

The New Latino Underclass: Immigration Enforcement as a Race-Making Institution

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Abstract

Mexicans are the second largest minority in the United States after African Americans. Although they have been in the country in significant numbers since 1848, the Mexican population has grown rapidly in recent decades and together with other Latin Americans Hispanics now constitute the nation's largest minority population and is rapidly pulling away from African Americans in size. Since 1965 Latinos in general and Mexicans in particular have been subjected to a variety of processes of racialization in public rhetoric and the media, and these have been associated with radical shifts in immigration and border policy, such that the U.S. immigration control system has become a major race-making institution for Hispanics. This paper documents the rise of a war on immigrants that parallels the earlier wars on crime and drugs such that immigration enforcement has come to affect Latinos in the same way that the criminal justice system affects blacks, further exacerbating intergroup inequalities in the United States.

DEMOCRACY AND MARKETS

UNDERSTANDING THE EFFECTS OF AMERICA'S ECONOMIC STRATIFICATION

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With around 12 million persons, Mexicans presently constitute the second largest minority in the United States, representing around 10% of the U.S. population compared with 12% for African Americans. Other persons of Latin American origin comprise another 5%, so together Latinos make up a total of 15% of the U.S. population and constitute the nation's largest pan-ethnic minority. Asians, by way of contrast, comprise just 4% of the population (Pew Hispanic Center 2010). As Latinos in general and Mexicans in particular have grown in numbers and visibility in recent decades, they have been subject to a systematic process of racialization (Massey 2009). By racialization, I refer to deliberate acts of psychological framing and social boundary definition undertaken to identify Latinos as a stigmatized out-group and to undermine their standing with respect to fundamental human attributes such as competence and warmth (Massey 2007).

The roots of Latino racialization can be traced back to the 1960s, when the United States, for extraneous reasons, adopted a new set of immigration policies that made it difficult for Mexicans and other Latin Americans to enter the country legally (Massey 2010). As a result, although the number of Latino immigrants entering the country changed little in subsequent years, the composition shifted dramatically from documented to undocumented (Massey, Durand, and Pren 2009). The rise of mass undocumented migration offered political entrepreneurs a golden opportunity to mobilize anti-immigrant sentiment for their own purposes by framing Latinos as “illegal” and thus inherently dangerous, threatening, and inimical to American values. Between 1965 and 2000 a “Latino threat narrative” came to dominate public debate and media coverage of Latinos in the United States (Chavez 2001, 2008) and U.S. policy makers responded by launching a war on immigrants that involved an unprecedented militarization of the Mexico-U.S. border, a

massive expansion of the immigrant detention system, and a return to mass deportations for the first time since the 1930s (Massey and Sánchez 2010).

Government repression accelerated markedly after September 11, 2001 as the war on immigrants was increasingly conflated with the war on terror (Massey and Sánchez 2010). By 2010, America's immigration enforcement apparatus had become a central race-making institution for Latinos, on a par with the criminal justice system for African Americans. Paradoxically, the initial effect of increased immigration enforcement and border militarization was actually to *increase* the net inflow of undocumented migrants into the United States and to spread them more widely throughout the nation (Massey, Durand, and Malone 2002; Massey, Rugh, and Pren 2010). Mexican migration, in particular, was transformed from a largely circular movement of male workers going to three states into a settled population of families living in 50 states (Massey, Durand, and Pren 2009).

By 2010, more Latinos were living in undocumented status in more places than at any point in American history (Massey 2008). This growth in the undocumented population was accompanied by a quiet return to the massive Mexican guest worker migration, such that a large and growing fraction of Latino workers in the United States lack basic social and economic rights. With more people occupying ever more vulnerable and exploitable positions in the U.S. labor market, the socioeconomic status of Latinos fell, wages stagnated, poverty rates rose, and the economic returns to human capital largely evaporated (Massey and Gelatt 2010). After occupying an intermediate position between blacks and whites in the American status hierarchy, Latinos in the 21st century joined African Americans at the bottom of the socioeconomic distribution to comprise a new American underclass (Massey 2007). In the absence of meaningful immigration reform and a curtailment of the current war on immigrants, this population can only be expected to see its problems proliferate and multiply.

Creating Illegal Workers

Latin American migration to the United States is nothing new, of course. Except for a short gap during the Great Depression, Mexicans have been migrating to the United States in significant numbers since early in the 20th century (Cardoso 1980; Massey, Durand, and Malone 2002). After 1945, Mexicans were joined by successive waves of immigrants from other Latin American nations,

first from Puerto Rico, then other islands in the Caribbean, followed by Central America and South America (Bean and Tienda 1987). In general, these successive waves of migrants came in response to political and economic interventions within the region by the United States, beginning with Operation Bootstrap in Puerto Rico and continuing with Cold War operations in Cuba and the Dominican Republic, the Contra War in Central America, and the application of structural adjustment policies in South America under the neoliberal regime of “the Washington Consensus” (Massey, Sánchez, and Behrman 2006; Riosmena 2010).

Prior to 1965, it was relatively easy for Latin Americans to enter the United States in legal status, as there were no numerical limits placed on immigrants from the Western Hemisphere. Mexico, in addition, benefitted from a generous U.S.-sponsored guest worker arrangement known as the Bracero Program, enacted in 1942 (Massey, Durand, and Malone 2002; Zolberg 2006). During the late 1950s, Mexican legal immigration averaged around 50,000 persons per year; Bracero migration fluctuated between 400,000 and 450,000 persons per year; and upwards of 10,000 persons entered the United States each from other nations in Latin America. Undocumented migration, meanwhile, was virtually non-existent (Massey, Durand, and Malone 2002; Massey, Durand, and Pren 2009). In 1960, for example, there were only 30,000 apprehensions at the Mexico-U.S. border and 7,000 deportations from within the United States.

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In sum, during the 1950s and early 1960s the total annual inflow of migrants from Latin America fluctuated around half a million persons per year, almost all in legal status. At the end of 1964, however, the United States unilaterally terminated the Bracero Program over Mexican protests; and in 1965 congress passed amendments to the Immigration and Nationality Act that placed a first-ever cap of 120,000 on immigrants from the Western Hemisphere. Additional amendments implemented in 1976 put each country in the hemisphere under an annual quota of 20,000 immigrants (Zolberg 2006). The effect of these new restrictions was particularly dramatic for Mexico. Whereas in 1956, 65,000 Mexicans entered the United States in documented status and another 445,000 as guest workers, by 1976 the guest worker program was long gone and legal immigration was capped at 20,000 per year. Although immediate relatives of U.S. citizens were exempted from this numerical cap, the total number of migrants entering from Mexico had nonetheless dropped 86% from its earlier peak.

Despite the curtailment of avenues for legal entry, however, the demand for Mexican workers did not change and Mexicans continued to flow to the jobs they had traditionally held. The inevitable response was a sharp rise in undocumented migration. Figure 1 shows Mexican migration to the United States in three legal categories: documented (permanent resident aliens), temporary (Braceros and later H-visa workers), and undocumented (those crossing the border or working without authorization). Data on documented and temporary migrants come from the U.S. Office of Immigration Statistics (2009) whereas data on undocumented migration come from estimates prepared by Massey, Durand, and Pren (2009). They calculated probabilities of undocumented entry and exit using data from the Mexican Migration Project and then applied these to population counts taken from the Mexican census to compute annual net undocumented migration between Mexico and the United States.

See Fig. 1. (p. 25).

As can be seen, when the Bracero Program ended in 1965 and curtailed opportunities for migration in legal status, both documented and especially undocumented migration from Mexico began to increase. Net undocumented entries rose from near zero in the early 1960s to peak at around 300,000 per year in 1990. Documented migration also rose from around 50,000 per year in the early 1960s to fluctuate between 100,000 and 150,000 during the late 1970s and early 1980s as legal immigrants sought to avoid the country caps by naturalizing, thus rendering their spouses, minor children, and parents exempt from numerical limitation as immediate relatives of U.S. citizens. In addition, congress in 1986 authorized a special legalization for agricultural workers that caused another surge of adjustments to permanent resident status in subsequent years.

Owing to U.S. policy shifts between the early 1960s and the early 1980s, therefore, Mexican immigration was transformed from an overwhelmingly legal flow to one that was substantially illegal. According to the data shown in Figure 1, among Mexicans arriving from 1955 to 1965, 87% were legal temporary workers, 12% were legal permanent residents, and only 1% were undocumented; but among those arriving from 1985 to 1995, 55% were undocumented, 41% were legal residents, and just 4% were temporary workers. Thus the composition of the Mexican inflow shifted dramatically, even though its size had not changed. Except for a brief surge in 1990, total immigration from Mexico fluctuated around 500,000 persons before and after 1965.

The other major surge in undocumented migration from Latin America came during the 1980s, with the U.S. Contra Intervention in Nicaragua and the broader prosecution of the Cold War in Central America. Research clearly indicates that outflows from Central America during the 1980s were driven by the U.S.-sponsored Contra intervention (Lundquist and Massey 2005) and the violence and the economic dislocations it produced (Stanley 1987; Jones 1989; Funkhouser 1992; Morrison and May 1994; Alvarado and Massey 2010). Owing to the restrictions imposed in 1965, however, there were few avenues by which refugees from Central America could enter the United States in legal status and, not surprisingly, most ended up coming as undocumented migrants.

Although emigrants from Guatemala, El Salvador, Honduras, and Nicaragua left for the same underlying reasons, those from Nicaragua were treated very differently by U.S. authorities. Whereas the Nicaraguan Adjustment and Central American Relief Act offered an easy pathway to legal status for Nicaraguans, it only offered temporary protected status to other Central Americans. Whereas Nicaraguans had the good fortune of fleeing a left-wing regime at odds with the United States, those from Guatemala, El Salvador, and Honduras had the misfortune of fleeing nations dominated by right-wing regimes allied with the United States. As a result, although nearly all Central Americans entered the country as undocumented migrants, Nicaraguans were able to adjust to documented status whereas other Central American nations ended up languishing in temporary protected status until it was finally revoked with the winding down of the Cold War, pushing them into undocumented status,.

Once again, U.S. policies had manufactured a population of undocumented migrants. After Mexico, which accounts for an estimated 62% of undocumented migrants present in the United States as of January 1, 2009, the next largest contributors are El Salvador (5%), Guatemala (4%), and Honduras (3%) (Hoefer et al. 2010). Altogether, three-quarters of undocumented migrants are from Mexico or Central America, and no other nation makes up more than 2% of the total. When most Americans visualize an “illegal immigrant,” they see a Mexican and, if not a Mexican in particular, certainly a Latino (Lee and Fiske 2006). Adding in migrants from the Caribbean, South America, and Panama, we find that Latin Americans comprise more than 80% of the total unauthorized population. It is doubtful, of course, whether the average Anglo-American can distinguish between a Mexican, a Salvadoran, a Dominican, or a Colombian and many simply get categorized as “Mexican.”

Rise of the Latino Threat Narrative

Throughout U.S. history, immigrants traditionally have served as scapegoats for America's problems, periodically being blamed for joblessness, low wages, and high social spending while being framed as threats to national security owing to their supposed moral deficits, suspect ideologies, and subversive intentions (Higham 1955; Zolberg 2006). Anti-immigrant hostility rises during periods of economic dislocation, ideological conflict, and political uncertainty (Massey 1999). The 1970s and 1980s were such a period, as the long postwar economic boom faltered, the New Deal Coalition unraveled, and the Cold War reached its apex. After a brief respite during the 1990s, when the economy rebounded and the Cold War receded, the conditions for popular xenophobia returned with a vengeance with the bursting of the stock market bubble in 2000, the terrorist attacks in 2001, and the collapse of the economy in 2008.

Under these circumstances, anti-immigrant hostility is only to be expected; but since 1965 portrayals of Latin American immigrants as a threat to American society have been greatly facilitated by the fact that a rising share of migrants were present in the country illegally and thus readily framed as criminals and terrorists. Hofer et al. (2010) estimate that 60% of all Mexicans currently living in the United States are present illegally, along with 67% of Hondurans, 66% of Guatemalans, and 51% of those from El Salvador. The growing predominance of undocumented migrants among Latin Americans migrants has contributed to the rise of what Chavez (2008) has called the "Latino threat narrative." Among national magazine covers on immigration that he examined between 1965 and 2000, two-thirds portrayed immigration as threatening or alarming, and the frequency of these depictions steadily rose over time, going from a relative share of just 18% in the 1970s to 45% in the 1990s (Chavez 2001).

At first the most popular alarmist metaphors were marine, picturing immigration as a "tidal wave" that was "flooding" the United States and threatening to "drown" its culture. During the 1980s, however, marine imagery gave way to martial metaphors (Chavez 2001) as the Mexico-U.S. border was framed as a "battleground" that was "under attack" from "alien invaders" (Dunn 1996; Rotella 1998). Border Patrol Officers became "defenders" who, though "outgunned," valiantly fought to "hold the line" against attacking "hordes" who launched "Banzai charges" along a beleaguered "front"

(Andreas 2000). Latinos within the United States became a “ticking time bomb” waiting to “explode” and destroy the American way of life (Santa Ana 2002).

The Latino threat narrative gained particular traction in the 1980s when President Reagan explicitly labeled immigration as a “threat to national security,” noting that terrorists and subversives were just “two days driving time from the nearest border crossing” and referring to foreigners in the United States as a “fifth column” who would “feed on the anger and frustration of recent Central and South American immigrants” (Massey, Durand, and Malone 2002). Thereafter war metaphors became the standard trope in describing Latin American immigrants (Chavez 2008). Lou Dobbs (2006) saw the “invasion of illegal aliens” as part of a broader “war on the middle class.” Patrick Buchanan (2006) framed it as part of an “Aztlán Plot” hatched by Mexicans to recapture lands lost in 1848, stating that “if we do not get control of our borders and stop this greatest invasion in history, I see the dissolution of the U.S. and the loss of the American southwest” (*Time*, August 28, p. 6). Harvard professor Samuel Huntington (2004) warned Americans that “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.... The United States ignores this challenge at its peril.”

Efforts by politicians, academicians, and pundits to portray Latin Americans as a threat to American society made considerable headway with the public. According to polls conducted by the Pew Charitable Trusts, as late as 2000 just 38% of Americans agreed that “immigrants today are a burden on our country because they take our jobs, housing, and health care.” Five years later, the percentage had risen to 44% and as the drumbeat of anti-immigrant rhetoric reached a crescendo in 2006 it became a majority viewpoint at 52%. The percentage of Americans rating immigration as a moderately big or very large national problem rose from 69% in 2002 to 74% in 2006, by which time around half of all Americans (48%) agreed that “newcomers from other countries threaten traditional American values and customs” and 54% said that Americans needed to be “protected against foreign influence” (see Kohut and Suro 2006).

More tangible evidence of the shift in attitudes is the sharp increase in anti-Latino hate crimes, which had been declining before 9-11. According to U.S. Justice Department statistics, the number of anti-Hispanic hate crimes increased 24% from 2002 to 2007 and the number of victims rose by

30% (Federal Bureau of Investigation 2009). By 2008 random killings of Latinos had become common in headlines throughout the country; and according one news story, attacks on immigrants had become “such an established pastime that the youths...had a casual and derogatory term for it, ‘beaner hopping.’ One of the youths blithely told the authorities, ‘I don’t go out doing this very often, maybe once a week’” (Barnard 2009).

Enacting the War on Immigrants

Although the wave of anti-immigrant hysteria picked up new momentum after September 11, the shift toward more restrictive immigration policies can be traced back to 1965, as already noted, when the U.S. began to close off avenues for legal entry from Latin America. Since then, each surge in anti-immigrant propaganda within the media has coincided with the introduction or enactment of more restrictive immigration policies. To demonstrate this association, Figure 2 presents the frequency with which articles in leading newspapers (the *New York Times*, *Wall Street Journal*, *Los Angeles Times*, and *Washington Post*) made references to undocumented or Mexican migration as a “crisis,” “flood,” or “invasion” during the years from 1965 through 2009. To reveal general trends rather than year-to-year fluctuations, the data have been smoothed by computing three-year moving averages.

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See Fig. 2. (p. 26).

As can be seen, prior to when the restrictive policies took effect references to immigration as a crisis, flood, or invasion were close to non-existent, whereas thereafter they rose sharply in frequency to reach a local peak in 1980, when congress acted to remove refugees from the immigration preference system and capped the total number of refugees at 70,000 per year—this in response to the hundreds of thousands of “boat people” who arrived from Indochina during the late 1970s. The level of anti-immigrant propaganda dropped for a short time thereafter but rose again to peak at an even higher level in 1986, when congress passed the Immigration Reform and Control Act (IRCA), which funded a new expansion of the Border Patrol, authorized the president to declare “immigration emergencies” and assume special powers, criminalized the hiring of undocumented migrants, and enacted two legalization programs that dramatically cut the size of the undocumented population in order to “clean the slate” (see Massey, Durand, and Malone 2002).

With these measures in place, media references to invasions, floods, and crises fell once again through 1992, by which time it became clear to everyone that the restrictive measures authorized by IRCA were not slowing illegal migration and that the undocumented population was once again growing rapidly. Alarmist depictions once again rose in the media and in 1994 voters in California passed Proposition 187, known as the Save Our State Initiative, which framed undocumented migrants as criminals, freeloaders, and predators and compelled state and local officials to turn them in to federal authorities and banned them from receiving public services (Jacobson 2008). That same year, federal authorities responded to the surge in anti-immigrant sentiment in California by launching Operation Gatekeeper in San Diego—an all-out militarization of the border with Tijuana designed to stop the flow of undocumented migrants through what had been the busiest sector of the 2,000 mile frontier (Rotella 1998; Andreas 2000; Massey, Durand, and Malone 2002).

The resulting upsurge in border apprehensions only served to underscore the continuing reality of undocumented migration, however, and did not placate public opinion. In 1996 congress responded to the continued anti-immigration agitation by passing three major pieces of restrictive legislation. The Illegal Immigration Reform and Immigrant Responsibility Act authorized the hiring of thousands of additional Border Patrol agents and the construction of more walls and fences to bring the militarization of the border to new heights (Massey, Durand, and Malone 2002). It also permitted the removal of aliens from ports of entry without judicial hearing, declared undocumented migrants ineligible for federally subsidized benefits, and, in an effort to restrict family migration still further, required sponsors of legal immigrants to provide affidavits of support that demonstrated a household income at least 125% of the federal poverty line (Zolberg 2006). The new law also contained a provision known as 287(g) that authorized local agencies to assist in federal immigration enforcement (Newton 2008).

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 extended the portrayal of undocumented migrants as greedy freeloaders to legal immigrants and placed new restrictions on the access of legal permanent residents to public services, barring them from receiving food stamps, Supplemental Security Income, and other means-tested benefits for five years after admission. Finally, the Anti-Terrorism and Effective Death Penalty Act formalized the equation of immigrants with terrorists and lawbreakers by declaring any alien who had ever committed a crime, no matter how long ago, to be subject to immediate deportation (Newton 2008; Massey 2010).

The Anti-Terrorism Act also gave the federal government broad new police powers for the “expedited exclusion” of any alien who had ever crossed the border without documents, no matter what his or her current legal status (Legomsky 2000:1616). Given that the majority of legal immigrants to the United States from Latin America first entered as undocumented migrants (Massey and Malone 2003), this new provision instantly rendered millions of legal immigrants—and the vast majority of Mexican resident aliens—as deportable for past infractions. It also granted the State Department authority to designate any organization as “terrorist,” thereby making all members of groups so-designated immediately excludable. It also narrowed the grounds for asylum and added alien smuggling to the list of crimes covered by the RICO statute (Racketeer Influenced Corrupt Organizations), severely limiting the possibilities for judicial review of deportations (Zolberg 2006)..

The most recent surge in anti-immigrant legislation came in response to the terrorist attacks of September 11, when on October 26, 2001 congress passed, without debate, the USA PATRIOT Act, which granted executive authorities even more powers to deport, without hearings or presentation of evidence, all aliens—legal or illegal, temporary or permanent—that the Attorney General had “reason to believe” might commit, further, or facilitate acts of terrorism. For the first time since the Alien and Sedition Act of 1798 Congress authorized the arrest, imprisonment, and deportation of non-citizens upon the orders of the Attorney General without judicial review (Zolberg 2006).

As anti-immigrant hysteria continued to rise, however, and was increasingly conflated with the War on Terror, in 2005 the U.S. House of Representatives passed HR 4437, the Border Protection, Anti-terrorism, and Illegal Immigration Control Act of 2005, authored by Rep. James Sensenbrenner of Wisconsin. Although it did not clear the Senate, the latter bill would have constructed 700 miles of additional fencing along the border, required local law enforcement officials to turn undocumented migrants over to federal authorities for deportation, and declared virtually any immigration violation to be a felony, thus preventing migrants even from applying for legalization for ten years.

These repressive federal initiatives were not enough to placate the hysteria cultivated by the Latino threat narrative, however, and after 2005 there was an unprecedented surge in anti-immigrant measures enacted at the state and local levels (Hopkins 2008). According to the National Council of

State Legislatures (2009), some 200 bills on immigration were introduced and 38 laws enacted in 2005 and by 2007 immigration-related legislation had tripled to 1,562 bills introduced and 240 laws passed. At present nearly half of all states have signed cooperative agreements with the federal government under the 287(g) provision to assist in the arrest, incarceration, and deportation of immigrants (Massey and Sánchez 2010).

Prosecuting the War on Immigrants

Over the past several decades, therefore, the repressive power of the state has increasingly been directed against immigrants, documented as well as undocumented. Although the escalation of anti-immigrant repression is apparent at the state and local levels, it is most clearly reflected in federal enforcement statistics. Figure 3 shows trends in the budget of the U.S. Border Patrol, the number of Border Patrol Agents, and the number of linewatch hours spent by agents patrolling the Mexico-U.S. border (from U.S. Office of Immigration Statistics 2009). Each series has been divided by its value in 1986 to indicate the factor by which the enforcement effort has increased since then.

See Fig. 3. (p. 27).

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Although U.S. enforcement actions begin to rise after the passage of IRCA in 1986, the pace of change accelerated markedly during the 1990s and then rose exponentially after 2001. By 2008 the Border Patrol budget stood at 20 times its 1986 level, the number of linewatch hours had increased by a factor of nearly eight, and the number of Border Patrol Agents had nearly quintupled. These massive increases in the enforcement effort occurred despite the fact that the rate of undocumented migration had actually been *declining* since 1990 and, in fact, plummeted after 2001 to reach levels near zero by 2008 (see Figure 1). Despite the decline in border traffic, however, apprehensions of undocumented migrants at the border have continued apace owing to the massive expansion of Border Patrol operations. From 2001 through 2007 apprehensions at the border averaged roughly one million persons per year, falling to around 860,000 only with the economic meltdown in 2008 (not shown).

What is truly remarkable, however is the steady rise in deportations, which grew by a factor of 15 since 1986. Whereas in 1986 only 11,000 immigrants were arrested and deported from within the United States, by 1996 the figure had climbed to 51,000 and by 2001 to 151,000. Thereafter deportations surged to reach a record 350,000 in 2008, a level never before seen in U.S. history, outdoing even the mass deportation campaigns of the 1930s. In a very real way, therefore, to immigrants the United States increasingly looks like a police state, whatever their documentation. It is as if the militarized border program of 1953-1954 (Operation Wetback) has been made permanent and the mass deportation campaigns of 1929-1934 have been institutionalized at more than three times their earlier size. In 2008, the most recent fiscal year for which data are available, some 320,000 immigrants were incarcerated and awaiting trial or deportation, 350,000 were expelled from the United States, and 860,000 were apprehended at the southern border and summarily returned to Mexico.

Making a New Underclass

U.S. actions over the past several decades have thus created a unique set of historical circumstances for immigrants in the United States. Never before have so many U.S. residents lacked basic legal protections. Undocumented migrants currently constitute a third of all foreigners present in the United States, more than 40% of those from Latin America, and large majorities of those from Mexico and Central America. Not only are 60% of all persons born in Mexico presently without legal authorization, but nearly a quarter of all persons of Mexican origin are presently in undocumented status; and because undocumented migrants generally inhabit households containing family members who are not undocumented, the share of people touched by illegal migration is actually much larger. According to estimates by Passel (2006), about a quarter of all persons living in households that contain undocumented migrants are themselves U.S. citizens.

Recent survey data illustrate the degree to which the fates of immigrant and native Latinos are interconnected. In 2008, 35% of native born Latinos said they worried about deportation some or a lot (compared with 72% among Latino immigrants), presumably not because they were personally at risk of deportation but because they were worried about the potential deportation of a friend or relative (Lopez and Minushkin 2008). As of 2007, 53% of native born Latinos said that the

immigration debate had made life difficult for them, compared with 72% of those born abroad (Pew Hispanic Center 2007).

By 2008, Latinos had become much more pessimistic about life in the United States, with 63% of foreign born Hispanics and 30% of natives saying that the situation for Hispanics had deteriorated compared with a year ago. Irrespective of birthplace, the vast majority of Hispanics disapproved of workplace raids (76%) and opposed the criminal prosecution of employers who hired undocumented migrants (70%) as well as the arrest and deportation of the migrants themselves (73%) (Lopez and Minushkin 2008). Only 46% of all Hispanics were confident that the police would treat them fairly and just 49% said they expected fair treatment in the courts (Lopez and Livingston 2009).

Although net undocumented migration appears now to have dropped to near zero in response to massive internal and border enforcement and a collapsed U.S. economy (see Figure 1), in the last few years the falling number of undocumented migrants has increasingly been offset by a rising number of temporary workers. With little fanfare or public awareness, massive guest worker recruitment has returned to the United States, bringing annual entries up to levels last seen in the 1950s. Although only a small fraction of Mexicans who entered the United States in 2008 were undocumented, most of those who entered nonetheless did not possess full labor rights. Out of the total of 560,000 Mexican migrants entering that year, only 192,000 (about a third) were legal permanent residents whereas 361,000 (about two thirds) were temporary workers with severely constrained labor rights.

Over the past several decades U.S. immigration and border policies have thus increased the number of Latinos in vulnerable positions while dramatically raising the level of state repression directed against them and providing new incentives for employers to discriminate and exploit persons in undocumented or marginal legal status. The political economy facing Latinos is vastly harsher and more punitive than the one prevailing in the 1970s, as suggested by data presented in the next set of figures.

Historically, Hispanics have occupied a middle position between blacks and whites in the American stratification system, but with the restructuring of the political economy during the late 1980s and 1990s, the relative standing of Hispanics declined and they came to join African Americans at the

bottom of the class hierarchy. Figure 4 shows the median personal income earned by white, black, and Latino males from 1972 through 2008 (in constant 2008 dollars). Obviously white men earned substantially more income than black and Latino workers throughout the period, but whereas Latinos clearly occupied a middle position during the early 1970s, their intermediate status began to erode during the 1980s and in 1993 there was a crossover and thereafter Latinos supplanted blacks at the bottom of the earnings distribution, where they have remained until the present.

See Fig. 4. (p. 28).

As Figure 5 shows, the relative standing of Latina women has deteriorated even more dramatically. In the early 1970s, all women earned relatively low incomes—both absolutely and compared with men; but things began to change in 1980, when the incomes of white women began to rise steadily, going from a little over \$12,000 in that year to peak at almost \$23,000 in 2007. Although the upturn lagged behind that of white women, beginning around 1985 the incomes of black women also began to rise and this increase accelerated during the 1990s to narrow the black-white gap substantially, with black female income peaking at almost \$21,000 in 2007. In contrast, the income of Latinas remained flat until 1993 and then rose at a slower rate than either white or black women, so that by 2008 the Latina-white gap was wider than it had ever been. Whereas white and Latina women earned roughly the same incomes in 1972, by 2008 Latinas earned a quarter less than whites.

See Fig. 5. (p. 29).

The shifting fortunes of Latinos and African Americans in the U.S. labor market is also reflected in U.S. poverty statistics. Figure 6 shows trends in the poverty rate for white, black, and Latino families from 1972 to 2008. As before, Latinos occupied a middle position in the distribution of poverty until 1993, when black and Latino poverty rates converged to nearly identical levels, where they have remained ever since. From 1972 through 1993, for example, the poverty rate among white families averaged 6.9% compared with 29.2% for blacks and 23.9% for Latinos, whereas from 1993 through 2008 the white rate averaged 6.1% and that for blacks was 22.8%; but the rate for Latinos was only marginally lower at 21.9%.

See Fig. 6. (p. 30).

The foregoing averages, of course, do not control for human capital and other characteristics of white, black, and Latino workers, and some have argued that the deterioration in the relative economic standing of Latinos reflects the declining quality of successive immigrant cohorts, especially for Mexicans (see Borjas 1995, 1999). In their analysis of Mexican male wages from 1950 to the present, however, Massey and Gelatt (2010) show that on observable traits such as education the average quality of immigrant cohorts steadily improved over time, both absolutely and relative to native white workers. Although it is possible that unobservable indicators of quality deteriorated, this is unlikely as one would then have to argue that observable and unobservable indicators of productivity were negatively correlated.

According to Massey and Gelatt (2010), what changed over time was not so much the characteristics of immigrants, but how various forms of human capital were rewarded in the U.S. labor market. In terms of earnings, they documented declining rates of return to English language ability, U.S. experience, education, skill, and age, beginning in the 1990s and accelerating after 2000. The share of variance in male wages explained by background characteristics fell from 0.28 in 1950 to 0.11 in 2007, indicating a significantly weaker connection between human capital inputs and wage outputs. In a counterfactual analysis they performed, Massey and Gelatt estimated that if background characteristics had been rewarded at the same rate as in 1980, Mexican wages would have risen by 10%, whereas if means were held to their 1980 values wages would have declined by 4%. The fact that immigrant wages remained flat thus occurred despite and not because human capital levels were rising, and this occurred because the rewards to human capital were simultaneously falling.

The deterioration in the labor market position of Hispanics relative to blacks was accompanied by a similar reversal of fortune within housing markets. Whereas in 1989 Hispanics were 19% less likely than blacks to experience adverse treatment in America's rental housing markets, in 2000 they were 8% more likely to suffer discrimination. In addition, although the incidence of discriminatory treatment fell for both groups in the sales market, the decline for Hispanics was much smaller. As a result, whereas blacks in 1989 were twice as likely as Hispanics to experience discrimination in home

sales, by 2000 Hispanics were 18% more likely than blacks to experience it (Turner et al. 2002). Consistent with these data, in their audit of rental housing in the San Francisco Bay area, Purnell, Isardi, and Baugh (1999) documented extensive “linguistic profiling” that excluded speakers of Chicano English as well as black English from access to housing.

As discrimination against Latinos in housing markets increased, so did levels of Hispanic residential segregation. Whereas the overall level of black segregation fell by 10 points over the past decade and black neighborhood isolation dropped by 12 points, Hispanic segregation rose by six points and isolation increased by ten points (Charles 2003); and whereas Hispanics did not satisfy the criteria for hypersegregation in any metropolitan areas during 1980 or 1990, by 2000 both New York and Los Angeles had earned the dubious distinction of becoming hypersegregated for Latino residents (Wilkes and Iceland 2004).

In the social realm, researchers have also documented the “chilling effect” of the 1996 immigration and welfare legislation on the use of public services by immigrants (Zimmerman and Fix 1998; Fix and Zimmerman 2004). Among undocumented migrants, the use of social services, always quite low, fell even further, so that after 1996 fewer than five percent reported receiving food stamps, welfare, or unemployment insurance while in the United States, and just 7% reported putting their children in public schools. More surprising was the decline in services consumed by legal immigrants. After 1996, usage rates for welfare, unemployment insurance, and food stamps all fell sharply to 10% or less (Donato, Massey, and Wagner 2006) and according to estimates by Borjas (2004), every 10% cut in the fraction of the public on public assistance raises the relative number of food-insecure households by five percentage points.

Immigration Reform as Social Justice

We have argued here that since the mid-1960s, the immigration enforcement system of the United States has become a major race-making institution in much the same way that the criminal justice system did for African Americans over the same period. In both cases, there was a massive increase in arrests, incarcerations, and, in the case of immigrant deportations, a huge increase in relevant agencies’ budgets. In one case, the rise in the enforcement effort created a large population of current and ex-felons whereas in the other it generated a large population of undocumented

migrants. Despite all their well-documented disadvantages, however, black felons at least retain basic social and economic rights as American citizens, whereas undocumented migrants under current circumstances have virtually no rights at all and are subject to arrest, incarceration without representation, and summary deportation without trial. Even documented migrants may now be arrested, detained, and deported on the say-so of Justice Department officials and they have been declared by congress to be deportable ex post facto for crimes they might earlier have committed.

The situation is especially dire in the case of Mexicans, the nation's largest immigrant group and the second largest minority after African Americans. At present, 60% of all persons born in Mexico lack documents. Moreover, among those who hold legal residence papers, two-thirds began coming to the United States as undocumented migrants, thus rendering them legally deportable under current law. These figures imply that nearly a quarter (23%) of all persons of Mexican origin living in the United States are undocumented and another 8% are formerly undocumented, putting roughly a third of all Mexican Americans at serious risk of prosecution. At the same time, the enforcement pressure currently focused on this population has become extreme, with 860,000 arrests at the border and 247,000 deportations of Mexicans from within the United States in 2008 alone. Among the 551,000 Mexicans who entered legally in 2008, only 34% had full labor rights in the United States, with the remainder being temporary workers whose visa was linked to employers who controlled the terms of their employment.

The consequences of this massive illegality and worker marginality have only begun to be explored, but represent a compelling agenda for future research. Key issues of importance to the current and future welfare of Latinos in general and Mexicans in particular include the effect on earnings and occupational mobility of being currently undocumented; the effect on earnings and occupational mobility of being formerly undocumented; the effects on the health and education of citizen children of having undocumented parents; and the long term social and economic consequences of being formerly undocumented or growing up in a family containing undocumented members.

Given the clear magnitude of the immigration enforcement system's effect on the status and welfare of Latinos in the United States, current proposals for immigration reform carry implications that extend well beyond immigrant assimilation. For years, critics of immigration reform have demanded that U.S. authorities gain "control" of the Mexico-U.S. border before considering broader reforms.

According to current estimates, that goal has been achieved. Net undocumented migration has dropped to near zero and the total size of the undocumented population is slowly trending downward. The time has come, therefore, to consider the three principal proposals for broader reform: increasing the size of the annual quota for immigration from Mexico, creating a new guest worker program, and creating a path to legalization for those already here.

In practice, the first two goals have already been substantially realized. Although quota limits remain in place and certainly deserve to be expanded, Latin American immigrants have increasingly taken matters into their own hands and evaded them by naturalizing to U.S. citizenship and thus acquiring the right to sponsor the entry of spouses, minor children, and parents without numerical limitation, while also acquiring the right to petition for the entry of brothers and sisters through the quota system itself. This shift has been especially noticeable among Mexicans, who historically have exhibited one of the very lowest rates of naturalization among all immigrant groups. With rising pressures and penalties placed on legal resident aliens, however, and the increasing difficulty of securing the entry of relatives through the immigration preference system, legal Mexican immigrants have flocked toward U.S. citizenship in record numbers. From 1970 through 1985, Mexican naturalization averaged just 8,900 persons per year. With the passage of IRCA and the escalation of enforcement beginning in 1986, the average increased to 29,000 persons per year through 1995; but with reductions in family migration imposed in 1990 and the new penalties on legal immigrants enacted in 1996, the number of naturalizations surged to 132,000 per year from 1996 to 2008, with 232,000 recorded in the latter year alone. As a result, whereas just 24% of all Mexicans entered outside of numerical limitations as citizen relatives in 1995, by 2008 the figure had reached 59% and the absolute number of entries had gone from 90,000 to 190,000.

Thus the principal piece of unfinished business in immigration reform is the legalization of the roughly 11 million undocumented migrants still present in the United States. Until the burden of illegality is lifted from their shoulders, they will remain vulnerable and exploitable with almost no possibility of upward mobility. Among those out of status, somewhere around three million entered the country as minors, typically as infants or young children in the company of their parents. These people did not make the decision to violate U.S. immigration laws and should not be held responsibilities for choices made by their parents. In the absence of a criminal record or other disqualifying circumstances, these undocumented migrants should be offered immediate and

unconditional amnesty and be allowed to proceed with their lives in the only country that most of them know.

Of those who entered undocumented status as adults, some fraction only came recently and do not seek long-term residence in the United States, only intermittent short term access to the U.S. labor market on acceptable legal terms. The recent expansion of guest worker migration has made temporary visas available to such people, and many appear to have taken up the offer as the estimated size of the undocumented population dropped from 11.6 million to 10.8 million persons between 2008 and 2009 (Hoeffler, Rytina, and Baker 2009; 2010). Interestingly, the estimated number of undocumented Mexicans dropped by 380,000 persons, compared with the issuance of 361,000 temporary work visas to Mexicans in 2008.

For those migrants with deeper roots and longer durations of residence in the United States, however, the only humane and realistic option is to create a pathway to legal permanent residence. Longer-term migrants would be offered temporary legalization that would give them the right to live and work in the United States for five years, during which time they would be able to accumulate points toward some threshold required for adjustment to permanent residence. These points would be awarded for time spent in the United States, payment of taxes, having U.S. citizen children, learning English, studying civics, holding a job, owning a home, or whatever other socially desirable behaviors might be appropriate. Once the minimum threshold was achieved, migrants would pay a fine as restitution for violating immigration law, and then having paid their debt to society, be allowed to get on with their lives as legal permanent residents of the United States, with the option to become citizens after the usual five years spent in permanent resident status.

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Fig. 1. Mexican Migration to the United States, 1940-2008

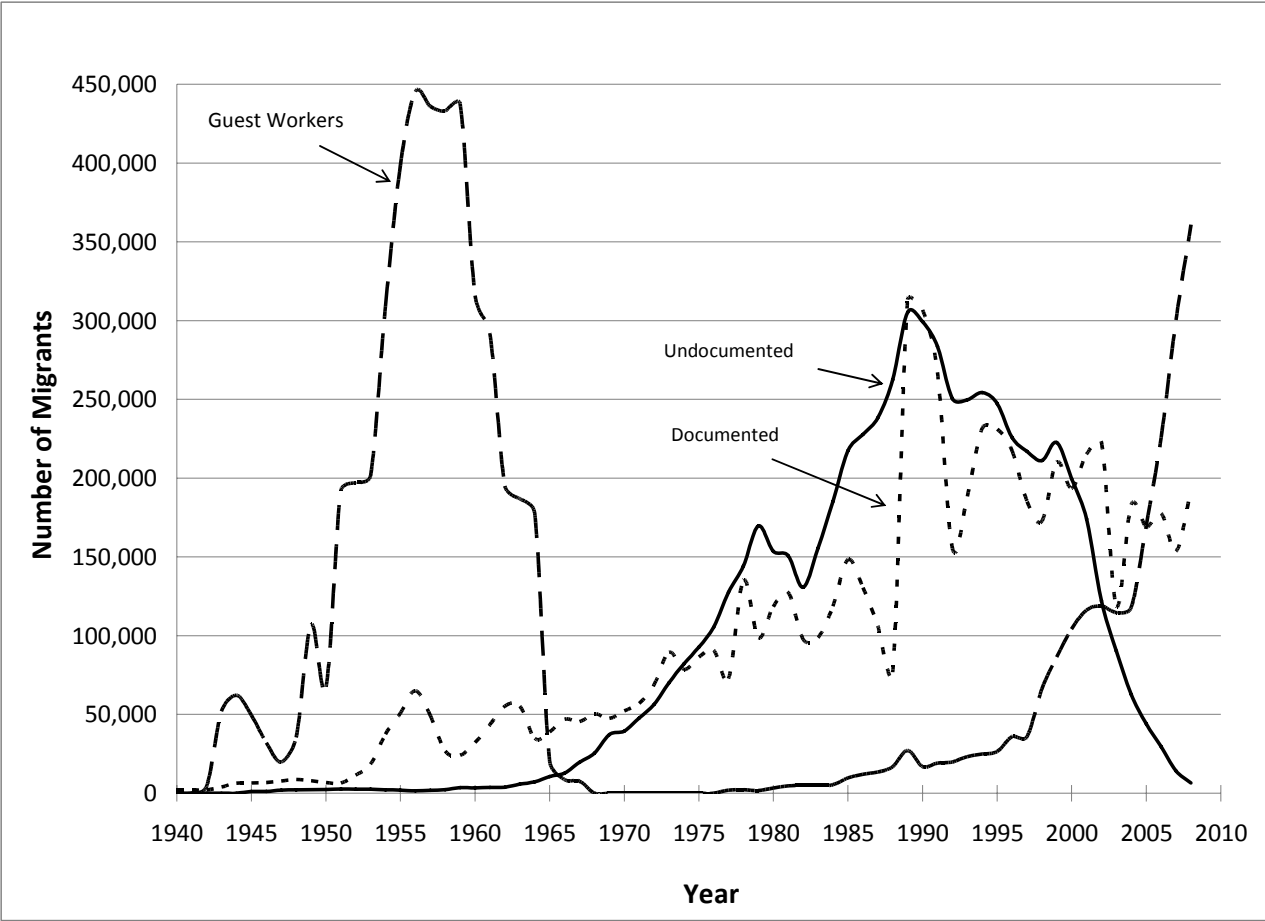


Fig. 2. Portrayals of Immigration as a Crisis, Flood, or Invasion in Leading U.S. Newspapers: Three-year Moving Averages

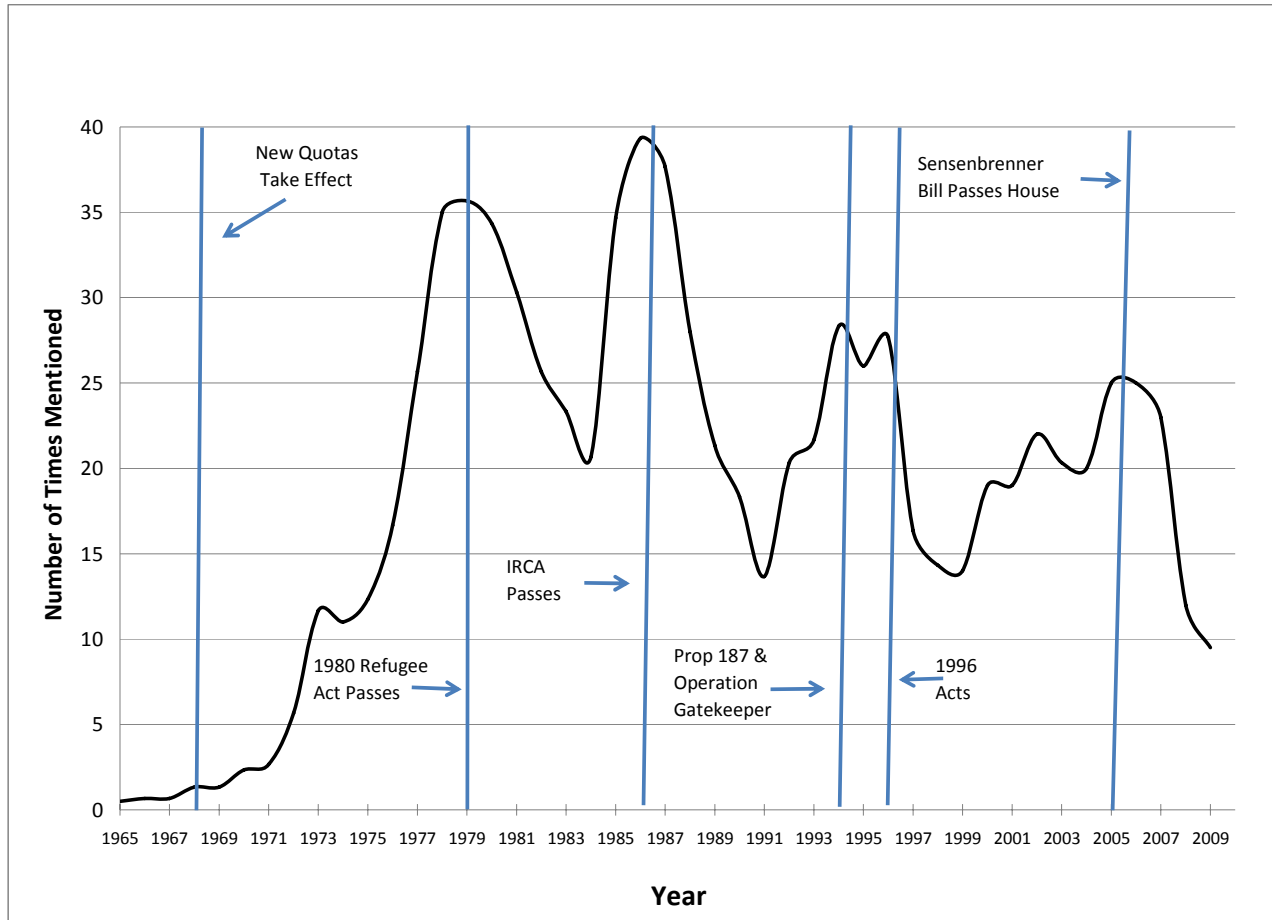


Fig. 3. Indicators of immigrant enforcement relative to levels in 1986

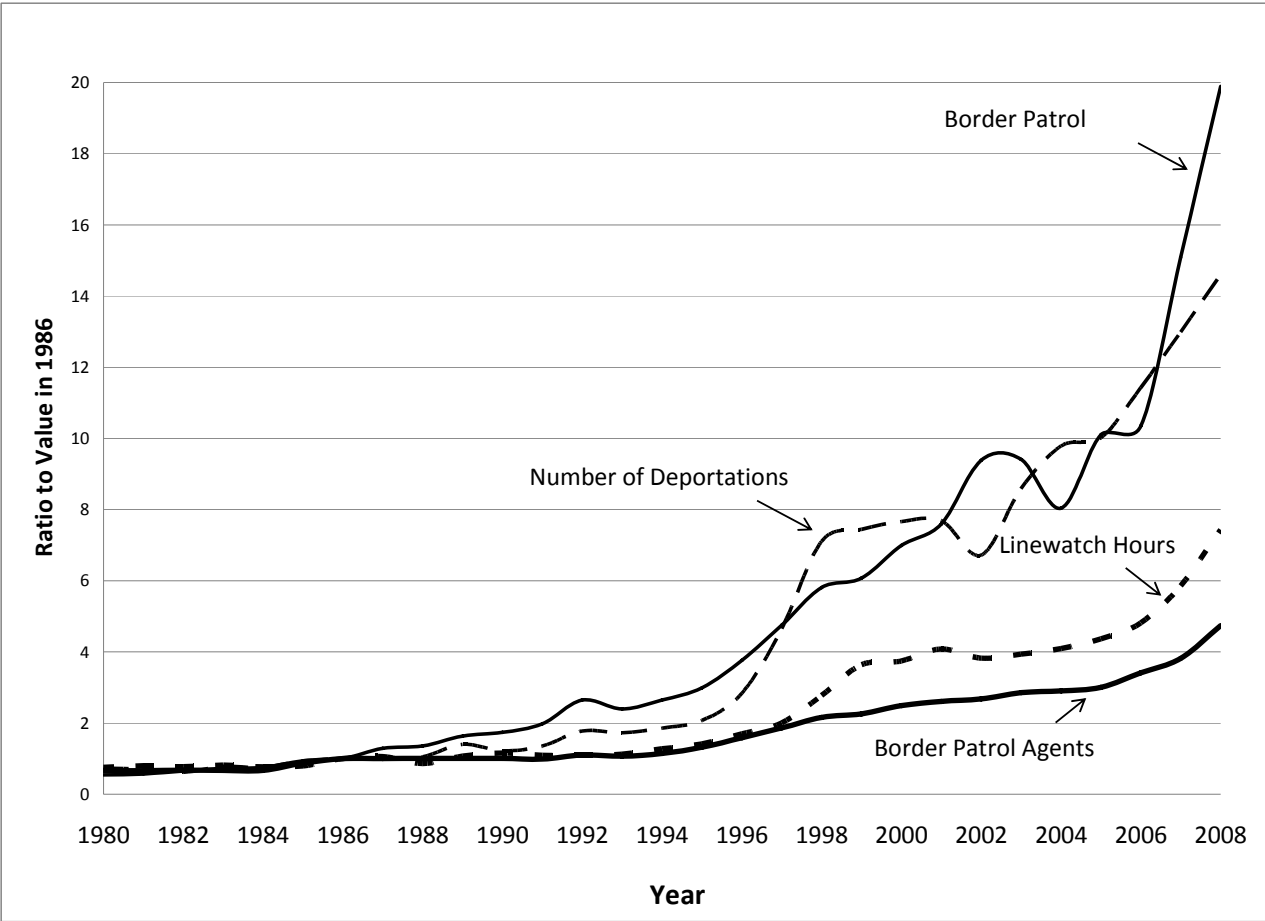


Fig. 4. Median Personal Income for White, Black, and Latino Males

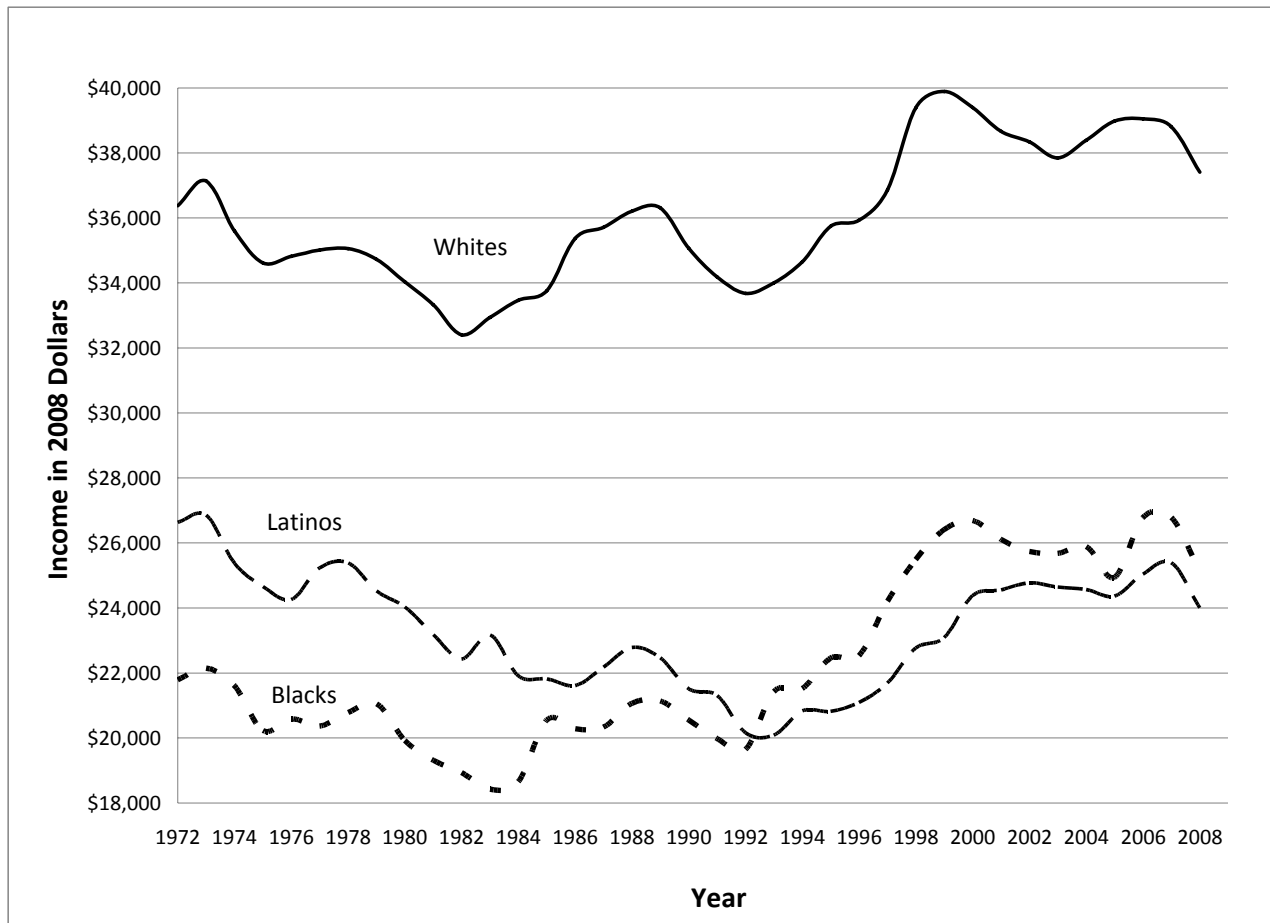


Fig. 5. Median Personal Income for White, Black, and Latino Females

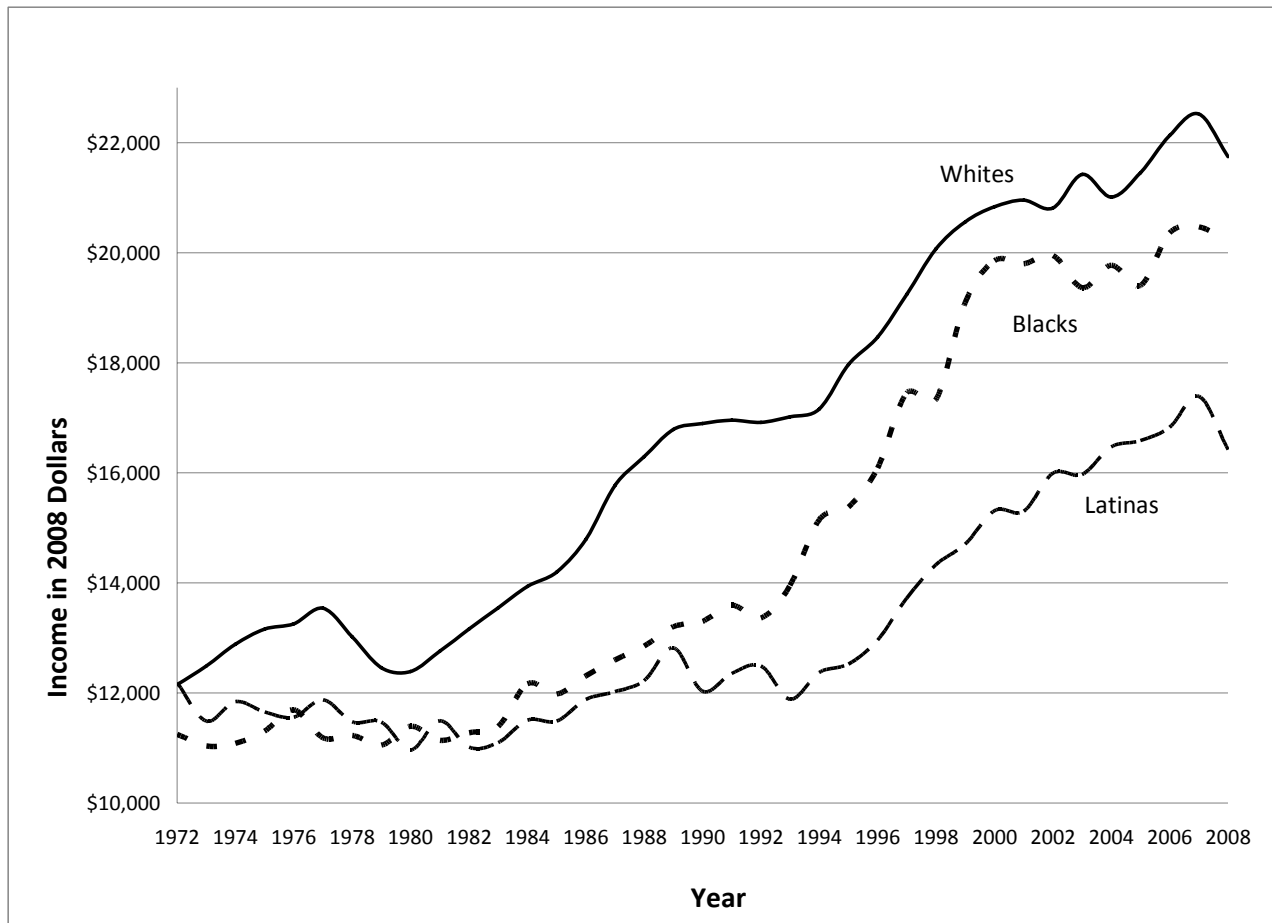


Fig. 6. Poverty Rate in White, Black, and Latino Families

