his blanket. Paco miraculously survived. That is the moment *mi amá* tells me she knew she had to leave my dad, though at the time I had not yet been born.

Ultimately, it took her another ten years for *mi amá* to be able to free herself from my dad's unspeakable and terrorizing violence. Those years were full of humiliation, physical abuse, sexual violence, anxiety, depression, instability, and financial abuse for *mi amá*. Although there were close calls and moments where my dad came within inches of taking her life, she miraculously survived.

I have lovely memories of my dad and me when I was young. He would let me drive his new car while sitting on his lap, as the wind played with my long, black, wild hair. He would also buy me all my favorite candy. No limits. He took me swimming (my favorite activity as a kid) at water parks, and then to eat my favorite *gorditas*. He also fed me unlimited freshly cut *tunas* for breakfast. Unlike other fathers in *mi amá's* family, he never verbally limited me because I was a girl or because I am Indigenous. I still miss the kind and gentle parts of him; how he would sing me lullabies he composed at random times in the day, "*La vomitona, la vomitona, la vomitona yo la quiero ir a bailar, vomitona, chaparrona, la vomitona yo la quiero ir a bailar.*"⁷³ My inner child wishes we had a lifetime to build more memories together; that we could have healed together. However, reality is starkly different.

I loved my dad dearly up until the age of five when he brutally beat *mi amá, mi tía* Olga, Paco, and me on *mi amá's* birthday. This was the first time I saw him transform into a monster before my eyes. What a tragedy for a child that age to withstand. I still remember the pain and rage in his bloodshot eyes. He arrived home so drunk, and he thought Paco and I had lost the keys to his new car. He became so angry when he could not find them. We eventually found the keys, which had accidentally slipped under a pillowcase. But the damage was done.

He cornered us and threw a hard wooden stool, aiming to land on my head. *Mi abuelito* had made the stool for Paco, and he used it to watch his favorite cartoons. It was half my size, and I think I would have died if it had hit me right in the head. At least, that's what I imagined as I saw the stool coming straight at me. I was standing next to *mi amá*, trying to protect her. *Mi tía* Olga, who was standing next to me, put her hand in front of the stool mid-air, and it fractured her left hand. We all made it out alive that day. *Mi amá* and my brother fled to a family member's

73. I still feel warmth in my heart when I remember this lullaby in the depths of my heart. I am not able nor willing to translate this.

house, and *mi tía* Olga and I locked ourselves inside the house. We survived, but something died that day—the love and admiration I felt for my dad. Hatred, resentment, and anger—all hiding deep pain, abandonment, and grief—surfaced in their place. *Mi amá* knew she had to leave him before Paco and I became like him. She had to leave him before he took her life or ours. Back then in my hometown, it was unheard of for women to divorce and survive.

I often wonder when colonialism introduced this rage, illness, and violence into my family. I wonder when adults first began unleashing this rage upon their children and partners. It certainly did not start or end with *mi abuelito*, who, by the time I was born, was kind, soft spoken, and would sing me lullabies. When was the first point of injury, and when will it stop? I wonder how often *mi abuelito* and dad have felt alone and how this exile led to perpetual sadness and self-destruction. I wonder how many times my dad was at the receiving end of the stool; after all, trauma keeps us in the same cycle until we can escape it, if at all.

Most of us cannot find the way out. I am privileged to have had the choice to walk a path of healing, but my dad and *abuelito* did not find their way out of this cycle of violence and abuse. I wonder how much they self-destructed because of their addiction to alcohol and rage, and whether they have forgiven themselves. I wonder if in another lifetime, they will get to experience a healthy emotional life in which their potential is not crushed through trauma, violence, and isolation. I wonder if they are proud of how much I have healed, and whether my healing has healed them, too. I wonder if they can feel my forgiveness. I know they wanted a different life for themselves and us. They worked so incredibly hard their entire lives. They often visit me in my dreams. But that's my boundary of proximity for them. Besides love, accountability is the only viable pathway I know that can heal and end this cycle in my family. I have debated this with my neuropsychologist. Thus far, she's won the argument. But I digress, once again.

Mi amá temporarily left my brother and me in the care of *mi abuelita* Aurora so she could return to work as a housekeeper in “*la jaula de oro*” [“the golden cage”].⁷⁴ Even after their divorce, my dad would drive around our house drunk, shooting gunshots into the air. Eventually—through immense *sacrificios*—*mi amá* saved enough money to bring us to the United States.⁷⁵ We had to get out of there to survive.⁷⁶ But, by this time, the Southern border was no longer a revolving door

74. LOS TIGRES DEL NORTE OFICIAL, *Los Tigres del Norte-La Jaula de Oro (Live at Folsom Prison)* (YouTube, Oct. 10, 2019), https://www.youtube.com/watch?v=BnvNfE9fOv4&list=RDBnvNfE9fOv4&start_radio=1&rv=BnvNfE9fOv4 [perma.cc/8LD5-TQFY] (“Aquí estoy establecido, en los Estados Unidos. Diez años pasaron ya, en que crucé de mojado, y papeles no he arreglado, sigo siendo un ilegal . . . ¿De qué me sirve el dinero, si estoy como prisionero dentro de esta gran nación? Cuando me acuerdo hasta lloro, que aunque la jaula sea de oro, no deja de ser prisión.”).

75. See GOODMAN, *supra* note 6, at 109, 133 (“From 1965 to 1985, changes in policy and the political economies of the United States and Mexico resulted in significant transformations to the deportation machine . . . Enhanced enforcement, both at the border and in the interior of the country, heightened ethnic Mexicans’ sense of deportability and had a significant negative effect on people’s everyday lives.”).

76. Alvaro J. de Regil, *The Underlying Causes of Immigration from Mexico to the United States: Structures of Deprivation*, 1 J. INT’L OBSERVATORY OF LIVING WAGES 293, 307 (2019) (“Indeed, rhetorical democracy is only allowed if it fits the [U.S.] imperial agenda of world domination. Consequently, Mexico would never have a chance to pursue its own destiny by removing its US backed oligarchic elite and building a truly democratic ethos in pursuit of the welfare of the vast majority of its citizens. The imperial agenda, from the outset, designated Mexico to be its most logical fiefdom given

for easily exploitable Mexican migrants to come and work temporarily and leave with the delusion *que ya no vamos a regresar*.⁷⁷

Mexico signed bilateral labor agreements with the United States as early as 1909.⁷⁸ Even though these agreements created and ignited migration patterns in rural regions like the one in which I was born, by the time I came here, a revamped wave of white supremacy reigned over us.⁷⁹ Unlike Trump's family and European/white families generally, pathways to citizenship were essentially and almost entirely restricted from racialized Mexicans and Latinxs/es.⁸⁰

By the late 1980s, Pete Wilson and the political echelons of our time—now more widely spread through Donald Trump—were building successful electoral strategies rooted in white nationalism, a remarketed brand of white supremacy.⁸¹ Wilson, and now, Trump, capitalized on the racialization of migrants to maintain exploitative wages across the economy for undocumented people while blaming them for the country's social and economic ills.⁸² In 2024, Donald Trump centered his presidential campaign on “carry[ing] out the largest deportation operation in

its geopolitical situation. Thus Mexicans would be doomed to fulfil [sic] the serfdom needs of the US imperial domination as modern slave workers, both as immigrants and domestically in what is left of its territory.”).

77. See Jorge Durand & Douglas S. Massey, *The Costs of Contradiction: US Border Policy 1986–2000*, 1 *LATINO STUD.* 233, 235 (2003) (quoting PETER ANDREAS, *BORDER GAMES: THE POLITICS OF POLICING THE U.S.-MEXICO DIVIDE* (2022)) (“During the 1980s, border control was framed by US politicians as an issue of ‘national security,’ and illegal [sic] migration was portrayed as an ‘alien invasion.’ As a result, between 1986 and 1996, the Congress and the President undertook a remarkable series of actions to reassure citizens that they were working hard to ‘regain control’ of the Mexico-US border . . .”).

78. See Arturo Castellanos-Canales, *Bilateral Labor Agreements: A Beneficial Tool to Expand Pathways to Lawful Work*, NAT'L IMMIGR. F. (July 20, 2022), <https://immigrationforum.org/article/bilateral-labor-agreements-a-beneficial-tool-to-expand-pathways-to-lawful-work/> [perma.cc/S55N-FPQX]; WALTER A. EWING, AM. IMMIGR. COUNCIL, *OPPORTUNITY AND EXCLUSION: A BRIEF HISTORY OF U.S. IMMIGRATION POLICY 1* (2012), https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/opportunity_exclusion_011312.pdf [perma.cc/HY2K-775W] (explaining that the U.S. and Mexican economies have been “intertwined” for “more than a century” and that the U.S. government “instituted the large-scale importation” of Mexican workers to meet labor demands); An Act to Amend the Agricultural Act of 1949, Pub. L. No. 82-78, 65 Stat. 119 (1951) (amending the Agricultural Act to include the labor agreement between the United States and Mexico).

79. See Kevin R. Johnson, *How Racial Profiling in America Became the Law of the Land: United States v. Brignoni-Ponce and Whren v. United States and the Need for Truly Rebellious Lawyering*, 98 *GEO. L.J.* 1005, 1045–47 (2010) (discussing key precedent, starting in 1975, that allows for Mexicans and Latinxs/es to be racially profiled through immigration enforcement).

80. See Kevin R. Johnson, *Racial Hierarchy, Asian Americans and Latinos as “Foreigners,” and Social Change: Is Law the Way to Go?*, 76 *OR. L. REV.* 354, 354–58 (1997) (describing a “long historical pedigree” of using perceived foreignness to bolster efforts to limit Mexican immigration through border militarization and deportation).

81. Hajnal, *supra* note 56, at 24–25 (stating that Donald Trump's tactics are an extension of a “tried and true” strategy of “scapegoating immigrants” to garner the White American vote, a model established “most conspicuously” by Pete Wilson's 1994 campaign for Proposition 187, an initiative designed to deny public services to undocumented immigrants).

82. See NEERAJ KAUSHAL, *Introduction: It's Not a Crisis*, in *BLAMING IMMIGRANTS: NATIONALISM AND THE ECONOMICS OF GLOBAL MOVEMENT* 8 (2019) (“Politicians across Europe and the United States have been more successful in selling their anti-immigration agenda in rural areas where there are few immigrants than in big cities like London, Amsterdam, Paris, New York, Chicago, Los Angeles, and Berlin, where most immigrants live.”).

American history”⁸³ and reviving “Operation Wetback.”⁸⁴ It was a winning electoral strategy from the start that has unleashed state-sanctioned violence upon Indigenous, Black, Latinx/e, API, and communities of color across the country.⁸⁵

It works partly because the overwhelming majority of undocumented people are Indigenous, Black, and racialized people from Latin America, as well as APIs.⁸⁶ Meanwhile, nation-states throughout the American continent, often with the aid of the United States, continue to enact projects of genocide and ethnic cleansing that primarily target and displace Indigenous communities.⁸⁷ Henceforth, changing our designation from “*Indxs*” to “illegals” was just a matter of time. It was a rebranding, if you will—a natural next step in the colonial process.⁸⁸ Colonialism depends on cutting the strands of our ancestral memories and severing our ability to exist on

83. 2024 GOP Platform: Make American Great Again! Preamble, AM. PRESIDENCY PROJECT (July 8, 2024), <https://www.presidency.ucsb.edu/documents/2024-republican-party-platform> [perma.cc/LA6X-MCLX] (listing the two top priorities for Trump’s presidency: “1. Seal the border, and stop the migrant invasion [and] 2. Carry out the largest deportation operation in American history.”).

84. See RAMÍREZ, BANISHED CITIZENS, *supra* note 33; Adriana Gomez Licon, *Trump’s Vow to Deport Millions Is Undercut by History*, PBS NEWS (June 22, 2024), <https://www.pbs.org/newshour/politics/trumps-vow-to-deport-millions-is-undercut-by-history> [perma.cc/N6UK-Q8H4].

85. Erica L. Green, *Black and Latino Leaders Condemn Trump’s Use of Military in L.A.*, N.Y. TIMES (June 12, 2025), <https://www.nytimes.com/2025/06/12/us/trump-protests-la-immigrants-civil-rights-leaders.html> [perma.cc/T4ZJ-LZFE]; Jacqueline Keeler, *ICE is Still Rampaging in Minnesota. For Native Americans, it’s History Repeating Itself*, S.F. CHRON. (Feb. 14, 2026), <https://www.sfchronicle.com/opinion/openforum/article/ice-minnesota-native-american-21350121.php> [perma.cc/K6YP-SUBH]; Hamed Aleaziz, Zolan Kanno-Youngs & Ernesto Londoño, *New ICE Operation Is Said to Target Somali Migrants in Twin Cities*, N.Y. TIMES (Dec. 2, 2025), <https://www.nytimes.com/2025/12/02/us/politics/ice-somali-migrants-minneapolis-st-paul.html> [perma.cc/R3XD-Z63Q].

86. See Evlin Millet & Jacquelyn Paviol, *Demographic Profile of Undocumented Hispanic Immigrants in the United States*, CTR. FOR MIGRATION STUD. (Oct. 14, 2022), <https://cmsny.org/publications/hispanic-undocumented-immigrants-millet-paviol-101722> [web.archive.org/web/20260127025536/https://cmsny.org/publications/hispanic-undocumented-immigrants-millet-paviol-101722/] (“Hispanic immigrants make up the largest undocumented immigrant population in the United States.”).

87. See Danielle Valdevit, *The Role of the United States in the Guatemalan Genocide*, 14 CHRONOS 41, 43 (2020) (“In the early 1980s, President Reagan ensured General Montt would be given the resources he needed to perform what he considered necessary actions to combat the communist threat in Guatemala. The United States provided resources to the Guatemalan state to destroy the Maya and rationalized their role in what turned out to become a genocide as a method to prevent the rise of communism.”). See also Clifford Krauss, *How U.S. Actions Helped Hide Salvador Human Rights Abuses*, N.Y. TIMES (Mar. 21, 1993), <https://www.nytimes.com/1993/03/21/world/how-us-actions-helped-hide-salvador-human-rights-abuses.html> [perma.cc/5X2W-SVHZ] (reporting that the Reagan Administration frequently ignored or suppressed evidence of massacres and death squad activities committed by the U.S.-backed Salvadoran military against its own citizens during the civil war); Rachel López, *The Judicial Expansion of American Exceptionalism*, 6 DUKE F.L. & SOC. CHANGE 1, 11 (2014) (noting how the United States “frequently provided U.S. aid to countries with terrible human rights records” when national interest took precedence over moral concerns).

88. Native people with U.S. citizenship living near the border are often detained or delayed by U.S. border officials due to a lack of clear policies and procedures regarding the handling of Indigenous sacred items or the processing of events and ceremonies across the border. These Indigenous communities near the U.S.-Mexican border must deal with U.S. border patrol; their identity as Indigenous people coexists with an artificial border that assigns a status of illegality once crossed. See Christina Leza, *What Is the U.S.-Mexico Border to Indigenous Peoples Who Have Lived There?*, YES! SOLS. JOURNALISM (July 7, 2020), <https://www.yesmagazine.org/opinion/2020/07/07/mexico-border-indigenous-leaders> [web.archive.org/web/20260211034507/https://www.yesmagazine.org/opinion/2020/07/07/mexico-border-indigenous-leaders] (noting that Indigenous people who have lived on the Mexico-U.S. border for generations describe “the border as artificial or ‘imaginary’”).

the lands in which we have always existed—or, at least since AD 200 for *Wixárikas*.⁸⁹ But I digress, yet again.

I migrated to this country with thousands of unaccompanied children.⁹⁰ We were part of the earliest waves of the humanitarian crisis at the U.S.-Mexico border.⁹¹ I was seven when I crossed the border with my nine-year-old brother, covered in a large black trash bag, to join *mi amá* in the United States. We walked over eighty miles with a group of children from Tijuana, Mexico. We were detained toward the end of our journey and taken to an orphanage near the border.

The extensive structure of family separation and the imprisonment of Brown children and families at the border had not been fully set.⁹² “Immigration detention centers,” which are private prisons of indefinite detention, have become epicenters almost entirely devoid of due process and Fourth, Fifth, Sixth, and Eighth Amendment protections.⁹³ Back then, we were detained, and after two weeks, our family found us. We miraculously reunited with *mi amá*.

We were among the lucky ones.⁹⁴ After a decade of countless *sacrificios*, I became a Lawful Permanent Resident and, eventually, a U.S. citizen. I also became

89. See DANIEL BUTT, *Colonialism and Postcolonialism*, in THE INTERNATIONAL ENCYCLOPEDIA OF ETHICS 892 (Hugh LaFollette ed., 2013) (“[C]olonialism refers to a particular model of political organization, typified by settler and exploitation colonies, and is best seen as one specific instance of imperialism, understood as the domination of a territory by a separate metropole.”).

90. See Pamela Lizette Cruz & Tony Payan, *Alone and Vulnerable: Unaccompanied Minors in the United States and Mexico*, BAKER INST. (Oct. 9, 2018), <https://www.bakerinstitute.org/research/unaccompanied-minors-us-mexico> [web.archive.org/web/20250701163937/https://www.bakerinstitute.org/research/unaccompanied-minors-us-mexico] (“In the 1980s, the majority of unaccompanied children came to the U.S. from Central America, where they were fleeing civil conflict and widespread violence. In the 1990s, Mexican minors were the largest percentage of unaccompanied children entering the country.”); CHAD C. HADDAL, CONG. RSCH. SERV., RL34414, UNACCOMPANIED REFUGEE MINORS 1 (2008) (reporting since 1980, the U.S. Office of Refugee Resettlement has handled approximately twelve thousand unaccompanied refugee minors); cf. Chiara Galli & Tatiana Padilla, *New Data on Unaccompanied Minors in US Immigration Court (2009–2023)*, INT’L MIGRATION REV. 1, 2 (2025) (“Since 2009, nearly 800,000 unaccompanied minors have been apprehended at the U.S.-Mexico border. The vast majority come from El Salvador, Guatemala, Honduras, and Mexico . . .”).

91. See Amelia Cheatham & Diana Roy, *U.S. Detention of Child Migrants*, COUNCIL ON FOREIGN RELS. (Mar. 7, 2023, 3:11 PM), <https://www.cfr.org/backgrounder/us-detention-child-migrants#chapter-title-0-2> [perma.cc/G6UQ-A]WG (“Immigration authorities encountered more than 152,000 unaccompanied minors at or near the U.S.-Mexico border in fiscal year 2022 (FY2022), an all-time high. About 72 percent of all unaccompanied children in federal care were fifteen years of age or older, though authorities have also detained infants and toddlers.”).

92. See CTR. FOR IMMIGR. L. & POL’Y, *CRUEL INDIFFERENCE: FAMILY SEPARATION AT THE U.S.-MEXICO BORDER BEFORE AND AFTER ZERO TOLERANCE* 24 (2024), https://law.ucla.edu/sites/default/files/PDFs/Center_for_Immigration_Law_and_Policy/Cruel_Indifference.pdf [perma.cc/6P33-MQRU] (describing how the dominant culture within Customs and Border Patrol (CBP) is one of cruel indifference when “it processes families in a manner that routinely results in avoidable separations. . . . [A] lack of transparency into documentation of family relationships and a lack of accountability—stand in the way of CBP effectively implementing even its own stated family unity policies.”).

93. See *A Short History of Immigration Detention*, FREEDOM FOR IMMIGRANTS, <https://www.freedomforimmigrants.org/detention-timeline> [perma.cc/RE8S-8G6D] (last visited Apr. 12, 2026); Christopher Dunn, *Column: The Constitutional Hole in Government Detention*, NYCLU (Feb. 9, 2022), <https://www.nyclu.org/commentary/column-constitutional-hole-government-detention> [perma.cc/R95R-AAVT] (arguing that although the Due Process Clauses of the Fifth and Fourteenth Amendments are designed to protect against unjustified detention, the government maintains a legal “hole” where noncitizens face years of incarceration without a hearing or consideration of their ability to pay bail).

94. See *US: Border Deterrence Leads to Deaths, Disappearances*, HUM. RTS. WATCH (June 26, 2024), <https://www.hrw.org/news/2024/06/26/us-border-deterrence-leads-deaths-disappearances>

the first person in my family to graduate from college in the United States, and I ultimately earned my law degree from one of the most prestigious law schools in the world. Now, I am one of a handful of Indigenous women and fewer than two hundred Latina law professors on a tenure-track position in the United States.⁹⁵

However, this is not a story about the “American Dream.”⁹⁶ It took at least five generations for the first person in our family to graduate from community college in this country. The truth is that this remarkable journey is rooted in my family’s immense *sacrificios* tied to their migration to the United States, which began in 1905 and even earlier if we account for our presence on these lands since at least AD 200.⁹⁷

A key difference in my life was that *mi amá sacrificó* her life through arduous and exploitative labor, often working the equivalent of two full-time jobs, to ensure I could attend college and eventually graduate from law school. But these *sacrificios* did not start or end with *mi amá*. Her mother before her, her father before her, and her father’s father before him *sacrificaron* their lives through racialized migration to escape entrenched poverty.⁹⁸

This experience represents only a tiny microcosm of the reality faced by most Indigenous, Black, Latinx/e, API, and undocumented people through our displacement. It is filled with complex trauma that may take generations to unravel, if it ever does. This reality is rooted in profound colonial heartbreak.⁹⁹ This personal narrative recounts the experiences of migration born of desperation, patriarchal violence, and poverty. The following section builds on this narrative. It examines how the law shapes the displacement of Indigenous people from our regional homelands, starting with a lack of legal categories to account for our displacement at the hands of failing nation-states like Mexico, Guatemala, El Salvador, and the United States.

[perma.cc/ARR9-J6M6] (“US Border Patrol has reported about 10,000 deaths since 1994, when Prevention Through Deterrence was first implemented, but local rights groups at the border believe the number could be up to 80,000, with thousands more disappeared. Most of those dead are Indigenous, Brown, and Black people.”).

95. See Raquel E. Aldana, Emile Loza de Siles, Solangel Maldonado & Rachel F. Moran, *Latinas in the Legal Academy: Progress and Promise*, 26 HARV. LATIN AM. L. REV. 301, 302 (2023) (finding as of 2015 there were approximately “127 tenured and tenure-track Latina law professors—but nevertheless, the 127 represented a miniscule 1.6% of the legal academy”).

96. See Karla Cornejo Villavicencio, *Waking Up from the American Dream*, NEW YORKER (Jan. 18, 2021), <https://www.newyorker.com/magazine/2021/01/25/waking-up-from-the-american-dream> [perma.cc/UB9E-MHEX] (writing about her undocumented experience: “My parents remain poor and undocumented. I cannot protect them with prizes or grades. My father sobbed when I handed him my [Harvard] diploma, but it was not the piece of paper that would make it all better, no matter how heavy the stock.”).

97. Rangel-Medina, *Citizenism*, *supra* note 15, at 834–36.

98. See Cornejo Villavicencio, *supra* note 97 (“That is the pact between immigrants and their children in America: they give us a better life, and we spend the rest of that life figuring out how much of our flesh will pay off the debt.”).

99. See YOSIMAR REYES, *The Legalities of Being*, (Youtube Oct. 12, 2012), <https://www.youtube.com/watch?v=8eSpVOw3nBo> [perma.cc/B4PS-MARJ] (“We’re still not addressing our emotional wellbeing, not as undocumented people but as migrants. Displaced people. Folks whose hearts have been broken by America’s lies. *Abuelita’s* heart is broken . . . There is not deferred action for her, no immigration reform for her, she will never be American.”).

B. Migration as Illegality: A Continuation of the Colonial Project

Migrating from Latin America to the United States involves moving from one multi-ethnic environment to another that sustains structural racism.¹⁰⁰ Most undocumented migrants from Mexico and Central America primarily originate from *mestizxs*, *mulato*, and Indigenous rural communities.¹⁰¹ Indigenous people tend to migrate more often than documented, given the lack of formal pathways available to these vulnerable populations.¹⁰² This is by design.¹⁰³

But how do we determine Indigeneity in the context of nation-states implementing systemic projects of Indigenous erasure, shame, detribalization, and marginalization?¹⁰⁴ In terms of migration, a history of coloniality and nation-building complicates the identities of Indigenous, Black, and Latinx/e migrants.¹⁰⁵ Additionally, Latin American countries have overwhelmingly enacted policies of *blanqueamiento* [whitening] as anti-Indigenous and anti-Black strategies aimed at creating an “evolved cosmic race.”¹⁰⁶ This violent erasure through the invention of “*mestizaje*” is still structurally deployed in countries across Latin America.¹⁰⁷ While it is essential to acknowledge the privilege of people who are racialized as *mestizxs* and *mulatxs* within the socio-political frameworks of Latin American hierarchies, *mestizaje* is a tactic to erase Indigeneity and Blackness that transmutes to the United

100. See Jonathan Fox, *Reframing Mexican Migration as a Multi-Ethnic Process*, 4 LATINO STUD. 39, 40 (2006) (detailing how Indigenous migrants face a double subordination where Mexico excludes them from the national identity and U.S. officials use language barriers to deny them legal protection); *Indigenous Peoples in Mexico*, MINORITY RTS. GRP., <https://minorityrights.org/communities/indigenous-peoples-4/> [web.archive.org/web/20250820104051/https://minorityrights.org/communities/indigenous-peoples-4/] (last visited Apr. 12, 2026) (describing how Indigenous peoples in Mexico maintain their cultures, assert their rights, and work within networks to defend their lands and livelihoods in the face of marginalization and exploitation).

101. See, e.g., MARY I. O’CONNOR, MIXTEC EVANGELICALS: GLOBALIZATION, MIGRATION, AND RELIGIOUS CHANGE IN A OAXACAN INDIGENOUS GROUP 106 (2016) (“On the US west coast, *Mixtecs* make up the largest indigenous population. In California, largest populations of *Mixtecs* are found in Ventura, Santa Barbara, and Monterey Counties, although there are sizeable numbers in the Central Valley towns of Madera, Exeter, Farmersville, and Bakersfield.”).

102. Asad L. Asad & Jackelyn Hwang, *Migration to the United States from Indigenous Communities in Mexico*, 684 ANNALS AM. ACAD. POL. & SOC. SCI. 120, 141 (2019) (concluding that the concentration of Indigenous residents in a community indicates “economic and social disadvantage,” which “limits the residents’ possibilities for international movement”).

103. See generally Rangel-Medina, *Citizenism*, *supra* note 15 (explaining how the system of immigration law and enforcement is a layer of white supremacy that perpetuates racial hierarchy).

104. See GÓMEZ, *INVENTING LATINOS*, *supra* note 15, at 28.

105. See *id.* at 126.

106. See *id.* at 50. Further, the Mexico Solidarity Project explains how the Spanish encouraged Spaniards to procreate with the Indigenous population in New Spain to whiten the population:

Mixing aimed to achieve whiteness. Here’s how it worked: The mixture between a white Spaniard and an Indigenous woman produced a *mestizo* offspring. The offspring of a *mestizo* and a white Spaniard created a *castizo*. A *castizo* and a white Spaniard would produce a white Spaniard. That is, in three generations, an Indigenous line could become fully Spanish and white and receive what was called the “certificate of blood purity”—*certificado de limpieza de sangre*—and secure some sense of social mobility and inclusion in the colonial order So when we talk about *mestizos* and the process of mixture, *mestizaje*, we refer not just to a historical moment of conquest, violent colonial rule, and racial and cultural mixture, but also to a conscious ideological and political project of national formation in the 19th and 20th centuries.

Blacks, Mestizos, and Mestizaje: The Complex Backstory, MEXICO SOLIDARITY PROJECT (Jan. 19, 2022), <https://mexicosolidarityproject.org/voices/61/> [perma.cc/L8SF-WFUF].

107. GÓMEZ, *INVENTING LATINOS*, *supra* note 15, at 46.

States through forced population shifts.¹⁰⁸ Indigenous people from the Americas, *mestizxs*, and *mulatxs* tend to be looped in as Latinxs/es in the United States, an “invented” racial or ethnic category that encompasses over thirty-two countries.¹⁰⁹

This part thus posits that the transformation of Indigenous to “illegal” is permissible through policies that invisibilize and force Indigenous people into the margins of society and the law.¹¹⁰ The process of detribalization through *mestizaje* naturalizes and legitimizes “illegality” by displacing us from our regional homelands within the confines of our ancestral lands. These policies also impact and racialize Latinxs/es and collectively illegalize Brownness.¹¹¹

To be clear, undocumented people are not all Indigenous, but most undocumented people are either Indigenous or of Indigenous descent.¹¹² Latinxs/es are also a significant portion of this population, but they are more likely to gain access to immigration and citizenship based on their phenotype, language, and class.¹¹³ This is inherited racial privilege from Latin America, where *mestizaje* and detribalization privileges those who become *mestizxs* and, eventually, Latinxs/es. Most pointedly, anti-Indigeneity is the foundation of illegality and criminality built into the system of immigration law and enforcement, racializing Latinxs/es who are in proximity to Indigenous people and Black people.¹¹⁴ Timeline 1 below outlines the nation-state processes and policies that facilitate this transformation.

108. *Id.* Importantly, I have benefitted from being lighter skinned and being racialized as *mestiza*, particularly in Mexico and Latin America.

109. *See generally* GÓMEZ, INVENTING LATINOS, *supra* note 15.

110. *See id.* at 171–72.

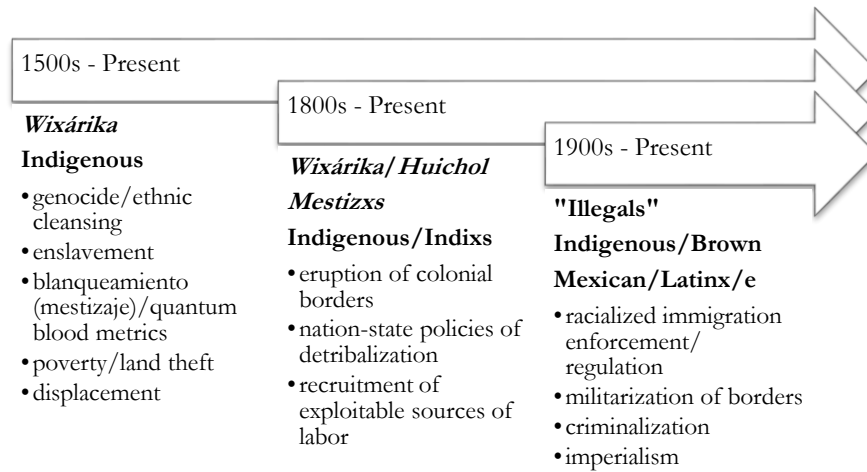
111. *See id.* at 81 (discussing how *mestizaje* coexists with white supremacy to eliminate or reduce African and Indigenous populations). The author is currently co-authoring a piece with Professor Khaled Beydoun tentatively titled *Brown Like Us* in which they clarify the definition of “Brown” identity and highlight the law as the main channel of Brown racial formation.

112. *See id.* at 21, 86 (explaining violent economic displacement results in an exodus of undocumented peoples from Latin America to the United States and how poverty affects Indigenous people at higher rates, resulting in U.S. Latinxs/es likely being Indigenous or Indo-Mestizo at higher rates than Latinxs/es in their respective countries).

113. *See id.* at 174–75 (explaining the concept of *blanqueamiento* and how lighter-skinned Latinxs can assimilate into Whiteness while Indigenous-Latinos and Afro-Latinos cannot).

114. *See id.* at 87 (explaining how two of the largest ICE raids in 2007 and 2008 targeted factories where the deported workers were majority Indigenous Mayan).

Timeline 1: Nation-State Policies to Transform Indigenous People to “Illegal” Beings



This Timeline outlines the progression of colonialism, facilitating the erasure of Indigenous people through violent processes rooted in poverty that inevitably lead to displacement. When read from left to right, the bullet points indicate the structural policies enacted by nation-states throughout the American continent that detribalize and marginalize Indigenous people. Mexico is the perfect example as it is the primary contributor of undocumented migration to the United States.¹¹⁵ Most Indigenous people in Mexico continue to live in abject poverty despite a revolution that promised *justicia, tierra y libertad*.¹¹⁶ The same is true of Central American countries like Guatemala, whose civil war ethnically cleansed over two hundred thousand Mayans, a tragedy that propelled undocumented migration to the United States in the 1990s.¹¹⁷

The arrows at the top of the Timeline illustrate how these policies sustain an evolving process of colonization. They also indicate when the policies were enacted and how they are still implemented today. A better depiction would show the arrows as a timeline in cycles that maintain trauma through subordination. These legal systems shape the vulnerability of Indigenous people, and by extension, Latinxs/es, as we navigate our displacement to survive as Brown people.

115. Asad & Hwang, *Indigenous Places*, *supra* note 3.

116. Liliana Gómez Flores Ramos & Sergio Meneses Navarro, *The Health of Indigenous Populations in Mexico*, HARV. REV. LATIN AM. (May 9, 2023), <https://revista.drclas.harvard.edu/the-health-of-indigenous-populations-in-mexico-disencounters/> [perma.cc/4F97-RBBS] (reporting that 78.7% of Mexico's indigenous population lives in poverty and identifying racism as the “mechanism that sustains the structures that produce inequality”).

117. THOMAS E. SHERIDAN & RANDALL H. MCGUIRE, THE BORDER AND ITS BODIES: THE EMBODIMENT OF RISK ALONG THE U.S.-MÉXICO LINE 32 (2019); Raquel Aldana, *A Reflection on Transitional Justice in Guatemala 15 Years After the Peace Agreements*, in VICTIMS OF INTERNATIONAL CRIMES: AN INTERDISCIPLINARY DISCOURSE 297 (Thorsten Bonacker & Christoph Safferling eds., 2013).

Furthermore, as indicated in the bottom arrow, racialized immigration enforcement in the United States began with the Page Act of 1875,¹¹⁸ which restricted the migration of Asian women due to an irrational fear of their fertility and sexuality.¹¹⁹ Following the legal evolution of enslavement, racialized migration was primarily designed to bypass the Fourteenth Amendment's prohibition against enacting or enforcing laws that "abridge the privileges and immunities of **citizens** of the United States."¹²⁰ Consequently, the system of immigration law and enforcement operates almost entirely outside judicial oversight, a precedent established through case law challenging the Chinese Exclusion Acts of 1889.¹²¹ Additionally, as indicated earlier, the racialized criminalization of "unauthorized entry" began in the 1920s.¹²² Thus, the process of migrant illegalization was created before, within, and beyond the context of Jim-Jane Crow and Juan Crow,¹²³ serving as a primary mechanism to replace an enslaved population with an undocumented one.¹²⁴

Migration across colonial borders is a survival strategy in this post-apocalyptic reality for Indigenous people.¹²⁵ However, we continue to pay a high price throughout our generations. When we migrate from our regional homelands, we are legally stripped of our civil, human, and political rights and branded as "illegals." This process of de-Indigenization and collective amnesia permits nation-states to continue the project of colonization premised on our displacement and exploitation. As the following section profiles, existing legal categories largely fail to protect and account for undocumented Indigenous people across borders, time, and space.

C. *The Power to Legally Define Indigeneity*

Professor Laura Gómez posits that race is about power and that racial categories are invented to apportion power within racial states like the United

118. See Page Act of 1875, ch. 141, § 1, 3, 18 Stat. 477 (1875) (repealed 1943) (prohibiting the "importation into the United States of women for the purposes of prostitution" and the entering by immigrants from China, Japan or "any Oriental country" into a contract for "lewd and immoral purposes").

119. See generally Ming M. Zhu, *The Page Act of 1875: In the Name of Morality*, LEGAL HIST. WORKSHOP 1, 17 (2009) ("In his remarks to the 43rd Congress, President Grant urged Congress to explore the possibilities of a moral restriction of immigration, saying: 'I invite the attention to Congress of another . . . evil—the importation of Chinese women, but few of whom are brought to our shores to pursue honorable or useful occupations.'").

120. See U.S. CONST. amend. XIV, § 1, cl. 2. (emphasis added).

121. See *Ping v. United States*, 130 U.S. 581 (1889).

122. See GARCÍA HERNÁNDEZ, *WELCOME THE WRETCHED*, *supra* note 21, at 46.

123. See Roberto Lovato, *Juan Crow in Georgia: Immigrant Latinos Live Under a Matrix of Oppressive Laws, Customs and Institutions*, NATION (May 8, 2008), <https://www.thenation.com/article/archive/juan-crow-georgia/> [perma.cc/89SK-HRBK] ("Juan Crow: the matrix of laws, social customs, economic institutions and symbolic systems enabling the physical and psychic isolation needed to control and exploit undocumented immigrants.").

124. See COHEN, *supra* note 17. See generally Karla Mari McKanders, *Sustaining Tiered Personhood: Jim Crow and Anti-Immigrant Laws*, 26 HARV. J. RACIAL & ETHNIC JUST. 163 (2010) (drawing parallels between Jim Crow laws and modern immigration enforcement to describe how the state creates a "tiered personhood" that denies full legal recognition to certain racialized groups).

125. See, e.g., José Luis Ávila, *Li Ann Sánchez, a Trans and Indigenous Activist Supporting LGBTQ+ Immigrants in the United States: We are Living in a New Era of Transphobia and Xenophobia*, EL PAÍS (Apr. 19, 2025), <https://english.elpais.com/usa/2025-04-19/li-ann-sanchez-a-trans-and-indigenous-activist-supporting-lgbtq-immigrants-in-the-united-states-we-are-living-in-a-new-era-of-transphobia-and-xenophobia.html#> [perma.cc/AQ8B-NUNB] (interviewing Li Ann Sánchez, who discusses how "throughout her life, the Mexican activist has had to overcome the triple discrimination of being an immigrant, a trans woman, and Indigenous.").

States.¹²⁶ Legal definitions often determine these categories, and who is included and excluded usually determines the life outcomes of people, families, and communities. This is particularly true for Indigenous people from the Americas who become undocumented. The most vulnerable are Indigenous people who are detribalized through displacement and experience marginalization even within the Latinx/e community.¹²⁷

However, Indigenous people from the Americas are generally not considered Native Americans.¹²⁸ Unlike the reservation and treaty system Native people tend to experience in the United States, the policies of *mestizaje* have largely enabled the systematic erosion of Indigenous nations throughout the American continent. The purpose of this section is to profile existing legal definitions of “Indigenous” at various national, state, Native Nations, and international levels, particularly in Latin America. The aim is to map out how existing legal frameworks define or fail to account for Indigenous peoples who are illegalized through displacement.

Some legal scholars and activists criticize these legal definitions as, in themselves, oppressive tools of de-Indigenization.¹²⁹ They contend that the “Indian” and “Native American” labels “cast[] a monolithic identity for Indigenous Peoples,” although “Indigenous Peoples in the United States represent more than 550 distinct tribes.”¹³⁰ They argue that a preferred term is “Indigenous Peoples” because it “signif[ies] the cultural heterogeneity and political sovereignty of these groups.”¹³¹ Others disagree and prefer a specific tribal designation to prevent detribalization or loss of sovereignty.

U.S. federal law does not provide a uniform definition of “Indigenous” or “Indigenous peoples.” Yet many federal statutes use the terms “Indian” or “Native American” to define Indigeneity. Federal law generally defines “Indian” in terms of Indigenous people’s connection to a reservation or a recognized membership to a federally recognized Native Nation.¹³² For instance, under the Indian Reorganization Act, the term “Indian” includes:

126. See GÓMEZ, *INVENTING LATINOS*, *supra* note 15, at 6. It is essential to note that some Native American scholars do not consider Native and Indigenous people to constitute a race. See, e.g., Dina Gilio-Whitaker, *Indigeneity, Nationhood, Racialization, and the U.S. Settler State: Why Political Status Matters to Native ‘Identity’ Formation*, 8 *GENEALOGY* 116, 116 (2024) (arguing that Native identity is a political status inextricable from tribal nationhood rather than a racial formation).

127. See Laura Velasco-Ortiz, *Indigenous Migration in Latin America*, in *THE ROUTLEDGE HISTORY OF MODERN LATIN AMERICAN MIGRATION* 186, 188 (Andreas E. Feldmann, Xóchitl Bada, Jorge Durand, and Stephanie Schütze eds., 2023) (“[Indigenous] young people are more likely to migrate and are the most vulnerable in terms of potentially losing and suffering from their [I]ndigenous identity, as they become detached from their own culture and at the same time suffer the structural discrimination [I]ndigenous peoples face”).

128. See generally CARRIE LOWRY SCHUETTELPELZ, *THE INDIAN CARD: WHO GETS TO BE NATIVE AMERICAN* (2024) (investigating the cultural, racial, and political dynamics of today’s Tribal identity policing); Fox, *supra* note 100, at 46 (“Indigenous ethnic identity has long been seen in Latin America as socially and culturally contingent—in sharp contrast to the ‘blood quantum’ approach in the U.S.”).

129. See Michael Yellow Bird, *What We Want to Be Called: Indigenous Peoples’ Perspectives on Racial and Ethnic Identity Labels*, 23 *AM. INDIAN Q.* 1, 6 (1999) (“[T]hese names are oppressive, counterfeit identities that are misleading, inaccurate, and used to control and subjugate the identities of Indigenous Peoples and undermine their right to use tribal affiliation as a preeminent national identity”).

130. *Id.* at 3–4.

131. *Id.*

132. *Frequently Asked Questions*, BUREAU OF INDIAN AFFS., <https://www.bia.gov/frequently-asked-questions> [perma.cc/8SUC-26RQ] (last visited Feb. 18, 2026) (defining a federally recognized

[P]ersons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood.¹³³

Moreover, under the Native American Graves Protection and Repatriation Act, “Native American” means “of, or relating to, a tribe, people, or culture that is [I]ndigenous to the United States.”¹³⁴ Lastly, “Native Hawaiian” is defined as an individual who is a U.S. citizen and “a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai‘i,” according to specific documentation.¹³⁵ These definitions provide limited possibilities for extending protections for undocumented Indigenous people from the Americas, who often lack tribal recognition from a nation-state, including the United States.

In contrast to the federal government’s language, state law offers various definitions of “Indigenous” that may be drawn from to create protections for undocumented Indigenous people. For instance, in Colorado, “Indigenous” is defined as “having descended from people who were living in North America prior to the time people from Europe began settling in North America, being an enrolled member of a federally recognized Indian tribe, or being a lineal descendant of a tribally enrolled parent or guardian.”¹³⁶ In Massachusetts, Indigenous persons are defined as “all persons having origins in any of the Indigenous peoples of Northern Canada, Greenland, Alaska, and Eastern Siberia, and persons having origins in any of the [I]ndigenous peoples of North America and who are recognized as an Indian by a tribe or tribal organization.”¹³⁷ These state definitions provide more latitude for extending protections for undocumented Indigenous people from the Americas, at least for those whose ancestral lands are within present-day U.S. territory, like *Wixárikas*.

Some definitions within Indian Country ensue and may prove instructive in potentially creating a legal category to protect undocumented Indigenous people. Native Nations within the United States’ existing geography define membership based on various criteria.¹³⁸ The most common criterion for tribal membership is “blood quantum” or degree of tribal ancestry.¹³⁹ The “[d]egree of blood is calculated based on the immediacy of one’s genetic relationship to ancestors whose bloodlines were (supposedly) unmixed” and usually “begins with a ‘base roll,’ a listing of tribal

tribe as an entity with a “government-to-government relationship with the United States” that is eligible for Bureau of Indian Affairs funding and services).

133. 25 U.S.C. § 5129.

134. 25 U.S.C. § 3001.

135. 20 U.S.C. § 7517(2).

136. COLO. REV. STAT. ANN. § 24-33.5-2601 (West 2024).

137. 425 MASS. CODE REGS. 2.02 (2024).

138. See *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 55–56 (1978) (affirming tribal authority over membership matters without interference); *Lewis v. Norton*, 424 F.3d 959, 961 (9th Cir. 2005) (“[T]ribal immunity bars suits to force tribes to comply with their membership provisions, as well as suits to force tribes to change their membership provisions.”).

139. See Eva Marie Garrouette, *The Racial Formation of American Indians: Negotiating Legitimate Identities Within Tribal and Federal Law*, 25 AM. INDIAN Q. 224, 224 (2001) (“About two-thirds of all federally recognized tribes of the coterminous United States specify a minimum blood quantum in their legal citizenship criteria, with one-quarter blood degree being the most frequent minimum requirement.”).

membership and blood quanta in some particular year.”¹⁴⁰ For instance, the Pueblo of Isleta Constitution states that “[p]ersons of one-quarter (1/4) or more degree of Isleta Indian blood and Isleta parentage shall be members of the Pueblo of Isleta.”¹⁴¹ The Navajo Nation requires the same.¹⁴²

Some legal scholars criticize Native designation based on blood quantum, while others deem it necessary to ensure the continuation of lineages under existing colonial rule.¹⁴³ Scholars who criticize blood quantum argue that quantum functions as a tool to dispose of and assimilate Indigenous populations, but that was adopted by Native Nations “to ensure the preservation of culture and community.”¹⁴⁴ Consequently, nearly one-third of federally recognized tribes “have rejected specific blood quantum requirements for determining tribal citizenship.”¹⁴⁵ Instead, they generally require that an enrollee be a direct lineal descendant of a member of the tribe.¹⁴⁶ Other Native Nations “consider residency definitive, automatically admitting to citizenship all children born to parents living on the reservation.”¹⁴⁷

Furthermore, international law offers guidance to define Indigenous peoples and potentially provide remedies for undocumented Indigenous people. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) identifies “several factors that define Indigenous populations: descent, land occupation, cultural distinctiveness, and non-dominant status.”¹⁴⁸ Moreover, the International Labor Organization (ILO) defines Indigenous people as:

[P]eoples in independent countries who are regarded as [I]ndigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of

140. *Id.* at 225.

141. PUEBLO OF ISLETA CONST. art. II, § 1 (2015–16).

142. See “How Can I Become an Enrolled Member of the Navajo Nation? How Can I Find My Navajo Roots? (Ancestry)”, NAVAJO NATION, <https://www.navajo-nsn.gov/Info> [perma.cc/G8DH-VYFA] (last visited Apr. 12, 2026). The Navajo Nation has never ratified a formal constitution or statutory code. See *Navajo Nation Constitution Attempts (1937–Present)*, NAVAJO NATION, <https://ongd.navajo-nsn.gov/History/Navajo-Constitution-Attempts> [perma.cc/WJ5D-NADQ] (last visited Apr. 12, 2026).

143. See Maya Harmon, *Blood Quantum and the White Gatekeeping of Native American Identity*, CALIF. L. REV.: BLOG (Apr. 2021), <https://www.californialawreview.org/online/blood-quantum-and-the-white-gatekeeping-of-native-american-identity> [perma.cc/H5N2-XMF6].

144. Ashleigh Lussenden, *Blood Quantum and the Ever-Tightening Chokehold on Tribal Citizenship: The Reproductive Justice Implications of Blood Quantum Requirements*, 111 CALIF. L. REV. 287, 287 (2023), <https://www.californialawreview.org/print/blood-quantum-and-the-ever-tightening-chokehold-on-tribal-citizenship-the-reproductive-justice-implications-of-blood-quantum-requirements> [web.archive.org/web/20260115130421/https://www.californialawreview.org/print/blood-quantum-and-the-ever-tightening-chokehold-on-tribal-citizenship-the-reproductive-justice-implications-of-blood-quantum-requirements]. Harmon, *supra* note 143 (“Throughout history, blood quantum was used to define a point at which responsibilities to tribes, entitlement programs, treaty rights, and reservations would end. The government hoped that using blood quantum would eventually eliminate Native peoples—that intermarriage would ‘dilute’ the amount of ‘Indian blood’ in the population, causing descendants of Native peoples to become indistinguishable from the rest of the population.”).

145. Garrouette, *supra* note 139, at 225.

146. *Id.*

147. *Id.*

148. See Addie C. Rolnick, *Indigenous Subjects*, 131 YALE L.J. 2652, 2672–78 (2022) (citation omitted) (comparing international and domestic definitions of indigeneity and identifying where they diverge). See generally G.A. Res. 61/295, Declaration on the Rights of Indigenous People (Sep. 13, 2007) (establishing a universal framework of “minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world” and elaborating on existing human rights as they apply to them).

conquest or coloni[z]ation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.¹⁴⁹

The factors identified by the UNDRIP and the definition of the ILO provide the most expansive definition of Indigenous that might provide relief to displaced and undocumented Indigenous people.

Overall, the absence of a recognition of “Indigeneity” and policies that account for the displacement of Indigenous people permits our illegalization as we are forced to migrate *sin papeles*. But expanding definitions of “Indigenous” can be a dangerous endeavor when we are operating within white supremacy, leading to magnifying vulnerabilities for Native Nations.¹⁵⁰ Furthermore, this ambiguity may lead to discretionary and inconsistent application of the law, reinforcing our systemic exclusion, and causing additional harm and displacement. There is also a contestation of Indigenous identity and complicated histories within Native nations that may make the possibility of remedies for undocumented Indigenous people politically unfeasible.¹⁵¹

This legal context and perusal of available definitions of Indigeneity inform how the white supremacist underpinnings of the system of immigration law and enforcement operate through anti-Indigenous erasure. The following part conceptualizes *multigenerational illegality* to concretize how this system shapes the traumatic displacement of Indigenous people and undocumented people through the legal injuries and complex trauma caused by citizenism. This concept explains how illegality inextricably links itself to future generations long after some members of mixed-status families attain a formal immigration status or U.S. citizenship.

II. MULTIGENERATIONAL ILLEGALITY—A PROPOSED THEORETICAL FRAMEWORK

If you are an undocumented person anywhere in America, some of the things you do to make a dignified life for yourself and your loved ones are illegal. Others require a special set of skills. The elders know some great tricks—crossing deserts in the dead of night, studying the Rio Grande for weeks to find the shallowest bend of river to cross, getting a job on their first day in the country, finding apartments that don’t need a lease, learning English at public libraries, community colleges, or from “Frasier.” I would not have been able to do a single thing that the elders have done. But the elders often have only one hope for survival, which we tend not to mention.

—Karla Cornejo Villavicencio¹⁵²

149. Indigenous and Tribal Peoples Convention, 1989 (No. 169) art. 1.1(b), June 27, 1989, 1650 U.N.T.S. 383.

150. See Michelle Harris, Bronwyn Carlson & Evan Te Ahu Poata-Smith, *Indigenous Identities and the Politics of Authenticity*, in THE POLITICS OF IDENTITY: EMERGING INDIGENEITY 1–10 (Michelle Harris, Martin Nakata & Bronwyn Carlson eds., 2013) (noting that while definitions of “Indigenous authenticity” are rooted in “colonial racism” and used to marginalize the “excluded middles” of Indigenous populations, Indigenous identity may be viewed as an “emergent” process of “becoming” that resists fixed institutionally sanctioned categories).

151. *Id.*

152. Cornejo Villavicencio, *supra* note 96.

Undocumented status functions as an anchor across time and space within this country's racial hierarchy.¹⁵³ Even after some people secure a formal immigration status, their past undocumented status continues to affect their life outcomes and those of their family members with status.¹⁵⁴ This is an ongoing reality for Indigenous people, Black people, Latinxs/es, and APIs, who are racialized as “illegal” or treated as such, even when they possess U.S. citizenship.¹⁵⁵ Moreover, families of undocumented immigrants navigate this system long after gaining a formal immigration status and U.S. citizenship, as mechanisms of citizenship perpetuate a cycle of illegality.¹⁵⁶

This part builds on the concept of citizenship and contextualizes *multigenerational illegality* within the legal precarity surrounding Indigeneity, race, and poverty across time and space. This concept draws on various frameworks. Specifically, Critical Immigration Legal Theory,¹⁵⁷ Undocumented Critical Theory,¹⁵⁸ and Critical Latinx/e Indigeneities provide the theoretical seeds for this concept.¹⁵⁹ *Multigenerational illegality* also adds texture to the literature on Latinx/e

153. Rangel-Medina, *Citizenship*, *supra* note 15, at 858.

154. See Asad L. Asad & Matthew Clair, *Racialized Legal Status as a Social Determinant of Health*, 199 SOC. SCI. & MED. 19, 20 (2018) (“When legal categories—such as being an ex-felon or being undocumented—are racialized, so too are the social statuses constructed around them. [Racialized legal status] thus results in individuals’ dual and recursive exclusion from society, entailing both material and symbolic harms for legally-marked individuals and legally-unmarked in-group members.”).

155. See generally Rangel-Medina, *Citizenship*, *supra* note 15 (outlining how citizens of color are racialized as “illegal” through their real or perceived proximity to immigrant communities); Cecilia Menjivar, *The Racialization of “Illegality,”* 2021 DAEDALUS 91, 92 (noting that, in the U.S. immigration system, the undocumented status is a proxy for race, where “illegality” is not a race-neutral term and has become synonymous with “Mexicaness” and with being Latinx/e); Kevin R. Johnson, *Systemic Racism in the U.S. Immigration Laws*, 97 IND. L.J. 1455 (2022) (arguing that systemic racism runs through the apparatus of immigration law and policy).

156. Rangel-Medina, *Citizenship*, *supra* note 15, at 858.

157. Kim et al., *supra* note 9, at 1518 (“CILT responds to the vast human suffering caused by U.S. immigration law while exposing the systems of power and prejudice at work in the U.S. immigration regime.”).

158. See generally Carlos Aguilar, *Undocumented Critical Theory*, 19 CULTURAL STUD. 152 (2019) (analyzing the nuanced, liminal experiences of undocumented people).

159. See Maylei Blackwell, Floridalma Boj Lopez & Luis Urrieta Jr., *Critical Latinx Indigeneities*, 15 LATINO STUD. 126, 130 (2017) (complicating theoretical frameworks like illegality and arguing they should be understood through an intersectional approach that includes Indigeneity).

Critical Race Theory,¹⁶⁰ Asian Critical Theory,¹⁶¹ and Critical Race Theory¹⁶² to analyze how mixed-status families are illegalized across generations.

A. Conceptualizing Multigenerational Illegality

Under citizenism, the system of immigration law and enforcement maintains a legally subordinated, undocumented caste-like population that appears race-neutral.¹⁶³ Undocumented status is intricately linked to race, as almost all of the people who make up this population are racialized as people of color.¹⁶⁴ For mixed-status families of color, escaping this rigid caste-like system can often involve generational challenges, like the ones my family has navigated for over a century. Similar to complex trauma, some mixed-status families, particularly Indigenous ones, cannot escape or are reclassified as “illegal” even after they gain legal status.¹⁶⁵

160. See Deborah Weissman, *The Politics of Narrative: Law and the Representation of Mexican Criminality*, 38 FORDHAM INT'L L.J. 141, 149 (2015) (discussing how the use of the “Mexican-as-criminal” narrative negatively affects Mexicans living on both sides of the border); Rebecca Sharpless, “*Immigrants Are Not Criminals*”: *Respectability, Immigration Reform, and Hyperincarceration*, 53 HOU. L. REV. 691, 693–94 (2016) (explaining the criminalization of undocumented status).

161. See Pat K. Chew, *Asian Americans: The “Reticent” Minority and Their Paradoxes*, 36 WM. & MARY L. REV. 1, 13 (1994) (describing the history of formal discrimination suffered by Asian immigrants since the late 1700s). Yuning Wu also states the following:

Many Asian immigrants [] still face various obstacles, including citizenship problems, anti-immigrant sentiment, and [a] lack of necessary political resources and social capital to survive or realize social mobility Asian immigrants tend to suffer from the perpetual foreigner stereotypes that portray them as ineradicably foreign regardless of their citizenship status or length of stay in the United States

Yuning Wu, Brad W. Smith & I. Sun, *Race/Ethnicity and Perceptions of Police Bias: The Case of Chinese Immigrants*, 11 J. ETHNICITY CRIM. JUST. 71, 74 (2013). Bill Hing elaborates upon this idea with the following:

But preventing Asian Indian and other Asian immigrants from being naturalized was not enough to keep them from being defined as Americans; immigration bars had to be erected. Strict control of Chinese and Japanese immigration had done little to satisfy the demands of American nativists, who maintained a closed view of American society. They insisted that all Asians were racially inferior to whites and should be completely barred.

Bill Ong Hing, *The Undesirable Asian*, in *DEFINING AMERICA: THROUGH IMMIGRATION POLICY* 28, 46 (2004).

162. See Enid Trucios-Gaynes, *The Legacy of Racially Restrictive Immigration Laws and Policies and the Construction of the American National Identity*, 76 OR. L. REV. 369, 374 (1997) (contending that the historical and ongoing use of racially restrictive assimilation theory in immigration law perpetuates a flawed view of American national identity, allowing invidious racial classifications and obstructing coalition building among communities of color); Mary Romero, *Crossing the Immigration and Race Border: A Critical Race Theory Approach to Immigration Studies*, 11 CONTEMP. JUST. REV. 23 (2008) (describing how a critical race theory analysis of immigration reveals assimilation and white privilege); Eli J. Kay-Oliphant, *Considering Race in American Immigration Jurisprudence*, 54 EMORY L.J. 681, 701, 719 (2005) (describing how “immigration law has recreated, reconstituted, and reified racism throughout its history,” and ultimately arguing for a critical race theory approach to avoid “racist scapegoating,” which usually arises in the implementation of immigration laws).

163. See WILKERSON, *CASTE*, *supra* note 14, at 23 (“A caste system uses rigid, often arbitrary boundaries to keep the ranked groupings apart, distinct from one another and in their assigned places.”); Leti Volpp, *Impossible Subjects: Illegal Aliens and Alien Citizens*, 103 MICH. L. REV. 1595, 1597 (2005) (tracing how U.S. immigration law constructed “legal” and “illegal” as shifting, racially contingent categories rather than fixed ones).

164. Rangel-Medina, *Citizenism*, *supra* note 15, at 846.

165. Andrea Gómez Cervantes, “*Looking Mexican*”: *Indigenous and Non-Indigenous Latina/o Immigrants and the Racialization of Illegality in the Midwest*, 68 SOC. PROBS. 100, 101–03 (2021) (noting that Indigenous peoples are disproportionately targeted by immigration regimes because “looking

Citizenism makes this racial precarity linger, as mixed-status families of color continue to navigate racialization and illegality.¹⁶⁶

Moreover, the system of immigration law and enforcement causes injuries through family separation, criminalization, a lack of pathways to shift statuses, restriction of public services, and inhibiting generational wealth.¹⁶⁷ Mixed-status families of color survive this marginalization through *sacrificios* as they strategically navigate the daily possibility of deportability, disappearance, and multiple forms of internal and external displacement. *Multigenerational illegality* provides a framework for analyzing this marginalization and the injuries visited upon these families across time and space.

This framework captures how families are enmeshed in a cycle of trauma, loss of wealth due to deportation, limited access to democratic participation, and criminalization based on status.¹⁶⁸ It also illustrates how the illegalization of these families transmits trauma.¹⁶⁹ This section specifically focuses on how citizenism generates complex trauma within mixed-status families of color, as other aspects of *multigenerational illegality* are widely explored by legal scholarship.¹⁷⁰ This framework is embedded within a broader literature of structural trauma, which is briefly contextualized next within the system of immigration law and enforcement.

B. The Impact of Structural Trauma

Systems of subordination negatively impact the nervous and emotional systems of marginalized people, families, and communities.¹⁷¹ Structural trauma, stemming from the interaction between interpersonal relationships and systems of subordination, exacerbates this impact and adversely impacts present and future generations.¹⁷² For example, research shows that perceived racism and racial

Mexican” or “Hispanic” triggers suspicions of illegality that persist regardless of an individual’s actual legal standing or documentation).

166. Rangel-Medina, *Citizenism*, *supra* note 15, at 875.

167. See Lee, *Family Separation as Slow Death*, *supra* note 23, at 2322 (“[A]rgu[ing] that our immigration system is pervasively organized around principles of family separation”); Maria E. Enchautegui & Cecilia Menjivar, *Paradoxes of Family Immigration Policy: Separation, Reorganization, and Reunification of Families under Current Immigration Laws*, 37 L. & POL’Y 32, 34 (2005) (noting that though immigration law seemingly promotes family unity and integration, contemporary immigration laws privilege some family members and family forms over others and contain many provisions that contribute to keeping family members apart); Anita Sinha, *A Lineage of Family Separation*, 87 BROOK. L. REV. 445, 447 (2022) (“Government policies deliberately separated Indigenous families for almost a century. Private charities through the ‘orphan trains’ movement separated predominately impoverished immigrants for a quarter of a century.”).

168. See discussion *supra* Introduction and accompanying notes 20–22.

169. See Ryan I. Logan, Milena A. Melo & Heide Castañeda, *Familial Vulnerability: Legal Status and Mental Health Within Mixed-Status Families*, 40 MED. ANTHROPOLOGY 639, 639 (2021) (introducing “familial vulnerability” to expand on “structural vulnerability” and show how one family member’s status alters the mental health of the entire family).

170. See discussion *supra* Introduction and accompanying notes 22–27.

171. See, e.g., Nancy S. Landale, Jessica Halliday Hardie, R.S. Oropesa & Marianna M. Hillemeier, *Behavioral Functioning Among Mexican-Origin Children: Does Parental Legal Status Matter?*, 51 J. HEALTH & SOC. BEHAV. 2, 3 (2015) (“[T]he structural position of undocumented migrant parents, in combination with parental psychological well-being and family practices, may greatly influence children’s development”).

172. Azara L. Santiago-Rivera and her coauthors identified the following: “Although the focus in psychology has primarily been on racism’s impact at the individual level, the influence of historical and structural racism on people of color has also negatively affected communities in detrimental ways.

discrimination lead to health inequities and various adverse health outcomes for adults and children alike.¹⁷³ Similarly, citizenism, discussed in the following section, serves as a pervasive psychological stressor affecting undocumented people, mixed-status families, and illegalized communities.¹⁷⁴

The effects of trauma permeate through families, restructuring familial dynamics and individuals' health, cells, and brain structures.¹⁷⁵ Experiencing traumatic symptoms often leads to a lifetime of recycled experiences that mirror the original trauma, or "ground zero, . . . they call it, the hole that remembers rupture."¹⁷⁶ Trauma is then transmitted from one generation to the next, like the cycle of domestic violence, born out of the terror of colonialism, has been transmitted in my own family across generations.¹⁷⁷

If trauma remains untreated, it persists in cellular memories, affects physical health, and often changes a person's brain chemistry indefinitely.¹⁷⁸ A prime

Poverty, housing discrimination, mental health disparities, community violence, low levels of educational attainment, and anti-immigrant sentiment are some ways that racism continues to impact communities of color today." Azara L. Santiago-Rivera, Hector Y Adames, Nayeli Y. Chavez-Dueñas & Gregory Benson-Flórez, *The Impact of Racism on Communities of Color: Historical Contexts and Contemporary Issues*, in *THE COST OF RACISM FOR PEOPLE OF COLOR* 229, 229–30 (2016).

173. N.J. Heard-Garris, M. Cale, L. Camaj, M.C. Hamati & T.P. Dominguez, *Transmitting Trauma: A Systemic View of Vicarious Racism and Child Health*, 199 *SOC. SCI. MED.* 230, 230 (2017) ("[V]icarious racism includes the indirect exposure to the prejudice and discrimination experienced by friends, family, and strangers, which can be distressing and may also affect health").

174. *Id.* at 231 ("Operating through physiological pathways, stressors that challenge one's ability to adapt may increase health risk.").

175. Rachel Yehuda and Amy Lehrner discuss how recent scientific studies are quickly uncovering epigenetic mechanisms that explain how environmental exposures can cause lasting changes in DNA function, which can be inherited by future generations. This includes the effects of parental trauma before conception that persist in germ cells and, after conception, influence the offspring's development in utero and their postnatal phenotype. Rachel Yehuda & Amy Lehrner, *Intergenerational Transmission of Trauma Effects: Putative Role of Epigenetic Mechanisms*, 17 *WORLD PSYCHIATRY* 243, 257 (2018). David McCallum also explains the following: "In the cases experienced by Indigenous peoples, intergenerational trauma is produced and reproduced in the present, as what we might describe as "war by other means," from the origins of coloniz[ing] and its effects on later generations through the reproduction of similar traumatic events, many of which are experienced in the contexts of family, health, and everyday living." David McCallum, *Law, Justice, and Indigenous Intergenerational Trauma—A Genealogy*, 11 *INT'L J. CRIME, JUST. & SOC. DEMOCRACY* 165, 171 (2022). *See also* Shakira F. Suglia, Danielle M. Crookes, Robert Kaplan, Daniela Sotres-Alvarez, María M. Llabre, Linda Van Horn, Mercedes R. Carnethon & Carmen R. Isasi, *Intergenerational Transmission of Childhood Adversity in Parents and their Children's BMI in the Hispanic Community Children's Health Study/Study of Latino Youth (HCHS/SOL Youth)*, 131 *J. PSYCHOSOMATIC RSCH.* 1, 6 (2020) (explaining how childhood adversity in the United States often affects racial and ethnic minorities and low-income populations, resulting in negative health impacts throughout life and across generations).

176. *See* MORAGA, *supra* note 2.

177. *See* R. Gabriela Gonzalez, Cecilia Ayón, Kalina Brabeck, Lisseth Rojas-Flores & Carmen R. Valdez, *An Ecological Expansion of the Adverse Childhood Experiences (ACEs) Framework to Include Threat and Deprivation Associated with U.S. Immigration Policies and Enforcement Practices: An Examination of the Latinx Immigrant Experience*, 282 *SOC. SCI. MED.* 1, 2 (2021) ("[R]estrictive immigration policies and enforcement—and threat of enforcement—function as anticipatory stressors that can become chronic stressors, a disruption to family preservation and unity, and a pervasive threat to children's sense of safety" (citation omitted)).

178. Yehuda & Lehrner, *supra* note 175; *see* Lisa R. Fortuna, Amalia Londoño Tobón, Yohanis Leonor Anglero, Alejandra Postlethwaite, Michelle V. Porche & Eugenio M. Rothe, *Focusing on Racial, Historical and Intergenerational Trauma, and Resilience: A Paradigm to Better Serving Children and Families*, 31 *CHILD & ADOLESCENT PSYCHIATRIC CLINICS N. AM.* 237, 239 (2022) (describing the process of "biological embedding," which involves biochemical modifications to DNA and histones,

example is my dad, who attempted to overcome familial violence and systemic subordination through educational and economic accomplishments. He accomplished a lot in his life, including helping *mi abuelita* Marcelina and some of his family members escape abject poverty. But he endured significant physical and emotional violence both inside and outside his home, and like his father, he turned to alcohol as a means of escape. He lost both the love of his life when *mi amá* divorced him, and the opportunity to build a relationship with Paco and me. The lasting effects of the childhood trauma he experienced and the anti-Indigeneity that lives on in Mexico ultimately shaped his destiny as an exile from our family.¹⁷⁹

The cycle of violence and substance dependence in my family did not begin or end with my dad or even *mi abuelito*. It has been a systemic issue among Indigenous people since alcohol was first used as a coping mechanism to withstand colonialism and genocide.¹⁸⁰ Alcohol dependence tends to serve as a survival mechanism in our post-apocalyptic reality, especially when we must flee our regional homeland in search of continued survival, escaping the violence that continually seeks to erase our existence.¹⁸¹

Turning to alcohol ultimately cost my dad the life he worked for and the family he built with *mi amá*. The same is true of *mi abuelito*. Their rage burned it all to ashes. I lived with their heartbreak, and the heartbreak their actions caused my family for much of my life. Remnants of it still linger within me. My dad's patriarchal violence and Mexico's anti-Indigenous poverty drove my displacement through undocumented migration. These same drivers continue to displace Indigenous people and people of color throughout Latin America and the world, leaving an identifiable traumatic mark in our minds, bodies, and lineages.

C. The Undocumented Trauma of Displacement

And in the dark apartment in San Diego, I grew up with the terrified boy who became my father. Afraid of my father, craving safety and comfort. I had no idea that the terror I felt was only a long shadow of his own.

—Thi Bui¹⁸²

such as methylation and demethylation, that influence gene expression in response to traumatic experiences).

179. See generally Carmen R. Valdez, Kalina M. Brabeck, R. Gabriela Barajas-Gonzalez, Cecilia Ayón & Lisseth Rojas-Flores, *Sociopolitically and Trauma-Informed Public Health Practice with Latinx Families: Conceptual Framework and Best Practices*, 114 AM. J. PUB. HEALTH 485, 492 (2024), <https://doi.org/10.2105/AJPH.2024.307589> [perma.cc/TK7M-AQB6] (describing the heightened levels of depression and internalizing and externalizing symptoms that Latinxs/es children and adolescents experience in discriminatory environments).

180. See, e.g., Godfrey Makoha & Myriam Denov, *War, Forced Displacement, and Alcohol Abuse: Experiences and Perceptions of War-Affected South Sudanese Refugee Youth Living in Bidibidi Refugee Settlement in Northern Uganda*, 12 FRONTIERS PUB. HEALTH 1, 1 (2024), <https://pubmed.ncbi.nlm.nih.gov/38375335/> [perma.cc/BSF9-BFGN] (finding that alcohol serves as a survival mechanism for South Sudanese refugees in Uganda, who are influenced by traumatic war experiences, family separation, and alcohol availability in refugee settlements).

181. *Id.*

182. THI BUI, *THE BEST WE COULD DO: AN ILLUSTRATED MEMOIR* 129 (Clarissa Wong ed., 2017) (elaborating on the transmission of intergenerational trauma on displaced families due to violence and coloniality).

Displacement is a core traumatic wound inflicted by undocumented migration. This wound is accompanied by impending illegality that shapes how mixed-status families of color navigate the United States.¹⁸³ Our families continually confront this trauma, along with abductions by the state, forced relocation, and deportation.¹⁸⁴ Navigating this displacement through racialized immigration enforcement leaves a traumatic imprint of separation, entrenched fear, and generational exile.¹⁸⁵

This section discusses multigenerational injuries in the context of immigrant illegality, which are inflicted by the system of immigration law and enforcement.¹⁸⁶ It also outlines how complex trauma caused by this system travels through the lineages of mixed-status families of color.¹⁸⁷ These stressors impact our families across generations through displacement, racialization, and deportability.

The system of immigration and enforcement has primarily functioned as a tool for inflicting trauma on undocumented people and mixed-status families of color.¹⁸⁸ The criminalization of status inflicts lasting harm that reverberates through our family lines, rooted in the harsh realities of illegality.¹⁸⁹ The ongoing challenges of systemic deportability, displacement, and loss of familial and communal ties continue to evolve and amplify these effects.

Moreover, this system is rooted in anti-Indigenous animus that enables exploitation and marginalization.¹⁹⁰ These colonial wounds stem from systemic inequalities and are aggravated by enforcement that racializes Brown people through fabricated illegality. The multigenerational trauma experienced by the family

183. See GARCÍA HERNÁNDEZ, *WELCOME THE WRETCHED*, *supra* note 21, at 157 (“[M]igrants form part of vibrant communities. Many migrants are married, have children, work, or go to school. Some have developed meaningful friendships in the United States. Others live alongside relatives. Whatever the specific circumstances, immigration policies that pluck migrants from their lives create a gap in social life.”).

184. See Lucila Ramos-Sánchez & Jasmin D. Llamás, *Immigration Policy and Latinx/é Children from Mixed-Status Families: Mental Health Consequences and Recommendations for Mental Health Providers*, 11 CHILDREN 1, 5 (2024) (describing how children from mixed-status families often expressed high levels of stress due to the uncertainty in their daily lives).

185. *Id.* at 548–50.

186. See Valdez et al., *supra* note 179, at 489 (discussing how the threat of immigration enforcement becomes a chronic stressor that disrupts family preservation and unity, ultimately threatening the safety of children in families).

187. See generally *id.* at 487 (citing Anna Ortega-Williams, Ramona Beltrán, Katie Schultz, Zuleka Ru-Glo Henderson, Lisa Colón & Ciwang Teyra, *An Integrated Historical Trauma and Posttraumatic Growth Framework: A Cross-Cultural Exploitation*, 22 J. TRAUMA & DISSOCIATION 220 (2021) (arguing that trauma in the U.S. Latinx/e population originates from the intergenerational transmission of historic trauma rooted in the enslavement and colonization of vulnerable communities across Latin America, which created conditions for systemic oppression, persistent discrimination, and organized violence that continue to affect generations far removed from the original trauma). See discussion *supra* Introduction and accompanying notes 33–45.

188. See Jessica P. Cerdeña, Luisa M. Rivera & Judy M. Spak, *Intergenerational Trauma in Latinxs: A Scoping Review*, 270 SOC. SCI. & MED. 1, 3 (2021) (discussing how Latinxs/es continue to experience articulations of colonization through white supremacist structures of power that include violations of Indigenous land and water rights, violence against women and gender sexual minorities, racialized state violence and incarceration, and unequal access to opportunity, housing, education, and healthcare).

189. Aguilar, *supra* note 158, at 155 (“Fear and its negative effects among individuals with an undocumented and liminal status are transferable regardless of a receptor’s legal status and proximity.”).

190. Ramos-Sánchez & Llamás, *Immigration Policy and Latinx/é Children from Mixed-Status Families*, *supra* note 184, at 548–50.

members of undocumented people is compounded by citizenist micro and macro aggressions that our families navigate and survive. Thus, generation after generation, mixed-status families of color become immersed in this traumatic cycle.¹⁹¹

Furthermore, lacking legal status heightens the risks of undocumented people developing mental and physical health conditions.¹⁹² Studies on the mental health of undocumented people have identified specific symptoms of depression, including decreased self-esteem, feelings of helplessness, loss of motivation, self-blame, and diminished sleep and appetite.¹⁹³ Symptoms of anxiety manifest as *nervios*, hypervigilance, excessive worry, fear, and uncertainty.¹⁹⁴

The system of immigration law and enforcement then jeopardizes the physical health of undocumented people and mixed-status families of color. For example, research shows that targeting immigrants through workplace raids adversely affects Latina fertility, including those who are U.S. citizens.¹⁹⁵ Death is also a foreseeable consequence of undocumented migration, along with imprisonment and forced removal, realities that harm the mental health and stability of mixed-status families of color.¹⁹⁶

The trauma of deportability shapes how multigenerational trauma is inflicted upon Indigenous families and mixed-status families of color. Since 1893, however, the Supreme Court has viewed deportations as a normative state policy rather than a punishment.¹⁹⁷ Deportations destabilize families and communities.¹⁹⁸ They have

191. See FRIENDS COMM. ON NAT'L LEGIS., COMMUNITIES OF COLOR DISPROPORTIONALLY HURT BY IMMIGRATION ENFORCEMENT (2018), https://www.fcnl.org/sites/default/files/document/s/slw_-_factsheet_2_-_disproportionate_impact_-_final.pdf [perma.cc/XVC7-4XDM] (documenting how immigration enforcement disproportionately targets communities of color through racial profiling, over-policing, and punitive laws that separate families).

192. See Luz Maria Garcini, Kate E. Murray, A. Zhou, Elizabeth A. Klonoff, Mark G. Myers & John P. Elder, *Mental Health of Undocumented Immigrants in the United States: A Systematic Review of Methodology and Findings*, 14 J. IMMIGR. & REFUGEE STUD. 1, 2 (2016) (finding that emotional distress is pervasive among undocumented immigrants and linked to marginalization, deportation fears, and limited access to employment and health care).

193. *Id.* at 13.

194. *Id.*

195. GARCÍA HERNÁNDEZ, WELCOME THE WRETCHED, *supra* note 21, at 162 (citing Nicole L. Novak, Arline T. Geronimus & Aresha M. Martinez-Cardoso, *Change in Birth Outcomes Among Infants Born to Latina Mothers After a Major Immigration Raid*, 46 INT'L J. EPIDEMIOLOGY 839, 843 (2017)).

196. *Id.* at 160; Ramos-Sánchez & Llamas, *supra* note **Error! Bookmark not defined.** (noting that decades of shifting immigration policies and heightened deportation enforcement have created an “undeniable” environment of fear that forces mixed-status families to navigate constant daily psychological distress).

197. See Fong Yue Ting v. United States, 149 U.S. 698, 709 (1893) (declaring deportation removes people “without any punishment being imposed or contemplated”); *cf.* United States *ex rel.* Klonis v. Davis, 13 F.2d 630, 630 (2nd Cir. 1926) (describing Judge Learned Hand’s argument that deportation is exile and a “dreadful punishment”).

198. See Sarah Krieger, *The Price of Cruelty: How Trump’s Mass Deportation Agenda Endangers Us All*, NAT’L IMMIGR. L. CTR. (Oct. 3, 2025), <https://www.nilc.org/articles/the-price-of-cruelty-how-trumps-mass-deportation-agenda-endangers-us-all/> [web.archive.org/web/20251009052323/https://www.nilc.org/articles/the-price-of-cruelty-how-trumps-mass-deportation-agenda-endangers-us-all/] (explaining that aggressive deportation policies harm U.S. communities, create economic consequences, undermine public health, and create pervasive fear and insecurity among immigrant families); Akash Pillai, Drishti Pillai & Samantha Artiga, *Potential Impacts of Mass Detention and Deportation Efforts on the Health and Well-Being of Immigrant Families*, KAISER FAM. FOUND. (Feb. 6, 2025), <https://www.kff.org/racial-equity-and-health-policy/potential-impacts-of-mass-detention-and-deportation-efforts-on-the-health-and-well-being-of-immigrant-families/> [perma.cc/C557-KSGH]

lasting economic, political, physical, and psychosocial effects on individuals, families, and migrant communities.¹⁹⁹ Research shows that adults feel anxiety due to the deportation of family members, which is associated with cardiovascular risk factors.²⁰⁰

Numerous studies highlight the effects of deportation on adults and children.²⁰¹ Research identifies several factors that affect children's ability to cope after experiencing traumatic separation from a caregiver, such as psychological trauma, material hardship, residential instability, and academic withdrawal.²⁰² Separation from a caregiver due to deportation is linked to economic hardship, housing instability, and food insecurity.²⁰³ Children who have suffered the trauma of having a caregiver deported show various symptoms of psychological distress, including suicidal ideation.²⁰⁴

Furthermore, migrant children living in areas impacted by immigration raids often feel abandoned, isolated, fearful, traumatized, and depressed.²⁰⁵ Regardless of their immigration status, children experience anxiety and shame related to deportation, which negatively impacts their self-image and overall well-being.²⁰⁶ For example, an eleven-year-old girl in Texas committed suicide after being taunted by her classmates that they were going to report her parents to ICE.²⁰⁷ The trauma of deportability associated with undocumented status has life-altering impacts, and these impacts are transmitted through trauma within mixed-status families of color.²⁰⁸ This trauma is only sometimes overcome by undocumented *sacrificios*, which ensure our survival.

(finding that threat of deportation and enforcement activities worsened physical and mental health and negatively influenced healthcare decision-making).

199. Krieger, *supra* note 198.

200. See Langhout et al., *supra* note 20, at 7.

201. See CINTHIA PALOMINO, XIGRID SOTO-BOYKIN, SHANTEL MEEK, JENNIFER OPPENHEIM, GLADYS APONTE, DARIELLE BLEVINS, MAKI PARK & ERIC BUCHER, CHILDREN'S EQUITY PROJECT AT ARIZ. STATE UNIV., THE IMPACTS OF FAMILY SEPARATION AND DEPORTATION ON CHILDREN: HEALTH, MENTAL HEALTH, EDUCATION & ECONOMIC CONDITIONS (2025), <https://cep.asu.edu/resources/ImpactsofFamilySeparationandDeportation> [web.archive.org/web/20260224223725/https://cep.asu.edu/resources/ImpactsofFamilySeparationandDeportation] (reviewing and synthesizing well-established research documenting the mental health, developmental, economic, and educational harms of deportation and forced family separation on children and families); Ana Martinez-Donate, M. Gudelia Rangel, Jamile Tellez Lieberman, J. Eduardo Gonzalez-Fagoaga, Catalina Amuedo-Dorantes, Elizabeth McGhee Hassrick, Carmen Valdez, Kevin Wagner, Yosselin Turcios, Ahmed Asadi Gonzalez & Xiao Zhang, *Between the Lines: A Mixed Methods Study on the Impacts of Parental Deportation on the Health and Well-Being of U.S. Citizen Children*, 9 J. MIGRATION & HEALTH 100233 (2024) (reporting that U.S. citizen youth exposed to parental deportation experienced significantly worse health status, behavioral problems, material hardship, and academic outcomes compared to similarly situated peers).

202. *Id.* at 3.

203. *Id.* at 4.

204. Langhout et al., *supra* note 20, at 8 (recognizing the "impacts of deportation on the emotional [and] behavioral health" of our nation).

205. *Id.*

206. *Id.*

207. Galvin, *supra* note 22.

208. SOC'Y FOR RSCH. IN CHILD DEV., DEPORTATION THREATENS THE PSYCHOLOGICAL, PHYSICAL, AND SOCIOECONOMIC WELL-BEING OF CHILDREN AND FAMILIES (2025), https://www.srcc.org/sites/default/files/202503/Child%20Policy%20Brief_Deportation_032025.pdf [perma.cc/24YK-LWQG] (finding that parental deportation and interaction with the immigration system creates

III. UNDOCUMENTED SACRIFICIOS

Parental sacrificios become a form of capital. . . . As if stock houses filled with recuerdos, stories, consejos, and lived experiences, parental sacrificios are the architectural contours within which resilience is forced and success detailed.

—Carlos Aguilar²⁰⁹

Crossing the border *sin papeles* and seeking to survive failed nation-states' policies of economic development and security involves a decision that carries significant life risks.²¹⁰ As first articulated in Part I, since visas are almost entirely unavailable to Indigenous and poor *mestizxs* and *mulatxs* living in Latin America, these populations are the most likely to migrate *sin papeles*.²¹¹ Undocumented migration is challenging, perilous, and incurs exorbitant financial and personal costs.²¹² Nevertheless, undocumented *sacrificios* do not begin or end with entering the United States *sin papeles*.²¹³

Undocumented scholars articulate that *sacrificios* are a form of capital in the context of racial belonging.²¹⁴ Specifically, legal and economic restrictions faced by

adverse childhood experiences that produce toxic stress, psychological trauma, and long-term developmental harm across families).

209. Aguilar, *supra* note 158, at 154 (“CRT, LatCrit, and TribalCrit argue that both racism and colonialism are endemic in society. UndocuCrit agrees with those theories as undocumented communities continue to be negatively affected by racism and colonialism.”).

210. GARCÍA HERNÁNDEZ, WELCOME THE WRETCHED, *supra* note 21, at 178 (“It’s not that migrants don’t care about the costs of migration. They do consider the emotional cost of leaving relatives behind, the financial cost of paying for a coyote to smuggle them across the border, and the potential safety cost that comes with a trek that can involve physical violence, even death.”).

211. See Elizabeth Trovall, *Thousands of Haitians Are Migrating to the U.S. After Facing Racism, Poverty in Latin America*, HOU. PUB. MEDIA (June 11, 2021), <https://www.houstonpublicmedia.org/articles/news/in-depth/2021/06/11/400406/many-haitians-are-migrating-to-the-u-s-after-facing-racism-poverty-in-latin-america/> [perma.cc/65ST-4NQV] (reporting that in Chile visas are tied to job offers, but Haitian migrants face racism, language barriers, and irregular status that make it difficult to secure employment, thereby effectively limiting pathways to obtain visas).

212. See *Human Rights in Transit and at International Borders*, U.N. HUM. RTS. OFF. OF THE COM M’R, <https://www.ohchr.org/en/migration/human-rights-transit-and-international-borders> [web.archive.org/web/20260118170128/https://www.ohchr.org/en/migration/human-rights-transit-and-international-borders] (last visited Apr. 12, 2026) (“At land, sea and air borders around the world, migrants experience human rights protection gaps, including unlawful profiling, torture and ill-treatment, gender-based violence, dangerous interception practices, and prolonged or arbitrary detention.”); *Prices Charged by Human Smugglers*, HAVOCSCOPE, <https://www.havocscope.com/black-market-prices/human-smuggling-fees/> [web.archive.org/web/20250501065539/https://www.havocscope.com/black-market-prices/human-smuggling-fees/] (last visited Mar. 11, 2026) (estimating that it can cost up to \$60,000 to migrate without documents to the United States).

213. See *US-Mexico Border World’s Deadliest Migration Land Route*, INT’L ORG. FOR MIGRATION (Sep. 12, 2023), <https://www.iom.int/news/us-mexico-border-worlds-deadliest-migration-land-route> [perma.cc/W868-EZTV]; *Missing Migrants Project Annual Regional Overview*, UN MIGRATION, <https://missingmigrants.iom.int/2023-americas-regional-overview> [web.archive.org/web/20250324192347/https://missingmigrants.iom.int/2023-americas-regional-overview] (last visited Feb. 22, 2026) (reporting in 2022, there were 686 recorded migrant deaths at the United States-Mexico border, including 105 women, 468 men, and 29 children—only six percent fewer than in the previous year 2021); Stephanie Leutert & Caitlyn Yates, *What Are the Legal Pathways for Central Americans to Enter the U.S.?*, LAWFARE (July 17, 2018), <https://www.lawfaremedia.org/article/what-are-legal-pathways-central-americans-enter-us> [perma.cc/4Y5U-D5PV] (“For most Central Americans, there are few options to bridge the gap between the factors driving migrants’ decisions to leave and the available visa options to the United States. While in more extreme cases, particularly for migrants fleeing violence, there are currently no immediate in-country options.”).

214. *Id.* at 156.

mixed-status Indigenous and Latinx/e families render parental *sacrificios* a form of capital.²¹⁵ Their *sacrificios* illustrate how the strategic decisions and actions of undocumented parents and caregivers highlight the significance of fostering life for future generations.

This part discusses the *sacrificios* made by mixed-status families of color as we navigate citizenism. Familial *sacrificios* are traceable to Indigenous *conocimientos*, cultures, and legal paradigms that generally do not separate the individual from the collective. For example, the Mayan concept of *In Lak'ech*—you are the other me, I am the other you—is embedded in their societal, legal, and political infrastructures.²¹⁶ This principle of linked lives is also a deeply rooted concept in *Wixárika* *conocimientos* and culture, holding that events affecting one person affect all, including Mother Earth. These *conocimientos* are part of the survival strategy of undocumented populations that tend to rely on stronger communal bonds and bear the *sacrificios* of surviving legal subordination for the sake of future ones.

The term “*sacrificio*” is carefully chosen for this Article, drawing from Indigenous *conocimientos* and decoloniality.²¹⁷ Early European settler colonization was notoriously justified by the constructed savagery and “blood sacrifices” of the Aztec civilization.²¹⁸ This Article reframes *sacrificios* from a justification for colonization to theorize the lived practices of undocumented, Indigenous, and racialized families who survive citizenism despite multiple ongoing projects of genocide, displacement, and colonization through migration.²¹⁹ Daring to cross geopolitical borders can be a revolutionary act that challenges the prolonged failure of safety nets and economic policies of nation-states like Mexico, Guatemala, Honduras, and El Salvador. These are the countries with the highest percentages of undocumented migrants in the United States.²²⁰

215. *Id.*

216. See Luis Valdez, *I Am You or You Are Me/In Lak'ech*, TEACHING CENT. AM., <https://www.teachingcentralamerica.org/in-lakech> [perma.cc/J7WF-RZYG] (last visited Apr. 12, 2026) (explaining the Mayan concept of oneness).

217. See Chi Luu, *What We Lose When We Lose Indigenous Knowledge*, JSTOR DAILY (Oct. 16, 2019), <https://daily.jstor.org/what-we-lose-when-we-lose-indigenous-knowledge/> [perma.cc/9E2N-ZR3Q] (“Traditional knowledge often values a more nuanced, contextual, and holistic view of information from observation and thought, not just piecemeal experimentation of discrete, individual components of a system.”). See generally MORAGA, *supra* note 2.

218. See generally XOKONOSCHTLEIL GÓMORA, JUICIO A ESPAÑA: TESTIGOS AZTECAS (2017) (contesting Eurocentric narratives of ritual sacrifice as a rhetorical justification for conquest and colonization of the Aztec empire).

219. See Courtney Gareipy & Carolyn Bjartveit, *The Importance of “Love” in Authentic Decolonization Work and SoTL Practice*, 3 IMAGINGING SOTEL 2, 11 (2023) (“Love does not fail to be transformational or radical because it lacks feeling or affection, it is transformational and radical because of those qualities only when feeling and affection are gifted unconditionally through humble, reciprocal, honest, and ethical relationships.”).

220. See María Eugenia Mondéjar, *The Female Face of Latin American Migration*, VIOLENCE INTERVENTION PROGRAM, <https://www.vipmujeres.org/2024/09/the-female-face-of-latin-american-migration/> [perma.cc/9GC2-2QWC] (last visited Feb. 21, 2026) (explaining how migration is a survival-driven response to the lack of safety and economic support in Latin America); Frances R. Morales, Kathleen Hawkins, Danielle Gonzalez, Alexander Garcia, Sita G. Patel & Alfonso Mercado, *Strengths and Resilience Among Central American Parents Seeking Asylum in the United States*, 54 J. CROSS-CULTURAL PSYCH. 457, 470 (2023) (finding that migrant parents are motivated by hope and a courageous desire to ensure family safety to press forward despite extreme trauma and systemic failures); Luz M. Garcini, German Cadenas, Melanie M. Domenech Rodríguez, Alfonso Mercado, Liliana Campos, Cristina Abraham, Michelle Silva & Manuel Paris, *Lessons Learned From Undocumented*

Thus, the term *sacrificio*, within a context of decolonization, acknowledges the added contributions of mixed-status Indigenous families and Latinx/e families compared to white families. The term weaves a narrative of rebuilding society in a post-apocalyptic reality for Indigenous people. This strategy aims to nurture the next generation and provide the best labor to enable society to collectively thrive, as we return to reciprocity and equilibrium.

To survive citizenist subordination, some family members must endure countless *sacrificios*. Undocumented immigrants tend to sacrifice themselves for the sake of their families. They routinely serve as the sacrificial lamb in their families. They typically put their lives on hold for their family's survival even after gaining legal status, as *mi amá* did for me, and *mi abuelita* Aurora did for *mi amá*.²²¹ Their lives and bodies embody these *sacrificios* and these vessels, in turn, are infused with complex trauma. *Mi amá* spent decades working as a housekeeper in exploitative and vulnerable conditions until I graduated from law school. This is a familiar dynamic of undocumented parents and caregivers that also builds the fabric of society by nourishing the dreams and best life outcomes for future generations.

Moreover, undocumented people tend to devote themselves to a lifetime of hard work even after attaining status. Undocumented people primarily take on the lowest-paying and most exploitative jobs in the economy.²²² They constitute the group with the highest proportion of people holding more than one full-time job across the economy.²²³ They also contribute to local, state, and national tax systems, yet are generally unable to access or benefit from the taxes they pay.²²⁴ Nevertheless, they tend to make these *sacrificios* for their families' overall welfare and disproportionately benefit society as a whole.

Furthermore, living in the United States without documentation demands a constant strategy for survival, often placing individuals in a state of invisibility within the economy and hypervisibility within society, where they face the persistent threat of deportation or indefinite imprisonment.²²⁵ Most recently, the white supremacist

Latinx Immigrants: How to Build Resilience and Overcome Distress in the Face of Adversity, 19 PSYCH. SERVS. 62, 62 (2022) (identifying "courage" and "ancestral pride" as primary strategies that allow undocumented immigrants to challenge the "chronic uncertainty" of restrictive sociopolitical climates).

221. Rangel-Medina, *Citizenism*, *supra* note 15, at 834–36.

222. See Josselyn Andrea Garcia Quijano, *Workplace Discrimination and Undocumented First-Generation Latinx Immigrants*, U. OF CHI.: ADVOC. F., <https://crownschool.uchicago.edu/student-life/advocates-forum/workplace-discrimination-and-undocumented-first-generation-latinx> [perma.cc/DJ8C-XP2S] (last visited Feb. 21, 2026) (explaining undocumented immigrants "face many injustices detrimental to their well-being. Exploitation in the form of strenuous physical work, long hours, and substandard wages are intensified by potential employer retaliation and encouraged by the deep-rooted influence of immigration law in labor dispute cases.").

223. *Id.*

224. See CARL DAVIS, MARCO GUZMAN & EMMA SIFRE, INST. ON TAX'N & ECON. POL'Y, TAX PAYMENTS BY UNDOCUMENTED IMMIGRANTS 3 (2024), <https://itep.org/undocumented-immigrants-taxes-2024/> [perma.cc/EV2A-QP6U] ("More than a third of the tax dollars paid by undocumented immigrants go toward payroll taxes dedicated to funding programs that these workers are barred from accessing. Undocumented immigrants paid \$25.7 billion in Social Security taxes, \$6.4 billion in Medicare taxes, and \$1.8 billion in unemployment insurance taxes in 2022.").

225. See Paulina Segarra & Ajnesh Prasad, *Undocumented Immigrants at Work: Invisibility, Hypervisibility, and the Making of the Modern Slave*, 11 HUMANS. & SOC. SCI. COMM'NS 1, 2 (2024), <https://doi.org/10.1057/s41599-023-02449-5> [perma.cc/ZT9X-N5LC] (arguing that the conditions under which undocumented immigrants live—being relegated to invisible or undervalued jobs, targeted

Trump Administration disappeared 1,200 migrants who were being held in “Alligator Alcatraz.”²²⁶ In addition, thousands of primarily Indigenous/Brown men who were deported to the largest prison in Latin America, located in El Salvador, may never be found, released, or reunited with their families.²²⁷ Undocumented migrants generally recognize that this is the price they pay for their families to have a better or only chance at survival. However, our family members frequently find themselves ensnared in a citizen-centric reality that limits their precarious civil and political rights, even after they have gained immigration or citizenship status.²²⁸

Furthermore, the backlash against the “Browning of America”²²⁹ aims to curtail the citizenship rights of children born to documented and undocumented migrants.²³⁰ Under a citizenist paradigm, the law supports this narrowing of rights through the systemic devaluation of undocumented lives.²³¹ This proximity creates a zone of vulnerability in which the family members of undocumented people live between statuses.²³² The trauma of family separation and deportability is ever-present.²³³ The interlinking of race and citizenship makes the rights of members of mixed-status families of color precarious, even if they have legal immigration status or U.S. citizenship.²³⁴

This is the fundamental reason undocumented *sacrificios* are essential to overcome structural forms of subordination rooted in racial exclusion based on

by populist rhetoric, and living in constant fear of arrest, prosecution, and deportation—could be considered a modern form of slavery).

226. Ben Wieder & Shirsho Dasgupta, *Hundreds of Alligator Alcatraz Detainees Drop Off the Grid After Leaving Site*, MIA. HERALD (Jan. 5, 2026), <https://www.miamiherald.com/news/local/immigration/article312042943.html> [perma.cc/4ESH-8EF6].

227. See *Tracking the CECOT Disappearances*, NAT’L IMMIGR. L. CTR. (Aug. 19, 2025), <https://www.nilc.org/resources/tracking-the-cecot-disappearances/> [web.archive.org/web/20260308233032/https://www.nilc.org/resources/tracking-the-cecot-disappearances/]; “*You Have Arrived in Hell*”: Torture and Other Abuses Against Venezuelans in El Salvador’s Mega Prison, HUM. RTS. WATCH (Nov. 12, 2025), <https://www.hrw.org/report/2025/11/12/you-have-arrived-in-hell/torture-and-other-abuses-against-venezuelans-in-el> [perma.cc/TEM4-CJND].

228. Rangel-Medina, *Citizenism*, *supra* note 15, at 843.

229. See Frey, *supra* note 45 (discussing the country’s population shift from a majority white country to a majority racially diverse country); Domenico Montanaro, *How the Browning of America is Upending Both Political Parties*, NPR (Oct. 12, 2016), <https://www.npr.org/2016/10/12/497529936/how-the-browning-of-america-is-upending-both-political-parties> [perma.cc/2X3U-P8VE] (discussing how the country’s racial and age population shift has impacted the election results of both major political parties in the country); Jason Wilson & Aaron Flanagan, *The Racist ‘Great Replacement’ Conspiracy Theory Explained*, S. POVERTY L. CTR. (May 17, 2022), <https://www.splcenter.org/resources/hate-watch/racist-great-replacement-conspiracy-theory-explained/> [perma.cc/GJU4-Z68M] (discussing the racist conspiracy theory of replacing the country’s white population with people of color).

230. See Rierson, *supra* note 30, at 30 (“The impetus for reinterpreting and restricting the meaning of the Fourteenth Amendment’s guarantee of birthright citizenship today is largely racially motivated. . . . White nationalists have long railed against the Fourteenth Amendment’s grant of birthright citizenship to all persons born in the United States.”); Rangel-Medina & Symes, *Blood, Soil, and Race*, Part I.

231. Rangel-Medina, *Citizenism*, *supra* note 15, at 889. See generally Allison L. Skinner-Dorkenoo, Apoorva Sarmal, Chloe J. André & Kasheena G. Rogbeer, *How Microaggressions Reinforce and Perpetuate Systemic Racism in the United States*, 16 PERSPS. ON PSYCH. SCI. 903 (2021).

232. GARCÍA HERNÁNDEZ, WELCOME THE WRETCHED, *supra* note 21, at 162.

233. *Id.* at 174–75 (“But the trauma of separating families for the sake of prosecuting parents doesn’t magically create legality and integrity. The legal system can bulldoze over people searching for safety, but when it does it creates a mountain of rubble out of the very credibility it relies on.”).

234. *Id.* at 168; Rangel-Medina, *Citizenism*, *supra* note 15, at 867.

status. Undocumented people often act as a human shield, protecting their family members from these systems as they escape abject poverty and violence.²³⁵ Furthermore, they make valuable contributions to society through their labor by supporting key pillars of the economy. Still, the trauma inflicted by the system of immigration law and enforcement continues to shape the life outcomes of future generations within mixed-status families of color long after they attain status or citizenship.²³⁶

CONCLUSION

This Article incorporates the concept of *multigenerational illegality* into legal discourse to conceptualize how the system of immigration law and enforcement affects mixed-status Indigenous, Black, Latinx/e, and API families. This concept also underscores how borders aim to sever memories and permanently displace and marginalize Indigenous populations and those in close proximity to Brownness. This ongoing process perpetuates racial wounds and cycles of trauma rooted in colonial amnesia, thereby legally restricting the civil, political, and human rights of Indigenous families and mixed-status families of color. Outlining the impacts of complex trauma caused by this system across generations, this Article emphasizes how citizenship impedes equitable integration despite the immense *sacrificios* made by undocumented and documented members of mixed-status families of color.

Moreover, this Article incorporates a personal narrative to bring to light the *sacrificios* that Indigenous families and mixed-status families of color make to survive colonization, borders, and patriarchal violence. I also honor *mi amá*, my family, and the immense *sacrificios* my ancestors have made to survive Mexico's anti-Indigenous poverty and the U.S. system of immigration law and enforcement. This writing also continues to hold my dad accountable for his actions, but I feel compassion toward him and his experience. He, like *mi amá*, is my *In Lak'ech*.²³⁷ Spiritually, we are one.

As I heal, so do my past, present, and future generations. As Indigenous people heal, humanity heals. As protectors of Mother Earth, we can show humanity the way to restore balance and equanimity within our relations and governing systems. As we move out of toxic cycles of trauma, abuse, and extraction, we can build systems of liberation and *amor*. This is exemplified by Native Nations, which prioritize protecting their lands and lineages.²³⁸ As we shift away from a system of immigration law and enforcement based on colonial subordination, militarism, and

235. Walter J. Nicholls, *Making Undocumented Immigrants into a Legitimate Political Subject: Theoretical Observations from the United States and France*, 30 THEORY CULTURE & SOC'Y, 82, 101 (2013).

236. GARCÍA HERNÁNDEZ, *WELCOME THE WRETCHED*, *supra* note 21, at 168.

237. See Valdez, *supra* note 216.

238. See *Stewarding Native Lands*, FIRST NATIONS DEV. INST., <https://www.firstnations.org/our-programs/stewarding-native-lands/> [perma.cc/5JSV-U768] (last visited Apr. 12, 2026) (describing how Native knowledge and stewardship are rooted in a deep connection to the land that keeps “communities strong and the natural world in balance”); Danya Carroll, Desiree J. Edwards, Ramon Riley & Nicole Redvers, *Knowledge Connects Our Hearts and Lands: A Qualitative Research Study on Stewarding Indigenous Traditional Ecological Knowledges for Community Well-Being*, 22 INT'L J. ENV'T RSCH. & PUB. HEALTH 1573, 1573 (2024) (finding that protecting Indigenous lands and traditional medicines is “vital” to the health of Native Nations and the survival of future generations).

extraction, we can build systems of freedom of movement and human dignity. My future scholarship explores these possibilities.²³⁹

This writing is a decolonizing project that seeks to move away from the racialized and deadly system of immigration law and enforcement. It is an effort to unearth multigenerational trauma and expand the law to embody dignity rooted in decoloniality for my family, as well as mixed-status families of color who are trapped in this cycle. My deepest aspirations are for the collective trauma of citizenism and illegality to one day disappear for the undocumented and for Indigenous people, as well as for all people to live with dignity, tranquility, and equilibrium on my ancestral lands.

239. The author is currently co-authoring a piece tentatively titled *Unearthing Milagros: Rooted Visions of Liberation* with Cinthia A. Ibarra and Bamby Salcedo. The co-authors apply a Participatory Law Scholarship (PLS) approach to rethink migration and gender systems. *See generally* Rachel López, *Participatory Law Scholarship*, 123 COLUM. L. REV. 1795 (2023) (“PLS has the potential to make the law more accessible to the broader public, thereby hopefully making them more inclined to participate in the making of legal meaning in scholarship and elsewhere.”).