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Differentiated Legality: Understanding the Sources of Immigrants' Deportation Fear

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Abstract

All non-citizens face risk of deportation, but a variety of factors unequally stratify this risk. To capture the range of formally unequal statuses produced by migration control systems, we introduce the concept of “differentiated legality.” This paper applies this framework to analyze perceived deportation risk reported by 1,976 immigrants from a range of origin countries in the 2016-17 Collaborative Multi-racial Post-election Survey. Findings show that unauthorized immigrants *and* immigrants with temporary authorized status worry more than naturalized citizens about being deported. Respondents who know someone who has been deported and who were interviewed in a language other than English express greater fear of deportation, even in models with controls. In addition, system embeddedness — i.e., perceived legitimacy to the state — may increase deportation fears, even among those with comparatively secure legal statuses. Our paper is a significant contribution to understandings of citizenship, legality, and how immigrants experience deportability.

Keywords: Deportation, fear, legal status, system embeddedness, differentiated legality, citizenship

Note: Code to replicate all analyses is available from the second author's website: <https://nathanhoffmann.com/>

Introduction

In a world of nation-states, citizenship has a dual quality, simultaneously including those who possess it and excluding those who lack it. Consequently, citizenship is an inherent aspect of migration control, meting out unequal treatment to non-citizens: only citizens can leave and re-enter their home territory when they wish; only citizens decide when and under what conditions non-citizens can obtain membership status; and only citizens enjoy the lifelong right of territorial residence, free from the threat of banishment entailed in deportation. As the distinctive privileges associated with citizenship have diminished even as deportations have risen to heights previously unseen, deportation is an increasingly defining characteristic of citizenship. Vulnerability to deportation separates destination state citizens from the non-citizen migrants among whom they live and for whom “the contingency and conditionality” of territorial presence is integral to their legal status as aliens (Bosniak, 2017: 12).

Non-citizens are all at risk of deportation, but unequally so. Those disparities reflect the ways in which migration control systems generate civic stratification, leading to “a proliferation of legal statuses that inhibit full membership in its political, social and economic dimensions (Luthra, Soehl, and Waldinger 2018, 7)” with corresponding differences in vulnerability to deportation. Policy at the territorial border seeks to separate the relatively few who are wanted or tolerated – and therefore secure a relatively permanent but not fully unconditional status -- from the far more numerous who are seen as undesirable or unacceptable. Yet pressures generating expansion – whether coming from migrants’ strategic action, employers’ search for labor, or the expanded people flows propelled by globalization – yield accommodations that produce conditional acceptance, whether entailing *de facto*, but not *de jure*, acquiescence to unauthorized entrants or the creation of limited-term visa categories authorizing presence, but not access to citizenship.

Leakage at the external boundary of the territory swells the number of potentially deportable persons; closure at the internal boundary of citizenship swells the growth of the at-risk population. Naturalization policy serves as a check against mistakes made at the time of territorial entry. By bestowing the privileges of citizenship on a fraction of formally eligible resident foreigners, it systematically leaves behind a group of non-citizens who enjoy formally stable legal statuses but remain vulnerable to territorial extrusion. In this fashion, controls at external and internal boundaries yield a deportable population that is stratified and assigned to legal categories that vary both in protection from deportation as well as eventual access to status citizenship. To capture the range of formally unequal statuses produced by migration control systems, along with their implications for exposure to deportation, we introduce the new concept of “differentiated legality.”

Immigrants’ vulnerability to deportation is further shaped by their uneven visibility to the state actors who decide the boundaries of inclusion and exclusion. The civic stratification that produces differentiated legality structures variability in

vulnerability to deportation; varying levels of contact with state agencies and officials yield unequal levels of exposure to deportation risk. To conceptualize those disparities, we work with the idea of “system embeddedness,” first promoted by Asad (2020a) to highlight differences in legibility between unauthorized and authorized immigrants.

However, as we see system embeddedness as a structural feature of migration control institutions, bearing down in variable ways on different legal migrant categories, we use the concept of differentiated legality to show that system embeddedness affects a wider range of legal statuses. Thus, whereas remaining illegible to the state comprises part of the undocumented condition, living in the shadows is not an option for persons in precarious, but authorized statuses. The very acquisition of authorized status makes the person visible to the state and the precarious nature of the status – requiring the constant renewal of limited term visas -- necessarily entails contact with state agents (Lori 2017). The act of seeking lawful permanent residence – whether upon entry into the territory or upon transitioning from some prior temporary status as is the most common pattern in the United States – similarly puts the migrant under the state’s microscope. But if obtained, permanent residency not only yields significant protection against deportation; it also provides the option to reduce contact with migration authorities and thereby diminish system embeddedness. However, the next step on the decision tree -- seeking citizenship status yields the opposite effect, leading to hypervisibility as naturalization procedures entail heightened scrutiny over the entirety of a migrant’s residence in the destination state. That inspection can in turn reveal deportable offenses that a migrant had previously been able to conceal. If instead a naturalization application meets with approval, status citizenship provides the strongest protection against deportation.

This paper applies this framework to empirically analyze fear of deportation among immigrants in the United States – the topic of a small, but growing literature, albeit one mainly focused on unauthorized immigrants (Asad 2020b; Lai, Hoffmann, and Waldinger 2022; Rodriguez, Paredes, and Hagan 2017; Yellow Horse and Vargas 2022). As we will show using data from the Collaborative Multiracial Post-election Survey (Frasure et al. 2022) — collected in the wake of the 2016 election — fear of deportation extends to a much broader swath of the foreign-born population. Furthermore, we will demonstrate that fear is driven both by the formal legal differences produced by civic stratification as well as the disparities associated with varying levels of system embeddedness. Unlike prior analyses – which have focused exclusively on Latinos – we use nationally representative data to analyze differences in deportation fear among a cross-section of the entire foreign-born population. Moreover, in contrast to previous work, which due to data limitations could not distinguish between fear for oneself and fear for others to whom one was connected (see Asad 2020b; Lai, Hoffmann, and Waldinger 2022), we focus directly on fear for oneself.

We find that unauthorized immigrants *and* authorized temporary immigrants are similarly more fearful of deportation than naturalized citizens. In addition, we find evidence that system embeddedness may increase deportation fears, even among those

with comparatively secure legal statuses. Whereas lawful permanent residents (LPRs) expressing no plan to naturalize are no more likely to fear deportation than their naturalized counterparts, persons applying or planning to acquire citizenship are significantly more fearful than naturalized citizens. We also find that respondents who know someone who has been deported and who completed the survey in a language other than English express greater fear of deportation, even in models that control for other factors, providing support for theories of social illegality and social contagion (Novak, 2017)

Differentiated legality and vulnerability to deportation

Undocumented immigrants lie at the most vulnerable end of the differentiated legality spectrum. In some cases, these migrants enter through unguarded doors; in others, they arrive for an authorized stay of strictly limited duration, but then fail to depart. As borders prove leaky, efforts to control entry at the territory's *external* edge yield corresponding *interior* shifts. With some immigrants evading control either before or after entry, effective restriction requires the capacity for deportation. For states confronted with unauthorized migrants, deportation operates as a second line of defense, compensating for control deficiencies at the territorial boundary. However, the capacity for effective correction almost always proves inadequate as state resources are overpowered by the size of the leakage, the ease with which unauthorized migrants melt into the landscape, and the conflicts entailed in deporting a population that inevitably puts down roots. Nonetheless, the threat of deportation looms large over the unauthorized population (Abrego 2011; Menjívar 2011).

A second category of deportable persons consists of foreigners present with authorization, but with time-bound rights of territorial presence. This population reflects states' accommodation to the large and ever-growing people flows produced by globalization. These movements involve the legal crossing of borders by asylees, tourists, intra-company transferees, students, or temporary workers, who arrive for legally sanctioned sojourns of usually limited duration, but that can sometimes prove highly protracted. As these flows are generated by the ever-tighter economic links among states, they cannot be stopped, only managed and regulated (Sassen 1996). Moreover, once activated, migrant flows connect to economic sectors that find temporary, but legal migrants to be highly desirable, whether as students in universities looking for foreigners to pay full tuition, engineers for high technology companies seeking greater labor force flexibility, or farmworkers for agricultural employers wanting to reduce pressure on wages and alleviate supply shortages. In practice, provisional, but authorized status can extend for long and possibly indeterminate periods of time. However, time-bound limitations on legal presence render this population of persons in a limbo status inherently vulnerable to deportation, as residence rights end with a visa's expiration (Menjívar 2006). Indeed, massive layoffs in the high-tech sector in late 2022 and early 2023 brought this precarity home to thousands, who suddenly needed to scramble to find jobs within 60 days at another company willing to sponsor a temporary

visa, with alternatives being immediate return home or possible deportation at some later date (Jordan, 2022).

Non-citizens authorized for lifetime territorial residence – designated by U.S. law as “lawful permanent residents” -- comprise a third category of deportable persons. As states and states alone regulate mobility over the internal boundary of citizenship, controls can more effectively be applied at the internal, as opposed to the external, boundary. Naturalization provides states with an opportunity to rectify errors made at the time of first arrival or to sift out persons who may be deemed unworthy of citizenship due to their post-arrival behavior, yet that opportunity only arises if eligible immigrants choose to seek a new citizenship. Immigrants may refrain from doing so for a variety of reasons, whether fearing the closer scrutiny associated with the quest for citizenship (Gilbertson and Singer, 2003), held back by feelings of home state loyalty that can make acquisition of a second citizenship appear tantamount to be betrayal (FitzGerald, 2004), or discouraged by the cognitive and material barriers entailed in naturalization (Bloemraad 2006). Nonetheless, roughly 800,000 legal permanent residents apply for U.S. citizenship each year (Passel and Cohn 2022).

As argued by Anderson et al. (2011, 554), naturalization “reaffirms values through the acquisition of citizenship” whereas deportation reaffirms values through the denial of citizenship. Thus, unlike unauthorized migrants, who are deportable because they are excludable, “permanent residents” are deportable because their post-entry legal infractions show them to be unworthy of citizenship. The severity of the deportation threat confronting authorized “permanent residents” reflects both the brightness of the boundaries separating citizens and non-citizens as well as the behavioral requirements expected of aspiring citizens. At the start of the deportation regime in the early decades of the 20th century, when non-excludable immigrants were seen as “Americans in waiting”, a relatively short period of residence provided protection from deportation (Hester 2017), thereby blurring the boundary. Those limits have since been lifted, brightening the boundary; legal infractions incurred at any point after an authorized non-citizen’s entry can now make the person deportable, with the range of deportable post-entry infractions greatly expanded by legislation introduced since the 1980s.

Finally, while naturalized citizens occupy the most protected end of the differentiated legality spectrum, they may not see themselves as fully free of the threat of deportation. Empirically, surveys of Latino immigrants show that deportation remains a significant source of worry among naturalized citizens (Asad 2020b; Lai, Hoffmann, and Waldinger 2022). These concerns are understandable in light of data demonstrating that White Americans are likely to view traits possessed by some naturalized citizens – for example, speaking a foreign language, lacking education, and possessing a criminal record – as indicators of undocumented status (Flores and Schachter 2018). Furthermore, once largely inviolable, naturalized citizenship is increasingly under threat, as the U.S. government has sought to denationalize immigrants -- revoking citizenship on the grounds that it was improperly acquired -- or

denaturalize them -- revoking citizenship on the basis of impropriety during the naturalization process itself (Ryo and Peacock 2020).

System embeddedness and exposure to deportation

Immigrants' relationships to state surveillance can shape their vulnerability to and fears of deportation. States, as Torpey (1998) argued, seek to monopolize the means of cross-border mobility. Doing so requires surveillance, which is why surveillance is inherent to migration control organizations as they keep "formal records of individuals' behavior, transactions, and interactions as a matter of course" (Brayne 2014, 368). Moreover, precisely because efforts at surveillance are only partly successful, surveillance leads to more surveillance, as the ever-greater integration of information obtained at different points in a migrant's trajectory – whether upon crossing or during residence – facilitates corrections of earlier control errors or misses.

In theory, unauthorized immigrants are at highest risk of deportation. Yet state expulsive capacity falls far short of the resources needed to expel the entire unauthorized population and deportation drives aimed at long-settled persons generate conflicts that authorities often seek to avoid (Ellermann 2009). Once in residence, unauthorized residents benefit from a series of conditions allowing for "system avoidance", avoiding migration control institutions that would make their presence visible and increase apprehension by legal avoidance (Brayne 2014). Deporting the roughly 11 million undocumented immigrants in the United States would cost an estimated \$114 billion (Wolgin 2015). Thus, while all unauthorized persons may be deportable, the constraints on state capacity keep the probability of deportation relatively low. Strategies that minimize interactions requiring proof of status and diminish visible traits that might serve as clear markers of status lead to further risk reduction (Garcia 2014).

Hence, once beyond the immediate borderlands, residence is likely to persist; as time elapses, unauthorized persons gain the skills, contacts, dispositions, as well as identity documents needed to blend into or pass as everyday members of the proximal group to which they belong. Though not officially welcomed as residents, unauthorized immigrants are wanted as workers; the accommodations made to employers' labor demand reduce the infrastructural power that states require to curtail access to the job market (Motomura 2014). Personhood rights extending beyond citizens to all territorially present persons make for "semi-legality", allowing unauthorized persons to buy and sell property, marry and divorce, and receive emergency and various forms of primary health care, all without having to engage migration control authorities (Bosniak 2006). Hence, although all unauthorized persons are deportable – a condition triggering fear – the potential for system avoidance works in the opposite direction.

By contrast, states alone control the means of authorized presence, which is why “system embeddedness” – defined by Asad (2020a, 135) as “one’s perceived legibility to formal record-keeping institutions” – is a structural feature of migration control institutions. In Asad's formulation, system embeddedness yields its effects on deportation fear through two mechanisms: punitive experiences with immigration authorities – possibly affecting noncitizen immigrants of any legal status -- and exposure to greater bureaucratic legibility – the concern of this paper. The worries associated with greater exposure, as Asad contends, can yield effects in two ways. Prospectively, fear of heightened legibility can serve as a deterrent, impeding undocumented persons from seeking a legal status to which they may be eligible; consequently, opting for the safety associated with life in the semi-shadows can diminish deportation fear. Retrospectively, the channel instead leads from the transition to lawful permanent residence or DACA from undocumented status which, in producing heightened legibility, can paradoxically generate higher levels of deportation anxiety.

While acquisition of both DACA and LPR status entails heightened exposure to the state, the recipients of DACA differ from lawful permanent residents in ways likely to affect deportation fear : the former belong to the broader category of persons enjoying legal presence but on a strictly temporary basis, subject to short-term and recurrent authorization; the latter, by contrast, can keep migration authorities at arms length. The population of persons with provisional legal authorization labeled as “non-immigrants” by US law and estimated at roughly 7 percent of the US foreign-born population as of 2017 (Esterline and Batalova 2022) but now probably larger -- falls into different sub-types. One concerns persons residing on US territory while awaiting adjudication of their request for protection – whether as claimants for asylum (pegged at more than 2 million as of May 2023 [Roy and Klobucista 2023]) or advance parole (estimated at a little over 200,000 as of June 2023 [Di Martino, 2023]). A second concerns persons with an authorized, limited term residence disconnected from a pathway to permanent residence, whether under temporary protected status (currently numbering 670,000 [Moslimani, 2023]) or DACA (of which there were 616,000 active recipients as of 2021) . A third sub-type, involving approximately one million temporary workers, is distinctive in that these persons are present on dual intent visas, which allow for a possible, though highly contingent, transition to permanent residence and thence citizenship.

Although permission to reside with authorization is provisional, in practice presence proves highly protracted, even for persons in the most privileged of temporary categories. For instance, an H1B visa for highly skilled workers is initially issued for three years and may be extended for another three. However, once an employer begins the process of seeking permanent residence for an H1B worker, it can be renewed indefinitely in one-year increments, remaining valid until a decision on the green card has been reached. Yet each renewal requires interaction with migration control authorities, including an extensive set of documents submitted by both employee and employer. Furthermore, as authorized presence is employer-specific, loss of employment means that the employee immediately falls out of status, making self-

deportation the preferred option as persons who are out of status for longer than a year and are forced to leave are then barred from re-entry for 10 years. Persons on temporary protected status (TPS) or DACA lack the H1-B's possible route to a green card; like H1-Bs, however, they face recurrent interaction with migration authorities in order to renew their status. They encounter still additional demands for surveillance if they ever wish to travel to their home countries, as they then need permission to reenter the United States for which yet another set of documentary engagements is required.

In addition, system embeddedness is a variable condition, pushed to greater heights when the need to renew or change a legal status requires closer interaction with migration control authorities. The very acquisition of an authorized status makes the person visible to the state and the need to renew limited term visas necessarily entails contact with state agents (Lori 2017). The act of seeking permanent residence – whether upon entry into the territory or upon transitioning from some prior temporary status as is the most common pattern in the United States – puts the migrant under the state's microscope. Obtaining the "green card" that allows for lawful permanent residence entails a high level of scrutiny; as roughly half of green cards entail "adjustment of status" made by persons already on U.S. soil, that process likely contributes to the deportation fear experienced by the "non-immigrants" discussed above. But if obtained, a green card provides both significant protection against deportation as well as the option to subsequently reduce contact with migration authorities. Renewal, required only every ten years, entails a submission of a form that includes limited informational requests as well as options allowing filers to obscure visibility (for example, by providing an address in care of another person) and does not query for behaviors that might flag post-entry infractions.

By contrast, the decision to seek citizenship places the lawful permanent resident under the microscope, increasing the likelihood that authorities will uncover some event that will not only bar the route to citizenship but put the immigrant's very presence at risk. Unlike the green card renewal form, the application for naturalization is more than 20 pages long, with hundreds of questions, including queries related to English proficiency, tax compliance, criminal records, green-card applications, prior deportations, and documentation of disability. Furthermore, the naturalization application process may be protracted, possibly jeopardizing immigrants' claim to stay in the United States. The United States Citizenship and Immigration Services (USCIS) may delay naturalization decisions for years under the claim of national security concerns, making the fate of the affected LPRs approach those of persons with more precarious statuses (Lori 2022). Furthermore, the outcomes of naturalization applications are always uncertain, possibly entailing revocation of one's permanent residence status and removal should the application process uncover some deportable offense.

Although why seemingly eligible persons opt out of seeking naturalization remains an unanswered question, the available evidence suggests a possible channel from concern about some prior infraction to reluctance to apply for citizenship: among Mexican immigrants, for example, naturalization rates among the former undocumented immigrants who legalized via the 1986 Immigration Control and Reform Act were significantly lower than those among their non-IRCA co-nationals of similar years of residence in the United States (Rytina 2002). While the most risk-averse potential citizens may opt out of the quest for naturalization altogether, the complexity of the process, a lack of familiarity with the procedures, as well as the documentary requirements are likely to make this crossing point a moment of intensified deportation fear.

Social Illegality, Racialized Illegality, and Contagion

This paper advances a perspective that can be described as statist, identifying a chain that leads from state policies aimed at migration control, to differences in formal legal status and correspondingly varying levels of legibility, and thence to deportation fear. We note three alternative, society-centered views.

The first two locate the sources of deportation fear in immigrants' social characteristics and the corresponding societal reaction. Each begins with the same premise: legal status, unlike such other qualities as phenotype or language that might distinguish a member of the majority group from a member of a minority group, or someone of foreign origin from a native, cannot be read from the body or from interactions. Consequently, the everyday attribution of undocumented status relies on broadly shared stereotypes of the characteristics of documented and undocumented immigrants.

However, one such view highlights the ways in which stereotypes have fostered a public perception linking legal status and entire populations. Since illegality's shadow gets cast over all group members regardless of legal status, harming both "legally-marked individuals and legally unmarked in-group members" (Asad and Clair, 2017: 2), the result is a phenomenon that scholars have described as the "racialization of illegality" (Menjivar, 2021). In this light, the root sources of deportation fear are to be found at the group level, with the Latin American origin groups to which the stigma of undocumented origin have been most tightly affixed experiencing the highest level of deportation fear.

An alternative such view, building on ideas elaborated by Flores and Schachter (2018), would instead underscore the ways in which differences in individual-level traits may disconnect from those operating at the group level, in turn modifying the impacts of legal status, with implications for deportation fear. In this framework, the key influence stems from the tendency of the ethnic majority to associate externally observable, *individual-level* traits – language, occupation, the formality of employment, as well as national origin – with legal status, leading the reality and perception of legal status to diverge. Thus, in detaching from the formal dimension of legal status, the social dimension can blunt the impact of group-level stereotypes, hiding legally marked persons while exposing legally unmarked persons to

potential harm. As exemplified by “light-skinned Latin Americans [who...] can live their lives relatively undisturbed, because most people expect them to be legal and treat them as such” (Flores and Schachter 2018:863), formally undocumented persons lacking the expected traits can experience “invisible illegality”. By contrast, formally authorized immigrants whose external characteristics correspond to the prevailing stereotypes – such as persons with darker skin tones or immigrants seeking work at street corner labor markets -- may undergo “social illegality.” As the association between social traits and perceived legal status may spread from the ethnic majority – whose views Flores and Schachter document – to the immigrant population itself, the experience or perception of that linkage may in turn affect deportation fear. In this light, one could expect persons possessing individual-level social traits corresponding to commonly held stereotypes to experience heightened sensitivity to the risk of deportation.

In a third, still different, society-centered view, worry may be a network effect, activated not so much by individual legal status and the implications for exposure to state authorities, but by connections to other persons who may have undergone deportation. Motivating this perspective are results reported by Lai et al (2022) whose analysis of Pew Hispanic surveys found high reports of deportation anxiety across the various legal status categories as well as high levels of fear among island-born Puerto Ricans, all of whom possess state citizenship and are not deportable. As the question posed by the Pew surveys asked about deportation fears for either self or friends and family, these authors inferred that interconnection among different Latin American origin populations provided the mechanism whereby worry about deportation spreads. A related hypothesis, better suited to the data at hand, would link deportation fear to the experiences undergone by individuals in one’s personal network, with respondents possessing contacts to deportees the persons most likely to express worry about deportation.

Empirical Expectations

Legal status: The key explanatory variable is legal status. Following the discussion of differentiated legality above, we anticipate that unauthorized immigrants, “nonimmigrants”, and persons applying for citizenship will experience higher levels of deportation fear than naturalized citizens.

Social illegality – education, language, and skin color: Drawing on the discussion of social illegality above, this perspective predicts that respondents with lower education levels or who opt for interviews in languages other than English or who report darker darker skin tones will express higher levels of deportation fear.

Racialized illegality: Underscoring the centrality of population-level stereotypes linking an immigrant origin in Latin America with an undocumented status, this perspective predicts that Latin American immigrants will be more likely than all others to experience high levels of deportation fear. We note, however, the heterogeneity of the Latin American category, including nationalities, such as Guatemalans, Salvadorans, or Mexicans, who are at once the focus of enforcement activities and to whom highly stigmatized stereotypes attach as well as

those, such as Cubans, that experience a relatively high level of acceptance and, due to geopolitical tensions between the United States and Cuba, are largely exempt from deportation (Paasche, 2022).

Social contagion – personal connections to deportees: We expect that respondents who report knowing someone who has been deported will be more likely to worry about deportation for themselves.

Data

Data for this paper come from the Collaborative Multi-racial Post-election Survey (CMPS), which was conducted between December 2016 and February 2017 (Frasure et al. 2022). To create an online post-election survey focusing race, ethnicity, and politics in the United States, the survey chose a sample designed to include both registered and non-registered voters and to reach quotas for ethnic groups. Respondents were offered the option to conduct the interview in four non-English languages (Spanish, Chinese, Koreans, and Vietnamese). While the final sample included 10,145 respondents, we restrict the sample to only consider immigrants, leaving 2,339. We drop respondents without complete data, leaving 1,976 in the analysis.

We note the context in which these data were collected: the immediate aftermath of Donald Trump's Presidential campaign, marked by his inflammatory anti-immigrant rhetoric, as well as his eventual victory.. Given the media attention devoted to any presidential race, compounded by Trump's notoriety, his rhetoric heightened the salience of immigration policy as an electoral issue, which in turn may have intensified deportation worries. On the other hand, any such effects may not have generated the same impacts across legal statuses, as persons with more secure statuses may have felt least threatened.

Variables of interest

Descriptive statistics for all variables used are presented in Section A of the Online Appendix. The outcome on which we focus is *worry about deportation for oneself*. Using a five-item scale, respondents are asked to answer, "How worried are you that you might be deported from the United States?" We dichotomize the responses to that question: "extremely worried," "very worried," and "somewhat worried" are given a value of 1, while "a little worried" and "not at all worried" are given a value of 0. As shown in Section D of the Online Appendix, our results are robust to other dichotomizations and to using the original five-step scale in ordered logit models.

We note one limitation of the CMPS data: among naturalized citizens in the sample, only those registered to vote were queried about fear of deportation question, thus excluding naturalized citizens who not registered to vote (the question is asked of all noncitizen immigrants). To see how this exclusion might bias naturalized citizens' reports of deportation fears, we conducted sensitivity analysis using data from the 2018 National Survey of Latinos (NSL), collected by the Pew Research Center (2018), which contains questions measuring both immigrants' voter registration status and their fears of deportation ("Regardless of your own

immigration or citizenship status, how much, if at all, do you worry that you, a family member, or a close friend could be deported? Would you say that you worry a lot, some, not much, or not at all?).” To be sure, the NSL surveyed only Latino immigrants and focused on both fear for self and others. Nonetheless, the survey provides a reasonable proxy for understanding the direction of bias that may result from only asking registered voters of their deportation fears, given the high level of fear among Latino immigrants as well as the lower levels of voter registration among naturalized Latino citizens. As shown in Section B of the Online Appendix, we find that naturalized citizens in the 2018 NSL do not differ significantly on their levels of deportation fear based on their voter registration status.

For *legal status*, the survey provided six response categories to the question, “Which of the following best describe you...?”: naturalized citizen; applied for citizenship, but not yet finished; lawful permanent resident (LPR), but not applying for citizenship; “I have a visa”; not eligible to apply for citizenship; other. As we contend that fear is driven both by legal status and system embeddedness, we use the additional information about naturalization intentions among respondents with lawful permanent residence to enter this information as a five-category variable, assuming that persons who applied for citizens possess lawful permanent residency and separating them from LPR respondents not applying for citizenship. We also assume that respondents answering “I have a visa” correspond to the non-immigrant category in immigration law, and that both those respondents answering “not eligible to apply” and those answering “other” are present in the United States without authorization.

This survey encompasses respondents of diverse hemispheric origins, thus capturing both populations likely to be targeted by U.S. deportation policy as well as those that migration officials have tended to ignore. However, with two exceptions – Mexicans and Cubans – sample size limitations preclude the use of detailed country of origin information. Instead, we group the non-Mexican and non-Cuban respondents into eight broad *region of origin* categories: Central America, South America, East Asia, Southeast Asia, South Asia, Caribbean, Africa, and Europe.

To proxy English language proficiency, we use a dichotomous variable for the *language of the interview* (English or other [Spanish, Chinese, Korean, or Vietnamese]) and a four-category variable for *education* (with categories of less than high school; high school or GED; some college; 4 year college graduate). To assess the possibility that *skin color* differences yield individual-level disparities in deportation fear, we use information from a question asking respondents to self-rate their skin color according to a palette of skin color shades appearing in the interview protocol, with 1 as the lightest and 10 as the darkest. We also use a dichotomous variable for whether respondents *knew someone who had been deported*.

Control variables

We control for respondents’ annual household income (three categories: under \$40,000; \$40,000 to \$80,000; over \$80,000), whether respondents arrived in the United States before the age of 13, years in the United States, and two-category gender. Coefficients for control variables are presented in the full regression table in Section C of the Online Appendix.

Methods

Our analysis, incorporating sampling weights in all analyses, proceeds in three parts. First, we present descriptive probabilities of worrying about deportation, conditional on different values of our variables of interest. Next, we regress the dichotomized deportation fear variable on our variables of interest and controls in a logistic model.¹ Rather than presenting regression coefficients, we use simulations to show the relationship between different values of these variables and predicted deportation worry. We create counterfactual versions of the sample where we set one variable of interest to a single value, leaving values for other variables in the entire sample unchanged. We repeat this process for each value that the variable of interest can take in the data, creating multiple hypothetical datasets. We then take 500 draws from the estimated distribution of coefficients from the logistic regression. We use each set of randomly drawn coefficients to predict the probability of deportation worry for each of the hypothetical datasets. Finally, we take the median and 95% interquantile range of these 500 predicted values on the log-odds scale and use an inverse logit function to convert them to probabilities.

Lastly, we use a regression decomposition to show the relative influence of each of our variables of interest on the outcome. The method behind this is dominance analysis, which examines the change in R-squared from adding a variable to all possible subset regression models (Budescu 1993; Tonidandel and LeBreton 2011). Averaging over the possible regression models results in an average squared semipartial correlation, allowing the decomposition of R-squared by relative “dominance” of each of the predictor variables. To conduct the dominance analysis, we rely on the *domir* package in R.

Results

Descriptive Probabilities

We begin by presenting unadjusted, descriptive probabilities of worrying about deportation for oneself for our six variables of interest (Figure 1). As expected, legal status appears central in shaping deportation fears. Worry is extremely high for respondents without legal status, at 70 percent of the weighted sample. Fear of deportation declines monotonically across respondents with a visa, those with LPR, and naturalized citizens. Among naturalized citizens, only 5 percent fear deportation for themselves. Compared to previous studies that analyze deportation worry for *oneself and loved ones* (Asad 2020b; Lai et al. 2022), we find much lower rates of deportation fear *for oneself* among immigrants with documentation.

[FIGURE 1 ABOUT HERE]

Place of origin shows strong associations with deportation fear, although sizeable differences among Latin American origin groups emerge. As expected, Mexican respondents are far more likely than Cuban respondents to fear deportation; these two groups represent the

¹ In Section C of the Online Appendix, we also include linear probability model and ordered logit specifications; results are substantively the same.

maximum and minimum average deportation worry in the sample, at 49 and 4 percent, respectively. Central American respondents report somewhat high deportation worry as well, though only about half of what Mexicans report, and the proportion is imprecisely estimated.

Variables related to social illegality generally show the hypothesized relationships. Education presents a marked gradient in the direction expected: Respondents with less than a high school education appear particularly vulnerable to deportation worry. Respondents who opt for an interview in a language other than English are nearly five times more likely to report deportation worry than respondents who have an English interview. Skin color, however, does not show a strong relationship with deportation worry.

Finally, evidence of contagion emerges from the descriptive data: 54 percent of respondents who know a deported person report deportation worry, compared to 15 percent for those who do not.

Predicted probabilities

Figure 2 presents results from simulations using the full logistic regression. Most resemble descriptive probabilities presented in Figure 1, but we note some important differences. Predicted probabilities for fear among LPRs applying for citizenship are higher than among citizens and LPRs not applying for citizenship, although only the former disparity attains levels of statistical significance in models that incorporate sampling weights. Predicted probabilities by place of origin also notably differ from the descriptive estimates. After controls, Mexican immigrants' fear of deportation lies closer to the sample average. Meanwhile, South Asian immigrants are predicted to have the highest levels of deportation fear, at 20 percent.

[FIGURE 2 ABOUT HERE]

The relationship between education and deportation worry, present in the descriptive statistics, disappears in the predicted probabilities: Estimates across education levels are not significantly different from each other. Survey interview language, on the other hand, remains a significant factor, although the estimate for those who have a non-English interview language is half as high as it was in the descriptive estimates (21 compared to 49 percent). Darkness of skin color shows a slightly positive relationship with deportation worry, indicating some vulnerability for this socially salient attribute, although the greatest differences are at the polar ends of the scale and relatively few respondents rate themselves as having the lightest or darkest possible skin tone. Lastly, knowing someone who was deported is still associated with higher probability of fearing deportation, but at about half the level seen in the descriptive estimates (25 compared to 54 percent).

Overall, predicted probabilities of worrying about deportation are attenuated with the applications of controls. Legal status, language, and knowing someone who was deported remain important factors related to deportation worry.

In Section D of the Online Appendix, we show coefficients from two alternate specifications of our model. The first includes the percentage of the respondent's neighborhood that is coethnic, based on the question, "Please indicate the approximate racial/ethnic

composition of the neighborhood where you currently live." The coefficient is only marginally significant, suggesting that the neighborhood density of coethnics plays only a minor role. The other alternate specification includes a measure of police contact: whether, in the last five years, respondents have been stopped or questioned by the police, arrested, treated unfairly by an officer, or been on probation or parole. The coefficient for this variable is nonsignificant; this implies that previous experience with law enforcement does not have a strong bearing on fear of deportation.

Decomposition

Lastly, we assess the relative importance of the variables entered into the logistic regression by conducting a dominance analysis. Results for the variables of interest are presented in Table 1 (the full dominance table is included in Section E of the Online Appendix). The "General Dominance" column presents results from the dominance analysis, and the "Standardized" column divides these values by the total R-squared to obtain a measure of relative importance. Legal status stands out as by far the most important variable related to deportation worry, accounting for 33.6 percent of the total variation. The measure of social contagion – whether a respondent knows someone who was deported – is the second most important variable, accounting for 17.3 percent, followed by place of origin at 12.5 percent. Markers of social illegality are relatively less important. Survey interview language and education account for 10.2 and 8.3 percent, respectively, while skin color accounts for only 0.2 percent of the variation.

[TABLE 1 ABOUT HERE]

Discussion and Conclusion

In the American context, citizenship has been typically considered a blurred boundary, one in which "location with respect to the boundary is indeterminate or ambiguous" (Alba 2005, 25). But this characterization applies better to the mass migration of the 19th century – when non-citizens declaring an intention to naturalization were treated as "Americans in waiting" (Motomura 2006) – than to the mass migration of today. Not only is citizenship more difficult to access than it was earlier; the rise of deportation – largely unknown during the last era of mass migration – threatens to push immigrants across the brightest of boundaries – namely the territorial frontier. Changes in migration control policies – most notably, those permitting entrance only upon authorization and segmenting the authorized population into "permanent" lawful immigrants and "non-immigrants" – also leave large fractions of the non-citizen population ineligible to seek citizenship and therefore at risk of deportation. Last, the grounds of deportation – the most severe penalty associated with an alien legal status and one

from which all citizens are exempt but to which all non-citizens are vulnerable – have widened, putting once protected non-citizens at risk.

This paper seeks to show how immigrants in the United States experience the threat of deportation in the wake of the 2016 election. As the paper demonstrates, at least some immigrants across all legal statuses worry about the possibility of deportation, although overall rates amount to only about one sixth of the sample. As the dominance analysis shows, legal status appears to be the single most powerful driving force behind variation in worry. Worry reaches its highest levels among unauthorized respondents, with almost three quarters worrying that they might be deported. Yet non-citizens living in the United States under an authorized status – whether as temporary visa holders or as lawful permanent residents – are nonetheless a good deal more likely than naturalized citizens to worry about the prospect of deportation. Disparities across categories of non-citizens diminish somewhat in the multivariate analysis; nonetheless, with the exception of lawful permanent residents not planning to apply for citizenship, non-citizens in all legal status categories are significantly more likely to worry about the risk of deportation than are naturalized citizens.

Thus, disparities in fear reflect the impact of differentiated legality: unauthorized respondents are more fearful than authorized respondents on temporary visas who are in turn more fearful than respondents possessing lawful permanent residents. Evidence of system embeddedness appears more ambiguous. If indeed “living in the shadows” is a fundamentally anxiety-reducing experience, then we would expect unauthorized immigrants to be less worried than temporary visa holders, who must recurrently interact with state officials. Yet both the descriptive and the predicted probabilities show that the former are more worried than the latter, though the differences narrow somewhat in the multivariate analysis. While temporary visa holders are also more worried than either LPR category – whether planning to naturalize or not – it is difficult to determine whether these disparities reflect differences in precarity or system embeddedness. While the latter could possibly exercise the critical influence – as temporary visa holders make themselves recurrently visible to the state whereas naturalizers do so on a one-off basis -- the nature of our data makes it difficult to tell.

The results most closely pointing to impacts of system embeddedness are those related to the LPRs: in contrast to naturalized citizens, it is LPRs demonstrating their goal of seeking membership in the American people who are more likely to be fearful as opposed to their counterparts who are instead planning to retain their non-citizen status, which also entails continued citizenship of some foreign state. On the other hand, the difference between applicant LPRs and non-applicant LPRs, while statistically significant in unweighted comparisons, is nonsignificant in descriptive and modeled results that incorporate survey weights.

The expectation that illegality has been racialized – locating the sources of deportation fear at the group level – gains some confirmation from descriptive statistics, which show that Mexican-born respondents prove the most to worry about the possibility of deportation.

However, the multivariate analysis demonstrates that national origins possess relatively modest power in explaining variance in levels of worry. Furthermore, deportation fear ranks highest, not among Mexicans, but rather among South Asians, a group not seemingly stigmatized by a popular association with undocumented migration. While this finding echoes work that finds psychological effects of undocumented status on groups not typically seen as "deportable," such as Asian immigrants (Cho 2021; Sudhinaraset et al. 2017), it is also possible that the 2016 Presidential campaign, culminating in Trump's election, may have made South Asian immigrants newly aware of their potential deportability.

As opposed to a group-level phenomenon, worry about deportation may be more closely related to individual traits – whether they signal foreignness and therefore trigger a perception of “social illegality” or instead come closer to the native norm and therefore instead activate a perception of “social legality”, to invoke the concepts developed by Flores and Schachter (2018). The descriptive probabilities show that respondents with low levels of education as well as those interviewed in a non-English language have higher levels of worry, but the impact of education disappears in the predicted probabilities. In the descriptive probabilities, skin tone shows no relationship to worry, although a modest association appears in the predicted probabilities. However, as the dominance analysis shows, all three traits combined contribute modestly to the total R-squared.

By contrast, worry for self appears to be strongly related to personal connections to other immigrants who have experienced deportation. Worry affects just over half of respondents who know someone who has been deported, a level largely unchanged in the multivariate analysis. Moreover, as displayed in the dominance analysis, personal ties contribute more to total R-squared than any of the characteristics associated with social legality/illegality.

This paper advances understanding of the everyday impact of deportation policy in several aspects: it analyzes data from a representative sample of the entire foreign-born population, thus including immigrants from around the globe and not just the western hemisphere. Thanks to question wording, we succeed in capturing deportation worry for self as opposed to the more ambiguous questions used in other surveys that asked about worry for self as well as friends and relatives. Consequently, we find that when asked about fear of deportation for *oneself* naturalized citizens report far lower levels of worry than when asked about fear of deportation for *oneself and loved ones*, the question on which prior analyses (Asad 2020b; Lai et al. 2022) have focused. As the CMPS also asked respondents to self-characterize their skin tone, the paper can assess whether differences in skin tone – hypothesized to be an aspect of social legality/illegality – are related to deportation fear. As the survey asked LPRs whether they were en route to naturalization or were planning to remain in non-citizen status, it further enables a test of differences in system embeddedness on worries about deportation. Nonetheless, as noted earlier, due to survey design, we lack data on worry among naturalized respondents who were not registered to vote. Furthermore, while the

broad, multi-national nature of the sample is a virtue, with the exception of Cubans and Mexicans, the sample is too small to allow for breakdowns at the specific national origin level.

In the end, this paper demonstrates the ways in which the politics of migration – involving state policies across the boundaries of both the territory *and* citizenship – serve to separate the experience of citizens and non-citizens, doing so even long after immigrant non-citizens have taken up roots in their new land. Every immigrant begins as an alien, and thus spends some portion of time vulnerable to deportation – an outcome from which every citizen is spared and one with an impact exacerbated among those immigrants for whom a return to home entails a shift from the developed to the developing world. Moreover, unlike the formal equality existing among citizens, formal inequality prevails among the foreign-born, as immigrants undergo an experience of differentiated legality. Not only are non-citizens assigned to legal status categories that differ systematically in the risk of deportation; those same categories vary in the access they provide to the one means of permanently escape from the threat of deportation – namely naturalization. Ironically, that very effort increases exposure to migration control authorities – as in seeking to become new citizens, naturalization applicants must put the entirety of their post-migration lives under the microscope. And though the evidence produced in this article remains ambiguous, it does appear that the greater system embeddedness associated with that search for membership in the American people yields additional worries regarding the future of an American life.

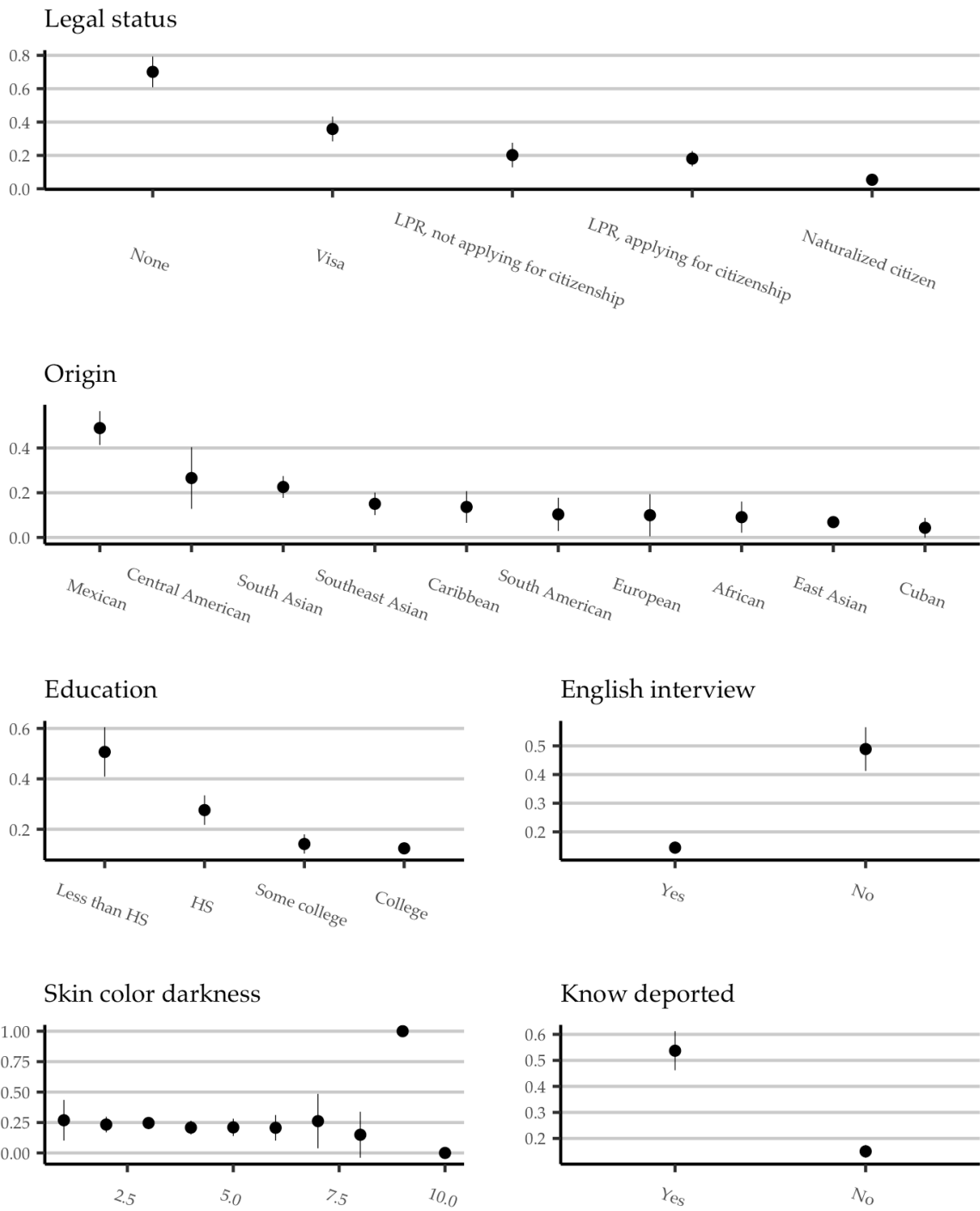


Figure 1: Sample probability of worrying about deportation for oneself. Estimates incorporate sampling weights, and bars indicated 95% confidence intervals.

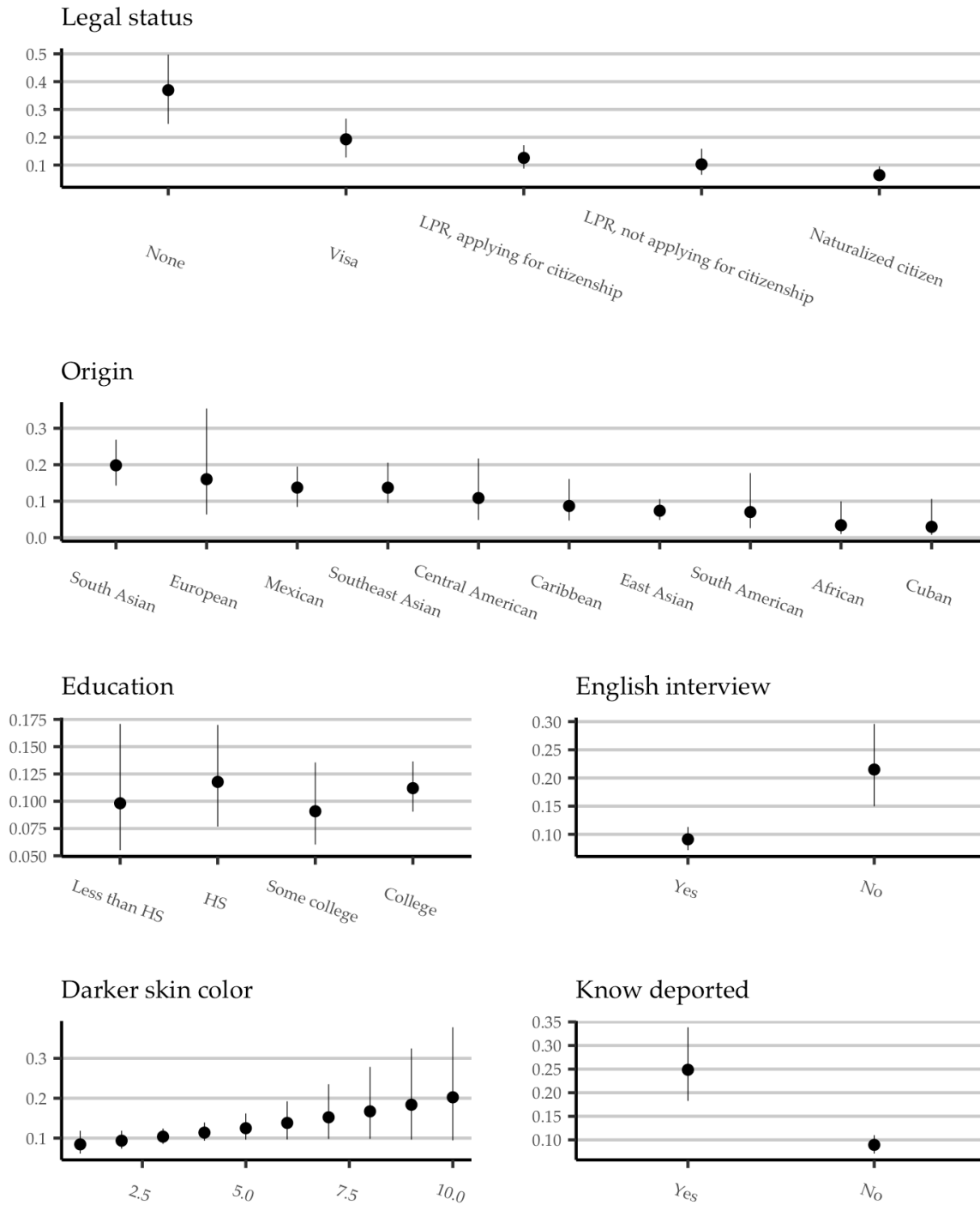


Figure 2: Simulation results from logistic regression. Outcome is predicted probability of worrying about deportation for oneself. In addition to the variables presented, the models control for household income, age of arrival, years in the U.S., and gender.

Table 1: Dominance analysis for a weighted logistic model of deportation fear. "Rank" is out of the 11 variables in the full regression model.

Rank	Variable	General dominance	Standardized
1	Legal status	0.117	33.8
2	Know deported	0.062	17.8
3	Origin	0.044	12.6
4	Survey interview language	0.035	10.2
5	Education	0.029	8.4
11	Skin color	0.001	0.2
	Total R-squared	0.347	100

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