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CRIMINALIZATION OF UNDOCUMENTED WORKERS AND LABOR: INCREASING FEAR AND EXPLOITABILITY WITHIN THE LATINO COMMUNITY

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I think, the way we treat immigrants is a national disgrace and I'm ashamed of what we do. I think anybody who's here in the United States, legal or illegal, is entitled to the full protection of the law and they're not getting that.

Robert Morgenthau, former New York District Attorney

"Illegal" is all about social and political status. "Illegal" says society is divided into those who have rights and those who don't; those whose status and presence in the United States is legitimate and those whose status is illegitimate, those who are part of the community and those who are not. Yet those branded as illegal are part of the economic engine of this country.

David Bacon p. V

Instilling Fear

In June 2007, at 6:45am, in Morris County, NJ, ICE agents took out their guns, banged on a door, and in the moment the tenant had cracked opened the door, forced their way in. ICE agents illegally entered and searched the home. An ICE agent shouted using abusive language yelling "F*** you" and "You are a piece of s***" at one of the residents who tried to call her lawyer— Arqueta v. Myers, No. 08-cv-01652 (D. NJ) (complaint filed Apr. 3, 2008). (Chiu, Eggert, Markowitz, Vasandani, 2009 p. 19)

In March 2007, in California, “[ICE Agents] arrived at [the Reyes’ home] in the early morning hours...Armed and wearing clothes bearing the word “police,” [ICE Agents] entered the residence and demanded the immigration papers and passports of [7 year old] Kevin and his father...[ICE Agents] did not have lawful authorization or a valid warrant for entering the home....Despite being placed on notice that Kebin is a United
States citizen, [Agents] instructed his father to awaken Kebin because they were going to seize him as well...[Agents] took Kebin and his father to an ICE office in San Francisco and held them there against their will.” Reyes v. Alcantar, No. 07-02271 (N.D. Cal., filed Apr. 26, 2007); (Chiu, Ogyes, Markowitz, Vasandani, 2009 p. 20).

These accounts are just a sample of the hundreds of grievances that have been reported; perhaps thousands have been unreported and left to oblivion due to a deep fear the victims feel of being deported or incarcerated. These accounts describe a level of repression and intolerance that can only come from state apparatuses and their agents whose main goal is to instill fear in those who are clearly not considered by them as worthy individuals. It is a treatment that throughout history has been reserved for those who are considered a threat to the core values and ideal racial representations by those who manufacture and control cultural, political, and economic hegemony—a hegemony justified by a state and its dominant classes as to maintain their power by winning the active consent of those over whom they rule (Gramsci, A. in Hoare, Smith, 1971. p. 12).

I will attempt to show that such a perverse dynamic, which is a product of false consciousness, exacerbates a political economy in which, in Gramscian terms, those who control the state institutions and the historic bloc are reaping material benefits (Gramsci, 2000). Undocumented workers receive lower wages than any other minority (Kazis & Miller, 2001). Yet, a large number of non-Latinos from the working and middle classes now see their jobs and wages decline at the same time they see the American dream evaporate (Peterson, 1995). At the same time, those in control of capital have thrived from the increasingly unequal political economy; but their survival depends, at least in the short term, on the creation of a scapegoat that they know is needed by all those who still want to believe in the American dream (Cullen, 2003).

The paradox of U.S. migration laws and policies is that as they become more restrictive and punitive at both the federal and state levels, they seem to ensure, perhaps not intentionally, that workers and families who do not have the proper immigration documents and working permits remain in the “shadows” and work harder for less, even under extreme duress.

To keep a high level of consensus among those individuals and communities that are recognized by the state as its legitimate members, the state, in close association with the dominant classes, has put forward in specific historical conjunctures a combination of key policies that include, among others, the following: A constant manufacturing, through its educational system and the media, of a sense of manifest destiny and exceptionalism; an internal and external use of force; and a selective application of the rule of law. It seems that there is a disturbing paradox entrenched in the dominant idea of the United States as being the land of freedom, equality, and justice: It is the idea, as suggested by Horsman (1981), in the context of American Expansionism, that the principles of free democratic republicanism are viewed to have sprung from the inherent superiority of the White Anglo-Saxon-Protestant ideal type (p. 1).

However, in a state that praises its exceptionalism (Hodgson, 2009) and where not even the most serious criminals are treated with such contempt for their dignity as undocumented migrants, how can those who are supposed to enforce the rule of law selectively treat individuals as if they were subhuman? It seems that a reasonable explanation can be found in the ontological creation of the undocumented migrant as the “Other.” Perhaps the most compelling definition of the “Other” for the purposes of understanding its construction as applied to undocumented immigrants in general, and those communities that are considered as a threat to society, is found in the Merriam-Webster Dictionary, in which “Other” can be understood as “disturbingly or threateningly different: alien, exotic” (Merriam-Webster.com, n.d.). This definition has been at the core of the legal, political, and social differentiations between what the dominant discourse has considered a “true American” versus an “Alien,” the later regardless of his or her legal status. The creation of the discourse of fear toward the undocumented immigrants considered as a threat (Caucasians do not seem to fall in this category), such an “Other” has now been elevated to an “invader,” dismantles the political and social construct of the migrant and redirects the legal debate to equating migration as a threat to public safety and to the national security of the State. The perversion of this dynamic is that such “invaders” are still very much needed and hence become more exploitable as they confront more repressive measures from all levels of the state (Arrocha, 2010).
The Political Economy of “Illegal Migration,” Fear and Exploitability

After WWII the United States became the hegemon of what Wallerstein has identified as the World Capitalist System (WCS); a system in which the dominant classes of the core states, with support from the state, continued to internationalize their capital through key International Political Economy (IPE) institutions, an imbedded system of neoliberal trade and investment agreements; and the projection of military force worldwide (Wallerstein, 1979, Chalmers, 2008). As a result, international migration was to become an intricate part of a new International Division of Labor (IDL); an IDL based on an extremely unequal wage structure and an imbalanced and restrictive movement of labor across state boundaries (Sassen, 1990 & Dauvergne, 2008). Within the new IDL, the dominant classes of core states have been able to migrate across any state within the WCS with few legal and political hurdles as they are part of an International Managerial Class (IMC) that is an intricate part of the internationalization of capital (Hirst and Thompson, 1999). On the other hand, migrants from the Periphery to the Core who are fleeing from the social and economic dislocations caused by the embedded neoliberal trade and investment agreements encounter migration laws that make it almost impossible for them to migrate through the normal legal channels (Dumont, Spielvogel and Widmaier, 2010). The end result is what De Genova calls “the legal production of migrant ‘illegality’” (De Genova, 2004).

Even as certain governments from the Core promote policies for open markets in trade and investment to guarantee less restrictive trade laws and additional sources of cheap labor, they will inevitably create internal dislocations in their own labor markets. The former inevitably creates two structural problems: 1) a decline in the pool of labor connected to the manufacturing and service sectors that have been outsourced and, 2) a constant decline in the purchasing power of its working and middle classes that are directly competing with an IDL characterized by a labor structure compromised by a migrant work force that is more flexible, docile, and earns lower wages, often with no benefits (Sassen, 1990). As a result, Core labor markets experience a high demand for a constant flow of migrant workers who are willing to fill the labor gaps in sectors that still need unskilled labor.

This places governments, and for this case study, that of the U.S., in a very awkward position. Their legitimacy is based on upholding their constitutional principles and the rule of law. Yet, they must acknowledge that it is in the best interest of political and socio-economic stability to maintain a relaxed set of policies regarding the structural demand of a labor market without proper migration and working permits. The problem is compounded when certain economic sectors that rely on low skill labor cannot sustain profit margins in order to maintain their competitiveness in an open global market. Moreover, the sectors that do not require high skill labor tend to be those that have functioned as political economic leverage for an American middle class whose purchasing power is in constant decline and who is seeing their “American Dream” fade away. Such sectors include, but are not restricted to, farming, cleaning, construction, food preparation, production, and transportation (Passel, 2005).

In the case of the U.S., the supply and demand of low paid undocumented workers is of such magnitude (Cohn & Passel, 2010; Cohn & Passel, 2011) that the state cannot simply ignore it, fully stop its flow at the border, nor deport the undocumented workers en masse. On the other hand, the strong demand for undocumented migration has been accompanied by a strong increase in xenophobia; a xenophobia that has influenced political and legal institutions to carry out very harsh policies to demonstrate their eagerness to control an issue that, though perceived by some sectors of society as a serious threat to the U.S., is in reality a structural phenomenon of the present WCS still under U.S. hegemony (Sassen, 1990, p. 52). The other factor that has justified the increase in harsher and more repressive policies is the panic-stricken response to the events of September 11, 2001 after which the US-Mexican border was perceived as the most vulnerable.

As a result of the lack of a migration policy that should accompany the high demand for migrant labor, we are witnessing a severe level of ghettoizing and spatial segregation (Gurian, 2011) of the Mexican/Latino population through federal programs like Secure Communities and the 287 (g) Program accompanied by harsh state legislations such as Arizona’s SB1070, Georgia’s HB 87, and Alabama’s HB 56. These federal programs and state laws that criminalize undocumented migrants cause migrant workers, particularly those of Mexican and Central American origin, to become extremely flexible, docile, and cheap labor as they constantly fear the persecution from federal and state authorities.
The end result is a political economy based on constant fear at different levels of society: Migrant workers will fear not just for their source of income but for their fate and for his/her family. On the other hand, for those who perceive the migrant workers as the "Others" who break the law and "invade" their communities, there is a constant fear that the former represent a serious threat to the public safety and the security of the state. And if the "Other" is a Mexican/Latino, their presence becomes a serious threat to the core values and principles of the state as well as to the ideal racial type of the White-Anglo-Saxon-Protestant (WASP): An ideal type that embodies the ideals of Manifest Destiny, American exceptionalism, and the American Capitalist System at large. The "Other" is to be feared yet exploited and disposed of through social exclusion, detention, and deportation.

III. Blueprints for the Manufacturing of the Present Other as a Target for Exclusion and Repression in the Name of American Exceptionalism

Although the history of exclusion and repression through U.S. immigration laws and policies are complex and cover a large number of bills, I intend only to focus on immigration laws and policies that have set the blueprints for the purposes of exacerbating and criminalizing the "Other" as well as his or her work.

From the time the United States was formed and consolidated as a Federal Republic, there has been a constant tension between the federal government and the states in regard to the following key question: Can the core principles of American exceptionalism and the discourse that supports them, as identified by Lipset (1997), be sustained if the largest flow of migrants, of which the political economy has created a continuous demand, is identified as a threat to such principles? This question, particularly when seen through the legal construct of the "Others", has been prevalent since the passing of The Alien and Sedition Acts of 1798, of which the Alien Enemy Act has remained intact as 50 U.S.C. § 21-24. The importance of this Act is that it is the first document to define a non-U.S. citizen as an "alien," not just an "immigrant;" and an alien, in the context of American exceptionalism, is not just a foreigner owing allegiance to another government, but a subject who, due to his or her cultural or physical characteristics, can represent a potential threat to such exceptionalism (Arrocha, 2010).

There have been historical periods where the state put forward stringent immigration policies and laws that in the name of national security, or the advancement of American exceptionalism, used force or the suspension of civil rights on certain groups (Arrocha, 2011). Regarding such policies aimed at Mexicans, who are once again, with other Latino communities, the main targets of the present repressive policies, it is important to recall the 1930's massive raids and removal of up to two million Mexican nationals from the United States under the Mexican Repatriation Program (Garcia, 2006).

Another massive deportation program directly aimed at Mexicans was the 1954 Operation Wetback which included raids similar to the ones carried out today (Hofmann, 1970; Balderrama & Rodriguez, 2006). Operation Wetback led to the deportation of nearly 1.3 million Mexicans from the United States and was plagued with widespread allegations of abuse against Mexicans as well as Mexican Americans, including harassment and beatings (Ngai, 2004, 156-157). It was so virulent that, as Bosworth and Flavin bluntly state, "It came to be synonymous with human rights violations and a kind of official vigilantism in the name of official immigration control" (Bosworth and Flavin, 2007, p. 126; Morgan, 1954). Operation Wetback was so successful in meeting its punitive measures that it has become, with the 1930's Mexican Repatriation Program, the main blueprint upon which most present removal and repressive programs are established.

Perhaps the strongest blow to the Mexican and Central American migrants was the implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA 96). This Act focused on detention of undocumented immigrants and radically transformed the immigration laws of the United States in that IIRIRA created the notion of "unlawfully present;" specifically creating the three-year, ten-year, and permanent bars. As a result, if an immigrant has been unlawfully present in the United States for 180 days but less than 365 days he or she must remain outside the United States for three years unless the person can obtain a pardon. If the person has been in the United States for 365 days or more, he or she must stay outside the United States for ten years unless he or she can obtain a waiver. If the person returns to the United States without a pardon, the person cannot apply for a waiver for a period of ten years (IIRIRA, SEC. 237, Para (d), 1996). Moreover, deportees may be detained in jail for months, even as much as two years, before being
brought before an immigration board, for which defendants are required to pay their own legal representation (IIRIRA, 1996). Added to the former, IIRIRA expanded the list of what is considered an “aggravated offence,” which determines de jure the concept of a “Criminal Alien.” Although some definitions of “aggravated offence” would seem to justify an immediate removal (murder, rape, or sexual abuse of a minor) others, based on the U.S. Code Title 8, Ch.12, Subchapter I § 1101 Paragraph 43 (U.S. Code, 2006), include individuals who “entered without inspection,” “absconders,” or who overstayed their visas.

What made IIRIRA particularly stinging for Mexicans is that it clearly targeted the Mexico-U.S. border as presenting a direct threat to the National Security of the U.S. IIRIRA also started the building of the largest wall between two “trading partners.” Today, the fence includes nearly 700 miles of additional fences as well as lights, sensors, cameras, ground radar, and even unmanned surveillance drones. It has cost more than 1 billion dollars and has become one of the most militarized borders in the world (Dunn, 1996 & Andreas, 2009).

In a hearing before the Subcommittee on Migration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary of the House of Representatives held on April 20, 2007, the Chairwoman of the Subcommittee, Representative Zoe Lofgren (D-CA) depicted the serious, yet advantageous consequences for U.S. capital, when she acknowledged that this act would make circular migration more dangerous and hence keep entrapped undocumented migrant workers within the U.S. (Honorable Zoe Lofgren, Opening Statements, U.S. Congress, 110th Congress House Hearings, April 20, 2007)

Although it seems reasonable that after 9/11 the Southern border would be perceived as the weakest flank in keeping the U.S. borders secure for potential future terrorists attacks, due to the fact that Mexico, unlike Canada, is not a member of NATO and NORAD, it is now clear that the real threat posed by the southern border goes beyond such considerations: The Latinos, and particularly the Mexican migrants pose, for the hegemonic culture and discourse, a direct threat to the core of what constitutes being a ‘true’ American, while maintaining the collective idea of being exceptional. Although Mexicans have been perceived as a threat to American exceptionalism since the United States’ expansion based on the principles of Manifest Destiny that concluded in territorial terms with the 1846-48 war with Mexico and the Treaty of Guadalupe-Hidalgo, practically all major changes in U.S. migration laws and policies, at both the federal and state levels, have created excessively restrictive conditions for Mexicans to “legally” migrate into the United States (Horsman, 1981).

Mexican and Latino migrants are perceived as representing a double threat: they are “criminal aliens” that jeopardize public safety as well as “invaders” who in the minds of many American pundits, including highly reputed intellectuals, cannot assimilate to the perceived core values of America and thus actually threaten their existence and, inter alia, that of the nation-state. As Samuel Huntington (2004) bluntly states regarding such a “threat”:

The persistent inflow of Hispanic immigrants threatens to divide the United States into two peoples, two cultures, and two languages. Unlike past immigrant groups, Mexicans and other Latinos have not assimilated into mainstream U.S. culture, forming instead their own political and linguistic enclaves—from Los Angeles to Miami—and rejecting the Anglo-Protestant values that built the American dream. The United States ignores this challenge at its peril. (Huntington, 2004, p. 1)

The paradox, however, is that the “Other” has become one of the most important factors of production for those economic sectors that could not maintain a high rate of capital accumulation if they were to follow the apparently cherished and unmatched American rule of law. This means that the wages and working conditions that are inferior to those regulated by the state can be maintained only by ensuring the “illegality” and “Otherness” of such labor force (De Genova, 2004).

The Present Architecture of Fear, Exploitation, and Profitability

The Immigration Reform and Control Act adopted in 1986 prohibited for the first time since the implementation of migration policies the employment of people without an immigration visa that allowed them to work. In making it illegal for an employer to hire workers without proper working permits, the law also made it a crime for those workers to hold a job (Bacon, 2008. p. 6). Thus the circle was closed and the undocumented migrants found themselves trapped in a web of laws and policies that made them the most fearful, docile, and exploitable of all
labor. On the other hand, corporations began to gamble on defeating a system that, if it were to implement the law, would need a level of human resources and capital and technological resources that the state cannot dispose of as it tries to maintain its dwindling hegemony of the World Capitalist System.

As a response to such lack of resources vis-à-vis a constant demand for migrant workers, the Federal Government as well as state and municipal governments have increased their coordination to intensify the criminalization of undocumented workers and their family members through four main programs: The 287(g) Program, Secure Communities, the Criminal Alien Program, and the National Fugitive Operation Program. These programs, added to the more than twenty state bills mirroring Arizona’s SB 1070, have facilitated the practice of profiling as one of the key tools in regulating migration and in differentiating those who are presumed to be residing in the state without legal migration documents vis-à-vis those who are legal residents.

One preferred tactic that is used in all four programs, made possible by the successes of Operation Wetback, is the increase in recent years in the number of ICE “raids” or detentions in homes and workplaces, and of local law enforcement agents enforcing immigration law. Despite the fact that ICE has a set of strict rules on how to deal with investigations and detentions, the number of detentions and deportations has reached 641,633 of which the vast majority are from Mexico (489,547) (Sapp, L. & Simanski, J., 2011, p. 3).

According to one of the most thorough studies on Home Raid Operations, most raids have been carried out without respecting the Fourth Amendment of the U.S. Constitution, nor the application of Miranda Rights nor the 1963 Vienna Convention on Consular Relations (Chiu, Egees, Markowitz, & Vasandani, 2009). Despite the fact that such raids and detentions are supposed to be focused on so called ‘target arrests,’ the strong majority of the detentions end up what the study considers as Collateral Arrests (Chiu, Egees, Markowitz, Vasandani, 2009 p. 11). It is clear that the most fundamental Human Rights expressed in the U.S. Constitution, the U.S. Bill of Rights, and the International Covenants of which the U.S. is a party, are not applicable to so called “criminal aliens.”

A characteristic of the raids conducted by ICE, particularly their aggressiveness accompanied by derogatory remarks made by ICE agents, is that they reflect a dominant, or hegemonic discourse and practice, in which Mexican and Latinos are perceived as intruders or, as the mainstream media has characterized them: “criminal aliens,” “invaders,” or, even more specifically, as a very popular TV anchor, Lou Dobbs, referred to them as “an army of invaders” (Dobbs, 2006).

By characterizing immigrants as “aliens” and those without proper migration documents as “criminal aliens” or “alien invaders,” many sectors of civil society and its dominant institutions automatically define them as being the “Other”—one whose life is generally perceived as less valuable. Thus, treating them as criminals, or subhuman, is justified not only as an act of self-defense, but also as the last resort to protect what is understood through the dominant or hegemonic discourse to be the essential values and racial/cultural traits that make up the “true” citizen of the nation and its historic exceptionalism.

From ICE’ 287 (g) Program to Secure Communities: Partnering with Local Governments and ‘Casting a Drag Net’ to Detain and Deport so Called “Criminal Aliens/Invaders”

Although those representing federal agencies reiterate that immigration laws and policies are under the authority of the federal government based on Article VI, Clause 2 of the United States Constitution, also known as the Supremacy Clause, it is a fact that in order to successfully carry out the present policies of massive detentions and deportations of undocumented migrants, the federal government, through ICE, has entered into highly controversial agreements with state and municipal governments. These agreements, also known as “partnership initiatives,” are meant to utilize local enforcement capabilities of state and municipal police forces to assist ICE in policies that were legally meant to be within the purview of federal agencies. The number of such agreements under the Immigration and Nationality Act (INA) Section 287(g) or so called 287 (g) Program is sixty-nine and they mainly cover states and municipalities with a strong Latino presence (ICE Fact Sheet, n.d.).

It is important to note that this is the first partnership program in which a federal agency delegates certain federal powers to state and local agencies that were not created to carry-out migration policies. Two immediate negative outcomes have resulted from these partnerships, the first is a dangerous decline in the trust towards the police forces from those communities that feel targeted, which in this case are mainly Latino.
Moreover, this inevitably makes law enforcement very difficult, as there is the potential for crime rates to increase. The second immediate effect is the potential for racial profiling by police forces that, depending on the communities in which they operate, tend to perceive certain communities as having large numbers of undocumented immigrants—the Latinos clearly being the main targets. Furthermore, racial profiling has shown to be accompanied by abusive practices and the potential use of excessive force on individuals that are perceived, *prima facie*, as being “criminal aliens.”

The 287(g) program in combination with Secure Communities, the Criminal Alien Program, and the National Fugitive Operation Program have separated families, orphaned children, and left communities in total disarray (Chiu, Eggis, Markowitz, & Vasandani, 2009). The Global Project for Detention, based in Geneva (2010) has presented substantial evidence and juridical analysis on how the Federal State has permitted the systematic violation of several international conventions of which the U.S. is party. The more serious problem regarding the full application of the international conventions of which the US is party is that while a treaty may constitute an international obligation, it is not binding in U.S. domestic law unless Congress enacts statutes implementing it or unless the treaty is self-executing and ratified on that basis. For example, the Vienna Convention on Consular Relations (1967), which the United States ratified in 1969, is neither self-executing nor has it been implemented by binding congressional legislation (The Global Project for Detention, 2010, p. 3). The former has caused a very serious problem, particularly when the U.S. Supreme Court, in a 5-4 decision in the *Medellin vs. Texas* case dismissed Medellin’s petition to allow the state *habeas* case to go forward (U.S. Supreme Court, *Cortoraro to the Court of Criminal Appeals of Texas*, 2008). This case has further instilled a deep fear in the Mexican and Latino migrant population that might not be able count on proper assistance from their consuls, and who are at the mercy of Federal and local law enforcement agencies that continue to dismiss International Public Law at their discretion.⁷

Although the 287(g) program has been rated as a very successful program in realizing its goals of detaining and deporting “criminal aliens” (Vaughan, Edwards Jr., 2009), it has also caused an increase in the pattern of human right violations against people suspected of being undocumented immigrants (Welch, 2002). It is undeniable, as the ICE webpage states (ICE, n.d.), that the state needs an effective system in dealing with violent crimes, human trafficking, smuggling, gang related crimes, sexual-related offenses, drug trafficking, and money laundering. The problem is that by co-opting local forces and leaning heavily on its third pillar, which is the incarceration of those suspected to be “illegal criminal,” the system creates a dragnet in which the number of those arrested with minor offenses is substantially higher than those for which the system was designed. It also increases the number of incarcerations that boosts a correctional system that is already exceeding its planned capacity. Moreover, these are correctional facilities where most inmates that are presumed to be “criminal aliens” have no legal counsel and tend to be treated in extremely inhuman and degrading ways (Dow, 2005). The system has created a pattern of human rights violations that have increased not only fear but also the risk to work without documents, which increases the exploitability of undocumented workers.

Launched in October 2008, Secure Communities was meant for the “removal of criminal aliens, those who pose a threat to public safety, and repeat immigration violators” (ICE, n.d.). In its almost three years of operation, it has become the most controversial and criticized detention and deportation programs to date (National Community Advisory Report [NACAR], 2011). It is also one of the most powerful, for it is mandatory and has gone from covering 14 jurisdictions during the Bush administration to 3,181 jurisdictions (97%) in all 50 states and 4 territories; and according to ICE, is projected to cover all jurisdictions by 2013 (ICE, Activated Jurisdictions, 2012).

Although the program is designed to detain and remove individuals who present a threat to public safety and national security, it has never denied its intentions to also focus on individuals that are “unlawfully present” in the U.S., which is the case of most undocumented migrants that fall under the categories set in the U.S. Code Title 8 Ch.12 Subchapter II, Part VIII § 1325 (Improper entry by alien) as well as U.S. Code Title 8 Ch.12 Subchapter II, Part VIII § 1326 (Reentry of removed aliens). Moreover, ICE can apply other factors that can be grouped under all the General Penalty Provisions of Title 8 Ch. 12 Subchapter II, Part VIII. This gives ICE significant leeway to decide who is detained and under which conditions and when can they be deported. It is, therefore, not a surprise that more than half of the detainees have either no convictions or are guilty of only misdemeanors, including traffic offenses (NACAR, p. 9, 2011).
Secure Communities is a program that does exactly the opposite of what it name hopes to portray: it seriously jeopardizes the functions and goals of the institutions charged with public safety and has caused a deep fear and disarray among the Latino community as it is the one most targeted and chastised by ICE agents and those elements in the police forces that perceive Latinos as the main threat to the public safety.

Final Thoughts

The “disturbingly or threateningly different Other” has become the scapegoat for a political economy that can no longer respond to the needs of a fading middle class that is mainly composed of WASPS or peoples of European descent. It is a class that is still willing to believe in American exceptionalism and its Manifest Destiny. It is also a class that is somewhat in a state of schizophrenia: on one hand, it strongly cherishes the discourse of “liberty justice and equality for all” while it forces the “Other” to remain in the shadows and toil, as a “criminal alien” to keep the American dream alive. Meanwhile, the “Others,” though living in a constant state of fear, have never lost the hope of one day being part of a dream that although seems to be fading away, still gives them the strength to continue their struggle for a better life: a life where their work as well as their individual and collective aspirations are greeted and embraced with dignity and respect.

References


Endnotes

1 In this paper Latino (s) can be interchangeable with Hispanic in that we are using the US official use of the ethnonym found in two key documents: the Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity, Federal Register Notice, October 30, 1997, and the United States Census Bureau (March 2001). “Overview of Race and Hispanic Origin”. In both documents Latino or Hispanic are designated as “A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term, “Spanish origin,” can be used in addition to “Hispanic or Latino.” However, due to the critical mass of Mexican Latinos (s) in the composition of the undocumented work force (62 percent), the main focus of this paper will be around this segment of the Latino/Hispanic population. This said, in the racial profiling that occurs across the nation and that affects the Latino or Hispanic populations, there does not seem to be a differentiation regarding their country of origin.


3 For Gramsci (2000), the historic bloc is an alternative interpretation of the relationship between the elements of the social structure: a dialectical one, stressing “the dialectical unity of base and superstructure” (p. 424). Gramsci clarifies this when he states: “The material forces are the content and ideologies are the form, though this distinction between form and content has purely indicative value, since the material forces would be inconceivable historically without form and the ideologies would be individual fancies without the material forces” (p. 200). Hence, the conjunctural alliances between social structure composed of the economic base and the ideological superstructure are what Gramsci refers as the historical bloc. The two levels remain basically the same, except that Gramsci calls the levels of the superstructure political society, corresponding to the state, and civil society, “the ensemble of organisms...
commonly called private, i.e., the sum of social activities and institutions which are not directly part of the government, the judiciary or the repressive bodies (police, armed forces)\(^4\) (p. 420).

4 The “Other” for this paper is mainly the Mexican undocumented immigrant, which at times has been considered by certain members of the media, political pundits and nativist groups as a “Criminal Alien” as well as an “Illegal Invader”.

5 In this article we refer to the “dominant discourse” in terms of Antonio Gramsci’s (1995) work on hegemony. Gramsci defines hegemony as the exercise of “moral, political, and intellectual leadership” in a society. He conceptualizes this exercise of power beyond the traditional notion of the state as the singular institution that rules through force. Gramsci contends that the state does not rule through force alone, but cultivates consent through “a multitude of other so-called private initiatives and activities [that function] to the same end—initiatives and activities which form the apparatus of the political and cultural hegemony of the ruling classes” (p. 258). Hegemony, therefore, is a process by which “educative pressure [is] applied to single individuals so as to obtain their consent and their collaboration, turning necessity into coercion” (p. 242).

6 The conventions being violated are the following: the International Covenant on Civil and Political Rights (1976); the Convention against Torture and “Other” Cruel, Inhuman or Degrading Treatment or Punishment (1987); the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (2000); and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography (2002). Moreover, The United States is not in full compliance with the Organization of American States (OAS) Inter-American Commission on Human Rights system, which was created under the American Declaration of the Rights and Duties of Man (1948) and the Charter of the OAS (1948).