



# DEPORTED AMERICANS

LIFE AFTER DEPORTATION TO MEXICO BETH C. CALDWELL

## FROM THE INTRODUCTION

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Following her deportation, she was alone in Tijuana—separated from her children and all of her earthly possessions. Everything felt foreign and intimidating. She explains, "I got scared when I first got in to TJ [Tijuana]. I was in shock." . . .

Six years after her deportation to Mexico, Gina still misses home. "I miss everything about it," she explains, "my kids, my family, the food, the places, the clothes, the jobs. Everything. This is not what I'm used to."

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AMERICANS**

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COVER ART: Families separated by the two countries chat along the U.S.-  
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TO MOM AND DAD,  
Thank you for your unconditional love,  
support, and generosity

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## INTRODUCTION

I am an American at heart and in many other aspects. It's the paperwork stating that I am an American that I regretfully lack.  
—deported U.S. veteran

In Mexico, especially along the border, the consequences of deportation are impossible to ignore. American children who speak limited Spanish inundate Mexican schools; camps of homeless people filled with deportees crop up in border cities; call centers owned by foreign companies set up shop to capitalize on the influx of native English speakers who, once deported, will work for under two dollars an hour. Hundreds of thousands of American families have relocated to Mexico, leaving the U.S. to stay together after a parent or spouse is deported. In border cities like Tijuana, American spouses of deportees wait in border-crossing lines for hours every morning to get to work in the United States or to take their children to school. Other families are divided by the border—parents separated from their children, spouses from one another. Among deportees with strong ties to the U.S., loneliness, depression, and thoughts of suicide are prevalent.

Although the troubling consequences of the U.S. deportation regime are visible virtually everywhere on the Mexican side of the border, they remain largely invisible to most people on the U.S. side. Once deported, people who were previously integral members of U.S. society fade from the country's collective consciousness. Banished from the boundaries of the nation

they once called home—often permanently—the millions of deported disappear. However, people who have been part of the social fabric of the United States should not be so easily forgotten.

The United States has embarked on a massive deportation effort over the last decade; its scope exponentially exceeds deportation efforts of the past. During President Barack Obama's eight years in office, the United States deported more people than it deported in a 108-year period between 1892 and 2000.<sup>1</sup> President Donald Trump has set out to deport even more. Many who have been deported in recent years belong to American families—a quarter of the people the U.S. has deported in recent years are parents of American-citizen children, and still more are married to U.S. citizens. The majority have been deported to Mexico—over 2.6 million people in the ten years between 2007 and 2016 alone.<sup>2</sup> At least half a million U.S.-citizen children now live in Mexico. Deportees who grew up in the U.S.—and their family members—struggle to adapt to life in Mexico because they feel they have been forced out of their homeland.

WHEN GINA WAS deported to Tijuana, Mexico, in 2011, she was scared. Although she was born in Mexico, her only memory of being there was a fuzzy, dreamlike recollection of falling off a burro—a donkey—when she was three or four years old. Her parents brought her to the United States when she was young; she's not sure how old she was. She knows she was born in Guerrero, one of Mexico's poorest states. After explaining this, she quickly says, "Don't ask me more because I don't know." Her childhood memories revolve around her life in the U.S.—going to school, attending birthday parties at Chuck E. Cheese, and dancing at her high school prom. As an adult, she gave birth to three children in the U.S. and celebrated countless holidays with her parents and siblings, all now U.S. citizens. After she left Mexico as a child, she only returned once, driving down to Rosarito Beach from Los Angeles like thousands of other American tourists for a weekend getaway in Baja California.<sup>3</sup>

Following her deportation, she was alone in Tijuana—separated from her children and all of her earthly possessions. Everything felt foreign and intimidating. She explains, "I got scared when I first got in to TJ [Tijuana]. I was in shock. I'm like, 'Oh my God,' especially seeing the mountains with houses and then all the people outside." The "mountains with houses" are hillsides lined with makeshift shelters, some pieced together from scraps of

wood and cardboard, roofs patched with pieces of scrap metal. Even after being in Mexico for months, she still doesn't feel comfortable in Tijuana. "I'm scared too. I don't like going to the *centro* [downtown Tijuana]. I get scared walking over there. I don't like it. I feel like someone is going to rape me or rob me. You walk and all the guys [are] staring at you like if they wanna do something or they're planning to do something to you." The area of town she is referring to is otherwise known as the Zona Norte. It's the part of the city closest to the border—the place where deportees arrive if they keep walking straight from the entry to Mexico where Border Patrol leaves them. It's also a haven for drugs and prostitution.

Gina experienced her so-called return to Mexico as a foreigner. She expressed discomfort, fear, and shock with many things she saw—a lot like other Americans might feel if dropped off in Tijuana with no warning. Gina is not technically American, although she almost was. She had a green card for many years. In legal terms, she was a lawful permanent resident on track to become a citizen. "I passed my citizen test and everything," Gina reports in our first interview. "Congratulations," she remembers hearing, "you passed!" The next step was to attend a swearing-in ceremony, but she was told she would need to appear in immigration court before being sworn in. She never made it to the ceremony. Rather than becoming a citizen, Gina was deported.

Her path to citizenship was derailed because she had been in an abusive relationship with the father of her children. Although his abuse was so severe that she suffered two miscarriages following beatings, Gina was the one who was arrested and convicted of domestic violence. She fled Los Angeles to get away from him, going to Colorado where her parents lived. After the move, she missed a critical immigration court appearance in Los Angeles. In her absence, the judge issued a deportation order due to the criminal conviction. Gina still had her green card, but unbeknownst to her, it was no longer valid. Six years after her deportation to Mexico, Gina still misses home. "I miss everything about it," she explains, "my kids, my family, the food, the places, the clothes, the jobs. Everything. This is not what I'm used to."

THE EXPERIENCES OF Gina and other deportees who grew up in the United States raise complicated questions about what should happen when legal definitions governing citizenship contradict people's identities. How

do people develop identities tied to a country that does not recognize them as members? What happens when people are rejected and expelled by the country they consider home? Morally and legally, should the United States deport people whose lives are inextricably tied to it?

This book addresses these issues by focusing on the experiences of deportees and their family members. It highlights how the law has fueled mass deportation in the past decade and examines the consequences of this policy choice. It combines primary research with legal analysis in order to explore the real-world consequences of the law and to identify potential legal challenges to current policies based on people's life experiences.

At its core, this book is about membership, and its opposite—exclusion. The title *Deported Americans* is meant to challenge traditional notions of what it means to be American, and to highlight the contradiction of banishing people who feel like they belong within the territorial boundaries of the United States. By documenting deported people's feelings of identity, their attachments to the United States, and the stigma and rejection they feel in Mexico, I examine inconsistencies between legal definitions of citizenship and people's life experiences. Although the Statue of Liberty articulates an inclusive stance toward immigrants, welcoming the "huddled masses yearning to breathe free," this inclusive rhetoric is a myth because it so clearly conflicts with the nation's history of excluding people of color and other socially marginalized groups.<sup>4</sup> Deportees' life experiences demonstrate that this history of exclusion persists. The concept of deported Americans also captures the experiences of citizens who, although legally included in U.S. society due to their citizenship status, are simultaneously excluded from accessing many of the rights that typically accompany citizenship because of their relationships with noncitizens. The term encompasses both the experiences of deportees who are functionally American but have been deported under the law, and the experiences of their family members—many of whom are Americans under the law but have been functionally deported.

Many people who have been deported grew up in the same households as brothers and sisters who are citizens. Although the childhoods of these sibling groups are parallel, they occupy different citizenship statuses based on their location of birth or their age at the time of a parent's naturalization. The law draws lines between members of the same families whose identities and attachments are virtually identical, labeling some citizens

and others aliens. It operates as a powerful tool that extends membership status to some while denying it to others.

## DEPORTED AMERICANS

At the Casa del Migrante in Tijuana—a temporary shelter where many deportees find themselves sleeping in the days following their deportation—a glass bowl sits on a shelf, filled with deportees' key chains. It is a visual representation of all that people have left behind. The keys that fill the bowl used to unlock people's homes, offices, cars—the places where they spent the most time, and that filled their lives with meaning. After deportation, key chains that at one time felt indispensable become so meaningless that they no longer serve a purpose. The keys people have left behind represent lost families, homes, jobs, property, and lives. These losses are no less profound because of one's location of birth.

The people I interviewed all migrated to the United States as children and were primarily socialized there. Some came when they were infants, one or two months old. I call them deported Americans because they identify themselves as Americans. People in Mexico perceive them as Americans as well. They are members of the 1.5 generation of immigrants (who arrived between the ages of six and twelve) or the 1.75 generation (who arrived prior to age six). The majority fall into the second category—they came as very young children. Sociologist Rubén Rumbaut has found that the “experience and adaptive outcomes [of 1.75 generation migrants] are closer to that of the U.S.-born second generation” children of immigrants, “pre-school children who retain virtually no memory of their country of birth, were too young to go to school to learn to read or write in the parental language in the home country (and typically learn English without an accent), and are almost entirely socialized here.”<sup>5</sup> An estimated 2.1 million members of the 1.5 or 1.75 generation immigrants of Mexican descent reside in the U.S.—almost half are now adults.<sup>6</sup> In his book *Lives in Limbo*, Roberto G. Gonzales explores the life experiences of undocumented members of this population while they are living in the United States, uncovering the complex nature of their membership status in U.S. society. This book looks at the other side of this generation's experiences by examining what happens after people who have been primarily socialized in the United States are deported.

Deported Americans are similar to the people the DREAM (Development, Relief, and Education for Alien Minors) Act set out to protect, and to the young people who have been protected by DACA (Deferred Action for Childhood Arrivals), which has provided temporary relief from deportation for people who migrated to the United States as children.<sup>7</sup> Some deportees in Mexico even call themselves “los otros Dreamers”—the other Dreamers. Yet many have no hope of ever lawfully returning to the United States. When President Obama announced the creation of DACA, he highlighted the strong affiliations with U.S. society that young people develop when they migrate as children. He stated, “These are young people who study in our schools, they play in our neighborhoods, they’re friends with our kids, they pledge allegiance to our flag. They are Americans in their heart, in their minds, in every single way but one: on paper.”<sup>8</sup>

Many people the United States has deported were also educated in U.S. schools and recall beginning their school days by pledging allegiance to the American flag. Some even served in the U.S. military. According to one deported veteran, “I am an American at heart and in many other aspects. It’s the paperwork stating that I am an American that I regretfully lack.” Why are so many people permanently barred from returning to the United States despite relatively widespread support for protecting from deportation those who came to the United States as children?

The line that divides most (but not all) of the people I interviewed from their counterparts who have been allowed to stay in the United States is that they have been defined as criminals. People with criminal convictions are disqualified from most protections in immigration law, including DACA.<sup>9</sup> While excluding people with criminal convictions may seem like good public policy on the surface, the criminal alien label has been used to manipulate public support for deportation practices that have consequences so cruel and inhumane that they would likely raise more concerns about the legitimacy of deportation if the population most affected were not so dehumanized.

This book aims to humanize people who have been deported based on perceptions of criminality and dangerousness in an effort to push back against the totalizing narrative that frames the lives of “criminal aliens” as less valuable. Thus, I deliberately place the experiences of people who have been deported due to criminal convictions at the center of my analysis, highlighting their stories in order to demonstrate the human costs of framing an ever-expanding segment of the population as disposable. I focus

not only on the experiences of deportees but also on their family members, thus challenging the false dichotomy between felons and families that has been drawn in popular discourse.

Although my research focuses on Mexico, its findings are relevant to understanding the broader phenomenon of people who grew up in the United States but have been deported to countries around the world. Scholars have started to refer to the widespread displacement of deportees who identify as American as a diaspora—“the movement, migration, or scattering of people away from an established or ancestral homeland.”<sup>10</sup> Although not typically used to refer to those who have been deported, the term fits for those deportees who identify the United States as their homeland. Daniel Kanstroom, the preeminent legal scholar on deportation, frames the phenomenon of this “forcibly uprooted population of people with deep and cohesive connections to each other and to the nation-state from which they were removed” as a “new American diaspora.”<sup>11</sup> Nancy Landa, who grew up in Los Angeles but was deported to Mexico, refers to the phenomenon as “the Dreamer diaspora.”<sup>12</sup> Although most of the members of this deported American diaspora now live in Mexico, others have been scattered across the world, with documented concentrations in El Salvador, Guatemala, the Dominican Republic, Jamaica, and Cambodia.

Accounts from deportees who grew up in the United States and have been deported to various countries echo the sense that they are essentially American. In an ethnographic study focused on deportees to El Salvador, Susan Bibler Coutin explains that “King,” an immigrant from El Salvador who came to the United States as a young child but was deported as a young adult, “experienced deportation not as a return but as a departure, [in his words], ‘leaving, you know, the country you were raised in.’”<sup>13</sup> Similarly, in their book about deportation to the Dominican Republic, David C. Brotherton and Luis Barrios found that for deportees who had “emigrated as children and who were socialized from an early age in the norms, rituals, and ideologies of the United States, . . . it was difficult to see themselves as anything other than ‘American.’ . . . Their cultural reference points, their most important memories, and the narratives they repeated to themselves were still embedded in New York.”<sup>14</sup> One woman who had grown up in the U.S. but was deported to Mexico identified so strongly with the U.S. that she misunderstood the immigration officer’s asylum screening question—where they ask if she was in fear of returning to her country of origin. In her words, “They asked me, ‘Are you afraid that somebody’s going to hurt



you in your country or something?” And I told them no, because I consider the [United States] as my country, you know? Not anywhere else. . . . I don’t know anybody [in Mexico].”<sup>15</sup>

Legal scholar Cristina Rodríguez argues that “membership can turn on the extent of one’s earned connection to U.S. society and may not be merely a function of legal status.”<sup>16</sup> She uses the term “functional Americans” to refer to noncitizens with particularly strong ties to the U.S. who are essentially American.<sup>17</sup> Deportation is particularly cruel for functional Americans. It not only undermines family connections, career paths, and other attachments but also strikes at the core of people’s identities.<sup>18</sup>

## RESEARCH AND METHODOLOGY

I did not set out to write a book documenting the consequences of deportation to Mexico. Rather, my interest in the subject unfolded organically, fueled by both personal and professional experiences. From 2005 to 2009, as deportation numbers were beginning to spike, I worked as a public defender in Los Angeles. Many of my clients were not citizens of the United States. Thus, advising people about the immigration consequences likely to flow from their criminal convictions became a central part of my practice as a criminal defense attorney. For many, the most serious consequences of their criminal cases were not the sentences they faced in criminal court, but the immigration consequences that would follow their convictions.

I represented a nineteen-year-old whose family had moved from El Salvador when he was a toddler. He was lawfully in the U.S. under a humanitarian program that provides temporary relief for people from designated countries experiencing conflict or environmental disasters. He was charged with a relatively minor misdemeanor for engaging in disorderly conduct. He had been binge drinking with friends, like many of his peers on college campuses across the country. However, he was apprehended by police for acting drunk in public. As is typical in criminal court, the city attorney’s office had charged him with two separate but related crimes for his conduct that night. He had a choice—he could take his chances at trial or he could plead guilty. If he took the plea bargain, the prosecutor was prepared to drop one of the misdemeanor charges and to offer a sentence of community service rather than jail time.

People convicted of two misdemeanor offenses were ineligible for Temporary Protected Status, so he would risk deportation if he went to trial and

lost, because he could have been convicted of two misdemeanors. He decided to plead guilty because the immigration consequences were too serious to risk. I sat with my client and his mother and discussed the potential immigration problems he could face if he were convicted of another crime in the future. I offered potential scenarios that could saddle him with a new offense—things I often saw with other clients his age, like riding in a car with someone who had contraband, or carrying drugs, a pipe, or a pocket-knife. I tried to impress upon him the gravity of his position—any second misdemeanor offense would render him ineligible to stay in the country. A couple months later, he was back in court, charged with a second misdemeanor offense. A different attorney was assigned to represent him on this case, and I do not know what the outcome was. But his situation highlights just how tenuous lawful presence can be—and just how quickly someone can go from being a typical American teenager with lawful status in the U.S. to being a potential deportee, facing forcible removal from his home and his family. As a public defender, I witnessed the front end of the deportation process, as people became aware that they could face removal as a result of an arrest or conviction.

I started to see the other side of deportation—what happens after people are deported—when I moved to Mexico in 2009 to research criminal justice reforms with funding from a Fulbright Garcia-Robles grant. I traveled around Mexico quite a bit that year and encountered people all over the country who had grown up in the United States but had been deported—people who spoke English using American slang and colloquial expressions, and who dressed in a uniquely American style. I started to have casual conversations with others about their experiences, which unfolded naturally, driven partly by a tangible excitement to talk about the place we both considered home. I met several deportees from Los Angeles, where I grew up; this gave us common ground. People would tell me about the things they missed the most—foods, people, places. Their memories were intertwined with a sense of despair because they had been physically removed from the people and places that were so important to them. These conversations shaped my understanding of the unique challenges facing deportees who had spent their formative years in the U.S.—I was struck by how American many people who had been permanently banished from the U.S. were.

In the capital city of the southern state of Oaxaca, I met a woman who hadn't seen her nine-year-old son since he was six because he remained in

Los Angeles with his father to continue attending school there. She taught at a prestigious language school in the center of the city and spoke with an American accent. “I’m more comfortable speaking English than Spanish,” I recall her telling me. In a small coastal town on Oaxaca’s coast, I met a middle-aged former gang member who had grown up on the Eastside of Los Angeles but had settled into a job managing a hotel perched on a cliff overlooking the ocean. “From the streets of L.A., I never thought I’d end up here,” she said, while I ate breakfast on a cliff-side patio with a spectacular view of the Pacific Ocean. “The pay isn’t great, but I get to live *here*, so it’s not bad.”

Although these conversations arose naturally, I started to take notes. I knew the stories were important. I was honored by the intimate details people shared and was inspired by their hope that people back home would pay attention to what was happening to them after they were “kicked out.” People did not want to be forgotten. Each individual’s experience was unique, but at the same time, I started to see common themes running through their stories—themes of family separation, struggles with identity, stigmatization, and loss. I didn’t have a prescribed list of questions. Instead, I listened to people as they discussed the aspects of their deportation experience that stood out most to them. I spent several months in the central state of Jalisco in 2010, where I ran into deportees working primarily in the tourism industry. They were particularly visible in Puerto Vallarta—a popular tourist destination for Americans and Canadians—where native English speakers lined the streets offering information about time-shares and tours. I arrived in Tijuana later in 2010 and was struck by the sheer numbers of Americanized deportees. Their numbers were exponentially larger in the border area than in the rest of the country.

In 2011, I began to interview people in the Tijuana region more formally, gathering information from more and more deportees. I found people primarily by word of mouth, with one person referring me to others. Service providers who work with the deported population put me in touch with some people. Others I located rather accidentally. I approached people I encountered in their daily lives—people who seemed American because of their dress or the ease with which they spoke English—with the assistance of my husband and research partner, Joel Medina. With his charm and insight, Joel opened doors to interview people whom I never would have been able to interview alone. I interviewed people in their homes, at their jobs, and in shelters, bars, restaurants, and coffee shops.

Between 2009 and 2016, I interviewed 112 deportees, mostly men but some women.<sup>19</sup> I deliberately limited the population I interviewed to include people who spent their formative years in the United States—those who came to the country when they were children. Most of the interviews took place in person, although a few occurred over the phone or via videoconferencing. The majority took place in the border area of Mexico—particularly Tijuana and Rosarito—but I interviewed people throughout Mexico in Oaxaca, Guanajuato, Sonora, Jalisco, Michoacán, Mérida, and Quintana Roo. I also interviewed fifteen spouses and twelve children of deportees. Some I located online through discussion forums and Facebook groups; others I found through word of mouth. The people I interviewed ranged in age from twenty to sixty-eight years old. Some had been undocumented in the U.S.—without lawful status. The majority had been lawful permanent residents (green card holders) or had some other kind of lawful permission to be in the United States, mostly because they were in the process of acquiring lawful permanent resident status through a parent. Almost all entered the U.S. without inspection, meaning that they entered without a visa and without permission. A few of the people I interviewed were not sure whether they entered with a visa. Most were Mexican nationals, but I also interviewed twelve people who had been born in El Salvador or Nicaragua but settled in Mexico after their deportation.

One of this book's central contributions is the longitudinal nature of my research with a subgroup of deportees. I followed a core group of fifteen deportees over the course of five to seven years, checking in with them over time to see how their lives were unfolding. The book explores the experiences of six of these individuals in depth—Gina, Edgar, Jose, Frank, Mike, and Luis. I interviewed them all on several occasions and spent time with them as a participant observer in their homes, at their jobs, in parks, and in restaurants.<sup>20</sup>

My interest in deportation has been shaped by personal as well as professional experiences. My husband's family is from Mexico. Through our marriage, I became part of a mixed-status family, meaning that our family includes people who are U.S. citizens, lawful permanent residents awaiting citizenship but whose immigration status is not as safe as that of citizens, and people who do not have lawful permission to be in the U.S. Having a personal connection with deportation—or the threat of deportation—is not unusual. A 2008 study by the Pew Hispanic Research Center found that 68 percent of Latinos worried that they themselves, a family member, or a

close friend might be deported.<sup>21</sup> Several members of my extended family were deported to Mexico while I was researching and writing this book; experiencing the pain of deportation firsthand has deepened my understanding of the phenomenon.

## ORGANIZATION OF THE BOOK

Chapter 1 gives background and context, providing an overview of the laws governing deportation and examining how the evolution of deportation law has been shaped by race. I explore the connections between racist historical immigration restrictions and the current politics of exclusion directed toward people labeled criminal aliens. This exclusionary stance toward immigrants has informed the law. Immigrants in deportation proceedings are systematically denied standard constitutional protections. The chapter highlights the lack of due process protections in deportation proceedings and the dramatic erosion of protections for people with criminal convictions faced with deportation. Using narrative examples, the consequences of being deported without the opportunity to appear in court to contest one's removal are explored, as are the consequences of the extremely limited scope of judicial discretion in the current legal schema. Although the chapter's primary purpose is to provide context and history, it incorporates narrative accounts of deportees' experiences with the legal process of being deported, thus contributing information that will be of interest to specialists. Deportees' perspectives on the legal process highlight the consequences of a legal framework that systematically underprotects immigrants' rights.

Chapter 2 describes several people's experiences with arriving in Mexico and explores four common themes that emerged in their narratives: culture shock, lack of family ties, barriers to social integration, and stigma. Their arrival experiences show the extent to which their lives and identities are deeply tied to the United States and, conversely, disconnected from Mexico. The presence of a significant group of deportees of Central American origin who have settled in Mexico's border region is also discussed here. The rationales of these Central American deportees for living in Mexico's border region highlight the unique identities of deportees who associate more strongly with U.S. culture than with the cultures in their countries of origin.

Chapters 3, 4, and 5 present the major qualitative findings of my research in Mexico. Chapter 3 focuses on how people's life trajectories continue in the months and years following their deportation, identifying three primary paths: (1) descending into substance abuse and/or depression; (2) rebuilding lives in Mexico by working, starting businesses, or attending school; and (3) returning to the United States despite the risk of death or incarceration if apprehended. This chapter makes important contributions to the existing literature by examining the criminogenic conditions deportation causes from a structural perspective. Through this lens, higher rates of substance abuse among deportees in Mexico's border region are understood as a predictable result of deportation, rather than as a justification for the practice.

In addition, the longitudinal nature of my research allows me to explore how some people have been able to overcome the obstacles deportation creates and have built relatively successful lives in Mexico. For example, a number of deportees have launched small businesses or have embarked upon professional careers in Mexico, a phenomenon that has not been fully explored in other academic research. The success of some deportees demonstrates the shortcomings of deportation policies that do not allow a path to return even when an individual can demonstrate rehabilitation. My research also uncovers that feelings of loss, depression, and anxiety are persistent even among deportees who have been successful at rebuilding their lives in Mexico in the years following their deportation. Consistent with Ines Hasselberg's research on deportation in the U.K., where she describes deportation as a process that unfolds through a series of events over time, the consequences of being banished from the country people consider home extend far beyond the moment of deportation.<sup>22</sup>

Deported Americans' primary motivation to return to the United States—family ties—challenges the legitimacy of incarcerating and deporting people for doing something as natural as returning to one's family. In addition, narratives reveal how, in many cases, prison does not function as a deterrent to reentry because (1) people are often willing to risk anything to reunite with their families, especially if a family member faces some kind of crisis; and (2) many people report they would prefer to be in prison in the United States than deported to Mexico in order to be closer to family.

Chapters 4 and 5 delve into the experiences of deportees' children and spouses, discussing the myriad ways in which their lives are affected by

deportation and describing how the law has failed to protect their rights, in part because courts have failed to adequately consider the harm families experience due to deportation. Although they are citizens, they lose many of the privileges of citizenship because of their relationships to deportees. Chapter 4 specifically focuses on the experiences of spouses of deportees and compares the current experiences of women married to deportees to the historical practice of divesting American women of their citizenship if they married a foreigner. This chapter highlights logical inconsistencies in the law, which protects the right to marriage from prohibitions on interracial marriages but does not similarly protect binational marriages in cases involving deportation. Chapter 5 explores how children are affected by deportation by describing the experiences of children who are separated from their parents, those who move to Mexico, and those who go back and forth. This chapter explores several ways in which the law fails to protect children's right to family unity, and their best interest, when a parent faces deportation.

The conclusion considers solutions, recommending both judicial and legislative changes that could minimize some of the harmful consequences of deportation described in the previous chapters. The first part focuses on two areas where legal challenges in court have potential to change deportation policy. In the past, an incomplete understanding of the consequences of deportation shaped legal precedent; research on people's lived experiences now has the potential to change the rules governing deportation. Specifically, the experiences of people who grew up in the United States but have now been deported challenge traditional constructions of American identity and reveal how, in many ways, deporting members of this population is akin to denationalizing citizens. The reality of their lived experiences opens the door to reconsidering case law that draws a bright line between deportation (which is allowed under the Constitution) and denationalization (which is forbidden). In addition, the suffering that families endure when a member is deported demonstrates how previous court decisions (which have downplayed the effects of deportation on family members) are based on a fundamental misunderstanding of the meaning of deportation in people's lives. The experiences of deportees and their family members highlight the critical need for courts to reconsider prior decisions that have concluded that deportation does not compromise the rights to marriage or family unity for the family members of deportees.

In addition to exploring these two potential legal challenges to current deportation law, the conclusion recommends legislative reforms that would reincorporate a balancing test in all deportation cases, so that judges could weigh the harm of deportation against the government's interests in deporting an individual, even in cases involving criminal convictions.

IN A WORLD where increasing numbers of people (and families) live transnational lives, traditional definitions of citizenship warrant reconsideration. As anthropologist Deborah Boehm explores in *Returned*, her book about deportation to Mexico, "As places of departure and destination blur, migrants, deportees, and other transnational subjects describe 'going' and 'coming' in ways that challenge traditionally linear understandings of migration."<sup>23</sup> In the modern world, the physical boundaries of nations may no longer be the best way of capturing membership in a particular country. Scholars increasingly focus on the cultural aspects of citizenship and identity that are not tied to physical territory, and a loosening of international borders, as evidenced in experiments like the European Union. The experiences of deportees who identify as American highlight the need to think about different ways of defining membership, and even citizenship, so that formal definitions correspond to people's lived experiences.

The emergence of a body of scholarship decoupling theoretical understandings of citizenship and belonging from territorial presence butts up against a hardening of borders, perhaps in response to the international move toward transnationalism. This hardening of borders is tied to a desire to exclude immigrants deemed socially undesirable, as evident in the rhetoric surrounding popular support for Great Britain's leaving the European Union and as physically manifested in the U.S. border with Mexico.

Along the U.S.-Mexico border, a series of fences stretches for hundreds of miles, dividing "us" from "them." Over the past twenty years, the U.S. government has greatly expanded the resources it allocates to finding, detaining, and ejecting Mexican immigrants. Border Patrol's funding increased tenfold—from \$363 million to \$3.5 billion—between 1993 and 2013, and the Department of Homeland Security's budget for interior immigration enforcement increased 73 percent between 2003 and 2013.<sup>24</sup> Border enforcement has become increasingly militarized, to the extent that drones are now used to patrol several regions along the U.S.-Mexico border.<sup>25</sup> This



militarization contrasts sharply with the U.S. border with Canada, which is relatively open and unpoliced. The physical border is a concrete illustration of the less visible, socially constructed borders that divide “us” from “them” within the United States.

International human rights bodies have sharply criticized U.S. deportation policy. Despite this, the country has expanded its use of deportation. In his book *Deportation Nation*, Daniel Kanstroom argues that “we need an understanding of sovereignty, membership, citizenship, and government power that is ‘supple and flexible’ and more functionally reflective of reality as it is experienced by those who have faced this kind of state power.”<sup>26</sup> My hope is that this book will contribute to this effort by moving the legal discourse on the topic—which has historically treated the consequences of the law on people’s lives as irrelevant—toward a framework where the trauma and suffering people experience when they are deported matter more in the eyes of the law.

## NOTES

### INTRODUCTION

*Note:* Unless otherwise indicated, quotes from deportees throughout the book are from interviews I conducted. Pseudonyms are used to protect privacy.

1. Tim Rogers, “Obama Has Deported More Immigrants Than Any Other President,” *Splinter*, January 7, 2016, <https://splinternews.com/sure-looks-like-voters-really-care-about-healthcare-an-1826523310>.

2. United States Department of Homeland Security, *2016 Yearbook of Immigration Statistics* (Washington, DC: U.S. Department of Homeland Security, 2017), 108–14. From FY 2009 through FY 2016, an additional 1.39 million people were returned to Mexico, meaning the U.S. government likely apprehended them at the border, detained them, and returned them to Mexico without initiating formal removal proceedings (105).

3. I use the term “American” throughout the book to refer to people from the United States for lack of a better term, although I recognize that it can also refer to people from other countries in North, Central, and South America.

4. Kevin Johnson refers to this contradiction as the “huddled masses myth.” Kevin R. Johnson, *The Huddled Masses Myth* (Philadelphia: Temple University Press, 2004); Daniel Kanstroom, *Deportation Nation: Outsiders in American History* (Cambridge, MA: Harvard University Press, 2010).

5. Rubén G. Rumbaut, “Ages, Life Stories, and Generational Cohorts: Decomposing the Immigration First and Second Generations in the United States,” *International Migration Review* 38 (2004): 1167.

6. Roberto G. Gonzales, *Lives in Limbo: Undocumented and Coming of Age in America* (Oakland: University of California Press, 2015), 6.

7. Kate Linthicum, “Dreamers Are Building New Lives—Back in Mexico,” *Los Angeles Times*, November 4, 2014, <http://www.latimes.com/world/la-fg-c1-mexico-dreamers-20141104-story.html#page=1>.

8. White House, Office of the Press Secretary, “Remarks by the President on Immigration,” June 15, 2012, <https://obamawhitehouse.archives.gov/the-press-office/2012/06/15/remarks-president-immigration>.

9. Prior to the 2010 congressional vote on the DREAM Act, the White House assured the public that “all criminal grounds of inadmissibility and removability that apply to other aliens seeking lawful permanent resident status would apply and bar criminal aliens from gaining conditional or unconditional Lawful Permanent Resident status under the DREAM Act.” Luis Miranda, “Get the Facts on the DREAM Act,” *White House Blog*, December 1, 2010, <https://obamawhitehouse.archives.gov/blog/2010/12/01/get-facts-dream-act>.

10. “Diaspora,” *Merriam-Webster* (online dictionary), <http://www.merriam-webster.com>.

11. Daniel Kanström, *Aftermath: Deportation Law and the New American Diaspora* (New York: Oxford University Press, 2012), xi.

12. Linthicum, “Dreamers Are Building New Lives.”

13. Susan Bibler Coutin, “Exiled by Law: Deportation and the Inviability of Life,” in *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*, ed. Nathalie Peutz and Nicholas de Genova (Durham, NC: Duke University Press, 2010), 361.

14. David C. Brotherton and Luis Barrios, *Banished to the Homeland: Dominican Deportees and Their Stories of Exile* (New York: Columbia University Press, 2011), 197.

15. Angela M. Robertson, Remedios Lozada, Lawrence A. Palinkas, José Luis Burgos, Carlos Magis-Rodriguez, Gudelia Rangel, and Victoria D. Ojeda, “Deportation Experiences of Women Who Inject Drugs in Tijuana, Mexico,” *Qualitative Health Research* 22 (2012): 499.

16. Cristina M. Rodríguez, “Immigration, Civil Rights and the Evolution of the People,” *Daedalus* 142 (2013): 228.

17. Rodríguez, “Immigration,” 228.

18. Tanya Golash-Boza studied the effects of deportation from the U.S. in the Dominican Republic, Guatemala, and Brazil. She found that “deportation nearly always involves an emotional cost. This cost, however, varies tremendously depending on the circumstances of the deportation and the strength of the deportees’ ties to the United States and to their countries of birth.” Tanya Maria Golash-Boza, *Deported: Immigrant Policing, Disposable Labor, and Global Capitalism* (New York: New York University Press, 2015), 218.

19. I recorded many of the interviews. However, in many cases I chose not to record the interview because I felt the interviewee would be less likely to speak frankly if I were recording. If recording was not possible, I took detailed notes during the interview, jotting down direct quotes when something stood out in the conversation. After each interview, I filled in details immediately following the interview. When direct quotes are included in the book, they are derived from either recordings or the direct language I transcribed during the interview. Where I did not record or write down direct language from an interview subject, I paraphrase the information provided based on my notes. Each interview generally lasted an hour or two, although the length varied.

20. Out of respect for their privacy, I have changed many people’s names and those of their family members, except when their true names have already been widely used

in the media. In some cases, I have changed other minor details in order to protect people's identities. My understanding of people's stories has been enhanced by reviewing court records and speaking with their family members. For the sake of clarity, I frequently omit the names of people I only reference once in the book, reserving names for the key characters whose stories I return to.

21. Mark Hugo Lopez and Susan Minushkin, *Hispanics See Their Situation in U.S. Deteriorating, Oppose Key Immigration Enforcement Measures* (Washington, DC: Pew Research Center, 2008).

22. Ines Hasselberg, *Enduring Uncertainty: Deportation, Punishment and Everyday Life* (New York: Berghahn, 2016).

23. Deborah Boehm, *Returned: Going and Coming in an Age of Deportation* (Oakland: University of California Press, 2016), 4.

24. United States Customs and Border Protection, "U.S. Border Patrol Fiscal Year Budget Statistics," December 12, 2017, <https://www.cbp.gov/document/stats/us-border-patrol-fiscal-year-budget-statistics-fy-1990-fy-2017>; United States Department of Homeland Security, *Budget in Brief, FY 2005–14*, <https://www.dhs.gov/publication/dhs-budget>.

25. Craig Whitlock, "U.S. Surveillance Drones Largely Ineffective along Border, Report Says," *Washington Post*, January 6, 2015, [https://www.washingtonpost.com/world/national-security/us-surveillance-drones-largely-ineffective-along-border-report-says/2015/01/06/5243abea-95bc-11e4-aabd-d0b93ff613d5\\_story.html](https://www.washingtonpost.com/world/national-security/us-surveillance-drones-largely-ineffective-along-border-report-says/2015/01/06/5243abea-95bc-11e4-aabd-d0b93ff613d5_story.html).

26. Kanstroom, *Deportation Nation*, 18.

#### ONE. IN THE SHADOW OF DUE PROCESS

1. These exceptions are discussed in more detail in this chapter. They are reinstatement of removal, expedited removal, administrative removal for aggravated felony convictions, removal in absentia, and stipulated removal.

2. Immigration and Nationality Act § 241(a)(5).

3. One history of citizenship studies argues that citizenship was "a limited and discriminatory institution" for at least a century after the American Revolution. Peter Riesenberg and Henry S. Matteo, *Denationalization v. "the Right to Have Rights": The Standard of Intent in Citizenship Loss* (Lanham, MD: University Press of America, 1997), 2. The claim that immigration law is actively employed to keep people out may sound jarring. After all, the United States is a nation of immigrants. However, as this chapter explores, U.S. immigration law has always privileged some groups, welcoming wealthier, whiter migrants, while excluding others. See Ediberto Roman, *Citizenship and Its Exclusions: A Classical, Constitutional, and Critical Race Critique* (New York: New York University Press, 2010), 12 ("Western societies have uniformly accepted the aspects of citizenship discourse that have championed equality and inclusion; but at the same time, these same societies have repeatedly denied disfavored groups full social, civil, and political citizenship rights").

4. *Dred Scott v. Sandford*, 60 U.S. 393 (1856).

5. Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, NJ: Princeton University Press, 2004), 7; Natalia Molina, *How Race Is Made*

in America: Immigration, Citizenship, and the Historical Power of Racial Scripts (Berkeley: University of California Press, 2014), 2.

6. See *United States v. Thind*, 261 U.S. 204 (1923) (concluding people from India were not white), and *Ozawa v. United States*, 260 U.S. 178 (1922) (barring Japanese people from naturalizing because they were not white).

7. According to Daniel Kanstroom, *Fong Yue Ting* has “been cited by the Supreme Court more than eighty times.” Daniel Kanstroom, *Deportation Nation: Outsiders in American History* (Cambridge, MA: Harvard University Press, 2010), 17; Gabriel J. Chin, “Segregation’s Last Stronghold: Race Discrimination and the Constitutional Law of Immigration,” *UCLA Law Review* 46 (1998): 6 (“*Plessy*, *Lockwood*, *Davis*, and other disgraceful cases of that era are not just dead but dishonored, usually discussed if at all as evidence of a lamentable history of bigotry in American law. The cases that created the plenary power doctrine, by contrast, not only continue to be cited but, in the words of one distinguished authority, ‘said nearly everything the modern lawyer needs to know about the source and extent of Congress’s power to regulate immigration’”) quoting T. Alexander Aleinikoff, “Federal Regulation of Aliens and the Constitution,” *American Journal of International Law* 83 (1989): 862; Kevin R. Johnson, *The Huddled Masses Myth* (Philadelphia: Temple University Press, 2004), 14 (discussing the racist origins of the plenary power doctrine and the fact that it remains the law of the land).

8. *Chae Chan Ping v. United States*, 130 U.S. 581, 606 (1889).

9. *Chae Chan Ping*, 130 U.S. at 609; Hiroshi Motomura, *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States* (New York: Oxford University Press, 2006), 29 (arguing the case was “premised on Anglo-Saxon racial superiority”).

10. *Fong Yue Ting v. United States*, 149 U.S. 698, 706 (1893).

11. *Fong Yue Ting*, 149 U.S. at 706.

12. *Fong Yue Ting*, 149 U.S. at 733 (Brewer, J., dissenting) and 149 U.S. at 738.

13. *Chae Chan Ping*, 130 U.S. at 606.

14. David Scott FitzGerald and David Cook-Martin, *Culling the Masses: The Democratic Origins of Racist Immigration Policy in the Americas* (Cambridge, MA: Harvard University Press, 2014), 1.

15. *Yick Wo v. Hopkins*, 118 U.S. 356 (1886).

16. In 1903, the Supreme Court held that noncitizens facing deportation from the interior of the United States were entitled to procedural due process protections, such as the right to appear in court prior to being deported. *Yamataya v. Fisher*, 189 U.S. 86 (1903). In 1982, the Court expanded procedural due process protections to lawful permanent residents facing exclusion from reentering the country after a brief absence. *Landon v. Plasencia*, 459 U.S. 21 (1982); Hiroshi Motomura, “The Curious Evolution of Immigration Law: Procedural Surrogates for Substantive Constitutional Rights,” *Columbia Law Review* 92 (1992): 1652 (arguing that although courts were historically “unwilling[] to give the procedural due process requirement any real content,” they have been moving toward imbuing immigration law with greater substantive protections through the guise of procedural due process).

17. *Yamataya v. Fisher*, 189 U.S.

18. Motomura, "The Curious Evolution," 1646.
19. *Fiallo v. Bell*, 430 U.S. 787 (1977).
20. Daniel Kanstroom and M. Brinton Lykes, "Migration, Detention, and Deportation: Dilemmas and Responses," in *Deportations Delirium: Interdisciplinary Responses*, ed. Daniel Kanstroom and M. Brinton Lykes (New York: New York University Press, 2015), 12.
21. Kanstroom and Lykes, "Migration, Detention, and Deportation," 11.
22. The term Manifest Destiny was coined by John L. O'Sullivan in 1845, who described it as "the right of our manifest destiny to over spread and to possess the whole of the continent which Providence has given us for the development of the great experiment of liberty and federaltive [sic] development of self government entrusted to us. It is right such as that of the tree to the space of air and the earth suitable for the full expansion of its principle and destiny of growth." Alan Brinkley, *American History: A Survey*, vol. 1, 9th ed. (New York: McGraw-Hill, 1995), 352.
23. Gilbert G. Gonzalez, *Culture of Empire: American Writers, Mexico, and Mexican Immigrants, 1880–1930* (Austin: University of Texas Press, 2004), 9.
24. Gloria E. Anzaldúa, *Borderlands/La Frontera: The New Mestiza*, 2nd ed. (San Francisco: Aunt Lute, 1999), 29.
25. John Morton Blum, William S. McFeely, Edmund S. Morgan, Arthur M. Schlesinger, and Kenneth M. Stampp, *The National Experience: A History of the United States to 1877*, 8th ed. (Belmont, CA: Wadsworth, 1993).
26. Leticia Saucedo, "Mexicans, Immigrants, Cultural Narratives, and National Origin," *Arizona State Law Journal* 44 (2012): 307–8.
27. See, e.g., *In re Rodriguez*, 81 F. 337 (1897).
28. Ken Gonzalez Day, *Lynching in the West: 1850–1935* (Durham, NC: Duke University Press, 2006).
29. Laura E. Gomez argues that Mexicans were treated as "off-white" during this time period because they were legally defined as white under naturalization laws, but they were socially treated as nonwhite. Laura Gomez, *Manifest Destinies: The Making of the Mexican American Race* (New York: New York University Press, 2008), 84–85. Natalia Molina refers to the period between 1924 and 1965 as "an immigration regime that remade racial categories that still think the way we think about race, and specifically about Mexicans," whom, she argues, "are still not deemed fully American and are largely equated with illegality." Molina, *How Race Is Made in America*, 16.
30. Ngai, *Impossible Subjects*, 75.
31. Stephen W. Bender, *Run for the Border: Vice and Virtue in U.S.-Mexico Border Crossings* (New York: New York University Press, 2012), 125.
32. Roman, *Citizenship and Its Exclusions*, xi.
33. Leo R. Chavez, *The Latino Threat: Constructing Immigrants, Citizens, and the Nation*, 2nd ed. (Palo Alto, CA: Stanford University Press, 2013).
34. Chavez, *The Latino Threat*, 4.
35. The depiction of Mexicans as diseased has also played an important role in the history of excluding and deporting Mexicans from the United States. Molina, *How Race Is Made in America*, 94.

36. Ana Gonzalez-Barrera, “More Mexicans Leaving Than Coming to the U.S.,” Pew Research Center, November 19, 2015, <http://www.pewhispanic.org/2015/11/19/more-mexicans-leaving-than-coming-to-the-u-s/>.

37. Peter Brimelow’s 1995 best seller *Alien Nation* clearly articulates this fear that the “white majority” will be overridden by Latino immigrants, particularly from Mexico. He argues that “the American nation has always had a specific ethnic core. And that core has been white.” Brimelow presents a multiracial, multiethnic society, and specifically a growing population of people of Mexican origin, as threatening to the very foundation of American culture. Peter Brimelow, *Alien Nation: Common Sense about America’s Immigration Disaster* (New York: Harper Perennial, 1996), 10. Invasion rhetoric has been employed in political campaigns as well. In 1994, California governor Pete Wilson’s reelection campaign featured commercials showing migrants from Mexico flooding across the border into the United States coupled with the words “they keep coming.” FitzGerald and Cook-Martin, *Culling the Masses*, 134.

38. Samuel Huntington, “The Special Case of Mexican Immigration: Why Mexico Is a Problem,” *American Enterprise* (December 2000): 20, 22. Similarly, in 2009, Pat Buchanan questioned “whether we’re going to survive as a country” because of a projected growth in the Hispanic population in the United States. Chavez, *The Latino Threat*, 1.

39. Ann Coulter, *¡Adios, America! The Left’s Plan to Turn Our Country into a Third World Hellhole* (Washington, DC: Regnery, 2015).

40. Ron Nixon, “Border Wall Could Cost 3 Times Estimates, Senate Democrats’ Report Says,” *New York Times*, April 18, 2017.

41. *United States v. Ortiz*, 422 U.S. 891, 904 (1975); *City of Indianapolis v. Edmond*, 531 U.S. 32, 38 (2000).

42. Ngai, *Impossible Subjects*, 154–55.

43. Judith Warner studied the use of this terminology in public discourse and found that “the term ‘immigrant’ has positive connotations in relation to the development and operation of democracy and U.S. history while ‘illegal aliens’ are vilified.” Judith Ann Warner, “The Social Construction of the Criminal Alien in Immigration Law, Enforcement Practice and Enumeration: Consequences for Immigrant Stereotyping,” *Journal of Social and Ecological Boundaries* 1, no. 2 (2005–6): 56.

44. D. Carolina Nuñez, “War of the Words: Aliens, Immigrants, Citizens, and the Language of Exclusion,” *Brigham Young University Law Review* 2013 (2014): 1517, 1520.

45. Alfredo Mirandé, *Gringo Justice* (Notre Dame, IN: University of Notre Dame Press, 1987), 17.

46. Kelly Lytle Hernandez, *Migra! A History of the U.S. Border Patrol* (Berkeley: University of California Press, 2010), 205–6.

47. Hernandez, *Migra!*, 206.

48. Hernandez, *Migra!*, 206.

49. Hernandez, *Migra!*, 209.

50. Graham C. Ousey and Charis E. Kubrin, “Immigration and Crime: Assessing a Contentious Issue,” *Annual Review of Criminology* 1 (June 27, 2017), <https://doi.org/10.1146/annurev-criminol-032317-092026>; Bianca E. Bersani, “An Examination of First

and Second Generation Immigrant Offending Trajectories,” *Justice Quarterly* 31 (February 16, 2012), <http://dx.doi.org/10.1080/07418825.2012.659200>; Robert J. Sampson, “Rethinking Crime and Immigration,” *Contexts* 7 (2008): 28–33.

51. Department of Homeland Security, *Immigration Enforcement Actions: 2015* (Washington, DC: U.S. Department of Homeland Security, Office of Immigration Statistics, 2017), table 8, [https://www.dhs.gov/sites/default/files/publications/Enforcement\\_Actions\\_2015.pdf](https://www.dhs.gov/sites/default/files/publications/Enforcement_Actions_2015.pdf).

52. False claims to citizenship and alien smuggling are less common but are also included in the category of immigration crimes.

53. U.S. Sentencing Commission, “Figure A: Offenders in Each Primary Offense Category, Fiscal Year 2015,” <http://www.ussc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2015/FigureA.pdf>; U.S. Sentencing Commission, “Table 3: Change in Guideline Offenders in Each Primary Offense Category, Fiscal Year 2014–2015,” <http://www.ussc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2015/Table03.pdf>; Michael Light, Mark Hugo Lopez, and Ana Gonzalez-Barrera, “The Rise of Federal Immigration Crimes,” Pew Research Center, March 18, 2014, <http://www.pewhispanic.org/2014/03/18/the-rise-of-federal-immigration-crimes/>.

54. Ingrid V. Eagly, “Prosecuting Immigration,” *Northwestern University Law Review* 104, no. 4 (2010): 1281.

55. U.S. Sentencing Commission, “Table 4: Race of Offenders in Each Offense Category, Fiscal Year 2015,” <http://www.ussc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2015/Table04.pdf>.

56. Judith Ann Warner found that the mechanisms the government uses to track deportation skew the statistics by including people with criminal convictions from many years prior to their deportation and by including people whose convictions are based on immigration offenses. She warns that “Office of Immigration statistics which imply a rapidly increasing immigrant crime wave will promote stereotyping on a very dubious basis in a nation already suffering a xenophobic reaction to the new immigration and the threat of terrorism.” Warner, “The Social Construction of the Criminal Alien,” 71.

57. Guillermo Cantor, Mark Noferi, and Daniel E. Martinez, *Enforcement Overdrive: A Comprehensive Assessment of ICE’s Criminal Alien Program* (Washington, DC: American Immigration Council, 2015), 14–15, <http://immigrationpolicy.org/special-reports/enforcement-overdrive-comprehensive-assessment-criminal-alien-program>.

58. Cantor, Noferi, and Martinez, *Enforcement Overdrive*, 14–15.

59. Cantor, Noferi, and Martinez, *Enforcement Overdrive*, appendix 1 (1.5 percent of the people deported through the Criminal Alien Program had most serious convictions of sexual assault, and 0.5 percent of homicide).

60. *In re Lawrence*, 190 P.3d 535 (2008).

61. Nancy Mullane, *Life after Murder: Five Men in Search of Redemption* (New York: Public Affairs, 2012).

62. Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2010).



63. Mona Lynch, "Backpacking the Border: The Intersection of Drug and Immigration Prosecutions in a High-Volume US Court," *British Journal of Criminology* 57, no. 1 (2015): 112–31, <https://doi.org/10.1093/bjc/azv105>.

64. Cantor, Noferi, and Martinez, *Enforcement Overdrive*. Similar racial profiling occurred in Secure Communities, where 93 percent of the people identified through the program were Latino. Launched in 2008, Secure Communities was a federal program that required local police to run fingerprints of those arrested through federal databases to identify immigration issues. If a potential immigration problem was found, the local agency would keep the person in custody until he or she could be transferred to ICE custody, frequently holding people for days longer than they otherwise would have been detained in order to facilitate this transfer. Aarti Kohli, Peter Markowitz, and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process* (Berkeley, CA: Warren Institute, 2011), 5–6.

65. Narina Nuñez, Minday J. Dahl, Connie M. Tang, and Brittney L. Jensen, "Trial Venue Decisions in Juvenile Cases: Mitigating and Extralegal Factors Matter," *Legal and Criminological Psychology* 12 (2007): 21, 37.

66. Juliet Stumpf, "Doing Time: Crimmigration Law and the Perils of Haste," *UCLA Law Review* 58, no. 1705 (2011): 26.

67. Heike Drotbohm and Ines Hasselberg, "Deportation, Anxiety, Justice: New Ethnographic Perspectives," *Journal of Ethnic and Migration Studies* 41, no. 4 (2014): 551–62.

68. Ingrid V. Eagly, "Criminal Justice for Noncitizens: An Analysis of Local Enforcement," *New York University Law Review* 99 (2013): 1126, 1128.

69. Nathalie Peutz and Nicholas De Genova, *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement* (Durham, NC: Duke University Press, 2010), 10.

70. Daniel Kanstroom frames contemporary U.S. deportation policy as a social cleansing apparatus aimed at removing "those with undesirable qualities, especially criminal behavior." Daniel Kanstroom, "Deportation, Social Control, and Punishment: Some Thoughts about Why Hard Laws Make Bad Cases," *Harvard Law Review* 11 (2000): 1892. Similarly, anthropologist Susan Bibler Coutin argues that American law "constitute[s] certain noncitizens as expendable others," whom it then deports. Susan Bibler Coutin, "Exiled by Law: Deportation and the Inviability of Life," in *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*, ed. Nathalie Peutz and Nicholas de Genova (Durham, NC: Duke University Press, 2010), 357.

71. Barack Obama, Second Presidential Debate, October 16, 2012; "Remarks by the President in Address to the Nation on Immigration," The White House, November 20, 2014, <https://obamawhitehouse.archives.gov/the-press-office/2014/11/20/remarks-president-address-nation-immigration>; Graham Lanktree, "Trump Says Immigrant Gang Members 'Slice and Dice' Young, Beautiful Girls," *Newsweek*, July 26, 2017, <http://www.newsweek.com/trump-says-immigrant-gang-members-slice-and-dice-young-beautiful-girls-642046>.

72. Lucas Guttentag, "Immigration Legislation and Due Process: The Forgotten Issue," *International Migration Review* 19 (1996): 33–34.

73. Anil Kalhan, "Revisiting the 1996 Experiment in Comprehensive Immigration Severity in the Age of Trump," *Drexel Law Review* 9 (2017): 263.

74. Kalhan, “Revisiting the 1996 Experiment,” 263.
75. Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, § 7342, 102 Stat. 4181, 4469-70.
76. César Cuahitémoc García Hernández, “Creating Crimmigration,” *Brigham Young University Law Review* 2013 (2014): 1469-70.
77. American Immigration Council, “Aggravated Felonies: An Overview,” December 16, 2016, <https://www.americanimmigrationcouncil.org/research/aggravated-felonies-overview> (“Today, the definition of ‘aggravated felony’ covers more than thirty types of offenses, including simple battery, theft, filing a false tax return, and failing to appear in court”).
78. Three hundred thousand people were deported from the United States for aggravated felony convictions between fiscal years 1992 and 2006. In recent years, somewhere in the neighborhood of forty thousand people per year with aggravated felony convictions have been deported annually. Transactional Records Access Clearinghouse (TRAC), “New Data on the Processing of Aggravated Felons,” January 5, 2007, <http://trac.syr.edu/immigration/reports/175/>; TRAC, “How Often Is the Aggravated Felony Statute Used?,” 2006, <http://trac.syr.edu/immigration/reports/158/>.
79. TRAC, “How Often Is the Aggravated Felony Statute Used?”
80. TRAC, “How Often Is the Aggravated Felony Statute Used?”
81. Department of Homeland Security, *Immigration Enforcement Actions: 2013* (Washington, DC: U.S. Department of Homeland Security, Office of Immigration Studies, 2014), table 7, [https://www.dhs.gov/sites/default/files/publications/Enforcement\\_Actions\\_2013.pdf](https://www.dhs.gov/sites/default/files/publications/Enforcement_Actions_2013.pdf).
82. Marc R. Rosenblum and Doris Meissner, *The Deportation Dilemma: Reconciling Tough and Humane Enforcement* (Washington, DC: Migration Policy Institute, 2014), 3-4, <http://www.migrationpolicy.org/research/deportation-dilemma-reconciling-tough-humane-enforcement>.
83. Department of Homeland Security, *Immigration Enforcement Actions: 2015*, table 6.
84. Executive Office for Immigration Review, *FY 2016 Statistics Yearbook*, 1.
85. Department of Homeland Security, *Immigration Enforcement Actions: 2013*, 6; Department of Homeland Security, *Immigration Enforcement Actions: 2015*.
86. Immigration and Nationality Act § 238.
87. Immigration and Nationality Act § 238(b).
88. Jeremy Slack, Daniel E. Martínez, and Scott Whiteford, eds., *In the Shadow of the Wall* (Tucson: University of Arizona Press, 2013), 121.
89. Slack, Martínez, and Whiteford, *In the Shadow of the Wall*.
90. Department of Homeland Security, *Immigration Enforcement Actions: 2015*, table 6; TRAC, “ICE Bypassing Immigration Courts? Deportations Rise as Deportation Orders Fall,” August 13, 2012, <http://trac.syr.edu/immigration/reports/291/>.
91. Daniel Kanstroom, *Aftermath: Deportation Law and the New American Diaspora* (New York: Oxford University Press, 2012), 66.
92. Trina Realmuto, “Practice Advisories: Reinstatement of Removal,” Legal Action Center, April 29, 2013, [http://www.legalactioncenter.org/sites/default/files/reinstatement\\_of\\_removal\\_4-29-13\\_fin.pdf](http://www.legalactioncenter.org/sites/default/files/reinstatement_of_removal_4-29-13_fin.pdf) (“Every circuit has held that the court of appeals has jurisdiction over petitions for review of reinstatement orders”).
93. Immigration and Nationalization Act § 240(e)(1).

94. For example, one study “found that asylum seekers in expedited removal proceedings were at risk of being returned to countries where they may face persecution.” Denise Noonan Slavin and Dana Leigh Marks, “Who Should Preside Over Immigration Cases,” in *Deportations Delirium: Interdisciplinary Responses*, ed. Daniel Kanstroom and M. Brinton Lykes, 89–112 (New York: New York University Press, 2015), 104.

95. Maritza I. Reyes, “Constitutionalizing Immigration Law: The Vital Role of Judicial Discretion in the Removal of Lawful Permanent Residents,” *Temple Law Review* 84 (2012): 646 (citing *Theogene v. Gonzales*, 411 F.3d 1107, 1113 (9th Cir. 2005)).

96. See Bill Ong Hing, *Deporting Our Souls: Values, Morality, and Immigration Policy* (New York: Cambridge University Press, 2006).

97. Hing, *Deporting Our Souls*, 60.

98. Hing, *Deporting Our Souls*, 60.

99. *Paredes-Urrestarazu v. INS*, 36 F.3d 801 (9th Cir. 1994).

100. *Diaz-Resendez v. INS*, 960 F.2d 493 (5th Cir. 1992).

101. Hing, *Deporting Our Souls*, 63.

102. *Mellouli v. Lynch*, 135 S. Ct. 1980 (2015).

103. *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010).

104. Paul Grussendorf, “Immigration Judges Need Discretion,” *SF Gate*, April 11, 2013, <https://www.sfgate.com/opinion/openforum/article/Immigration-judges-need-discretion-4428406.php>.

105. Dana Leigh Marks, “Let Immigration Judges Be Judges,” *The Hill*, May 9, 2013, <http://thehill.com/blogs/congress-blog/judicial/298875-let-immigration-judges-be-judges>.

106. Judge Zsa Zsa DePaolo was speaking at a public event that I attended.

107. James P. Vandello, “Perspective of an Immigration Judge,” *Denver University Law Review* 80, no. 4 (2003): 780.

108. Nancy Morawetz, “Understanding the Impact of the 1996 Deportation Laws and the Limited Scope of Proposed Reforms,” *Harvard Law Review* 113 (2000): 1950.

109. Randy Capps, Heather Koball, Andrea Campetella, Krista Perreira, Sarah Hooker, and Juan Manuel Pedroza, *Implications of Immigration Enforcement Activities for the Well-Being of Children in Immigrant Families: A Review of the Literature* (Washington, DC: Urban Institute and Migration Policy Institute, 2015), 5.

110. Report No. 81/10, Case 12.562, Wayne Smith, Hugo Armendariz et al. (July 12, 2010).

111. Presidential Statement of Signing of the AEDPA, 32 Weekly Comp. Pres. Doc. 720 (April 24, 1996).

112. Court documents. It is worth noting that this framework is based on traditional notions of family. People whose lives do not correspond to these norms—gay couples, people without children, or people who embrace more nontraditional lifestyles—would likely face even greater challenges convincing a judge to exercise discretion to allow them to stay. I return to this issue in the conclusion, where I discuss an approach employed by the European Court of Human Rights that uses expansive definitions of family and also considers an individual’s right to private life.

113. Immigration and Nationality Act (INA) of 1952 § 242(a)(2)(C), 8 U.S.C. § 1252(a)(2)(C) (2012). There are some very narrow exceptions. For example, an individual may be eligible for protection under the Convention against Torture.

114. See 8 U.S.C. § 1182(a)(9)(A)(ii) (2012) (stating that a noncitizen who has been convicted of an “aggravated felony” and has been previously ordered removed is inadmissible “at any time”). For people who did not enter as lawful permanent residents, INA 212(h) provides an avenue to apply for a waiver from this lifetime bar. However, it is extremely difficult for people with aggravated felonies to qualify for this waiver.

115. Ingrid V. Eagly and Steven Shafer, “A National Study of Access to Counsel in Immigration Court,” *University of Pennsylvania Law Review* 164, no. 1 (2015): 1–91.

116. Jayashri Srikantiah and Lisa Weissman-Ward, *Access to Justice for Immigrant Families and Communities: Study of Legal Representation of Detained Immigrants in Northern California* (Northern California Collaborative for Immigrant Justice, 2014), <https://www.lccr.com/wp-content/uploads/NCCIJ-Access-to-Justice-Report-Oct.-2014.pdf>, 18.

117. Eagly and Shafer, “A National Study,” 9.

118. See, e.g., *Aguilera-Enriquez v. INS*, 516 F.2d 565 (1975).

119. *Aguilera-Enriquez*, 516 F.2d at 574 (J. DeMascio, dissenting).

120. Quality control is also a critical issue in immigration cases. Even those who can hire attorneys often receive deficient representation. Immigration judges in New York courts reported in 2011, for example, that the representation by immigration attorneys in cases they presided over “does not meet a basic level of adequacy” in almost half of the cases that appear before them. New York Immigrant Representation Study Report, “Accessing Justice: The Availability and Adequacy of Counsel in Removal Proceedings,” *Cardozo Law Review* 333 (2011): 357.

121. Department of Homeland Security, *2015 Yearbook of Immigration Statistics* (Washington, DC: U.S. Department of Homeland Security, 2016), table 39.

122. The United States expels people from its boundaries through two legal mechanisms: removal and return. People who are removed are ordered to leave the country, by either an immigration judge or an immigration official. The fact that they were removed subjects them to administrative and criminal penalties if they seek to return. In contrast, people who are returned are generally apprehended at the border and are sent back without an order of removal. While more people were removed under President Obama’s administration, fewer people were returned.

123. Kanstroom and Lykes, “Migration, Detention, and Deportation,” 4–5.

124. In 2015, Mexicans constituted 242,456 out of a total of 333,341 people deported from the United States. Department of Homeland Security, *2015 Yearbook of Immigration Statistics*, table 41.

125. Records from ICE confirm that a sizeable number of people deported from the interior have long-term ties to the country—17 percent of those apprehended in the interior of the country between 2003 and 2013 had lived in the United States for over ten years. Marc R. Rosenblum and Kristen McCabe, *Deportation and Discretion: Reviewing the Record and Options for Change* (Washington, DC: Migration Policy Institute, 2014), 24, <https://www.migrationpolicy.org/research/deportation-and-discretion-reviewing-record-and-options-change>.

126. Marjorie S. Zatz and Nancy Rodriguez, *Dreams and Nightmares: Immigration Policy, Youth, and Families* (Oakland: University of California Press, 2015).

127. James Lee and Bryan Baker, *Estimates of the Lawful Permanent Resident Population in the United States: January 2014* (Washington, DC: U.S. Department of Homeland Security, 2017), 3, <https://www.dhs.gov/sites/default/files/publications/LPR%20Population%20Estimates%20January%202014.pdf>.

128. Tonatiuh Guillén López, “Entre la convergencia y la exclusión: La deportación de mexicanos desde Estados Unidos de América” [Between convergence and exclusion: The deportation of Mexicans from the United States], *Realidad, Datos y Espacio Revista Internacional de Estadística y Geografía* 3, no. 3 (2012): 164, 174, [http://www.inegi.org.mx/RDE/RDE\\_07/Doctos/RDE\\_07\\_opt.pdf](http://www.inegi.org.mx/RDE/RDE_07/Doctos/RDE_07_opt.pdf). People deported to Mexico in recent years have generally spent more time in the United States than people who were deported in the past. Only 3 percent of people surveyed upon their removal to Tijuana in 2004 had lived in the U.S. for three years or more, but this number jumped to 38 percent in 2011. López, “Entre la convergencia y la exclusión.”

129. Slack, Martínez, and Whiteford, *In the Shadow of the Wall*, 11.

130. For example, the Supreme Court has previously held that mandatory civil detention does not violate the Constitution in the immigration realm even though the Constitution would bar the practice in other contexts. *Demore v. Kim*, 538 U.S. 510, 522 (2003). But see *Zadvydas v. Davis*, 533 U.S. 678 (2001) (applying some substantive due process limits in the immigration realm by holding that the plenary power doctrine does not allow the government to indefinitely detain immigrants subject to deportation).

131. *Fong Yue Ting v. United States*, 149 U.S. 698, 756 (1893) (Field, J., dissenting).

132. Office of the High Commissioner of Human Rights, *Recommended Principles and Guidelines on Human Rights at International Borders* (Geneva: UNHR, 2014), [http://www.ohchr.org/Documents/Issues/Migration/OHCHR\\_Recommended\\_Principles\\_Guidelines.pdf](http://www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf).

133. United States Commission on Civil Rights, *With Liberty and Justice for All: The State of Civil Rights at Immigration Detention Facilities* (2015), 123, [http://www.usccr.gov/pubs/Statutory\\_Enforcement\\_Report2015.pdf](http://www.usccr.gov/pubs/Statutory_Enforcement_Report2015.pdf).

134. There are signs that this may be changing. For example, in 2001 the Supreme Court ruled that indefinitely detaining immigrants violates the Constitution (*Zadvydas v. Davis*, 533 U.S. 678), and in 2017 the Supreme Court held an immigration law to violate the Equal Protection Clause of the Constitution because it discriminated on the basis of gender (*Sessions v. Morales-Santana*, 137 S. Ct. 1678 (2017)). Kevin Johnson analyzed a series of Supreme Court decisions on immigration-related issues in 2017 and concluded that “the court appears to be moving toward applying ordinary constitutional norms to immigration law.” Kevin Johnson, “No Decision in Two Immigration-Enforcement Cases,” *SCOTUSblog*, June 26, 2017, <http://www.scotusblog.com/2017/06/no-decision-two-immigration-enforcement-cases/>.

135. Jennifer Chacón argues that the 1996 immigration reforms “normalized a national discourse that positions all immigrants, and particularly those perceived as ‘illegal Mexican immigrants,’ as a crime and security problem that needs solving, rather

than an integral part of the national community.” Jennifer M. Chacón, “The 1996 Immigration Laws Come of Age,” *Drexel Law Review* 9 (2017): 299–300.

## TWO. RETURN TO A FOREIGN LAND

1. In longitudinal research with undocumented young people in Los Angeles, Roberto G. Gonzales found that undocumented immigrants who came to the U.S. as children often did not realize they were undocumented until their teenage years. Roberto G. Gonzalez, *Lives in Limbo: Undocumented and Coming of Age in America* (Oakland: University of California Press, 2015). He describes adolescence as a traumatic time for his undocumented respondents when “the condition of illegality, which is temporarily suspended during childhood and early adolescence, becomes a significant part of everyday life in adulthood” as they come “into closer contact with legal exclusions” such as bars to applying for college and financial aid, getting jobs, and obtaining driver’s licenses.

2. He made this statement in English. Using the term “rare” in this context sounds more natural in Spanish, where the phrase “No soy raro” would literally translate to “I’m not weird.”

3. Academics point out the “othering” of referring to people as aliens. According to Gerald Neuman, the term “calls attention to their ‘otherness’ and even associates them with nonhuman invaders from outer space.” Gerald L. Neuman, “Aliens as Outlaws, Government Services, Proposition 187, and the Structure of Equal Protection Doctrine,” *UCLA Law Review* 42 (1994), 1428; Kevin R. Johnson, “Aliens and the U.S. Immigration Laws: The Social and Legal Construction of Nonpersons,” *University of Miami Inter-American Law Review* 28 (1996): 272 (“The word alien immediately brings forth rich imagery. One thinks of space invaders seen on television and in movies”).

4. The Migrant Border Crossing Study found that 23 percent of the deportees they surveyed reported verbal abuse during the deportation process. Daniel E. Martínez, Jeremy Slack, and Josiah Heyman, *Bordering on Criminal: The Routine Abuse of Migrants in the Removal System* (Washington, DC: American Immigration Council, 2013), 2, <https://www.americanimmigrationcouncil.org/research/bordering-criminal-routine-abuse-migrants-removal-system>.

5. Martínez, Slack, and Heyman, *Bordering on Criminal*, 6.

6. Jeremy Slack, Daniel E. Martínez, and Scott Whiteford, *In the Shadow of the Wall* (Tucson: University of Arizona Press, 2013), 119.

7. Martínez, Slack, and Heyman, *Bordering on Criminal*, 5.

8. Martínez, Slack, and Heyman, *Bordering on Criminal*, 5.

9. Deborah Boehm, *Returned: Going and Coming in an Age of Deportation* (Oakland: University of California Press, 2016), 27.

10. Boehm, *Returned*, 28.

11. Cecilia Menjívar, “Liminal Legality: Salvadoran and Guatemalan Immigrants’ Lives in the United States,” *American Journal of Sociology* 111, no. 4 (2006): 999–1037.

12. Michael Sangiacomo and Alfredo Corchado, “Man Who Was Kidnapped after Deportation Is Freed Following Payments, 5 Days of Beatings,” *Dallas News*, August 1,

2017, <https://www.dallasnews.com/news/immigration/2017/08/01/man-kidnapped-deportation-freed-following-payments-5-days-beatings>.

13. Stephen Bochner, "Culture Shock Due to Contact with Unfamiliar Cultures," *Online Readings in Psychology and Culture* 4 (2003), <http://dx.doi.org/10.9707/2307-0919.1073>.

14. Merriam-Webster (online dictionary), <http://www.merriam-webster.com>.

15. In a study in Sonora, sociologist Paola Molina found that the five deportees she interviewed who had entered the United States as children "were experiencing culture shock at finding themselves in Mexico." Paola Molina, *Re-immigration after Deportation: Family, Gender, and the Decision to Make a Second Attempt to Enter the U.S.* (El Paso: LFB Scholarly, 2013), 120. Similarly, Katie Dingeman-Cerda and Rubén Rumbaut documented "reverse culture shock" among deportees to El Salvador who had migrated to the United States as children. Katie Dingeman-Cerda and Rubén Rumbaut, "Alienation in Salvadoran Society," in *Deportations Delirium: Interdisciplinary Responses*, ed. Daniel Kanstroom and M. Brinton Lykes, 227–50 (New York: New York University Press, 2015), 235.

16. These themes emerged in most of my interviews. A study of deported women in Tijuana similarly found that once deported, "women lacking social networks in Tijuana described feelings of fear, isolation, and disorientation with the neighborhoods or street culture of Tijuana and other border cities into which they were released." Angela M. Robertson, Remedios Lozada, Lawrence A. Palinkas, José Luis Burgos, Carlos Magis-Rodriguez, Gudelia Rangel, and Victoria D. Ojeda, "Deportation Experiences of Women Who Inject Drugs in Tijuana, Mexico," *Qualitative Health Research* 22, no. 4 (2012): 499–510.

17. A CURP is like a Social Security number and is required for most government transactions in Mexico.

18. Diana Carolina Peláez and Maria Dolores París, "Mujeres deportadas en Tijuana: Separación familiar y sentimientos de exilio" [Deported women in Tijuana: Family separation and feelings of exile], Seminario Internacional Sobre Migración de Retorno [International workshop on return migration] (Tijuana: El Colegio de la Frontera Norte, 2013), <https://www.colef.mx/emif/resultados/articulos/2013%20-%20Mujeres%20deportadas%20en%20Tijuana%20separacion%20familiar%20y%20sentimientos%20de%20exilio.pdf>.

19. Peláez and París, "Mujeres deportadas."

20. Laura Velasco and Marie Laure Coubes, *Reporte sobre dimensión, caracterización y áreas de atención a mexicanos deportados desde Estados Unidos* [Report on the dimension, characterization and areas of attention of Mexicans deported from the United States] (Tijuana: El Colegio de la Frontera Norte, 2013), 12, <https://www.colef.mx/estudiosdeelcolef/reportesobre-dimension-caracterizacion-y-areas-de-atencion-mexicanos-deportados-desde-estados-unidos/?lang=en>.

21. Velasco and Coubes, *Reporte sobre mexicanos deportados*, 16.

22. Velasco and Coubes, *Reporte sobre mexicanos deportados*, 21–22.

23. In 2017, largely in response to concerns over the fate of DACA recipients, Mexico passed legislation aimed at making it easier for Mexican nationals who were educated in the United States to enter higher education in Mexico.

24. My findings are consistent with sociologist Paola Molina's study, which included interviews with seventy recently deported individuals in Nogales, Sonora, Mexico. She found that "for the permanent U.S. settlers who had crossed as minors, returning to Mexico was like moving to a foreign country." Molina, *Re-immigration after Deportation*, 7.

### THREE. LIFE AFTER DEPORTATION

1. Ng Fung Ho v. White, 259 U.S. 276, 284–85 (1922).
2. Jeremy Slack, Daniel E. Martinez, and Scott Whiteford, eds., *In the Shadow of the Wall* (Tucson: University of Arizona Press, 2013), 120.
3. Heike Drotbohm and Ines Hasselberg, "Deportation, Anxiety, Justice: New Ethnographic Perspectives," *Journal of Ethnic and Migration Studies* 41, no. 4 (2014): 551–62 ("Deportation . . . is not a singular event. It is a process that begins long before, and carries on long after, the removal from one country to another takes place").
4. According to Dr. Ietza Bojorquez, one of the authors of the study cited in note 5, deportees in Mexico experience mental health problems at much higher rates than the general Mexican population.
5. Ietza Bojorquez, Rosa M. Aguilera, Jacobo Ramírez, Diego Cerecero, and Silvia Mejía, "Common Mental Disorders at the Time of Deportation: A Survey at the Mexico-United States Border," *Journal of Immigrant and Minority Health* 17, no. 6 (2015), doi:10.1007/s10903-014-0083-y.
6. Bojorquez et al., "Common Mental Disorders."
7. American Psychological Association, "Trauma," accessed August 8, 2016, <http://www.apa.org/topics/trauma/>.
8. Tonatiuh Guillén López, "Entre la convergencia y la exclusión: La deportación de mexicanos desde Estados Unidos de América" [Between convergence and exclusion: The deportation of Mexicans from the United States], *Realidad, Datos y Espacio Revista Internacional de Estadística y Geografía* 3, no. 3 (2012), [http://www.inegi.org.mx/RDE/RDE\\_07/Doctos/RDE\\_07\\_opt.pdf](http://www.inegi.org.mx/RDE/RDE_07/Doctos/RDE_07_opt.pdf).
9. David C. Brotherton and Luis Barrios, *Banished to the Homeland: Dominican Deportees and Their Stories of Exile* (New York: Columbia University Press, 2011), 195. Susan Bibler Coutin's ethnographic work on deportees in El Salvador similarly uncovered suicidal ideation. Susan Bibler Coutin, *Exiled Home: Salvadoran Transnational Youth in the Aftermath of Violence* (Durham, NC: Duke University Press, 2016).
10. Rachel S. Taylor, *Sent "Home" with Nothing: The Deportation of Jamaicans with Mental Disabilities* (Washington, DC: Georgetown Law Human Rights Institute, 2011).
11. Julianne Hing, Seth Freed Wessler, and Jorge Rivas, "Torn Apart by Deportation," *Colorlines*, October 22, 2009, <https://www.colorlines.com/articles/torn-apart-deportation>.
12. Rory Carroll, "Stuck in Tijuana Waiting for a Miracle," *Guardian*, April 11, 2014, <http://www.theguardian.com/world/2014/apr/11/undocumented-migrants-stuck-tijuana-mexico-us>.
13. Laura Velasco and Sandra Albicker, *Estimación y caracterización de la población residente en "El Bordo" del Canal del Río Tijuana* [Estimates and characteristics of the



resident population in “El Bordo” of the Tijuana River Channel] (Tijuana: El Colegio de la Frontera Norte, 2013), 6.

14. Marie-Laure Coubes, Eduardo González Fagoaga, Silvia Mejía Arango, René Nevarez Sanchez, and Laura Velasco Ortiz, “Estudio sobre los usuarios del Desayunador Salesiano Padre Chava: Reporte ejecutivo” [Study of the users of the Salesian Father Chava Breakfast Room: Executive report] (Tijuana: El Colegio de la Frontera Norte, 2015), 12, <http://www.colef.mx/wp-content/uploads/2015/03/Reporte-ejecutivo-estudio-desayunador.pdf>.

15. Of those under the age of sixty, 62 percent reported these symptoms. Coubes et al., “Estudio sobre los usuarios,” 19.

16. Miguel Pinedo, Jose Luis Burgos, and Victoria D. Ojeda, “A Critical Review of Social and Structural Conditions That Influence HIV Risk among Mexican Deportees,” *Microbes and Infection/Institut Pasteur* 16, no. 5 (2014): 379–90.

17. Victoria D. Ojeda, Angela M. Robertson, Sarah P. Hiller, Remedios Lozada, Wayne Cornelius, Lawrence A. Palinkas, Carlos Magis-Rodriguez, and Steffanie A. Strathdee, “A Qualitative View of Drug Use Behaviors of Mexican Male Injection Drug Users from the United States,” *Journal of Urban Health* 88, no. 1 (2011): 111, doi:10.1007/s11524-010-9508-7.

18. Ojeda et al., “A Qualitative View of Drug Use Behaviors,” 111.

19. Ojeda et al., “A Qualitative View of Drug Use Behaviors,” 112.

20. Angela M. Robertson, Remedios Lozada, Lawrence A. Palinkas, José Luis Burgos, Carlos Magis-Rodriguez, Gudelia Rangel, and Victoria D. Ojeda, “Deportation Experiences of Women Who Inject Drugs in Tijuana, Mexico,” *Qualitative Health Research* 22, no. 4 (2012): 499.

21. Robertson et al., “Deportation Experiences of Women.” Nine of twelve women “described feeling lonely and sad following their most recent deportation, often because they were separated from children and other family members in the United States and elsewhere in Mexico” (505).

22. Angela M. Robertson, M. Gudelia Rangel, Remedios Lozada, Alicia Vera, and Victoria D. Ojeda, “Male Injection Drug Users Try New Drugs Following Deportation to Tijuana, Mexico,” *Drug and Alcohol Dependence* 120, no. 1–3 (2012), doi:10.1016/j.drugalcdep.2011.07.012.

23. Robertson et al., “Deportation Experiences of Women.”

24. Kimberly Brouwer, Remedios Lozada, Wayne A. Cornelius, M. Firestone Cruz, Carlos Magis-Rodriguez, María Luisa Zúñiga, and Steffanie A. Strathdee, “Deportation along the U.S.-Mexico Border: Its Relation to Drug Use Patterns and Accessing Care,” *Journal of Immigrant and Minority Health* 11, no. 1 (2009), doi:10.1007/s10903-008-9119-5.

25. Bojorquez et al., “Common Mental Health Disorders,” 1732.

26. Bojorquez et al., “Common Mental Health Disorders,” 1732.

27. Ojeda et al., “A Qualitative View of Drug Use Behaviors,” 111.

28. Norberto Santana Jr., “Criminal Deportations Fuel Border Crime Wave,” *Orange County Register*, August 21, 2013, <http://www.ocregister.com/articles/tijuana-189703-border-deportees.html>.

29. Santana, "Criminal Deportations Fuel Border Crime Wave."
30. Katherine Beckett and Steve Herbert, *Banished: The New Social Control in Urban America* (New York: Oxford University Press, 2010), 17.
31. Department of Justice, "Department of Justice and the Department of Homeland Security Announce Safeguards for Unrepresented Immigration Detainees with Serious Mental Disorders or Conditions," April 22, 2013, <http://www.justice.gov/eoir/press/2013/SafeguardsUnrepresentedImmigrationDetainees.html>.
32. Hilario Ochoa Movis, "Recibe unos 400 migrantes el Hospital de Salud Mental," *El Mexicano*, November 19, 2012, <http://www.el-mexicano.com.mx/informacion/noticias/1/3/estatal/2012/11/19/630452/recibe-unos-400-migrantes-el-hospital-de-salud-mental.aspx>.
33. Bojorquez et al., "Common Mental Health Disorders," 1732.
34. Leonardo Rivas Rivas, "Returnees' Identity Construction at a BA TESOL Program," *Profile Issues in Teachers' Professional Development* 15, no. 2 (2013): 185–97.
35. Seth Freed Wessler, "Call Centers: Returning to Mexico but Sounding 'American,'" *Al Jazeera America*, March 16, 2014, <http://america.aljazeera.com/features/2014/3/mexico-s-call-centers.html>.
36. Call Center Service International, "Contact Center and IT Development Success in Mexico," accessed December 5, 2017, <http://www.bajacallcenters.com>.
37. Andy Uhler, "For Returnees to Mexico, English Is a Lucrative Skill," *Marketplace*, March 10, 2015, <http://www.marketplace.org/2015/03/10/world/returnees-mexico-english-lucrative-skill>.
38. Uhler, "For Returnees to Mexico, English Is a Lucrative Skill."
39. Jill Anderson, "From U.S. Immigration Detention Center to Transnational Call Center," *Voices of Mexico* 95 (2012): <http://www.revistascisan.unam.mx/Voices/pdfs/19517.pdf>.
40. Anderson, "From U.S. Immigration Detention Center," 87.
41. Anderson, "From U.S. Immigration Detention Center," 87–88.
42. Elliot Spagat and Omar Millan, "Deported Mexicans Find New Life at Call Centers," *Washington Times*, August 22, 2014, <https://www.washingtontimes.com/news/2014/aug/22/deported-mexicans-find-new-life-at-call-centers/>.
43. Spagat and Millan, "Deported Mexicans Find New Life."
44. Judy Woodruff, "Young Returnees Start Over in Mexico after Growing Up in the U.S.," *PBS Newshour*, January 6, 2016, <http://www.pbs.org/newshour/bb/young-deportees-start-over-in-mexico-after-growing-up-in-the-u-s/>.
45. Wessler, "Call Centers."
46. Spagat and Millan, "Deported Mexicans Find New Life."
47. Wessler, "Call Centers."
48. Anderson, "From U.S. Immigration Detention Center," 89.
49. Tanya Maria Golash-Boza, *Deported: Immigrant Policing, Disposable Labor, and Global Capitalism* (New York: New York University Press, 2015), 498–99.
50. Golash-Boza, *Deported*, 502.
51. Golash-Boza, *Deported*, 501–2.

52. Jose Enrique Arrijoa, "Tourism Seen Jumping to No. 3 Mexico Cash Source by 2018," *Bloomberg*, June 25, 2013, <http://www.bloomberg.com/news/articles/2013-06-25/tourism-seen-jumping-to-mexico-s-3rd-biggest-cash-source-by-2018>.

53. Eunice O. Albarrán, "De deportados a empresarios: 30 mil paisanos logran abrir su negocio aquí," *La Razón*, March 27, 2017, <https://www.razon.com.mx/de-deportados-a-empresarios-30-mil-paisanos-logran-abrir-su-negocio-aqui/>.

54. Jacqueline Hagan, Ruben Hernandez-Leon, and Jean-Luc Demonsant, *Skills of the Unskilled: Work and Mobility among Mexican Migrants* (Oakland: University of California Press, 2015).

55. In the study, 51 percent of the people surveyed reported transferring some kind of skills from the U.S. to Mexico, including 11 percent language skills, 2 percent formal education, 39 percent on-the-job technical skills, and 11 percent social skills. Hagan, Hernandez-Leon, and Demonsant, *Skills of the Unskilled*, table 5.2.

56. Hagan, Hernandez-Leon, and Demonsant, *Skills of the Unskilled*.

57. Katie Dingeman-Cerda and Rubén G. Rumpaut, "Alienation in Salvadoran Society," in *Deportations Delirium: Interdisciplinary Responses*, ed. Daniel Kanstroom and M. Brinton Lykes, 228–31 (New York: New York University Press, 2015).

58. Ines Hasselberg, *Enduring Uncertainty: Deportation, Punishment and Everyday Life* (New York: Berghahn, 2016), 6.

59. Hasselberg, *Enduring Uncertainty*, 7.

60. Rivas, "Returnees' Identity Construction," 191.

61. The study does not specify whether the participants were deported or returned voluntarily, but they did spend their formative years in the United States and now live in Mexico.

62. Douglas S. Massey and Kristin E. Espinosa, "What's Driving Mexico-US Migration? A Theoretical, Empirical, and Policy Analysis," *American Journal of Sociology* 102, no. 4 (1997): 939–99; Jodi Berger Cardoso, Erin Randle Hamilton, Nestor Rodriguez, Karl Eschbach, and Jacqueline Hagan, "Deporting Fathers: Involuntary Transnational Families and Intent to Remigrate among Salvadoran Deportees," *International Migration Review* 50 (2016), doi:10.1111/imre.12106.

63. Other estimates are lower, placing the number of deportees who intend to remigrate to the U.S. closer to one-third. Jacqueline Hagan, Karl Eschbach, and Nestor Rodriguez, "U.S. Deportation Policy, Family Separation, and Circular Migration," *International Migration Review* 42, no. 1 (2008), <https://doi.org/10.1111/j.1747-7379.2007.00114.x>. The Migrant Crossing Border Study, with a sample of 1,100 deportees in Mexico, found that 55 percent intended to return. Slack, Martínez, and Whiteford, *In the Shadow of the Wall*, 114.

64. Slack, Martínez, and Whiteford, *In the Shadow of the Wall*, 114. Similarly, Paola Molina interviewed seventy recent deportees in Nogales, Mexico, and found that of the twenty respondents who intended to cross again, fourteen were "permanent U.S. settlers" for whom "crossing again meant returning home to their families and lives." Paola Molina, *Re-immigration after Deportation: Family, Gender, and the Decision to Make a Second Attempt to Enter the U.S.* (El Paso: LFB Scholarly, 2013), 86.

65. Slack, Martínez, and Whiteford, *In the Shadow of the Wall*, 116.

66. Grace Meng, “Turning Migrants into Criminals: The Harmful Impact of US Border Prosecutions,” Human Rights Watch, 2013, 57, <https://www.hrw.org/report/2013/05/22/turning-migrants-criminals/harmful-impact-us-border-prosecutions#page>.

67. François Crépeau, “Report of the Special Rapporteur on the Rights of Migrants,” United Nations General Assembly, Human Rights Council, April 2, 2012, [https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-24\\_en.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-24_en.pdf).

68. In 2015, the federal government filed 21,598 charges for immigration crimes, while 11,621 were filed for drug offenses, including drug dealing, drug possession, and organized crime–related drug crimes.

69. Transactional Records Access Clearinghouse (TRAC), “Despite Rise in Felony Charges, Most Immigration Convictions Remain Misdemeanors,” June 26, 2014, <http://trac.syr.edu/immigratin/reports/356/>.

70. TRAC, “Most Immigration Convictions Remain Misdemeanors.”

71. Federal Bureau of Prisons, “Statistics, Offenses,” August 29, 2016, [https://www.bop.gov/about/statistics/statistics\\_inmate\\_offenses.jsp](https://www.bop.gov/about/statistics/statistics_inmate_offenses.jsp); Meng, “Turning Migrants into Criminals,” 3.

72. Meng, “Turning Migrants into Criminals,” 133.

73. Meng, “Turning Migrants into Criminals,” 135. Angela Viramontes, an assistant federal defender in Riverside, California, said she had heard a judge tell her colleague, “If I apply it in this case, I’d have to apply it to all cases.”

74. Meng, “Turning Migrants into Criminals,” 133.

75. Maria Jimenez, *Migrant Deaths at the U.S.-Mexico Border* (San Diego: ACLU and Mexico’s National Commission of Human Rights, 2009), <https://www.aclu.org/files/pdfs/immigrants/humanitariancrisisreport.pdf>.

76. Hasselberg, *Enduring Uncertainty*, 99.

77. Woodruff, “Young Returnees Start Over in Mexico.” Maggie had grown up in the United States and voluntarily returned to Mexico at the age of eighteen. Although she was not deported, her experience of returning to Mexico is similar to those of deported Americans after spending her formative years in the United States.

78. Woodruff, “Young Returnees Start Over in Mexico.”

#### FOUR. DEPORTED BY MARRIAGE

1. In a 2009 report analyzing deportations between 1997 and 2007, Human Rights Watch estimated that “at least one million spouses and children have faced separation from their family members due to these deportations.” Human Rights Watch, *Forced Apart (By the Numbers): Non-citizens Deported Mostly for Nonviolent Offenses* (2009), 3–4, <https://www.hrw.org/report/2009/04/15/forced-apart-numbers/non-citizens-deported-mostly-nonviolent-offenses>.

2. Daniel Kanstroom, *Aftermath: Deportation Law and the New American Diaspora* (New York: Oxford University Press, 2012), 135.

3. In marriages characterized by abuse, the deportation of an abusive spouse may have positive effects because it creates distance between the abuser and the abused. At

the same time, sociologist Joanna Dreby found in her research with migrant families in the United States that the deportation of an abusive spouse may not be experienced as a positive development even by the abused spouse because of the financial implications that accompany deportation. Dreby describes the experience of Gladys, whose husband was deported following an arrest. “The relationship had been abusive, but Gladys did not experience relief with his arrest. Rather, she felt it turned her life upside down. Before he was deported, she had been a stay-at-home mother.” Even while the couple was separated, her husband had continued to support the family financially before his deportation. After his deportation, Gladys’s work schedule greatly limited the time she could spend with her children. Joanna Dreby, *Everyday Illegal: When Policies Undermine Immigrant Families* (Oakland: University of California Press, 2015).

4. Linda Kelly, “Preserving the Fundamental Right to Family Unity: Championing Notions of Social Contract and Community Ties in the Battle of Plenary Power,” *Villanova Law Review* 41 (1996): 776–77 (concluding that courts “do not give any serious consideration to the U.S. citizen’s fundamental right to marry and to marital privacy” in immigration law cases).

5. *Kerry v. Din*, 135 S. Ct. 2128, 2138 (2015) (plurality opinion).

6. See, e.g., *Swartz v. Rogers*, 254 F.2d 338, 339 (D.C. Cir. 1958) (concluding that although “the physical conditions of the marriage may change [if she stayed in the United States without her husband] . . . the marriage continues”).

7. See, e.g., *Mostofi v. Naplitano*, 841 F. Supp. 2d 208 (D.D.C. 2012) (rejecting claim that visa denial violates spouse’s constitutional right to “freedom of personal choice in marriage and family life because they have ‘done nothing more than say that the residence of one of the marriage partners may not be in the United States’”).

8. *Obergefell v. Hodges*, 135 S. Ct. 2584, 2594–96 (2015).

9. *Kerry*, 135 S. Ct. at 2140 (Kennedy, J., concurring).

10. *Kerry*, 135 S. Ct. at 2139 (“But rather than deciding, as the plurality does, whether Din has a protected liberty interest, my view is that, even assuming she does, the notice she received regarding her husband’s visa denial satisfied due process”).

11. *Kerry*, 135 S. Ct. at 2142 (Breyer, J., dissenting).

12. David B. Thronson, “Unhappy Families: The Failings of Immigration Law for Families That Are Not All Alike,” in *Deportations Delirium: Interdisciplinary Responses*, ed. Daniel Kanstroom and M. Brinton Lykes, 33–56 (New York: New York University Press, 2015).

13. *Cervantes v. Immigration & Naturalization Serv.*, 510 F.2d 89, 91–92 (10th Cir. 1975) (framing a parent’s deportation as having an “incidental impact” on a child’s life).

14. Over 90 percent of people deported from the United States are Latino men, and most marriages are between heterosexual couples. Department of Homeland Security, *2014 Yearbook of Immigration Statistics* (Washington, DC: Department of Homeland Security, 2016), 103–6, <https://www.dhs.gov/sites/default/files/publications/DHS%202014%20Yearbook.pdf>; Tanya Golash-Boza and Pierrette Hondagneu-Sotelo, “Latino Immigrant Men and the Deportation Crisis: A Gendered Removal Program,” *Latino Studies* 11 (2012): 271 (discussing the targeted deportation of Latino men).

15. Nathaniel Hoffman and Nicole Salgado, *Amor and Exile: True Stories of Love across America’s Borders* (Boise, ID: Cordillera West, 2014), 74.

16. Hoffman and Salgado, *Amor and Exile*, 34.
17. “Moving to Mexico” and “Only in Mexico,” *The Real Housewife of Ciudad Juárez*, August 18 and 19, 2010, <http://therealhousewifeofciudadjuarez.blogspot.com/2010/>.
18. Jean Guerrero, “American Wives of Deported Mexicans Say They’re Excluded from SENTRI,” KPBS, August 10, 2016, <http://www.kpbs.org/news/2016/aug/10/us-citizen-wives-deported-mexicans-excluded-sentri/>.
19. Ines Hasselberg, *Enduring Uncertainty: Deportation, Punishment and Everyday Life* (New York: Berghahn, 2016), 98 (documenting similar feelings of emasculation based on financial dependence articulated by male respondents); Tanya Maria Golash-Boza, *Deported: Immigrant Policing, Disposable Labor, and Global Capitalism* (New York: New York University Press, 2015), 226 (“For deportees like Victor and O’Ryan [in Jamaica], a gendered shame surrounding their inability to provide for themselves and to cope emotionally with their new situations complicated financial and emotional stresses”).
20. Dreby, *Everyday Illegal*, 175.
21. “Updates—Nov. 4,” *Raysdeportation* (blog), November 4, 2011, [http://raysdeportation.blogspot.com/2011\\_11\\_01\\_archive.html](http://raysdeportation.blogspot.com/2011_11_01_archive.html).
22. Rebekah Rodriguez-Lynn, “How America’s Immigration Laws Tore My Family Apart for Good,” *Huffington Post*, April 28, 2015, [http://www.huffingtonpost.com/rebekah-rodriguezlynn/immigration-family-tore-apart\\_b\\_7129574.html](http://www.huffingtonpost.com/rebekah-rodriguezlynn/immigration-family-tore-apart_b_7129574.html). Deportation and the separation it brings about is often described by those experiencing it as feeling like losing part of one’s body. “6 Years Down . . .,” *A Guide to Belonging Everywhere* (blog), September 1, 2015, <https://happycosmopolite.wordpress.com/2015/09/01/6-years-down/>: “Our sentences (because it does feel like some horrid punishment) will be up September 2019, and it’s sort of incredible to think that I have made it this long with an amputation as severe and heart breaking as being denied my family and a part of my home.”
23. Megan Comfort, *Doing Time Together: Love and Family in the Shadow of the Prison* (Chicago: University of Chicago Press, 2007).
24. Linda K. Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York: Hill and Wang, 1998); Nancy F. Cott, “Marriage and Women’s Citizenship in the United States, 1830–1934,” *American Historical Review* 103 (1998): 1444.
25. Expatriation Act of 1907, ch. 2534, 34 Stat. 1228, 1228–29 (1907), repealed by Nationality Act of 1940, ch. 876, 54 Stat. 1137 (1940).
26. Historian Nancy F. Cott suggests that “there is something peculiar—more tenuous or vulnerable—about women’s (or perhaps married women’s) citizenship in the United States.” Cott, “Marriage and Women’s Citizenship,” 1441.
27. William Blackstone, *Commentaries on the Laws of England*, vol. 1 (1765), 441.
28. Kerber, *No Constitutional Right to Be Ladies*, 11–12.
29. Candice Lewis Bredbenner, *A Nationality of Her Own: Women, Marriage, and the Law of Citizenship* (Berkeley: University of California Press, 1998), 18–19.
30. Bredbenner, *A Nationality of Her Own*, 18–19.
31. Kerber, *No Constitutional Right to Be Ladies*, 25.
32. Kerber, *No Constitutional Right to Be Ladies*, 40–41.
33. Kerber, *No Constitutional Right to Be Ladies*, 40–41.
34. Kerber, *No Constitutional Right to Be Ladies*, 40–41.

35. Kerber, *No Constitutional Right to Be Ladies*, 37.
36. This requirement only applied to “any woman who might lawfully be naturalized under the existing laws,” thus excluding Asian women and others due to race. Kerber, *No Constitutional Right to Be Ladies*, 37.
37. Bredbenner, *A Nationality of Her Own*, 105 (quoting Letter of Linda E. Hardesty de Reyes-Guerra to NWP Headquarters, May 1922).
38. Expatriation Act of 1907, ch. 2534, 34 Stat. 1228, 1228–29 (1907), *repealed by* Nationality Act of 1940, ch. 876, 54 Stat. 1137 (1940).
39. Bredbenner, *A Nationality of Her Own*, 47.
40. Expatriation Act of 1907 ch. 2534, 34 Stat. at 1229.
41. Bredbenner, *A Nationality of Her Own*, 5–6.
42. Bredbenner, *A Nationality of Her Own*, 5–6.
43. Bredbenner, *A Nationality of Her Own*, 6.
44. *Mackenzie v. Hare*, 239 U.S. 299, 299 (1915).
45. Bredbenner, *A Nationality of Her Own*, 65.
46. Bredbenner, *A Nationality of Her Own*, 65.
47. Bredbenner, *A Nationality of Her Own*, 65 (quoting “Becomes Citizen for Wife’s Vote,” *Women’s Journal and Suffrage News* 44, no. 401 (1913)).
48. *Mackenzie*, 239 U.S. at 308.
49. *Mackenzie*, 239 U.S. at 300 (equating a woman’s marrying a foreigner to voluntarily renouncing her citizenship).
50. *Mackenzie*, 239 U.S. at 311–12.
51. *Mackenzie*, 239 U.S. at 312.
52. Bredbenner, *A Nationality of Her Own*, 6.
53. Bredbenner, *A Nationality of Her Own*, 68.
54. Bredbenner, *A Nationality of Her Own*, 1.
55. Bredbenner, *A Nationality of Her Own*, 173.
56. Meg Hacker, “When Saying ‘I Do’ Meant Giving Up Your U.S. Citizenship,” *Genealogy Notes* (2014): 56, 58, <http://www.archives.gov/publications/prologue/2014/spring/citizenship.pdf>.
57. Kerber, *No Constitutional Right to Be Ladies*, 42–43.
58. Leti Volpp, “Divesting Citizenship: On Asian American History and the Loss of Citizenship through Marriage,” *UCLA Law Review* 53 (2005): 407 (citing *Ex parte Ng Fung Sing*, 6 F.2d 670, 670 (D.D.C. 1925)).
59. Volpp, “Divesting Citizenship,” 407.
60. Volpp, “Divesting Citizenship,” 407.
61. Volpp, “Divesting Citizenship,” 407.
62. *In re Fitzroy*, 4 F.2d 541, 542 (D. Mass. 1925) (holding that upon “termination of the marriage and her continuation or resumption of domicile [in the United States], her original citizenship revive[d]”).
63. Volpp, “Divesting Citizenship,” 407–8.
64. Volpp, “Divesting Citizenship,” 433.
65. Volpp, “Divesting Citizenship,” 433–35.
66. Volpp, “Divesting Citizenship,” 435–36, 438.

67. Volpp, "Divesting Citizenship," 441–42.
68. Cott, "Marriage and Women's Citizenship," 1469; Volpp, "Divesting Citizenship," 444–46.
69. Leo R. Chavez, "A Glass Half Empty: Latina Reproduction and Public Discourse," *Human Organization* 63 (2004): 174.
70. Chavez, "A Glass Half Empty," 175.
71. Chavez, "A Glass Half Empty," 175–76, 178.
72. Samuel P. Huntington, "The Hispanic Challenge," *Foreign Policy*, March–April 2004, 32.
73. Huntington, "The Hispanic Challenge," 32.
74. Violence against journalists who write about organized crime in Mexico is pervasive.
75. See Daniel Kanstroom, *Deportation Nation: Outsiders in American History* (Cambridge, MA: Harvard University Press, 2010), 70–75 (tracing the history of the plenary power doctrine); Stephen H. Legomsky, "Ten More Years of Plenary Power: Immigration, Congress, and the Courts," *Hastings Constitutional Law Quarterly* 22 (1994–95): 926.
76. *Burrafato v. U.S. Dep't of State*, 523 F.2d 554, 555 (2d Cir. 1975).
77. *Burrafato*, 523 F.2d at 556–57 (concluding that when an American citizen challenged the exclusion of her husband from the country, "no constitutional rights of American citizens over which a federal court would have jurisdiction [were] 'implicated' here," and thus declining to require the government to present a "facially legitimate and bona fide" reason for the denial of a visa).
78. *Silverman v. Rogers*, 437 F.2d 102, 103, 107 (1st Cir. 1970), *cert. denied*, 402 U.S. 983 (1971).
79. *Silverman*, 437 F.2d at 102.
80. *Swartz v. Rogers*, 254 F.2d 338, 339 (D.C. Cir. 1958).
81. *Swartz*, 254 F.2d at 339.
82. *Swartz*, 254 F.2d at 339.
83. *Swartz*, 254 F.2d at 339; *Mostofi v. Naplitano*, 841 F. Supp. 2d 208, 213 (D.D.C. 2012) (rejecting claim that visa denial violates spouses' constitutional "right to freedom of personal choice in marriage and family life because they have 'done nothing more than say that the residence of one of the marriage partners may not be in the United States'" (quoting *Silverman*, 437 F.2d at 107)); *Udugampola v. Jacobs*, 795 F. Supp. 2d 96, 101 (D.D.C. 2011) (concluding that a visa applicant's wife and daughter "cannot demonstrate that the defendant's denial of the visa implicated a constitutionally protected interest" and, thus, their claim was not entitled to judicial review); *Bangura v. Hansen*, 434 F.3d 487, 496 (6th Cir. 2006) ("A denial of an immediate relative visa does not infringe upon their right to marry" because "the Constitution does not recognize the right of a citizen spouse to have his or her alien spouse remain in the country" (quoting *Almario v. Attorney Gen.*, 872 F.2d 147, 151 (6th Cir. 1989)) (alteration in original)).
84. *Garcia v. Boldin*, 691 F.2d 1172, 1183 (5th Cir. 1982).
85. *Kleindienst v. Mandel*, 408 U.S. 753 (1972).



86. *Mandel*, 408 U.S. at 769.
87. *Bustamante v. Mukasey*, 531 F.3d 1059, 1062 (9th Cir. 2008).
88. *Adams v. Baker*, 909 F.2d 643, 647 (1st Cir. 1990) (“Thus, if the Department of State’s determination that Adams was ineligible to receive a visa . . . was based on a ‘facially legitimate and bona fide reason,’ we will be constrained to uphold Adams’ exclusion”).
89. *Zablocki v. Redhail*, 434 U.S. 374, 383 (1978) (citing *Mass. Bd. of Ret. v. Murgia*, 427 U.S. 307, 312, 314 (1976)).
90. *Zablocki*, 434 U.S. at 375 (quoting WIS. STAT. §§ 245.10(1),(4),(5) (1973)).
91. *Zablocki*, 434 U.S. at 384.
92. *Zablocki*, 434 U.S. at 388.
93. *Zablocki*, 434 U.S. at 390.
94. *Turner v. Safley*, 482 U.S. 78, 96–99 (1987) (applying strict scrutiny to a prison regulation that required inmates to obtain permission from the prison superintendent, based on compelling reasons, in order to get married); *Zablocki*, 434 U.S. at 383 (1978); Edith Z. Friedler, “From Extreme Hardship to Extreme Deference: United States Deportation of Its Own Children,” *Hastings Constitutional Law Quarterly* 22 (1994): 497–98 (“Regardless of how far the courts have expanded this penumbra of rights, its core philosophy has remained intact; the right of family association is a significant interest in fundamental rights jurisprudence. Any state action that potentially affects such rights should be analyzed under the strict scrutiny test”).
95. Volpp, “Divesting Citizenship,” 435–36.
96. Volpp, “Divesting Citizenship,” 435–36 (quoting Immigration and Citizenship of American-Born Women Married to Aliens: Hearing on H.R. 4057, H.R. 6238, and H.R. 9825 before the H. Comm. on Immigration and Naturalization, 69th Cong. 22–28 (1926) (statement of Elizabeth Kite, scholar, Library of Congress)).
97. Volpp, “Divesting Citizenship,” 436.

#### FIVE. CHILDREN OF DEPORTEES

1. “Remarks by the President in Address to the Nation on Immigration,” The White House, November 20, 2014, <https://obamawhitehouse.archives.gov/the-press-office/2014/11/20/remarks-president-address-nation-immigration>.
2. Marc R. Rosenblum and Doris Meissner, *The Deportation Dilemma: Reconciling Tough and Humane Enforcement* (Washington, DC: Migration Policy Institute, 2014), 9, <http://www.migrationpolicy.org/research/deportation-dilemma-reconciling-tough-humane-enforcement>.
3. Heather Koball, Randy Capps, Sarah Hooker, Krista Perreira, Andrea Campetella, Juan Manuel Pedroza, William Monson, and Sandra Huerta, *Health and Social Service Needs of US-Citizen Children with Detained or Deported Parents* (Washington, DC: Urban Institute and Migration Policy Institute, 2015), 1.
4. There may be a greater proportion of deportees who are parents of American children among deportees from specific countries. For example, a study that administered a questionnaire to deportees upon their arrival in El Salvador found that

73 percent reported they had a child under the age of eighteen in the United States, with 90 percent of these children being U.S. citizens. Joanna Dreby, "The Burden of Deportation on Children in Mexican Immigrant Families," *Journal of Marriage and Family Therapy* 74 (August 2014): 829–45.

5. Luis Zayas, *Forgotten Citizens: Deportation, Children, and the Making of American Exiles and Orphans* (New York: Oxford University Press, 2015), 126.

6. Luis Zayas quoted in Cindy Y. Rodriguez and Adriana Hauser, "Deportations: Missing Parents, Scared Kids," *CNN*, October 27, 2013, <http://www.cnn.com/2013/10/26/us/immigration-parents-deported-children-left-behind/>.

7. Zayas, *Forgotten Citizens*, 171.

8. Luis H. Zayas, Sergio Aguilar-Gaxiola, Hyunwoo Yoon, and Guillermina Natera Rey, "The Distress of Citizen-Children with Detained and Deported Parents," *Journal of Children and Family Studies* 24 (2015): 3221.

9. *Cervantes v. INS*, 510 F.2d 89 (10th Cir. 1975) ("The incidental impact on an alien's minor children caused by the enforcement of the duly-enacted conditions on an alien's entrance and residence does not create constitutional problems"); *Silverman v. Rogers*, 437 F.2d 102 (1st Cir. 1970), cert denied, 402 U.S. 983 (1971); *Perdido v. Immigration & Naturalization Serv.*, 420 F.2d 1179 (5th Cir. 1969).

10. Joanna Dreby, *Everyday Illegal: When Policies Undermine Immigrant Families* (Oakland: University of California Press, 2015), 36.

11. Cecilia Menjivar, "Transnational Parenting and Immigration Law: Central Americans in the United States," *Journal of Ethnic and Migration Studies* 30, no. 8 (2012): 301–22.

12. Dreby, *Everyday Illegal*, 37.

13. Brian Allen, Erica M. Cisneros, and Alexandra Tellez, "The Children Left Behind: The Impact of Parental Deportation on Mental Health," *Journal of Child and Family Studies* 24, no. 2 (2013): 387.

14. Allen, Cisneros, and Tellez, "The Children Left Behind," 390.

15. Allen, Cisneros, and Tellez, "The Children Left Behind," 389. In another study, 36 percent of the children whose parents had been deported demonstrated three or more psychological or behavioral symptoms, with greater severity linked to a parent's arrest in the home, cases where the child's primary caregiver was deported, and those who had been apart from a parent for more than a month. Jodi Berger Cardoso, Erin Randle Hamilton, Nestor Rodriguez, Karl Eschbach, and Jacqueline Hagan, "Deporting Fathers: Involuntary Transnational Families and Intent to Remigrate among Salvadoran Deportees," *International Migration Review* 50 (2016): doi:10.1111/imre.12106.

16. Ajay Chaudry, Randy Capps, Juan Manuel Pedroza, Rosa Maria Castañeda, Robert Santos, and Molly M. Scott, *Facing Our Future: Children in the Aftermath of Immigration Enforcement* (Washington, DC: Urban Institute, 2010), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412020-Facing-Our-Future.PDF>.

17. Deysi Aldana, "My Children Need Their Daddy," *Fox News*, February 4, 2016, <http://latino.foxnews.com/latino/opinion/2016/02/04/opinion-my-children-need-their-daddy/>.

18. Ginger Thompson and Sarah Cohen, "More Deportations Follow Minor Crimes, Records Show," *New York Times*, April 4, 2015, <https://www.nytimes.com/2014/04/07/us/more-deportations-follow-minor-crimes-data-shows.html>.

19. Anthony Advincula, "After Parents' Deportation, U.S. Children Face Mental Struggles," *New America Media*, February 18, 2014, accessed January 29, 2018, <http://newamericamedia.org/2014/02/after-parents-deportation-us-children-face-mental-struggles.php> (no longer available).
20. Christina Jose-Kampfner, "Post-traumatic Stress Reactions in Children of Imprisoned Mothers," in *Children of Incarcerated Parents*, ed. Katherine Gabel and Denise Johnston (New York: Lexington, 1995).
21. Zayas, *Forgotten Citizens*, 126.
22. Chaudry et al., *Facing Our Future*.
23. Cardoso et al., "Deporting Fathers," 50.
24. Chaudry et al., *Facing Our Future*.
25. Chaudry et al., *Facing Our Future*.
26. Dreby, *Everyday Illegal*, 138.
27. Chaudry et al., *Facing Our Future*.
28. Julianne Hing, Seth Freed Wessler, and Jorge Rivas, "Torn Apart by Deportation," *Colorlines*, October 22, 2009, <https://www.colorlines.com/articles/torn-apart-deportation>.
29. Nina Rabin, "Disappearing Parents: Immigration Enforcement and the Child Welfare System," *Connecticut Law Review* (2011): 102. Similarly, Zatz and Rodriguez found that "although the actual numbers are unknown and probably relatively small, practically every attorney and advocate we interviewed recounted cases involving young children who were placed in foster care and then quickly adopted, with their parents' rights severed in absentia." Marjorie S. Zatz and Nancy Rodriguez, *Dreams and Nightmares: Immigration Policy, Youth, and Families* (Oakland: University of California Press, 2015), 121.
30. Rabin, "Disappearing Parents," 121–22.
31. Zatz and Rodriguez, *Dreams and Nightmares*, 124.
32. Zatz and Rodriguez, *Dreams and Nightmares*, 124.
33. Zatz and Rodriguez report an interview with an attorney who recalls a judge saying, "I will not return those US-citizen children to the squalor that is Mexico." Zatz and Rodriguez, *Dreams and Nightmares*, 124.
34. Naomi Glenn-Levin Rodriguez, *Fragile Families: Foster Care, Immigration, and Citizenship* (Philadelphia: University of Pennsylvania Press, 2017), 64.
35. Rodriguez, *Fragile Families*, 65.
36. Rodriguez, *Fragile Families*, 66.
37. Rodriguez, *Fragile Families*, 66.
38. Jeffrey Passel, D. Cohn, and Ana Gonzalez-Barrera, *Net Migration from Mexico Falls to Zero—and Perhaps Less* (Washington, DC: Pew Hispanic Research Center, 2012), 14.
39. Randy Capps, Heather Koball, Andrea Campetella, Krista Perreira, Sarah Hooker, and Juan Manuel Pedroza, *Implications of Immigration Enforcement Activities for the Well-Being of Children in Immigrant Families: A Review of the Literature* (Washington, DC: Urban Institute and Migration Policy Institute, 2015), vi.
40. Capps et al., *Implications of Immigration Enforcement*, 12 ("Research suggests that the transition to schooling in Mexico, for example, can be very difficult for children

who have attended US public schools, as they generally do not have the Spanish language skills or familiarity with the Mexican school system necessary to succeed there”).

41. Juan Sanchez-Garcia, Edmund T. Hamann, and Victor Zuniga, “What the Youngest Transnational Students Have to Say about Their Transition from U.S. Schools to Mexican Ones,” *Diaspora, Indigenous, and Minority Education* 6, no. 3 (2012): 157–71.

42. Sanchez-Garcia, Hamann, and Zuniga, “What the Youngest Transnational Students Have to Say.”

43. Zayas, *Forgotten Citizens*, 175.

44. Jacqueline Bhabha, *Child Migration and Human Rights in a Global Age* (Princeton, NJ: Princeton University Press, 2014), 26.

45. *Ortiz v. Sessions*, Civil 17-00210 LEK-KJM (D. Haw. 2017).

46. *Ortiz v. Sessions*, 857 F.3d 966 (9th Cir. 2017).

47. *In re Monreal-Aguinaga*, 23 I. & N. Dec. 56 (BIA 2001); *Sullivan v. INS*, 777 F.2d 609 (9th Cir. 1985) (“deportation rarely occurs without personal distress and emotional hurt”); *Jimenez v. INS*, 116 F.3d 1485 (9th Cir. 1997) (family separation is “simply one of the common results of deportation or exclusion [that] are insufficient to prove extreme hardship”).

48. Edith Z. Friedler, “From Extreme Hardship to Extreme Deference: United States Deportation of Its Own Children,” *Hastings Constitutional Law Quarterly* 22 (1994): 513.

49. Friedler, “From Extreme Hardship to Extreme Deference,” 513; *Hernandez-Cordero v. United States*, 819 F.2d 558 (5th Cir. 1987), 564 (Robin, J. dissenting).

50. Susan Hazeldean, “Anchoring More Than Babies: Children’s Rights after *Obergefell v. Hodges*,” *Cardozo Law Review* 38 (2016): 1445–46.

51. David B. Thronson, “Choiceless Choices: Deportation and the Parent-Child Relationship,” *Nevada Law Journal* 6 (2006): 1196.

52. *Garcia v. Boldin*, 691 F.2d 1172, 1183 (5th Cir. 1982).

53. *Cervantes v. Immigration and Naturalization Service*, 510 F.2d 89, 91–92 (10th Cir. 1975).

54. *Acosta v. Gaffney*, 558 F.2d 1153, 1157–58 (3rd Cir. 1977).

55. *Acosta*, 558 F.2d at 1157.

56. Friedler, “From Extreme Hardship to Extreme Deference.”

57. Capps et al., *Implications of Immigration Enforcement*, vii.

58. Capps et al., *Implications of Immigration Enforcement*, 5.

59. *Moore v. City of East Cleveland*, 431 U.S. 494, 503–4 (1977).

60. As Jaqueline Bhabha argues, “The place of residence has pervasive impacts and lifelong consequences: it affects children’s life expectancy, their physical and psychological development, their material prospects, their general standard of living. Belonging to a particular country determines the type of education the child receives, the expectations regarding familial obligations, employment opportunities, gender roles, and consumption patterns.” Bhabha, *Child Migration and Human Rights*, 69.

61. Organization of American States, Article 17.

62. *Smith v. United States*, Case 12.562, Inter-American Commission on Human Rights, Report No. 81/10 (2010).

63. Convention for the Protection of Human Rights and Fundamental Freedoms, November 4, 1950, Europe. T.S. No. 5; 213 U.N.T.S. 221.
64. Bhabha, *Child Migration and Human Rights*, 30.
65. Bhabha, *Child Migration and Human Rights*, 30.
66. Sanchez-Garcia, Hamann, and Zuniga, "What the Youngest Transnational Students Have to Say."
67. Maria E. Enchautegui and Cecilia Menjivar, "Paradoxes of Family Immigration Policy: Separation, Reorganization, and Reunification of Families under Current Immigration Laws," *Law and Policy* 37, no. 1–2 (January–April 2015): 32.

#### CONCLUSION

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2. Linda Bosniak, "Citizenship Denationalized," *Indiana Journal of Global Legal Studies* 7, no. 2 (2000): 479, 478.
3. Linda Bosniak, *The Citizen and the Alien: Dilemmas of Contemporary Membership* (Princeton, NJ: Princeton University Press, 2006), 20.
4. Ines Hasselberg, *Enduring Uncertainty: Deportation, Punishment and Everyday Life* (New York: Berghahn, 2016), 27.
5. Walter J. Nicholls, *The DREAMers: How the Undocumented Youth Movement Transformed the Immigration Debate* (Stanford, CA: Stanford University Press, 2013), 125.
6. Coutin, *Exiled Home*.
7. Leisy J. Abrego, "Legal Consciousness of Undocumented Latinos: Fear and Stigma as Barriers to Claims-Making for First- and 1.5-Generation Immigrants," *Law and Society Review* 45, no. 2 (2011): 337–70.
8. Coutin, *Exiled Home*, 135.
9. Nira Yuval-Davis, "Belonging and the Politics of Belonging," *Patterns of Prejudice* 40, no. 3 (2006): 197–214.
10. Leo Zaibert, "Uprootedness as (Cruel and Unusual) Punishment," *New Criminal Law Review* 11 (2008): 400.

11. Joseph H. Carens, *Culture, Citizenship and Community: A Contextual Exploration of Justice as Evenhandedness* (Oxford: Oxford University Press, 2000), 166.
12. Carens, *Culture, Citizenship and Community*, 166.
13. Roberto G. Gonzalez, *Lives in Limbo: Undocumented and Coming of Age in America* (Oakland: University of California Press, 2015), 9. Sociologist Leisy Abrego has compared the experiences of undocumented first-generation adult immigrants and 1.5-generation immigrants who moved to the U.S. as children. Among other things, she found that members of the 1.5 generation “had been mostly socialized in the United States, where, having had legal access to schools, they were able to develop a much stronger sense of belonging than their first-generation counterparts.” Abrego, “Legal Consciousness of Undocumented Latinos.”
14. Margaret D. Stock, *Essential to the Fight: Immigrants in the Military Eight Years after 9/11* (Washington, DC: American Immigration Council, 2009), 3, [http://www.immigrationpolicy.org/sites/default/files/docs/Immigrants\\_in\\_the\\_Military\\_-\\_Stock\\_110909\\_o.pdf](http://www.immigrationpolicy.org/sites/default/files/docs/Immigrants_in_the_Military_-_Stock_110909_o.pdf).
15. Yuval-Davis, “Belonging and the Politics of Belonging.”
16. Hiroshi Motomura, *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States* (New York: Oxford University Press, 2006), 11.
17. Motomura, *Americans in Waiting*, 11.
18. Motomura, *Immigration outside the Law* (New York: Oxford University Press, 2014), 97.
19. Motomura, *Immigration outside the Law*, 98.
20. Motomura, *Americans in Waiting*, 81–82.
21. Motomura, *Americans in Waiting*, 97.
22. Motomura, *Americans in Waiting*, 98.
23. Cristina M. Rodríguez, “Immigration, Civil Rights and the Evolution of the People,” *Daedalus* 142, no. 3 (2013): 6. Similarly, Linda Kelly argues “the proper distinction in deciding whether an alien is entitled to constitutional protection is not whether his or her case falls ‘inside’ or ‘outside’ of immigration law.” Instead, Kelly argues, constitutional protections should apply on the basis of one’s “‘ties’ or ‘membership’ in the U.S. or national community.” Linda Kelly, “Preserving the Fundamental Right to Family Unity: Championing Notions of Social Contract and Community Ties in the Battle of Plenary Power,” *Villanova Law Review* 41 (1996): 748.
24. Motomura, *Americans in Waiting*, 6.
25. *Mathews v. Diaz*, 426 U.S. 67, 87 (1976).
26. *Mathews*, 426 U.S. at 82–83.
27. *Landon v. Plasencia*, 459 U.S. (1982) at 32.
28. *Landon*, 459 U.S. at 34.
29. Motomura, *Immigration outside the Law*, 107.
30. Joseph H. Carens, *Immigrants and the Right to Stay* (Cambridge, MA: MIT Press, 2012), 9.
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32. Motomura, *Immigration outside the Law*, 107.

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34. Juan Ramon Garcia, *Operation Wetback: The Mass Deportation of Mexican Undocumented Workers in 1954* (Westport, CT: Greenwood, 1980), 228.
35. Shannon K. O'Neil, *Two Nations Indivisible: Mexico, the United States, and the Road Ahead* (New York: Oxford University Press, 2013), 35.
36. O'Neil, *Two Nations Indivisible*, 35.
37. Carens, *Immigrants and the Right to Stay*.
38. Bosniak, *The Citizen and the Alien*, 19.
39. Bosniak, *The Citizen and the Alien*, 19.
40. Stephen H. Legomsky, "Ten More Years of Plenary Power: Immigration, Congress, and the Courts," *Hastings Constitutional Law Quarterly* 22 (1995): 937.
41. Peter J. Spiro, "Trump's Anti-Muslim Plan Is Awful. And Constitutional," *New York Times*, December 8, 2015, [http://www.nytimes.com/2015/12/10/opinion/trumps-anti-muslim-plan-is-awful-and-constitutional.html?\\_r=0](http://www.nytimes.com/2015/12/10/opinion/trumps-anti-muslim-plan-is-awful-and-constitutional.html?_r=0).
42. *Sessions v. Morales-Santana*, 137 S. Ct. 1678 (2017).
43. Zaibert, "Uprootedness as (Cruel and Unusual) Punishment," 402.
44. Joseph Carens, "The Case for Amnesty," *Boston Review*, May/June 2009, <http://bostonreview.net/archives/BR34.3/carens.php>.
45. *Trop v. Dulles*, 356 U.S. 86, 114 (1958).
46. *Trop*, 356 U.S. at 94.
47. *Trop*, 356 U.S. at 98.
48. Mari J. Matsuda, "Looking to the Bottom: Critical Legal Studies and Reparations," *Harvard Civil Rights–Civil Liberties Law Review* 22 (1987): 326.
49. *Trop*, 356 U.S. at 98.
50. Zaibert, "Uprootedness as (Cruel and Unusual) Punishment," 402.
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52. *United States ex. rel. Klonis v. Davis*, 13 F.2d 630, 630 (N.Y. 1926).
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54. Susan Bibler Coutin, "Illegality, Borderlands, and the Space of Nonexistence," in *Globalization under Construction: Governmentality, Law, and Identity*, ed. Richard Warren Perry and Bill Maurer (Minneapolis: University of Minnesota Press, 2003).
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57. Lisa Marie Cacho, *Social Death: Racialized Rightlessness and the Criminalization of the Unprotected* (New York: New York University Press, 2012), 7, 8.
58. *Padilla v. Kentucky*, 559 U.S. 356 (2010).

59. *Fong Yue Ting v. United States*, 149 U.S. 698, 740 (1893) (Brewer, J., dissenting).
60. *Maynard v. Hill*, 125 U.S. 190, 205 (1888).
61. *Loving v. Virginia*, 388 U.S. 1, 12 (1967).
62. *Loving*, 388 U.S. at 12 (quoting *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942)).
63. *Obergefell v. Hodges*, 135 S. Ct. 2584, 2607–8 (2015).
64. *Obergefell*, 135 S. Ct. at 2593–94.
65. *Obergefell*, 135 S. Ct. at 2594.
66. *Obergefell*, 135 S. Ct. at 2594.
67. *Obergefell*, 135 S. Ct. at 2600.
68. *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).
69. William Blackstone, *Commentaries on the Laws of England* (Oxford, 1765–69), 441.
70. Immigration and Nationality Act, 8 U.S.C. § 1430 (2012).
71. U.S. Citizenship and Immigration Services, *Policy Manual: Marriage and Marital Union for Naturalization*, vol. 12, pt. G, ch. 2, 2018, <https://www.uscis.gov/policymanual/HTML/PolicyManual-Volume12-PartG-Chapter2.html>.
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74. U.S. Citizenship and Immigration Services, “Petition for a Spouse.”
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77. Bridget Kinsella, *Visiting Life: Women Doing Time on the Outside* (New York: Crown, 2007) (describing her own relationship with a prisoner and telling the stories of several other women married to men in prison); Deena Guzder, “Bar-Crossed Lovers: Making a Marriage Work When a Spouse Is Serving Life,” *Al Jazeera America*, February 14, 2014, <http://america.aljazeera.com/articles/2014/2/14/spouses-of-the-longtermincarcerated.html>.
78. *Turner v. Safley*, 482 U.S. 78, 96 (1987).
79. *Turner*, 482 U.S. at 96.
80. *Turner*, 482 U.S. at 95.
81. *Turner*, 482 U.S. at 96.
82. *Loving*, 388 U.S.
83. *Loving*, 388 U.S. at 12.
84. *Loving*, 388 U.S. at 2.
85. *Loving*, 388 U.S. at 2–3.
86. *Loving*, 388 U.S. at 3 (“The trial judge suspended the sentence [of one year in jail] for a period of 25 years on the condition that the Lovings leave the State and not return to Virginia together for 25 years”).



87. *The Loving Story* (HBO, 2012), <https://www.hbo.com/documentaries/the-loving-story>.

88. *Loving*, 388 U.S. at 12.

89. *Moore v. City of East Cleveland*, 431 U.S. 494, 499 (1977).

90. *Moore*, 431 U.S.

91. *Moore*, 431 U.S.

92. *Kerry v. Din*, 135 S. Ct. 2128 (2015).

93. *Kerry*, 135 S. Ct. at 2140 (Kennedy, J., concurring), emphasis added. The “facially legitimate and bona fide reason” standard emerged in the case of *Kleindienst v. Mandel*, 408 U.S. 753, 770 (1972), where a group of university professors challenged the exclusion of a speaker on the theory that his exclusion violated the professors’ First Amendment rights.

94. *Kerry*, 135 S. Ct. at 2131 (rejecting Din’s “claim[] that the Government denied her due process of law when, without adequate explanation of the reason for the visa denial, it deprived her of her constitutional right to live in the United States with her spouse” and concluding “there is no such constitutional right”).

95. *Kerry*, 135 S. Ct. at 2142 (Breyer, J., dissenting) (concluding that procedural due process protections apply to this right).

96. *Kerry*, 135 S. Ct. at 2142.

97. *Kerry*, 135 S. Ct. at 2139 (Kennedy, J., concurring) (indicating “the Court need not decide . . . whether a citizen has a protected liberty interest in the visa application of her alien spouse” because “the Government satisfied due process”).

98. *Kerry*, 135 S. Ct. at 2139 (“But rather than deciding, as the plurality does, whether Din has a protected liberty interest, my view is that, even assuming she does, the notice she received regarding her husband’s visa denial satisfied due process”).

99. *Zablocki v. Redhail*, 434 U.S. 374, 384 (1978) (“More recent decisions have established that the right to marry is part of the fundamental ‘right of privacy’ implicit in the Fourteenth Amendment’s Due Process Clause”); *Griswold v. Connecticut*, 381 U.S. 479, 486 (1965) (“We deal with a right of privacy older than the Bill of Rights—older than our political parties, older than our school system. Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any involved in our prior decisions”); see also *Carey v. Population Servs. Int’l*, 431 U.S. 678, 684–85 (1977) (“While the outer limits of this aspect of privacy have not been marked by the Court, it is clear that among the decisions that an individual may make without unjustified government interference are personal decisions ‘relating to marriage, procreation, contraception, family relationships, and child rearing and education’” (internal citations omitted)).

100. *Loving*, 388 U.S.

101. *Obergefell*, 135 S. Ct.

102. Hiroshi Motomura, “The Family and Immigration: A Roadmap for the Ruritanian Lawmaker,” *American Journal of Comparative Law* 43 (1995): 517.

103. *Bustamante v. Mukasey*, 531 F.3d 1059, 1062 (9th Cir. 2008) (citing *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 639–40 (1974)).
104. *Moore*, 431 U.S.
105. A citizen's right to live in the United States and to enjoy "the privileges and immunities" of citizenship is guaranteed by the Fifth and Fourteenth Amendments. See *Ng Fung Ho v. White*, 259 U.S. 276, 284–85 (1922) ("To deport one who so claims to be a citizen, obviously deprives him of liberty, as was pointed out in *Chin Yow v. United States*, 208 U.S. 8, 13. It may result also in loss of both property and life; or of all that makes life worth living. Against the danger of such deprivation without the sanction afforded by judicial proceedings, the Fifth Amendment affords protection in its guarantee of due process of law").
106. *Kerry v. Din*, 135 S. Ct. 2128, 2142 (2015) (Breyer, J., dissenting).
107. *Smith v. United States*, Case 12.562, Inter-Am. Comm'n H.R., Report No. 81/10, para. 25 (2010) (citing *Berrehab v. Netherlands*, Judgment of June 21, 1988, No. 10730/84, para. 29).
108. Jacqueline Bhabha, *Child Migration and Human Rights in a Global Age* (Princeton, NJ: Princeton University Press, 2014), 51 (noting that "torn between the sovereign state's prerogative to exercise border control and the human being's right to respect for family life, [European] courts have had difficulty reaching unanimity").
109. Bhabha, *Child Migration and Human Rights*, 52, quoting European Convention on Human Rights Article 8.
110. Hasselberg, *Enduring Uncertainty*, 48.
111. Hasselberg, *Enduring Uncertainty*, 47.
112. Bhabha, *Child Migration and Human Rights*, 80.
113. Bhabha, *Child Migration and Human Rights*, 81.
114. Bhabha, *Child Migration and Human Rights*, 84.
115. Daniel Kanstroom, *Aftermath: Deportation Law and the New American Diaspora* (New York: Oxford University Press, 2012) (recommending using the European model).
116. Hasselberg, *Enduring Uncertainty*, 46.
117. David B. Thronson, "Unhappy Families: The Failings of Immigration Law for Families That Are Not All Alike," in *Deportations Delirium: Interdisciplinary Responses*, ed. Daniel Kanstroom and M. Brinton Lykes (New York: New York University Press, 2015), 38.
118. Carens, *Immigrants and the Right to Stay*.
119. Leo R. Chavez, *The Latino Threat: Constructing Immigrants, Citizens, and the Nation*, 2nd ed. (Palo Alto, CA: Stanford University Press, 2013).
120. George H. W. Bush, "Statement on Signing the Immigration Act of 1990," *Pub. Papers of the Presidents of the United States: George Bush, 1990, Book 1* (Washington, DC: Office of the Federal Register, National Archives and Records Administration, 1991), 1717–18.
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to store four pills) as aggravated felonies. *Moncrieffe v. Holder*, 133 S. Ct. 1678 (2013); *Carachuri-Rosendo v. Holder*, 130 S. Ct. 2577 (2010); *Mellouli v. Lynch*, 135 S. Ct. 1980 (2015).

122. Hasselberg, *Enduring Uncertainty*, 3.

#### EPILOGUE

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