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Neoliberal Captivity: Criminalization of Latina Migrants and the Construction of  
Irrecuperability

A dissertation submitted in partial satisfaction of the requirements for the degree Doctor  
of Philosophy

in

Ethnic Studies

by

Martha D. Escobar

Committee in Charge:

Professor Natalia Molina, Chair  
Professor Lisa Sun-Hee Park, Co-Chair  
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Professor David N. Pellow  
Professor Dylan Rodriguez

2010

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The dissertation of Martha D. Escobar is approved, and it is acceptable in quality and form for publication on microfilm and electronically:

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Co-Chair

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University of California, San Diego  
2010

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me to ask the difficult questions that needed to be asked. He also greatly shaped my perspective on the neoliberal shift of the 1970s, which is central to this project. Finally, there is no way to overstate the impact that Dylan Rodriguez has on my academic and personal life. He saw many of us through difficult times, convinced me to apply to graduate school, and has supported me in so many ways ever since. His influence is impressed throughout this work.

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## ABSTRACT OF THE DISSERTATION

Neoliberal Captivity: Criminalization of Latina Migrants and the Construction of Irrecuperability

by

Martha D. Escobar

Doctor of Philosophy in Ethnic Studies

University of California, San Diego, 2010

Natalia Molina, Chair and Lisa Sun-Hee Park, Co-chair

This study generates a discussion between the immigrant rights movement and the prison abolition movement. The dialogue bridges contemporary migrant criminalization, imprisonment, detention, and family separation, to the longer history of imprisonment of Blacks in the U.S. It attempts to displace exceptionalist readings of migrant policing and detention and demonstrate how these population control practices are made possible through the ideological and material labor developed in response to post-Civil Rights Black rebelliousness. Specifically, it considers the criminalization of state dependency that was attributed to Black women who were marked as “breeders” of criminality. These constructions provided ideological fuel for the neoliberal transformation of the early 1970s that resulted in constructing Blacks as expendable within the U.S. labor market and

reliance on imprisonment as a solution to the creation of expendable bodies. This development was accompanied with a shift in migrant labor relations, moving largely from the Bracero Program, which relied on contracted migrant laborers, to undocumented workers. The expansion of the service economy in the U.S. and changes in federal immigration legislation of 1986 increased the presence of migrant women. Nativist fears generated over the permanent settlement of migrant women and their families drew from existing tropes about Black motherhood and criminalized migrants, in large part through the notion of “public charges.” Similar to Blacks, the response is increased reliance on the criminal justice system, which resulted in Latina/o migrants constituting the largest ethnic group in federal prison.

Drawing from the experiences of jailed, imprisoned, detained, and deported migrant women gathered through an interdisciplinary research methodology consisting of ethnography, archives, media discourse analysis, and interviews, this dissertation demonstrates that migrant women’s criminalization is central in regulating racial neoliberal labor relations. Their criminalization constructs them as irrecoverable subjects, separating their productive from their reproductive labors. A critical feminist conceptualization of U.S. captivity is advanced in this study and it accounts for the centrality of migrant women’s bodies in maintaining U.S. global dominance. Nativist discourse marks migrant women’s bodies as the origins of an external racial threat. Immigration control policies serve to contain, and in the case of incarceration and deportation, dispose of “the threat.”

## Chapter 1.

### **Introduction: Shifting the Conversation from Immigrant Justice to “All or None”**

The U.S. immigrant rights movement that erupted in 2006 with the wake of the House of Representatives Bill HR 4437, the Border Protection, Anti-Terrorism, and Illegal Immigrant Control Act, initially signaled the possibility of imagining means of social belonging outside of territorial citizenship. The movement asserted that *all* immigrants, regardless of legal status, deserved social and economic justice. Rapidly, however, these re-imagining possibilities were undermined as the movement shifted attention toward pragmatic endeavors to bring about justice for immigrants. Predictably, the domain of “*all* immigrants” tightened, returning us to the “bad immigrant”/“good immigrant” dichotomy that works to police the boundaries of U.S. citizenship. The focus of the movement shifted toward re-defining the “good immigrant” category to expand the number of people who qualified for a path to legalization and eventual citizenship. However, these organizing strategies neglected to take into account the ways that immigration policy performs as racialized population control that is inherently dependent on binaries that construct particular migrants as perpetually outside of belonging; not only expendable, but as irrecoverable under the hegemonic governing logic.

During the last two decades we witnessed a tremendous expansion in the number of imprisoned migrants in the U.S. and consequently an increasing number of deportations. Under existing immigration law, a felony conviction for an aggravated felony automatically, with few exceptions, results in migrants’ deportation to their countries of origin and they are permanently barred from returning to the U.S. This is the case whether they are documented or undocumented prior to their imprisonment, which

highlights how prisons are sites where “legality” is unmade since imprisoned legal residents are deported and permanently banned from returning to the U.S.<sup>1</sup> The vast majority of people deported under the category of “criminal alien” are racialized as non-white, with Mexicans making up the largest number (Hoefer 2009).<sup>2</sup> In addition, migrants who appear to be unable to care for themselves and are marked as public charges of the state are made ineligible to legalize their status. The gendered impact of this category is evident in its application, which has centered on excluding poor women and women racialized as non-white of childbearing age (Park 2000-2001; Luibheid 2002: xx). As the immigrant rights movement strives to expand the boundaries of U.S. citizenship, it simultaneously reinforces the expendability and thus violability of people that remain on the “bad immigrant” side of this governing dichotomy, such as imprisoned migrants and migrant women. What results from this movement’s impulse to “be pragmatic” is the reinforcement of hegemonic narratives and structures. Myths such as the U.S. as a land of immigrants and the American Dream mark the U.S. as exceptional; as the land of opportunity that people are eager to come to. Advocates of immigrant rights draw on these myths to make claims on the state on behalf of migrants. These myths construct migration as individual actions and serve to erase the role of the U.S. in initiating and maintaining authorized and unauthorized migration (Guerin-Gonzales 1994).

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<sup>1</sup> The notion of “unmaking” legality is drawn from Mae Ngai’s *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004). Ngai demonstrates how the Immigration Act of 1924 initially created the category of “illegal alien,” which continues to shape immigration policies in the U.S.

<sup>2</sup> According to the 2008 *Department of Homeland Security Yearbook of Immigration Statistics*, there were a total 358,886 removals of “aliens” that year, comprised of 97,133 criminal and 261,753 non-criminal removals (Washington, D.C.: U.S. Department of Homeland Security, 2008). Mexican “aliens” made up the largest number in both categories with 71,650 (74%) criminal and 175,201 (67%) non-criminal removals.

To speak to this conundrum that the immigrant rights movement seems to be locked in I look toward the prison abolition movement. Unlike immigrant rights, this movement strives to deconstruct binaries of “deserving” and “undeserving” and struggles to bring about radical freedom for *everyone*. Its productiveness is located in the fact that it refuses to give up on people conceptualized as irrecoverable, people marked as “criminal.” The irrecoverability of imprisoned people is evident, for example, in the decision of several U.S. states to permanently disenfranchise people convicted of a felony (Manza 2006). The prison abolition movement takes on the labor of imagining ways of social belonging that depart from relying on existing binaries. As opposed to rendering individuals worthy or unworthy of belonging, this movement shifts attention to the fact that society does not provide the structural opportunities for everyone to thrive and considers the structural changes needed to get to the point where a common sense of prisons’ obsolescence exists. The prison abolition provides an understanding of criminalization and imprisonment as performing fundamental ideological and material labor of modern governance. In other words, this movement conceptualizes imprisonment as a constituting logic of U.S. society; imprisonment becomes the answer to perceived social crisis (Gilmore 1998 and 2006; Rodriguez 2008). Rather than locating criminality in individuals, rather than understanding imprisonment as individuals’ bad choices, this movement de-individualizes imprisonment and instead examines the ways that “crime” is socially constructed and politically deployed. Doing so shifts the lens from the “irrecoverability” of particular bodies and toward penal statecrafting projects that organize and regulate the relationship between the state and society and thus participate in the gendered social and racial formations of the U.S.

Imprisoned migrant women are central to generating a conversation between the immigrant rights movement and the prison abolition movement. At this historical juncture, this group is constructed as permanently irredeemable in U.S. society, which is informed by various factors. Migration to the U.S. is largely shaped by the nation's labor needs. Historically the ideal migrant laborer is the sojourning male who travels to the U.S. to labor but eventually returns to their country of origin. Migrant labor is ideal, in this sense, because the U.S. is able to reap the benefits while not having to contribute to its reproduction. Undocumented migration is especially attractive since their legal status makes them particularly flexible laborers. It is largely through migrants' non-white raciality that their exploitation is secured. Indentured servitude, slavery, the construction of the transcontinental railroad, the Bracero Program, there are countless examples that demonstrate how the racialized discursive and practical production of the ideal migrant figure secures the exploitability and expendability of migrant laborers at different moments. A relevant example is Mexican migrant labor, which gained significance after the barred entrance to the nation of people categorized as Asians (Gutierrez 1995: 44). While Mexican migrant labor became increasingly important for the U.S. in the early part of the 20<sup>th</sup> century, they were racialized outside of whiteness. Their non-white racialization did not only relegate them to the bottom of the labor market, but it also enabled their subsequent forced and voluntary repatriation during the Great Depression. As historian David G. Gutierrez writes, "In this atmosphere the nativist litany that had been employed against Mexicans in the 1920s—charges that they were disease ridden, that they committed crimes, that they displaced American workers, and that they were in short, un-American—was raised with new vehemence" (72). Mexican repatriation

campaigns flourished throughout the Midwest and southwest. The racial ideas that constructed migrant laborers exploitable in the 1920s in turn enabled their repatriation in the 1930s. It is thus important to note the significance of race in shaping labor relations.

Migrant women are constructed outside of the ideal neoliberal laborer since their ability to have children presents permanent settlement, which reduces their value as flexible laborers. In addition to their inability to assume the identity of ideal neoliberal laborers, their position as mothers contributes to their permanent outsider status since they are conceptualized as too culturally and racially different to contribute to the U.S. citizenry. For migrant women in prison, their irrecoverability is crystallized through their captivity. Their status as migrants, regardless of their official legal standing, consigns them to the conceptual space of illegality which shapes their experiences. Their imprisonment serves to confirm their “inherent criminality” and thus irrecoverability. Socially and legally, they are foreclosed from all possibilities of belonging. By holding on to the dichotomy of “good immigrant”/“bad immigrant,” no matter how well intentioned and no matter how much the “good immigrant” category is expanded, the immigrant rights movement participates in the ideological production of imprisoned migrant women’s irrecoverability and thus violability. As subjects outside of belonging and thus outside of rights and protection, they become not only expendable, but violable. In essence, and although unintended, the immigrant rights movement partakes in the task of passing judgment over persons’ deservingness. The line between “innocent” and “criminal” marks the point that defines which migrant families deserve to be kept intact and which ones can be separated; who can remain in the nation and who can be deported; and which bodies deserve protection and which bodies can be violated. The prison



abolition movement's resolve to organize around "all or none," its refusal to leave anyone behind provides direction for paths that the immigrant rights movement can engage and possibilities for collaborative work across movements.

Taking from the prison abolition movement's critique of the ways that crime is socially constructed and politically deployed to organize the relationship between civil society and the state, we come to understand the ways that illegality is central to social organization, particularly neoliberal labor arrangements. As a result of federal intervention, the exploitability of workers can no longer be secured through explicitly racist policies, such as "separate but equal." If worker exploitation secures capitalists' accumulation of wealth, and if in the U.S. this is inherently a racial project, how does this accumulation continue given changes in federal law that prohibit racial discrimination? The racialized illegalization of migrants, which extends to citizens associated to these communities, secures their flexibility (De Genova 2002; Calavita 1992; Hernandez 2008). The racialization of this project is evident, for example, in ICE raids where non-white citizens are rounded up alongside undocumented migrants (Becker and McDonnell 2009). Undocumented migrants are often subjected to substandard working conditions, such as low wages and exposure to dangerous occupations, and can be disposed of by means of deportation. Although they are made expendable, they are central to the production of wealth in neoliberal conditions that require substantial labor market flexibility (Fernandez-Kelly and Massey 1998; Dreher 2007). Thus, producing "illegal" migration is a racialized neoliberal statecrafting project intrinsic to modern U.S. governance. This conceptualization of undocumented migration disrupts the notions of the U.S. as a land of immigrants and American exceptionalism and demonstrates that

“illegality” is an essential social U.S. condition, similar to “criminality.” Coming to terms with this fact presents the immigrant rights movement with two main choices; it can continue on its path to expand the “good immigrant” category and use dominant narratives to make claims on the state for the inclusion of a limited number of undocumented migrants, or, it can take on the labor of deconstructing the binary of “deserving” and “undeserving,” essentially “recuperable” and “irrecuperable” migrants, and re-engage the task of imagining means of belonging outside of the confines of citizenship.

Engaging the second option requires an understanding of the socio-structural factors shaping migrants’ criminalization. Scholars largely attribute the origins of the current criminalization of migrants in the U.S. to the passing of the federal Immigration Reform and Control Act (IRCA) of 1986. IRCA was the first major legislation that initiated the militarization of the border while also contributing to the increased presence of migrants in the U.S. by providing amnesty to over two million migrants and allowing for family reunification (Cornelius et. al 1989: 165; Dunn 1996: 159; Massey and Durand 2002). While there is truth in marking IRCA as particularly significant to the criminalization that migrants undergo, what is lost in this narrative is how the development of the criminalization of Blacks beginning in the 1960s which merged state dependency and criminality and that led to the development of the largest penal system in the world provided the founding logic for the criminalization of migrants within neoliberalism, a conversation this study engages in depth, particularly in the following two chapters. Before making this connection however, it is important to consider some transformations that citizenship has undergone with the neoliberal tide.

The institutionalization of neoliberalism performs the labor of depoliticizing citizenship. The Keynesian post-World War II welfare state concerned itself with interrogating the effects of the capitalist market economy on citizens' lives and redistribution, in a sense holding the market accountable for the inequality it participated in producing. In contrast, neoliberal states are engaged in statecrafting projects in which agents empowered to represent the state implement public policies that fundamentally develop and re-order the relationship between the state and society (Malloy 1991: 4, cited in Jayasuriya 2006: 32) to further privatization, de-regularization and labor market flexibility, essentially redefining citizenship within the boundaries of the market. To put it in the words of political scientist Kanishka Jayasuriya, the regime of citizenship has been altered from a relationship between the state and civil society in which citizenship is defined through the notion of rights to a regime of citizenship "organized through the language and practices of contractualism" (2006: 152) that equates social inclusion with participation in the market economy. The responsibility of the state to citizens shifts from managing the redistribution of wealth to ensuring participation in the labor market.<sup>3</sup> While this conceptualization of the relationship between neoliberalism and citizenship is on target, what also needs to be accounted for are the ways that notions of race inform statecrafting projects, including the Keynesian postwar welfare state period and the contemporary neoliberal United States which presents itself as a post-racial society.<sup>4</sup>

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<sup>3</sup> Exemplary of this shift is the 1996 Welfare Reform Act which intended to move recipients from welfare rolls to the labor market, in part by requiring them to begin working after two years of receiving assistance and placing a five-year limit on the amount of time people can access welfare benefits throughout their life.

<sup>4</sup> The 2008 presidential election of Barak Obama served to consolidate the image of the U.S. as a post-racial society.

In the U.S. the retreat of the Keynesian welfare state and the shift towards the competition state occurred precisely as the impacts of the civil rights movement and the various social movements of the 1960s and 1970s were being felt throughout society. During this time the number of people accessing public resources increased, in part because prior to this moment de jure and de facto exclusion prevented them from accessing these resources. The public's anxiety over state dependency largely centered on Black women's reproduction (Katz 1989; Handler 2002), which was explicitly marked for state intervention. Black women were constructed as responsible for many national social issues, particularly state dependency and criminality (Roberts 1997 and 2002; Hill-Collins 1999; Jordan-Zachery 2009). Exemplary of this is Daniel Patrick Moynihan's infamous 1965 federal report, "The Negro Family: The Case for National Action," which located the origins of these "national domestic problems" in a Black matriarchal family structure.<sup>5</sup> He maintained that Blacks found themselves in a "tangle of pathology" that consisted of female headed households dependent on the state, which in turn produced another generation dependent on the state and involved in criminality. Moynihan argued for the need of the federal government to intervene to restructure the Black family structure, or face the consequences. It is important to note that Moynihan's conceptualization of urban Black Americans was informed by cultural anthropologist Oscar Lewis' notion of culture of poverty, a social theory derived from ethnographic work Lewis conducted in Mexico City. Lewis' theory posits that although poverty is structural, people in poverty develop a subculture that that leads to the perpetuation of

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<sup>5</sup> Daniel Patrick Moynihan, "The Negro Family: The Case for National Action," <http://www.dol.gov/oasam/programs/history/webid-meynihan.htm> (November 2009).

social behaviors that maintain poor people in poverty. Lewis' influence on Moynihan discloses how the racialization of poor Mexicans travels and contributes to the understanding of poverty in Black communities as self-made.

Following this logic, the Johnson administration, and every following presidential administration implemented policies to address the “domestic problems” that were subscribed to Blacks—state dependency and criminality. Richard Nixon was especially important in shaping the discourse of the War on Crime and promised to restore “law and order.” His “crack down on crime” campaign relied on the War on Drugs to deliver on his political promise. It is during this time period that we begin to see the intense buildup of the criminal justice system that has developed into the largest existing prison regime (Parenti 1999).

It is within this history that we need to consider the criminalization of migrants, especially the imprisonment of migrant women. On February 18, 2009 the Pew Research Center published “A Rising Share: Hispanics and Federal Crime,” a study that shows that changes in enforcement of immigration laws have resulted in making Latinos the largest ethnic group in the federal prison system.<sup>6</sup> Recognizing the significance that Black motherhood assumed in the criminalization of Blacks forces us to center migrant motherhood in order to understand the criminalization of migrants. In other words, if the linking of state dependency and criminality that ideologically took place around the reproductive bodies of Black women was central for the targeting of Blacks in general, and if similar discourse is deployed against the reproductive bodies of migrant women,

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<sup>6</sup> Mark Hugo Lopez and Michael T. Light, “A Rising Share: Hispanics and Federal Crime,” Pew Research Center, <http://pewhispanic.org/reports/report.php?ReportID=104>.

we need to consider the extent to which this discourse provides the rationale for the criminalization of migrants in general. The shift from the welfare state to the competition state, and from social citizenship to market citizenship, centers on the issues of motherhood and migration. When changes in the state signaled a potential shift for non-white families to enjoy a certain level of social protection, changes that were demanded largely by making claims through citizenship, we witnessed significant state reorganization. It is when the welfare state is compelled to address the needs of communities of color, when the potential for women of color to experience state-sanctioned domesticity develops, that welfare is criminalized and the shift from “welfare to work” takes place.

Racialized images of crime and state dependency generated around the Black family contributed to the ideological rationale for neoliberal practices that privilege work over welfare. In other words, the project of “ending welfare as we know it” and moving people into “work” is mobilized around the constructed “undeservingness” of non-white communities, and particularly Black motherhood. The most significant example that develops during this time period is the production of the “welfare queen,” “the lazy mother who refuses to work and breeds children to fatten her monthly check from the government” (Roberts 2002: 64). The criminalization of welfare marks the moment when Blacks as workers are made expendable, largely due to their ability to make citizenship claims on the state, including better living and working conditions. In turn, undocumented migrants are made into ideal neoliberal laborers through their undocumented and thus flexible status. Understanding how the merging of state dependency and criminality around the bodies of Black women informed the shift toward

market citizenship, which facilitated the advancement of neoliberal governance, provides insight into the criminalization of migrant women as a means to separate their productive labor from their reproductive capabilities. They serve their neoliberal purpose as laborers and conclude this purpose when they assume the identity of mother. Thus, the re-mapping of criminality and state dependency onto migrant women, particularly after the passing of IRCA, provides insight into the ways that imprisonment serves as a response to the immigration “problem” that migrant women ideologically represent and that furthers neoliberal policies of producing exploitable laboring bodies.

### **Significance of Study**

A discussion of imprisoned migrant women is essential to generating a dialogue between the immigrant rights movement and the prison abolition movement. The prison abolition movement’s insistence that we understand the U.S. as a carceral society, as a society that organizes itself by capturing and warehousing “undesirable” bodies, directs us to see the violability of migrants and their families as natural extensions of the experiences of imprisoned migrant women. In other words, the current punitive moment experienced by migrants has a long trajectory in U.S. prisons. The detention and separation of families is made possible because the ideological and material groundwork necessary for this moment was already produced through the bodies of people in prison. In turn, the experiences of imprisoned migrant women point the prison abolition movement’s attention toward the centrality of migrants in the expansion of the carceral society beyond the territorial boundaries of the U.S. nation-state. As noted above, the ideal neoliberal worker is the undocumented migrant and part of the function of the state is to engage in statecrafting projects that produce these workers. With the increasing

translation of undocumented to “criminal,” made possible in part through the criminalization of migrant women’s reproduction, migrant bodies become the raw material through which the global expansion of the carceral society takes place, and the border becomes the space that makes this production a possibility by rendering bodies “illegal.” Centering the experiences of imprisoned migrant women reveals the dialectical relationship between the national and transnational—the ways that the U.S. carceral society constitutes and is constituted in relation to the rest of the world.

### **Overview of Study**

In this study I center the experiences of jailed, imprisoned, detained, and deported migrant women and argue for their centrality in both the immigrant rights and prison abolition movements. As argued, they are made irrecoverable and this is possible because their origins are outside of the U.S. nation-state and their entrance is consigned to the realm of illegality since in the dominant imagination the figure of the “immigrant” is largely equated with “illegal.” I attempt to bridge what is occurring with migrants—criminalization, imprisonment, detention, and family separation—with the larger history of imprisonment in the U.S. In particular, I am interested in demonstrating how the processes of racialization of one group informs the racialization of another group, and to highlight how this process is fundamentally gendered. The criminalization of Blacks that developed during the 1960s and 1970s and that continues into today re-configured racial relations. Rather than depending on biologized notions of race to structure social relations, as in prior moments, criminality and state dependency perform as signifiers of race to regulate society in a post-civil rights moment. The criminalization of migrants cannot be divorced from this history. Thus, one of the driving research questions is how



does the criminalization of Blacks inform the irrecoverability of imprisoned migrant women? In other words, I examine how the ideological and material labor performed in the criminalization of Blacks carries into migrant women's experiences. The analysis demonstrates how the merging of criminality and state dependency that occurs around Black motherhood gets re-mapped onto migrant women. The ideological construction of migrant women as public charges and as reproducers of criminality makes them logical targets of violence. I interrogate relations that develop between individuals and the state and across nation-states and demonstrate how they partake in the criminalization of migrant women to secure and reinforce their violability, demonstrating that violence is personal, structural, and ideological. Finally, the overarching questions guiding this study are what are the implications of organizing around irrecoverable bodies and what are the possibilities?

### **Situating the Study**

The central concern of this study is to provide an understanding of the social productiveness of the criminalization of Latina migrants. In other words, what purpose does the criminalization of Latina migrants serve? To address this matter I bridge two main bodies of literature. The first is scholarship on the social construction of undocumented migration, which considers the "productive" labor that making "legal" and "illegal" bodies performs for U.S. nation-building. The second is critical prison studies, which centers on exploring prisons as sites of hierarchical local and global social organization. By connecting these literatures I do not only reinforce the arguments presented by these bodies of literature that "illegality" and "criminality" are essential

constituting logics of U.S. formation, but I note the importance that migrant women assume for the deployment of these logics.

Nicolas P. De Genova (2002) provides a review of undocumented migration studies. A central aim of the author is to examine the relationship between citizenship and “illegality” and denaturalize both categories. He notes that the category of “illegal alien” provides important ideological work to create and sustain Mexican migrants as flexible and cheap labor (408). De Genova takes on the legal production of migrant “illegality” and demonstrates that practices of “illegalization,” of marking bodies “illegal,” produce capital value for the nation and its citizens. De Genova moves us to consider law as an active agent in producing this unequal relation that centers on constructing exploitable bodies through “illegalization.”

A similar argument is advanced by Mae Ngai (2003). Ngai provides a historical examination of U.S. immigration restriction between 1924 and 1965 and demonstrates how law was racially enacted to create “illegal aliens,” who she terms “impossible subjects”— individuals who are a social reality but a legal impossibility. They are desired for various types of labor and their presence necessarily results in their living, developing relations, and overall leading social lives in the U.S., but they are a legal impossibility because they are outside the scope of legal citizenship. Ngai delineates the production of the idea of “illegal alien” and shows how it is a racialized social construction. It results from immigration restrictions that targeted groups racialized as non-whites<sup>7</sup> as a way to

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<sup>7</sup> The invention of “illegal aliens” has its origins in the 1882 Chinese Exclusion Act designed to bar Chinese from entering the U.S. Mae Ngai, *Impossible Subjects* (Princeton: Princeton University Press, 2004), 202.

maintain a national social hierarchy based on white supremacy and privilege.<sup>8</sup> Ngai's historiography of U.S. immigration policies shows how they were continuously used as avenues to shape the racial make-up of the U.S. while balancing the economic needs of the nation.

While De Genova and Ngai provide insight into the centrality of "illegalization" in the project of U.S. nation-building, Eithne Luibheid (2002) furthers this argument by centering sexuality in the construction of this project. Luibheid demonstrates how migrant women's sexualities were historically constructed as racialized national threats. Policing women's sexuality was central to border control, and thus the racialized constitution of the nation. Luibheid highlights the border as a site where meaning is made; where sexual identities are constructed and where heteronormativity is enforced. Taken together, these works (De Genova, Ngai, and Luibheid) highlight how undocumented migration is socially constructed and how this is a racialized, gendered, sexualized, and classed production. This creation not only participates in the nation-building project of the U.S. as a heteropatriarchal white nation, but also works to regulate migrant bodies as an exploitable labor force that generates wealth for the nation. As De Genova notes, "undocumented migrations are constituted in order not to physically exclude them [migrants] but instead, to socially include them under imposed conditions of enforced and protracted vulnerability" (429), and it is this vulnerability that allows for the extraction of value from migrants' labor.

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<sup>8</sup> This is most obvious in her discussion of the production of Asians as "racially ineligible for citizenship," evident in the 1882 Chinese Exclusion Act and by the "barred Asiatic zone" created in 1917 by Congress to exclude most Asians from migrating to the U.S. The 1870 Nationality Act, while it extended citizenship to former slaves, limiting citizenship to Blacks and whites, consequently disallowing those that do not fit these categories from obtaining citizenship. Ngai, 37-38.

However, there come moments that simply maintaining migrants' vulnerability is not enough, and their actual physical exclusion is deemed necessary to manage national interests, such as in the current moment of economic "crisis." Incarceration is a productive site where the expulsion of migrant bodies is made possible. The field of critical prison studies has expanded in the last decade and made invaluable interjections to our understanding of the ways that society racially organizes itself through the criminalization of people of color (Davis 2003; Gilmore 1998 and 2007; Rodriguez 2006; James 2000 and 2007; and Parenti 1999). The productiveness of these works is located in the generative national discussion they helped establish on the use of incarceration as a "solution" to America's "race problem." They are partially responsible for bringing to the forefront of academic and activist circles the notion of prison abolition as a visionary possibility. Scholars such as Annanya Bhattacharjee and Jael Silliman (2002) and Julia Sudbury (2005) have greatly contributed to this discussion by centering gender and demonstrating how controlling and disciplining women's bodies is a fundamental feature of imprisonment that achieves the goal of racial re-organization.

Sudbury's work is especially fruitful to think about migrant women's criminalization. Moving across and beyond the U.S., this edited compilation centers on women's experiences of imprisonment globally and highlights how gendered incarceration is a developing global phenomenon that is connected to "colonialism, global capitalism, neoliberalism, and militarism" (xi). Sudbury maintains that "both the fabric of the prison and the people caged within it are shaped by global factors, from free trade agreements and neoliberal restructuring to multinational expansion" (xii). This collection enables us to see women's migration and imprisonment as fundamentally

connected processes. Imprisonment of migrants is a local-national response to the global-transnational phenomenon of migration, and migrant women's bodies become sites through which the national and transnational are constituted and negotiated.

Bridging the scholarship on the social construction of undocumented migration and the social construction of criminality helps us to connect the policing and incarceration experienced by migrants in the present-day to a longer history of U.S. captivity.<sup>9</sup> Central to the works of scholars such as David Manuel Hernandez (2008) and Dylan Rodriguez (2008) is dislodging the contemporary anti-migrant moment from exceptionality and considering how detention and incarceration have historically been fundamental to the racial organization of U.S. society. Exceptionalist discourses are used not only by nationalist voices to construct the post-9/11 period as a markedly different era in which a "new" social crisis threatens the nation (terrorism), but also by pro-immigrant voices which characterize the contemporary targeting of migrant communities as distinctively unique, in part because there is a blurring of lines that define differences between civil and criminal activities which seems unprecedented.<sup>10</sup> By displacing exceptionalist discourses, these works reveal the racialized organizational labor performed by the policing and incarceration of target populations, nationally and

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<sup>9</sup> See Michael Welch, *Detained: Immigration Laws and the Expanding Ins Jail Complex* (Philadelphia: Temple University Press, 2002) and "The Role of the Immigration and Naturalization Service in the Prison-Industrial Complex," *Social Justice* 27 no. 3 (2000): 73-89; David Manuel Hernández "Pursuant to Deportation: Latinos and Immigrant Detention," *Latino Studies* 6 (2008): 35-63; and Dylan Rodriguez "'I Would Wish Death on You...': Race, Gender, and Immigration in the Globality of the U.S. Prison Regime," *The Scholar and Feminist Online* 6 no.3 [http://www.barnard.columbia.edu/sfonline/immigration/drodriguez\\_01.htm](http://www.barnard.columbia.edu/sfonline/immigration/drodriguez_01.htm) (February 2009).

<sup>10</sup> Exemplary of this is HR 4437, which not only attempted to categorize undocumented crossings as felonies, but also attempted to classify any aid a person offered an undocumented migrant a crime. However, what these pro-immigrant voices dismiss is the fact that the blurring between civil and criminal matters to racially organize society has a long history in the U.S. This is especially evident in the development of black codes in the post-Civil War era which criminalized Blacks as means of re-enslavement.

globally. The analysis furthers the argument that human captivity is constitutive of U.S. social formation as a racialized global super power.

By focusing on migrant women's experiences of criminalization, I do not simply join the efforts to displace an exceptionalist understanding of the contemporary anti-migrant moment, but drawing from existing scholarship on migrant women's experiences I advance a critical feminist conceptualization of U.S. captivity that accounts for the centrality of migrant women's bodies in maintaining U.S. global dominance. Since its inception migrant labor was central to U.S. capitalist accumulation. However, after the civil rights movement of the 1950s and 1960s its import increased since U.S. labor relations were dramatically altered; Blacks could not be subjected to the same labor conditions that they were forced into prior to this time. Subsequently, they were constructed as a surplus population and imprisonment became a "fix" to their under- and unemployment. In addition, the neoliberal shift of the early 1970s promoted the retrenchment of the welfare state to encourage lower wages and less worker protections. This shift was accompanied by a polarization of the labor market into stable skilled jobs and poor-paid de-skilled jobs, predominantly in the service sector. Essentially, labor market polarization served to feminize the increasing migrant labor that was generated to meet U.S. neoliberal demands. The reviewed scholarship on the gendered nativist response directs us to see that although producing undocumented migration is a critical activity that the state engages to further neoliberal capitalist interests, it must also create national legitimacy, which is why targeting migrant women's reproductive bodies becomes an essential task of the state. Nativist discourse marks migrant women's bodies as the origins of an external racial threat. Immigration control policies serve to contain,

and in the case of incarceration and deportation, dispose of “the threat.” The study contributes to scholarship on the criminalization of migrants by taking into account how the containment of migrant bodies contributes to the development of the neoliberal relationship between the U.S. and Mexico. It highlights this relationship as a violent collaboration that serves to construct ideal neoliberal laborers, a task that is in part accomplished by the disciplining and punishment of migrant women’s bodies.

### **Methodology**

This dissertation is informed by my personal commitments to social transformation. This project initially developed from my internship with Justice Now, a prison abolitionist organization located in Oakland, California. During the first couple of weeks we received training on methods of conducting advocacy for imprisoned women. The advocacy work that I conducted was around issues of health care and parental rights termination. This entailed gathering case information from their files and from visits with the individuals being serviced and then discussing with the organization’s staff possible methods of advocacy. This included making phone calls, writing letters, and conducting research. I was assigned to provide advocacy for several women in Central California Women’s Facility (CCWF) in Chowchilla, California, which is approximately one-hundred and sixty miles south-east of the city of San Francisco. At the time of this writing Chowchilla’s population numbered 19,051, of which 11,005 are city population and 8,046, forty-two percent, are people in prison (Chowchilla 2010). This is due to the fact that Chowchilla is home to the two largest women’s prisons in the world, Valley State Prison for Women (VSPW), which is the largest, and CCWF, literally across the street from VSPW. During my ten-week internship I learned much from the experiences

of imprisoned women. However, what consumed much of my time and energy were issues of parental rights terminations. Five of the cases I was assigned were of monolingual Spanish speakers who faced the termination of their parental rights. Four out of five were imprisoned for drug related sentences, they all had children in the foster care system, and were scheduled deportation at the end of their sentence. The pattern in their cases was overwhelming. For all five women placing their children with friends or family was a problem given the requirements implemented by children welfare policies. In all the cases the lack of English proficiency prevented them from obtaining adequate social and legal support to maintain their parental rights. With the exception of one of the families, the women received little to no support in their cases from the children's fathers. These facts demonstrated that losing their children was structural. I was unable to create any real substantive changes for this group of migrants and their families. However, I continued learning what structured their experiences and let these initial five stories guide this dissertation. Thus, the substance of my project comes from learning from the experiences of these migrant women.

Their stories led me to the *Los Angeles Times*. Juana's case was widely publicized in this newspaper. Although those news articles do not appear in this dissertation, largely because returning to this story is incredibly difficult for me, conducting that research made me aware of the investment of the media in representing migrants. This led to a discourse analysis of the gendered representation of migrants in the *Los Angeles Times*. In particular, I was interested in examining how the separation of families caused by parents' deportations was addressed by this media source. The analysis revealed how the dominant narrative of migration that is locked in a gendered "good" immigrant/ "bad"



immigrant binary reinforces gendered racial boundaries and the media's participation in this process.

Advocating for migrant women in prison in 2004 informed my desire to keep learning from imprisoned migrant women's experiences. In May of 2008 I contacted the California Coalition for Women Prisoners (CCWP), a prison abolitionist organization. I immediately became involved in their *Compañeras* Project, a sector of the organization dedicated to working with migrant women. The project's coordinator, Xiomara, organizes bi-monthly visits of CCWP volunteers with a group of fifteen migrant women at VSPW. My research consists of prison visits, case files, and letter correspondence gathered through my involvement with the project. More than focusing on their stories, the experience of forming part of the *Compañeras* Project shaped my understanding of transformative methodology and directed me to focus on the productiveness of using testimonies, truths told about events that happened but should not have, a discussion that I take on in chapter six, "Displacing the Confession and Providing Testimony."

Before contacting Xiomara I had a difficult time finding organizations that worked with migrant women in prison. Thus I decided to contact migrant shelters in Tijuana, Mexico to see if I could contact migrant women who had been imprisoned in the U.S. and were deported. Orilla Travesini, the director of Instituto Madre Assunta, a migrant women's shelter in Tijuana, and Mary Galvan, the shelter's social worker, agreed to allow me to conduct my research. I visited the shelter every Thursday for six months and spent the day talking with migrant women. While I did meet several women who were imprisoned in the U.S., learning the stories of migrant women in general led me to realize how connected their experiences were to those of imprisoned migrant women.

Therefore, I decided to include their stories in this study and show these connections, especially as they are related to racialized and gendered forms of violence.

During one of my visits to the shelter I met Alma, a migrant woman who was deported after being imprisoned for five years. She left Instituto Madre Assunta to go to a different migrant women's shelter, Casa Refugio Elvira. While in Tijuana, Alma and I remained in contact. After visiting the shelter I would meet her for lunch or coffee after her workday. While in Tijuana she became involved in the immigrant rights movement. Her daughter Isabel, who was ten when Alma was imprisoned and was fifteen by the time Alma was deported, visited Alma in Tijuana. Immigrant rights activists asked them to be representatives for migrant families affected by separation. However, they were asked not to discuss Alma's imprisonment and instead their story undertook various adaptations. The new account maintained that Alma was recently deported for being undocumented. This adaptation prompted by immigrant rights advocates highlighted for me the limitations of the current of the immigrant rights movement which attempts to expand inclusion of "good" immigrants and rationalizes the violence of immigrants constructed as "bad." In addition to Alma's and Isabel's experiences, media coverage of their story also forms part of my research.

Drawing from feminist standpoint theory, which posits that knowledge is located and produced via individuals' everyday life experiences and that women's experiences differ not only from men,<sup>11</sup> but among women themselves depending on individuals'

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<sup>11</sup> Key works that have developed and advanced feminist standpoint theory include Nancy Hartsock's "The Feminist Standpoint," in *Discovering Reality*, edited by Sandra Harding and Merrill B. Hintikka (Boston: D. Riedel Publishing Company, 1983); Dorothy Smith's *The Conceptual Practises of Power: A Feminist Sociology of Knowledge* (Boston: Northeastern University Press, 1990), and Sandra Harding's *Whose*

positionality,<sup>12</sup> I allow the experiences of migrant women to guide my methods. Before interning at Justice Now I was unaware of how migrant women's mothering was shaped by the development of the U.S. prison regime. The desire to learn about what produced their experiences led me into the space of their captivity—prisons—and to the *Los Angeles Times*, the Compañeras Project, to the shelters in Tijuana, and to the many people that I met along my way who provided insight into the criminalization of migrant women. To follow their stories and examine the day to day practices that create some migrant bodies as irrecoverable and make the violation of migrant women and their communities possible, I was forced to travel through many of the spaces where they are present or move through. Particularly significant was learning how their experiences were structured at different levels and by various sources. To understand the patterns of violence that palpated through the many stories, I was forced to constantly shift the analytic lens from the private to the public, from the local to the national and transnational, to reveal how one constitutes the other. This technique of tightening and broadening the lens of analysis, of shifting from the macro to the micro, allowed me to see how gendered processes of racialization are central to projects of nation-building that, in an era of globalization, rely on the policing of certain boundaries and the blurring of others. The analysis reveals that the discipline and violence lived by migrant women and their communities are central aspects of modern governmentality.

### **On Terminology**

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*Science? Whose Knowledge* (Ithaca, N.Y.: Cornell University Press, 1991) and *The Feminist Standpoint Theory Reader* (New York : Routledge, 2004).

<sup>12</sup> Patricia Hill Collins' *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* (New York: Routledge, 2000) is central toward advancing feminist standpoint theory to consider how factors such as race inform an individual's knowledge and understanding of the world.

Throughout this study I employ a politicized language that participates in the labor of deconstructing binaries and furthering the project of connecting the immigrant rights and prison abolition movements. Central to this discussion is providing working definitions of immigrant rights movement and prison abolition. While I acknowledge that there are various viewpoints within the struggle to bring about justice for migrants, there are voices and narratives that dominate the national scene and that greatly shape immigrant rights mobilizations. Throughout I refer to this assemblage as the immigrant rights movement, whose overarching goal is comprehensive immigration reform to create path to legalization for undocumented migrants. A similar dynamic of diverging perspectives characterize the prison abolition movement. However, like the immigrant rights movement, what makes this a social movement is a common goal, which in this case is ending the use of incarceration by creating changes in society that address the roots causes of social inequities.

In addition, I pay attention to Nicholas de Genova's (2002; 2006) critique of the notion of immigration as unidirectional; immigration assumes a linear movement from one country to the next and reinforces the notion of U.S. exceptionalism since it is assumed that people migrate from their country of origin to make use of the opportunities available in the U.S. Instead, De Genova complicates this reading and argues that people's movement and reasons for moving are much more complicated and thus, the notion of migration is more useful because it accounts for non-linear movements, such as migrants' returns to their countries of origin and migration within the U.S., and it allows for an array of migration accounts. Thus, I make use of the notion of migration and employ immigration when referencing others' ideas or statements.

A final term that needs defining is “Black,” which I use instead of African American for several reasons. As noted above, the neoliberal shift depoliticizes citizenship, and the term African American participates in this process. African American marks bodies as originating in another geographical space but eventually assuming an identity of American. It follows the narrative of immigration and assumes the possible inclusion of African-marked bodies into the U.S. The term Black, however, is rooted in the social movements of the late 1960s and 1970s and was embraced and deployed to note not only pride in a particular history and heritage, but to mark the relationship between Blacks and the U.S. for what it is, a racialized power relationship. Therefore, continuing the work of displacing the narrative of immigration and explicitly marking the ways that we are racially organized, I use the term Black throughout this study.

### **Chapter Breakdown**

Chapter two provides the socio-historical context for the dissertation. It demonstrates the interconnectedness between the development of the U.S. prison regime as a response to Black rebelliousness and the various forms of captivity and immobilization that migrant communities face today. By providing a relational analysis between Black and migrant motherhoods I show that imprisonment and other forms of state containment serve as strategies to control the reproduction of women of color. I argue that this needs to be conceptualized as a form of racialized warfare that participates in the production of a flexible neoliberal labor force.

Chapter three considers the strategies employed by the immigrant rights movement and demonstrates how efforts to decriminalize immigrants can result in criminalizing others, specifically Blacks. I demonstrate how this movement makes use of

already existing definitions of “good” and “bad” immigrants to advocate for immigrant rights and I underscore some of the limitations of organizing along this binary; specifically, the ways that the immigrant rights movement’s strategies participate in the labor of creating gendered and racialized irrecoverability, which works against the efforts of the prison abolition movement to unstabilize boundaries of deservingness. I call for us to consider the connections between the particular criminalization of migrants and the general criminalization of people of color and poor people in the U.S. and to engage in a radical re-thinking of notions of “inclusion.”

Moving from the discussion of the role of the immigrant rights movement in reinforcing relationships of power, in chapter four I consider the ways that state violence blends with interpersonal violence to discipline and punish migrant women. I reinforce the argument that for women of color, racial patriarchal efforts to control their sexuality construct the private as public and the public as private, making personal relationships complicit in state efforts to police racial boundaries and enlisting the state to perform the labor of domesticating migrant women.

Chapter five examines Mexico’s conflicting relationship with migrants. While means for the protection of migrants are instituted by the Mexican government, this protection is organized by ideas of heteronormativity. In other words, by examining the experiences of migrant women in Colonia Postal, a predominantly migrant space in Tijuana where Instituto Madre Assunta and Casa del Migrante<sup>13</sup> are located, I demonstrate how local police participate in the gendered criminalization of migrants as

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<sup>13</sup> Casa del Migrante parallels the work that Instituto Madre Assunta performs but focuses on servicing migrant men.

they discipline migrant women into femininity and punish women who perform masculinity through acts of migration and their physical appearance. The analysis also reveals a relationship of collaboration between Mexican and U.S. authorities in relation to migration control. I argue that Mexico's punitive response to migrants, in part the increased policing of migrants, makes the Mexican state a participant in the racialization of migrants as criminals, further naturalizing violence against migrant bodies. The analysis illustrates the transnational expressions of criminalization as bodies marked by it are made violable across national borders. In other words, the labor that criminalization performs in making migrant women irrecoverable remains with them even in their country of origin where they are further policed and targeted.

Having highlighted various actors involved in processes of criminalization, in chapter six I shift the analytical lens towards the prison abolition movement and in particular my experiences in it. Through the work of political philosopher Chloe Taylor, I consider Michel Foucault's critique of confession and reinforce Taylor's argument that rather than relying on confession, a coercive act that makes the person confessing vulnerable to the confessor, that we instead employ testimony, which tells "a truth" about the past to provide self-and social transformation. Using political scientist Joy James' differentiation between emancipation and freedom, emancipation as something that is given by the dominant and freedom as something that is created or taken, I put forward the notion that to move towards freedom we center testimony in our abolitionist efforts and learn to recognize when we participate in the labors of confession which contribute to reinforcing binaries of membership and irrecoverability.

The concluding chapter is an exploration of the productiveness that an abolitionist vision presents to the struggle of migrant justice. I reinforce the argument that if we are serious about obtaining justice for migrants, if we are serious about ending the violence experienced by migrant women and their communities, we need to extend abolitionist visions to the realm of immigration control. Simply expanding inclusion into the nation of a number of migrants will not address the root of migration and the violence that is often associated with it.



## Chapter 2.

### Understanding the Roots of Latina Migrants' Captivity

According to critical prison scholar Dylan Rodriguez (2006), prisons have become a “constitutive logic” of U.S. social formation—technologies of physical immobilization and annihilation are central to the constitution of the U.S. He directs us to see prisons as a regime, meaning “...to conceptualize it as a dynamic state-mediated practice of domination and control, rather than as a reified ‘institution’ or ‘apparatus.’”

He writes:

The prison regime has become an indispensable element of American statecraft, simultaneously a cornerstone of its militarized (local and global) ascendancy and spectacle of its extracted (or coerced) authority over targeted publics. *The specificity of the prison regime as a production of state power is its rigorous and extravagant marshaling of technologies of violence, domination, and subjection otherwise reserved for deployment in sites of declared (extradomestic) war or martial law.* (44)

Prisons are spaces where history is written by and through the bodies of captives; they are spaces where society re-orders itself and power is made tangible. According to professor of geography and leading anti-prison activist Ruth Wilson Gilmore (1998), prisons have become the predominant “fix” and central response to most forms of deviancy, “...prisons are partial geographical solutions to political economic crises, organized by the state, which is itself in crisis. Crisis means instability that can be fixed only through radical measures, which include developing new relationships and new or renovated institutions out of what already exists” (26). This development is evidenced by the fact

that the U.S. is the leading incarceration nation world-wide, exceeding two million people in prison at the turn of the century.<sup>14</sup>

Migrant policing is a site where the prison regime is expanded through jailing, detention, and imprisonment of migrants. Particularly significant for this project is the confinement of migrant women. In 1976 the California Department of Corrections and Rehabilitation (CDCR) imprisoned a total of 1,124 women, in contrast to 11,416 in 2007. This represents a 985% increase in three decades. Rather than increased crime rates, the drastic change in incarceration highlights the significance of the prison regime for the organization of society and the ways that crime changes and gets re-defined over time. Incarceration is not simply a response to perceived social problems, such as poverty, but it participates in their production. The case of Latina migrants underscores this point. In terms of Latinas in prison, in 1976 they constituted 18% of the overall number of imprisoned women, which increased to 29.2% by 2007.<sup>15</sup> Of the 171,085 people held by CDCR in September 2008, 19,008 had an immigration hold. This means that approximately 11% of people in CDCR custody are migrants.<sup>16</sup> While information on the demographics of who constitutes this number of imprisoned migrants is unavailable, what is clear is that Latinas in general and migrant bodies in particular are targets for containment. This needs to be considered within the role of the U.S. prison regime.

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<sup>14</sup> According to the U.S. Department of Justice, "Over 7 million people were on probation, in jail or prison, or on parole at yearend 2005 -- 3.2% of all U.S. adult residents or 1 in every 32 adults." U.S. Bureau of Justice Statistics. "Corrections Statistics." Washington, D.C.: Department of Justice (February 2007).

<sup>15</sup> This information is taken from the California Department of Corrections reports "Historical Trends" published for the years 1976-1996 and 1987-2007.

<sup>16</sup> California Department of Corrections and Rehabilitation "Fourth Quarter 2008 Facts and Figures" [http://www.cdcr.ca.gov/Divisions\\_Boards/Adult\\_Operations/docs/Fourth\\_Quarter\\_2008\\_Facts\\_and\\_Figures.pdf](http://www.cdcr.ca.gov/Divisions_Boards/Adult_Operations/docs/Fourth_Quarter_2008_Facts_and_Figures.pdf) (January 2009).

Prisons regulate society and perform the labor of population control. As sites designed for social isolation, prisons serve to curtail the reproduction of captive bodies. Given that the majority of people in prison are poor people and people of color, population control is targeted at these particular classed and racialized bodies. Consequently, migrant women's imprisonment performs as a reproductive control strategy by restraining their ability to have children and by participating in the separation of mothers from their children. By considering this dynamic, this chapter provides the contextualization to understand migrant women's criminalization as it relates to the history of captivity experienced by Blacks in the U.S., the group most significantly impacted by incarceration. The central argument advanced in this chapter is that incarceration participates in a neoliberal arrangement where the capturing and warehousing of migrant bodies results in reinforcing a flexible labor market where migrants perform as the ideal neoliberal laborers—flexible workers with minimal rights. Undocumented migrants are the ideal neoliberal laborers since their undocumented status secures their flexibility and hinders their ability to safeguard their rights. Through mothering, which implies permanent settlement, migrant women threaten this racialized neoliberal arrangement. While their labor is considered necessary, their non-white racialization as culturally and morally inferior marks them as undesirable mothers of future citizens. Their imprisonment performs the work of constructing them as irrecoverable since it results in their deportation and permanently banning them from future entrance into the U.S., thus reinforcing their value as neoliberal workers and their violability when they defy this role. The physical deportation and permanent exclusion of criminalized migrants serves to get rid of bodies marked as neoliberal “excess.” Additionally, the analysis highlights

the border as a significant site where the prison regime expands. The increased number of migrant detainees and the mounting number immigration detention centers speak to how the policing of the border, which renders crossing migrants “illegal,” performs as an additional site of captivity.

### **Roadmap**

I begin this chapter by considering how the development of the logic of “law and order” during the late 1960s and 1970s was rooted in attempts to discipline rebellious communities of color, particularly Blacks (Parenti 1999). The analysis illustrates that the expansion of the U.S. prison regime is directly correlated to policing racialized relationships of power. Part of this racial re-ordering depended on cultural constructions of Black mothering as “undeserving” through the rhetoric of state dependency (Roberts 1997), which gets re-mapped onto migrant women’s bodies, especially during the 1990s. This discussion is couched within the neoliberal shift of the early 1970s which signaled changes in labor relations in the U.S. (Rodriguez 2004). Up until the 1960s Blacks were essential to U.S. labor relations because their exploitability was fastened through racialized practices such as de jure segregation. Race historiographer Manning Marable (2000) notes that Black economic life underwent a brief but significant change during the 1960s. According to Marable, the expansion of the labor market allowed a larger number of Blacks to obtain jobs, the continued migration of Blacks to the North and West enabled them to secure higher paying jobs, and federal policies such as the end of legal segregation and the implementation of affirmative action contributed to an improvement in Blacks’ participation in the labor market (59-60). These social transformations were informed by the social movements of the 1950s and 1960s; through citizenship claims

Blacks were able to secure for a brief moment some ascendancy in the labor market (Marable; Jaynes 1990: 17). Marable notes that the capitalist crisis of the 1970s not only nullified, but reversed these gains (60-61). Consequently, gains made through the Civil Rights Movement, which largely centered claims on citizenship, are precisely what construct Blacks as undesirable workers within a neoliberal economy since they are not exploitable in the same fashion as prior to the 1960s. Undocumented migrant labor simultaneously assumes an essential function within a neoliberal economy (Rodriguez 2004; Canales 2003). I follow this discussion by demonstrating how the War on Drugs, which was predominantly waged in urban Black spaces (Lusane 1991; Bush-Baskette 1998), was essential to marking the U.S.-Mexico border as a space of criminality (Dunn 1996) and I show that both the U.S. and Mexico are involved in this production. The militarization of the border proves essential to organizing the bi-national relationship which privileges the movement of goods and capital and aims to regulate the exploitability of bodies by marking them as “legal” and “illegal.” I link the War on Drugs to the criminalization of migrant women through the Immigration Reform and Control Act (IRCA) of 1986. IRCA is marked as exceptionally important in the militarization of the border, in part because it expanded the War on Drugs at the border (Dunn 1996). However, it simultaneously contributed to the increased migration of women through family reunification policies, which generated increased concerns over migrant settlement (Hondagneu-Sotelo 1994: 26). In other words, IRCA served to ideologically join border militarization and women’s migration. I conclude by arguing that the criminalization of migrants, in particular women, needs to be understood in relation to the history of

captivity of Blacks in the U.S. This relational analysis enables us to see how criminality is a constituting logic of the U.S.

### **The Logic of “Law and Order” in Subduing Black Rebelliousness**

Several authors have traced the development of criminality in the U.S., specifically post-reconstruction, and demonstrated how it is primarily fashioned around Blackness and Black bodies and continues to inform society’s conceptualization of crime (Lichtenstein 1996; Davis 2000 and 2003). *In Black Reconstruction in America*, first published in 1935, W.E. B. DuBois demonstrates that re-enslavement of Blacks was made possible through re-definitions of crime that occurred through the establishment of Black codes (1998: 670-710). Criminalization of Blacks during the post-reconstruction era served to meet the labor needs generated with the abolition of slavery and the development of industrial capitalism. Feminist scholar activist Angela Y. Davis argues that a similar relationship exists between the contemporary imprisonment of Blacks and profitability (2000: 68). While the labor of prisoners continues to yield some economic revenue, the major profiting occurs through industries that service prisons to meet the needs of over two million people in prison, such as food, clothing, health care, and so forth.<sup>17</sup> Over half of the prison population is Black men, underscoring how Black male bodies continue to be made expendable, and criminality continues to serve as a marker of difference that constructs their disposability.<sup>18</sup>

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<sup>17</sup> Key works that center the profitability of prisons include Beckett, Katherine Beckett’s *Making Crime Pay: Law and Order in Contemporary American Politics* (New York: Oxford University Press, 1997); Daniel Burton-Rose and Dan Pens, and Paul Wright, *The Celling of America: An Inside Look at the U.S. Prison Industry* (Common Courage Press, 1998); Joel Dyer’s *The Perpetual Prisoner Machine: How America Profits from Crime* (Boulder: Westview Press, 1999).

<sup>18</sup> Jerome Miller discusses this in his book *Search and Destroy: African-American Males in the Criminal Justice System* (Cambridge; New York: Cambridge University Press, 1996). Central works that discuss the

The social movements that took place between the 1950s and early 1970s unsettled racial relations globally, producing responses that eventually re-configured race through cultural difference (Omi and Winant 1994; Bonilla-Silva 2003; Brown et. al 2003). Particularly significant in the U.S. were radical movements such as the Black Power Movement, Chicano Movement, American Indian Movement, and the Asian American Movement, which negated the legitimacy of the U.S. and, rather than advocating for inclusion, called for a radical transformation. The militant images of non-white bodies emblazing entire cities between 1965 and 1968, protesting, engaging in civil disobedience, and defying agents of the state, all in the name of self-determination, threatened the racial order of the U.S. The significance of these critiques lies largely in the fact that these movements constructed the U.S. as unredeemable because its very existence was predicated on the racial subjection of bodies racialized as non-white. Since the U.S. was conceptualized as an inherently white supremacist nation, inclusion necessarily signified participating in racial subjection. Instead, many members of these various rebellions advocated for the creation of alternatives. During this time period we begin to see the deployment of the discourse of criminality, in particular against Blacks, as a response to what was constructed as a national crisis of disorder and lawlessness (Parenti 1999). Critical race theorist Denise Ferreira da Silva (2007) provides a geneology of race and demonstrates that spaces inhabited by people of color are constructed as outside of law, and thus, violence is naturalized as indigenous to these spaces. In efforts to re-configure racial relationships of power, the acts of self-

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criminalization and imprisonment of Blacks include Marc Mauer's *Race to Incarcerate* (New York: The New Press, 1999) and Michel Tonry's *Malign Neglect: Race, Crime and Punishment in America* (New York: Oxford University Press, 1995).

determination, which offered a critique of structural white supremacy, were ideologically transformed into acts of criminality.

The threat of racial disorder mobilized state responses that re-constituted Blacks as criminal through the attachment of drug use to urban spaces racialized as Black. In *Lockdown America: Police and Prisons in the Age of Crisis*, Christian Parenti maps the historical development of the current U.S. policing and imprisonment regime. He demonstrates how it was fueled by the political crisis of the 1960s and 1970s that threatened to transform U.S. power relations and the economic crisis resulting from the expensive war the U.S. was waging against Vietnam. According to Parenti, because of the domestic scene of rebellious turmoil and the police's difficulty in controlling the domestic landscape, it made it difficult to sell capitalism and liberal democracy to the rest of the world and establish the U.S. as a world super power. The response was a re-fashioning of the police, judicial system, and prisons.

During this historical moment the U.S. shifts from focusing on foreign threats and turns towards "enemies inside." Parenti first locates this shift in the influence of Barry Goldwater's Republican presidential campaign in which he promised to restore the law and order that had been lost. In his 1964 presidential nomination speech, Goldwater states: "Security from domestic violence, no less than from foreign aggression, is the most elementary and fundamental purpose of any government, and a government that cannot fulfill this purpose is one that cannot long command the loyalty of its citizens" (6). In the same speech Goldwater links the image of "criminal" to state dependency, foreshadowing the logic that would drive the criminalization of Blacks and later migrants in the following decades, "If it is entirely proper for the government to take away from



some to give to others, then won't some be led to believe that they can rightfully take from anyone who has more than they?" (7). Although Goldwater lost to Johnson, his rhetoric won out. During Johnson's presidency the initial groundwork for the policing and prison regimes was established. Particularly significant was the increased criminalization of drugs. In 1967 Johnson created the Bureau of Narcotics and Dangerous Drugs (BNDD), precursor of the Drug Enforcement Agency (DEA) (6). He also proposed legislation which created the Law Enforcement Assistance Administration (LEAA), to "strengthen ties between the federal government and local police...over the next decade [it] spent billions of dollars in an effort to reshape, retool, and rationalize American policing" (6).

Richard Nixon followed in Johnson's steps and reinforced the constructed crisis—the loss of law and order. Initially Nixon found it difficult to deliver on his promise to "restore law and order" since it became evident that crime control was the jurisdiction of state and local authorities. Taking from Rockefeller's "tough on crime" policies in New York employed against drug users, in 1970 Nixon and his administration, using the fact that drug control was the one area where the federal government could have a local effect, nationally merged the issues of drug use and crime. Parenti shows how Nixon and his administration used drug trafficking to rationalize the federal government's involvement in local policing. On June 17, 1971, Nixon spoke on the necessity to create a program for drug abuse prevention and control. In this speech he declared war on drugs: "America's public enemy number one in the United States is drug abuse. In order to fight and defeat this enemy, it is necessary to wage a new, all-out offensive." Addressing Congress, Nixon stated "Within the last decade, the abuse of drugs has grown from

essentially a local police problem into a serious national threat to the personal health and safety of millions of Americans...A national awareness of the gravity of the situation is needed; a new urgency and concerted national policy are needed at the Federal level to begin to cope with this growing menace to the general welfare of the United States” (9). It is significant that Daniel Patrick Moynihan, who in 1965 wrote the now infamous federal report, *The Negro Family: The Case for National Action*, served as the Counselor to the President for Urban Affairs during Nixon’s administration. According to political journalist Edward Jay Epstein (1977), Moynihan, “concerned about the reports of heroin abuse in the ghettos, had persuaded the president that the State Department should do everything diplomatically possible to curtail opium production in foreign countries such as Turkey, and that the president should elevate the suppression of narcotics to an issue of national security policy” (77). By this moment criminality is already fused to Black urban spaces and the bodies that reside there. Declaring war on drugs to activate the buildup of the criminal justice system was thus a declaration of war on Black bodies (Lusane 1991; Bush-Baskette 1998) while also serving as a mechanism for intervention in other countries.

Nixon’s administration ideologically linked the rebelliousness occurring on the streets, especially of inner-cities, with crime, deploying notions of Black criminality that drove the expansion of policing and prisons. Parenti cites the following from a letter to Eisenhower from Nixon: “I have found great audience response to this [law and order] theme in all parts of the country, including areas like New Hampshire where there is virtually no race problem and relatively little crime” (7). Nixon’s statement profoundly speaks to the logic of criminalization that naturalized Black lawlessness and that provided

support for the mobilization of law and order policies. Parenti cites Nixon's Chief of Staff H.R. Haldeman's diary, "H.R. Haldeman [President Nixon] emphasized that you have to face the fact that the whole problem is really the blacks. The key is to devise a system that recognizes this while not appearing to" (12). The policies that develop to contain the "crime" crisis—the war on crime and the criminal justice buildup—are thus policies constructed to control Black bodies. Haldeman's diary entry goes on to include the following, "[President Nixon] pointed out that there has never in history been an adequate black nation, and they are the only race of which this is true. Says Africa is hopeless. The worst there is Liberia, which we built."

### **Racializing State Dependency and Criminality**

The production of Black lawlessness and disorder merged with changes occurring to the welfare state. During the 1960s the doors of the welfare system were forced open to allow previously excluded people access. This included people of color, particularly Blacks, divorced, separated, deserted, and increasingly never married women—people determined as the "undeserving poor" (Katz 1989). These changes directed the public's anxiety towards single-Black mothers, children born to single mothers, and generational dependency in the program (Abramowitz 1988). Single poor Black mothers were mainly constructed to be morally *different* from "deserving mothers" who were either dependent on their husbands or self-sufficient (Handler 2002). Welfare policy and welfare administration has historically served to pass moral judgment on who is deserving and who is undeserving of state protection.

Historian Michael B. Katz (1989) discusses the construction of the “undeserving poor” through the discourse of personal choice.<sup>19</sup> Under the logic of personal choice, poverty is allegedly self-made by the poor choices that those in poverty make, constructing poor people as undeserving. He writes, “They remained different and inferior because, whatever their origins, the actions and attitudes of poor people themselves assured their continued poverty and that of their children” (16). According to Katz, this notion of self-perpetuated poverty disallowed poor people from becoming morally “deserving.” By the 1980s there was alarm and hostility towards people in poverty, “What bothered observers most was not their suffering; rather, it was their sexuality, expressed in teenage pregnancy; family patterns, represented by female-headed households; alleged reluctance to work for low wages; welfare dependence, incorrectly believed to be a major drain on national resources; and propensity for drug use and violent crime, which had eroded the safety of the streets and the subways” (185). Through the rhetoric of personal responsibility, families with single Black mothers were held responsible for social problems like low levels of education, teen pregnancy, and poverty, all of which coalesced in the national imaginary as leading to increased crime.<sup>20</sup> Feminist scholar Dorothy Roberts writes, “Society penalizes Black single mothers not only because they depart from the norm of marriage as prerequisite to pregnancy but also because they represent rebellious Black culture” (238). Considering Parenti’s argument

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<sup>19</sup> Michael B. Katz *The Undeserving Poor: From the War on Poverty to the War on Welfare* (New York: Pantheon Books).

<sup>20</sup> Ronald Reagan made the image of the “welfare queen” everlasting when in 1976 he gave a presidential campaign speech and cited alleged news stories, “She has 80 names, 30 addresses, 12 Social Security cards and is collecting veteran's benefits on four non-existing deceased husbands. And she is collecting Social Security on her cards. She's got Medicaid, getting food stamps, and she is collecting welfare under each of her names.” Although the story was later discredited, the message lived on.

that Black rebelliousness was made criminal through the logic of “law and order,” Black women’s reproduction was thus made responsible for “breeding” this imagined crisis. According to black feminist theorist Patricia Hill Collins, not only were welfare recipients, largely conceptualized as Black women, rendered unfit to pass on national culture, but punitive practices against this group, including curtailing their reproduction, were legitimized (1999: 126).

It is important to consider criminalization within the larger development of global neoliberalism. In the late 1960s and early 1970s incarceration assumed important neoliberal labor functions. The social transformations brought about by the creation of the post-World War II welfare state through policies such as Roosevelt’s New Deal and its subsequent expansion mobilized by the various social movements of the 1950s and 1960s presented threats to capitalists’ interests who saw their profits impacted by the state’s intervention in the economy. The global economic recession of the early 1970s offered capitalists an opportunity to critique the role of the state in social redistribution (Marable 2000). The criminalized ideology that developed around Black mothering provided capitalists important ammunition to promote the neoliberal logic of minimal state intervention in the economy.

Central to neoliberalism is a flexible, and thus exploitable, labor force. Prisons serve an essential role in the production of labor market flexibility. First, the act of incarcerating people and marking them as “criminal” generates an entire population of flexible laborers. For example, people in prison often perform some of the labor necessary to operate prisons, such as cooking, cleaning, gardening, and so forth. Although it is a rather small number, it is also significant that the labor of people in

prison is also employed by private corporations at extremely low wages. A final example of how incarceration creates a flexible labor force is the fact that having a criminal record makes people less marketable once they are released from prison. Not only are prisons spaces where surplus populations, such as under- and unemployed individuals, are created, but they also provide a “fix” to the perceived social problems by warehousing “surplus populations.” Prisons thus assumed a central role in managing labor market flexibility. The gains made by Blacks during the 1950s and 1960s, which were in part a result of their ability to draw on their rights as citizens, within neoliberalism construct them as undesirable workers since rights afforded through U.S. citizenship limits their flexibility. At this historical juncture undocumented migrant labor assumes a pivotal role in neoliberal labor relations.

Whereas “working-class Black women are constructed as the enemy within, the group producing the population that threatens the American national interest of maintaining itself as a ‘White’ nation-state” (Collins 1999: 126), Latina migrants are constructed as the enemy coming from the outside, crossing the border “illegally” to have children and make use of state resources (Chang 200: 4). Concerns in the U.S. over dependent Latina migrants were developed by making use of already existing images of Black motherhood. Exemplary of how the merged discourses of criminality and state dependency were remapped onto migrant women is Proposition 187, also known as the “Save Our State” initiative.<sup>21</sup> It begins,

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<sup>21</sup> While Proposition 187 was voted into law by California voters and later declared unconstitutional, it provided the ideological foundation for the Welfare Reform Act signed into federal law by President Bill Clinton in 1996.

The people of California find and declare as follows: That they have suffered and are suffering economic hardship caused by the presence of illegal aliens in the state. That they have suffered and are suffering personal injury and damage caused by the criminal conduct of illegal aliens in this state. That they have a right to the protection of their government from any person or persons entering this country unlawfully.

Prop. 187 intended to limit immigrants' access to education and health care, public resources primarily accessed by women and children. This introduction discloses how the identity of immigrant is associated with state dependency and crime. Employing similar discourse on Latina migrants as is used to criminalize Black women serves to discipline them into ideal citizen behavior, particularly to bar access to state resources. During the 1990s the unworthiness of migrants was voiced within the language of public charge, a notion originally developed around southern and eastern European women (Gardner 2005) and linked to Black motherhood through ideas of unchecked lawlessness. The notion of public charge holds that some individuals are unable to care for themselves and will become dependent on the state (Luibheid 2002). Critical sociologist Lisa Sun-Hee Park provides an analysis of the notion of *public charge* in conjunction with the 1996 Welfare Reform and argues that "the social contexts that helped garner support for such anti-immigrant legislative measures created an environment that essentially criminalized motherhood for low-income immigrant women—whether they are documented or undocumented" (2001: 1161). As Park notes, the notion of public charge carried over the connotation of criminality associated to state dependency. Criminality was fastened to migration through migrants' assumed "illegal" entrance into the U.S., rendering migrant Brown bodies as perpetual criminals. The current rhetoric used to discuss undocumented migration emphasizes the idea of lawlessness at the border; that people crossing the

border without documents are disrespecting U.S. laws and threatening American sovereignty, which contributes to the imagined crisis of national disorder. Criminalization of migrants reinforces their flexibility as workers while also enabling their social expulsion if imagined as necessary, such as in the current moment of economic downturn.

### **Border Warfare**

For migrants, the end of the Cold War particularly shaped how they experienced criminalization. Kent A. Ono and John M. Sloop (2002) maintain that the Cold War enabled the construction of the United States as a land of freedom and opportunity, contrasted with communism ideologically constructed as unfree and undemocratic.<sup>22</sup> According to the authors, post-cold war era gave rise to the need for new enemies to constitute the nation, “The projection of fears onto ‘alien invaders’ was a natural aftereffect of the Cold War and the concomitant dissolution of a clear and coherent enemy, the Soviet Union,” (35). It is another moment when the U.S. turned attention from the “enemy outside” to the “enemy among us.” The U.S. remained in an “us versus them” worldview even Post-Cold War. However, “them” in postmodern U.S. has changed and now has a multiplicity of representations, depending on the geopolitical moment of the time. According to Ono and Sloop, “...news media represent many different versions of enemies who threaten the moral, cultural, and political fabric of the nation-state and therefore must be evicted, eliminated, or otherwise controlled,” (35). In the case of migrants, the notion of war significantly shaped their migration experiences.

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<sup>22</sup>Kent A. Ono and John M. Sloop, *Shifting Borders: Rhetoric, Immigration, and California's Proposition 187* (Philadelphia: Temple University Press, 2002).



According to border historian Jose Palafox (2000), the shift into post-cold war U.S. was accompanied by a conflation of law enforcement and military, not only increasing the cooperation between these institutions, but creating a joint infrastructure. Similar to arguments made by border scholar Timothy Dunn, Palafox argues that the military presence at the border is a form of low intensity warfare against immigrants. Peter Andreas and Richard Price (2001) discuss this transformation as a change from “war fighting to crime fighting.” Similar to Palafox, they argue that there was a blurring of the boundaries between the police and the military—the military has gone through domestication and policing has been militarized. Thus, the criminalization of migrants is inherently part of the wars waged at the border.

The War on Drugs that developed largely to contain Black rebelliousness was essential to wedding criminality to the border. While the border was already a legally contested space given the production of undocumented migration, the War on Drugs served to fuse criminality to the U.S.-Mexico border. Notions of drugs being trafficked through border to be sold and consumed in America’s Black urban cities marked the border as a crucial site where criminality, which drugs embodied, made its way into the nation. In addition to “illegal” migration, drug trafficking also becomes conceptualized as a threat to the nation and another reason to control the border and contain migrant bodies. In other words, the War on Drugs served to fix the border as a space of criminality and its inhabitants as inherently criminal. The border became another productive space where the War on Drugs was enabled through the logic of “law and order,” constructing the border as an additional space where the expansion of the U.S. criminal justice system takes place.

Prior to President Nixon declaring the “War on Drugs,” one of the first mobilizations against drugs is Operation Intercept, which was deployed in September of 1969 at the U.S.-Mexico border. The concern over drugs entering the nation’s borders was largely centered on their destinations and the bodies that inhabited these spaces—urban cities and Black bodies imagined to be engaging in crime in order to continue their drug addiction. Through an analysis of Operation Intercept, senior analyst Kate Doyle<sup>23</sup> provides insight into the U.S. and Mexican relationship as it is shaped by the War on Drugs.<sup>24</sup> Doyle notes that two months after Nixon took office he established the Special Presidential Task Force Relating to Narcotics, Marihuana and Dangerous Drugs. After eight weeks of evaluating the “drug problem,” the Task Force marked Mexican “free-lance smugglers and organized traffickers” as “‘responsible for the marihuana and drug abuse problem.’” The task force’s recommendation was to launch Operation Intercept, which, according to Doyle, was not so much intended to stop drug trafficking, but rather, to compel the Mexican government to address the drug problem within its borders. Launched on September 21 and with little notification to the Mexican government, the operation consisted of meticulous inspection of everything crossing the border, severely slowing down all border crossings. Doyle cites the autobiography of G. Gordon Liddy, senior advisor in the Department of Treasury at the time, which notes that rather than deterring illegal drug trafficking, Operation Intercept’s implementation was about forcing

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<sup>23</sup> Kate Doyle is senior analyst at the National Security Archive, which is a non-governmental research institute and library located at The George Washington Library. She is the institute’s director for the Mexico Project and Guatemalan Project, projects which in part are dedicated to the declassification of secret government archives.

<sup>24</sup> Kate Doyle, “Operation Intercept: The perils of unilateralism,” in *The National Security Archive Electronic Briefing Book No. 74* (Washington D.C.: George Washington University, 2003) <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB86/> ( March 17, 2009).

Mexico to comply with the desires of the U.S., ““For diplomatic reasons the true purpose of the exercise was never revealed. Operation Intercept, with its massive economic and social disruption, could be sustained far longer by the United States than by Mexico. It was an exercise in international extortion, pure, simple, and effective, designed to bend Mexico to our will’ (185-6).” Liddy’s comments signify how the War on Drugs served as a political mechanism deployed to meet the desires of the existing administration. The U.S.-Mexico border was central to the expansion of the War on Drugs (Kate Doyle 2003; Andreas 2000: 41).

While Operation Intercept was largely waged by the U.S. to compel Mexico to increase the policing of drug trafficking, the War on Drugs is a war waged by both nations. An example of Mexico’s role in the War on Drugs is Operation Condor, launched in 1975, which used aerial herbicides, military troops, and “law enforcement collaboration between the United States and Mexico, including intelligence sharing, surveillance, and training” (41). While law enforcement strategies such as this one were largely perceived as successful, political scientist Peter Andreas demonstrates that increased enforcement largely resulted in a restructuring of the drug trade that made it more dangerous and thus more profitable.<sup>25</sup>

During the Reagan administration the War on Drugs continued to escalate. When the number and settlement of Mexican migrants re-emerged as an issue of national concern, the Immigration Reform and Control Act of 1986 was passed and the War on Drugs at the border was extended. According to leading border studies scholar Timothy

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<sup>25</sup> Increased dangers such as the threat of violence and incarceration make it so that less people are willing to engage in these acts. Thus, the people who are willing to assume these risks often do so when there is a significant profit to be made.

Dunn, “Following the passage of IRCA in 1986, the issue of illegal drug trafficking gained ascendancy, eclipsing undocumented immigration as the most urgent border-control matter. The issue was formally designated as a threat to national security by President Reagan in 1986, and the ensuing War on Drugs was a prominent element of both U.S. domestic and foreign policy” (1996: 2). Similar to its deployment in urban cities, the War on Drugs deployed at the border serves to create the appearance that the government is cracking down on crime and at the same time it contributes to the criminalization of migrants and the militarization of the border that increases the violence experienced in this space. The War on Drugs served to mark the U.S.-Mexican border as a space of criminality and violence. Bodies that inhabit and travel through this space are subjected to its criminalized racialization and to the policies intended to bring the border under state control, a bilateral effort between the U.S. and Mexico. Since the 1960s Mexico has offered an increasingly militarized response to drug production and trafficking, with a significant focus on the border. Similar to the U.S., Mexico’s criminalization and subsequent militarization of the border results not only in the criminalization of people engaged in illicit actions such as drug trafficking, but additionally, criminality gets mapped onto migrants and people residing in the borderlands. Similar to the U.S. militarization of the border, Mexico also engages in militarizing efforts. Between 1994-2000 Mexico’s President Ernesto Zedillo, in addition to the federal judicial police, assigned the Mexican army to fight drug trafficking (Chabat 2002: 139).<sup>26</sup>

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<sup>26</sup> It is interesting to note, as Mexican emigration scholar Cecilia Imaz Bayona (2003) does, that the beginning of Ernesto Zedillo’s administration marks the moment when the Mexican state officially accepted its diaspora as part of the Mexican nation. The National Plan for Development (1995-2000), under

IRCA's relation to the War on Drugs cannot be divorced from its overall effect. IRCA added three important provisions—employer sanctions, amnesty of a large number of people working in the U.S. for a set number of years, and the militarization of the border. The law was intended to provide enough laborers—hence the amnesty provision—while attempting to curtail future migration in order to alleviate public discontent over a perceived crisis of undocumented migration. However, the law, rather than curtailing migration, actually increased it since it included a provision for family reunification that included the migrants' spouse, children, parents, and siblings (Luibheid 2002, xxiv, 24). While female migration was already increasing prior to the passing of IRCA, the family reunification provision fueled the female migration trend since those who could receive amnesty and prove they could sustain a family were mainly men who had been working in the U.S. and could then petition for their wives and family (Lindsay 2002: 177; Hondagneu-Sotelo 1994: 24). The increased migration of Mexican women and their families settling in the U.S. focused attention on this group and intensified nativist sentiment. Thus, while the criminalization of the border was well underway, the centrality of women's bodies in migration control gained significance.

### **Neither Ideal Laborers Nor Ideal Women**

While migration is in large part a result of global neoliberal trends, and provides an important force of labor, most migrants and their families are not desired as citizens.

For Mexican migrant women, while they compose an important part of migrant labor,

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the chapter on sovereignty, declared that "The Mexican nation extends beyond the territory that contains its borders. That is why, an essential element of the program *Mexican Nation* will be to promote the constitutional and legal reforms so that Mexicans preserve their nationality, regardless of citizenship or residency that they have adopted" (6, my translation). Thus, while the Mexican state officially accepted its diaspora, it simultaneously criminalized them through the militarization of the border, highlighting Mexico's contradictory relationship to its emigrants.

especially in the service sector, their reproduction is particularly undesirable. Using Michel Foucault's notion of biopower, critical anthropologist Jonathan Xavier Inda examines state efforts to exclude immigrants from the body politic, such as Operation Gatekeeper, Proposition 187, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and denying prenatal care. Through this analysis Inda demonstrates how "immigrant life" is constructed as threatening to the life of white America and is made expendable and "not quite worth living" (135). The discourse employed by representatives of the state to implement policies to exclude immigrants constructs them as the bodies responsible for the problems faced by "Americans," such as under- and unemployment. These biopolitical discourses draw their power from the idea that these policies are intended to promote the welfare of the social body of the nation, erasing in the process how migrant life is thus made exterminable. Inda cites Foucault who discusses the shift in politics that takes place as society moves toward modern governance, "'The ancient right to *take* life or *let* live has been replaced by a power to *foster* life or *disallow* it to the point of death' (1980a, 138)" (138); thus "modern governments can legitimately take life only in the name of life itself" (138). Inda continues:

The biopolitical logic of modern forms of government necessitates a decision on the value or nonvalue of life. Every society necessarily makes a distinction between those lives that deserve to be lived and those that do not, the logic being that the death of the other, the death of those lives unworthy of being lived, will make life in general more healthy and pure. This death does not have to be direct (that is, from the literal act of putting to death). It could also be indirect death: the act of exposing to death, of multiplying for some the risk of death, or simply, political death, expulsion, rejection, or exclusion. (138)

Decisions over which lives are worthy and unworthy of being lived are carried out through the construction of the normal and the pathological, “conferring aberrance on individual or collective bodies and casting certain abnormalities as dangers to the body politic” (139). In the case of migration, Mexican migrants are marked as particularly threatening to the welfare of the nation. The geographic position of Mexico coupled with the racialization of ethnic Mexicans as too culturally different from white America, evidenced in discourses of Mexican migrants’ hyperfertility, inability or unwillingness to assimilate, and inclination to criminality, to name a few, generate fear over Mexican migration.<sup>27</sup> These racialized nativist discourses, largely articulated through the paradigm of culture provide the demarcation between lives worth living and lives not quite worth living. The lives of migrants are constructed as threatening to the lives of the social body, racialized as white, and are thus expendable under existing biopolitical logic.

Migrant women’s bodies are particularly targeted for biopolitical state intervention. The criminalization of Black motherhood that was remapped onto migrant women’s bodies contributed to their racialization, constructing notions of them as entering the U.S. to obtain welfare, of not paying taxes, of draining resources, and of being too different and thus unassimilable. Migrant women pose a distinct problem since they do not quite fit into the categories of ideal laborers or ideal women. Ideal migrant labor in the U.S. is traditionally defined as sojourner and exploitable,<sup>28</sup> meaning that they

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<sup>27</sup> In addition to Inda (p. 140-144), see Leo Chavez’s account of the racialization of immigrants in relation to the construction of the nation in *The Latino Threat: Constructing Immigrants, Citizens, and the Nation* (Stanford: Stanford University Press, 2008). For a discussion on the historical racialization of Mexicans as non-whites, see Tomas Almaguer’s *Racial Fault Lines: The Historical Origins of White Supremacy in California* (Berkeley: University of California Press, 1994).

<sup>28</sup> Their exploitability derives in large part from their racialization as foreign and undeserving of social membership or protection of their rights.

migrate, labor for a while, and return to their home countries. The presence of migrant women disrupts this ideal since they represent reproduction and settlement. The identity of laborer and mother are incompatible. The ideal mother remains in the domestic sphere while the ideal laborer cuts domestic ties to serve in the public sphere. For a long time migrant laborers represented the personification of the ideal laborer since their migration across national borders forced them to temporarily sever domestic ties, including family and nation. Migrant women disrupt this ideal through their reproductive capabilities. Their ability to have children and thus create connections to the U.S. goes against the conventional migrant labor model. Rather than severing domestic ties, migrant women are able to create these social connections through their children. However, they also remain outside of ideal womanhood. Traditionally, women have been considered important within their role of mothers and wives of “ideal citizens,” an identity that is limited to white middle-and upper-class people, and more specifically men (Mink 1990: 93). Migrant women are positioned outside of this ideal since their social function is primarily to perform particular forms of labor, a possibility cemented through their racialization as non-white. In short, Mexican migrant women do not fit into the categories of ideal laborers or ideal women, but their presence is tolerated since they perform important labor functions. To manage this dilemma that migrant women pose, their reproduction, which is perceived as threatening to the nation’s ethno-racial make-up, is made a target of the state.<sup>29</sup> Anthropologist Tamar Diana Wilson argues that anti-

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<sup>29</sup> Feminist activist and researcher Syd Lindsley argues that some immigration policies are implemented and designed for the restriction and regulation of immigrant women’s mothering, “The Gendered Assault on Immigrants,” in *Policing the National Body*, ed. by Jael Silliman and Anannya Bhattacharjee, (Cambridge: South End Press, 2002), 185. They reveal assumptions about the worth of immigrant mothers



immigrant policies and practices are related to "...the desire to re-separate the generational and daily reproduction of labor force, including its maintenance during times of unemployment, illness, and retirement (processes which represent a cost to any society) and of productive activity (a process which represents a gain to any society)" (2000: 192). In other words, there is a concerted effort to separate women's productive and reproductive labors, privileging their exploitability as workers and investing energies into restricting their mothering. These practices highlight some of the ways that the U.S. manages its economic and racialized nativist desires. Thus, the criminalization that migrant women experience is a form of population control enforced through the biopolitical logic of warfare.

### **Conclusion**

Rooting the criminalization of Latina migrants within the longer history of captivity experienced by Blacks in the U.S. has serious social implications. This conceptualization displaces the competition paradigm that dominates our understanding of the relationship between Blacks and migrants and instead highlights the centrality of criminalization in racially organizing society. The reliance on incarceration that develops during the 1970s occurred simultaneously with the increased production of an undocumented migrant labor force. The relational analysis of the criminalization of Black and Latina motherhoods exposes how targeting women's reproduction serves to control racialized neoliberal labor relations, and the centrality that incarceration assumes in this process. In the post-civil rights era, Blacks became less attractive as laborers since their

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and by extension their communities. These attempts to limit their reproduction highlight the fact that this community is imagined as undesirable to contribute to the citizenry of the nation.

claims on U.S. citizenship afforded them some social protection. Notions developed around Black motherhood of laziness, dependency, and criminality provided ideological grounds for the expansion of the U.S. prison regime. A central development of this dynamic is the creation of exploitable, “criminal,” and predominantly Black bodies that can labor while they are held captive and, if released, their vulnerability is extended within the labor market through their records of criminality.

As noted, the increased imprisonment of Blacks is accompanied with an increased reliance on undocumented labor. The presence of migrant women and their families is partially a result of the neoliberal shift that polarizes the labor market into two forms of labor—one which is feminized, unskilled and exploitable, and the other which is masculinized, skilled and protected. The criminalization of migrant motherhood through tropes developed around Black women’s reproductive bodies provides rationalization for the policing, incarceration, detention, and deportation that migrants in general confront. Migrants are tolerated as laborers and punitive practices of capturing, warehousing, and disposing of their bodies participate in regulating the neoliberal labor market by reinforcing their exploitability as workers and separating their productive from reproductive capacities, which occurs in part by breaking up migrant families. Couching the anti-migrant moment within the history of incarceration of Blacks and centering on women’s reproduction dislodges exceptionalist frameworks and allows us to see the ways that criminality is central to racialized global neoliberal governance. Rather than unique, the contemporary anti-migrant moment is a natural extension of the racialized and gendered methodologies used in the constant re-making of the U.S.

While the framework afforded throughout this chapter marks the relational dimensions of the gendered racialization of Black and Latina migrant women, the following chapter demonstrates how this framework shapes responses to the violence that the gendered criminalization of migrants creates. The analysis of the immigrant rights movement's response to the criminalization of migrants illustrates an attempt to distance migrants from criminality, without questioning criminalization, and an attempt to distance them from feminized domesticity, with little questioning of the retrenchment of the welfare state.

### Chapter 3.

#### **Reinforcing Gendered Racial Boundaries: Unintended Consequences of Immigrant Rights Discourse**

The intensified criminalization of migrants during the past two decades brought about many responses, including the immigrant rights movement's dominant claim—"immigrants are not criminals, immigrants are hard workers," the dominant message espoused by pro-immigrant voices, intensifying since the mass marches beginning in 2006. Similarly, the declaration "Nadie es Ilegal/No One is Illegal" is now an icon for immigrant rights. These messages are used to distance migrants from criminality in an effort to secure the innocence and safety of migrant communities that find themselves under intense policing and violence. However, these decriminalizing motions turn into violent acts themselves when the innocence of migrants is secured at the expense of others. The identity of migrant and the identity of criminal are made mutually exclusive, constructing migrants as innocent while criminalizing an unspoken "other." When migrants' innocence is explicitly articulated, people are left to ask "What about migrants that do engage in crime? And if most migrants are not the criminals, then who are? If migrants are innocent, then who is guilty?" This has two consequences. One, there is an explicit effort made to distance "migrants" from the identity of "criminal" by asking for the punishment of "criminal" migrants and simultaneously demanding for the protection of "American-behaving" migrants. Two, as exemplified in the previous chapter, in the U.S. the notion of criminality has been historically constructed around Blackness and Black bodies and thus, when the claim "immigrants are not criminals" is made, the fundamental message is that migrants are not going to be another "Black problem."

Tracing the construction of criminality in relationship to Blackness and how it is re-mapped onto Brown bodies through the notion of “illegality” makes us witnesses to the ways that criminality allows a reconfiguration of racial boundaries along notions of Blackness and whiteness that serve to discipline migrants and other bodies racialized as non-white.

It is crucial that we examine how gender shapes this process. In chapter two I noted how in the U.S. criminality historically is conceptualized as birthed by Black women, specifically through constructions such as the “welfare queen” and the “crack mother” which configure this group as public charges (Jordan-Zachery 2009; Roberts 1997; Neubeck and Cazenave 2001; Flavin 2007). So how does this history inform the criminalization of migrants? The merging of criminality and state dependency, largely through the notion of public charge, not only result in attempts to distance migrants from Blackness, but the criminalization of migrant women also results in a distancing from womanhood. Thus, the immigrant rights discourse, in addition to affirming that migrants are not criminals, tightly grasps onto masculinized claims of migrants as hard workers by taking pains to demonstrate how much work migrants contribute to the U.S. and how the labor of migrants sustains the economy.

This chapter is largely informed by critical anthropologist Nicholas De Genova’s (2005) *Working the Boundaries: Race, Space, and “Illegality” in Mexican Chicago*. Through this project he examines how “Mexican migrants in Chicago negotiated their own racialization as Mexican, always in relation to both a dominant whiteness and its polar opposite, a subjugated and denigrated Blackness” (8). De Genova illustrates how the anti-migrant politics of the 1990s were inherently tied to the criminalization and

dismantling of social welfare for impoverished U.S. citizens, largely imagined as Black. What results is what he calls “double discipline” (206). On the one side, migrants are made responsible for “taking American jobs,” and on the other, their vulnerability as migrant workers encourages them to generate distance between themselves and impoverished U.S. citizens constructed as “lazy” and racialized as Black. Claiming the identity of “hard workers” led to disparaging the “laziness” of impoverished citizens who had advantages over migrants, such as the knowledge of the English language and citizenship (206). According to De Genova, “because migrant workers were always at pains to demonstrate to their overseers that they were ‘hardworking’ and not ‘lazy,’ the momentum of their efforts at self-defense served to subvert the possibilities for resistance, and they effectively participated in their own intensified exploitation. The white supremacist social order of the U.S. fixed migrants, particularly Latinos, spatially between whites and Blacks. However, their own “foreignness,” which is marked through “illegality,” permanently dislodged them from assuming an American identity. Thus, migrants’ attempts to claim any form of American belonging is perpetually obstructed by their constructed illegality and their continued attempts at inclusion contribute to maintaining racial boundaries. Through examination of immigrant rights discourse that attempts to denaturalize migrant criminality and fasten the identity of migrant to “hard worker,” I do not only reinforce Nicholas De Genova’s position that migrants’ negotiation between the polarized racial boundaries of the U.S. often results in bolstering white supremacy, but also mark it as a particularly violent patriarchal negotiation that reinforces the irrecoverability of imprisoned migrant women.

## **Roadmap**

In this chapter I consider two different sites where the immigrant rights discourse emerges and I illustrate its limitations by showing how it reinforces the racialized “good immigrant”/ “bad immigrant” binary. I focus on families facing separation as a result of parents’ deportation as seen in the *Los Angeles Times*. This source is a significant contributor to the national debate on migration because it is the second largest metropolitan newspaper in the United States and is the fourth most widely distributed nationally (BurrellesLuce 2008). It is also significant because of its central location in the southwest and the destination of the largest concentration of Latino migrants in the country. I focus on news articles dated January 1, 1994 to the present.<sup>30</sup> 1994 was a significant moment in shaping the nation’s understanding of migration. In 1994 California passed Proposition 187, which focused on the alleged criminality of migrants and marked their use of state resources as undeserving. I selected articles twenty-four articles that profiled families facing deportation and analyzed how the authors’ presented the families in relation to the dominant framework used to discuss migration, which, as I have noted, merges migration with criminality and state dependency.

Second, drawing from my own ethnographic research, I analyze the story of Alma and her fifteen year-old daughter, Isabel. Alma was deported in June of 2008 after serving a five year prison sentence, the first three years in the California Rehabilitation Center and the remaining time in Valley State Prison for Women in Chowchilla, California. She immediately became involved in the immigrant rights movement in Tijuana through the migrant women’s shelter where she was staying and when Isabel traveled to Tijuana to be with her, she also immersed herself in the movement. Their

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<sup>30</sup> I concentrate on keywords *deportation* and *families* in the citation and abstract.

story received a great deal of attention from activist groups, media, and government authorities. However, the story they were compelled to tell presented Alma as a hard working mother and Isabel as the victim of punitive U.S. migration policies, completely erasing their experiences as shaped by Alma's imprisonment since their adapted narrative could not account for their five-year separation. The research centers on several sites. Information on Alma's experiences as an immigrant rights activist comes from my weekly visits and conversations with Alma that ranged anywhere from one to three hours. Isabel was interviewed the day she returned to the U.S. to resume school. Her experiences as a representative for children of deported parents was one of the topics we discussed.

Through my analysis I argue that the immigrant rights discourse negotiates for the inclusion of "American-behaving" migrants while unintentionally re-criminalizing those outside of the "good immigrant" identity, reinforcing racialized boundaries of worthiness that assemble some migrants as deserving of belonging while reinforcing the irrecoverability of others.

### **The Re-masculinization of the Migrant Figure**

The mapping of criminality onto Brown bodies occurs in large part through the notion of "immigrant illegality." The criminalization of migrants is secured through their assumed "illegal" entrance into the U.S. Images of migrants "flooding" the U.S.-Mexico border saturate the media constructing a crisis of "invasion" (Chavez 2001; Ono and Sloop 2002). As in the case of criminalization of Blacks, women's reproduction is also targeted. Migrant women are imagined as crossing the border "illegally" to secure not only their children's citizenship, but eventually their own, socially marking these children



as “anchor babies.” This group is also imagined as undeservingly accessing resources such as health care and education (Park 2001; Chang 2000). Thus, similar to Black women, migrant women come to symbolize criminality and state dependency. This relation functions to regulate and control migrants and discipline them into ideal “American-ness” (read whiteness).

At this point it is important to consider how the notion of “public charge” is feminized and the impact that this has on responses to anti-migrant policies and practices. Critical sociologist Lisa Sun-Hee Park (2001) quotes Lynn Fujiwara who argues, “The imagery that drove anti-Latino sentiments traded on stereotypes of Latina fertility. These sentiments gained momentum from claims that Latinos overuse public health services and education and take jobs from ‘American citizens’” (1166). Historically immigration law has functioned to discipline women into domesticity (Luibheid 2002; Gardner 2005). Martha Gardner (2005) examines how, from the late 19<sup>th</sup> century to 1965, immigration law was used to regulate normative gender roles. Entrance into the U.S. was largely dependent on a persons’ likelihood to “become a public charge” (87). According to Gardner,

“likely to become a public charge” was uniquely gendered in ways that reflected a constrained diminished evaluation of women’s role in the economy. During the early twentieth century, immorality was linked to indigence, and laws against poverty were layered onto those directed at patrolling women’s morality and their roles within a family economy. Regardless of their work skill, women arriving during the early twentieth century who were alone, pregnant, or with children, or with a checkered moral past were routinely found to be LPC. LPC stigmatized women’s work outside the home by dismantling the ability of single women, divorced women, or widows to support themselves and their families. Poverty, in essence, was a gendered disease. (87)

Through her discussion of “public charge,” Gardner demonstrates that immigration law evaluated women’s level of domesticity to allow or deny entrance into the U.S. If women entered as “proper” domestic subjects, such as wives or daughters of men, or to labor domestically, their likelihood of being allowed to enter increased. However, if they attempted to enter as single, widowed, or divorced women or as non-domestic laborers, their entrance was often denied.

Gardner’s study ends in 1965, the year that the Immigration and Nationality Act (INA) was enacted. Similar to previous immigration regulation which policed women into domesticity, the immigration regime established in 1965 reinforced similar patriarchal relations. This legislation implemented three major venues for migrant legal entrance into the U.S., family reunification, skilled and unskilled workers who fulfill the nation’s labor needs, and refugees (Lowe 1996: 21; Massey et al. 2002: 40). Its gendered workings are evident in the 1986 Immigration Reform and Control Act (IRCA), which drew from the existing immigration regime established in 1965. The vast majority of migrants able to access legalization were men. However, through family reunification provisions, the wives and children of those able to access legalization would be able to migrate. Feminist scholar Grace Chang states that the shaping of IRCA was informed by fears over the mass legalization of undocumented migrants and the considerable strain that this would place on social service funds (2000: 61). Thus, “Congress included in IRCA a provision barring legalization applicants from most federal assistance programs, including AFDC, food stamps, and certain forms of Medicaid. The bar period extends for five years from the time someone applies for temporary residency” (61). Chang provides an important reading of IRCA and its retention of the “likely to become a public charge”

test. According to Chang, while past history of public assistance is considered, it is not a determinative factor “if they can show that they are currently employed or able to provide for themselves and their family” (61).

Recognizing that, while many undocumented migrants were “working poor,” they were “unlikely to become dependent on public benefits despite their low incomes,” Congress implemented a “special rule” for people to overcome the public charge test (62). The individual has to demonstrate a history of self-support without use of public assistance. Chang notes that while Congress attempted to liberalize the public charge test through this special rule, “the INS did not utilize the ‘special rule’ properly and instead implemented its own interpretations of the law, which were not consistent with Congress’s liberalizing intent. The result of this practice was that many undocumented women who had received public assistance for their children were wrongfully denied amnesty” (62). The example of IRCA’s special rule highlights once again how immigration law polices and intervenes in women’s private lives and hinders their ability to sustain their families. My critique of immigrant rights discourse and its attempts to represent migrants as hard workers, which attempts to work against their construction as public charges, is premised on the fact that it reinforces migrants’ exploitability as workers and unintentionally disavows their ability to form and sustain families.

The centrality of the figure of the worker for Mexican and Mexican American social and cultural politics is depicted in the work of transnational migration scholar Alicia Schmidt Camacho’s *Migrant Imaginaries: Latino Cultural Politics in the U.S.-Mexico Borderlands* (2008). In her work, Camacho demonstrates that Mexican migrants and Mexican Americans, due to their perpetual foreigner status in the U.S., have engaged

in imaginings of social belonging that “resist subordination to the nation-state” (9).

Camacho writes,

Mexican and Mexican American cultural politics have emerged from imaginaries shaped by the experience of laboring for the nation without the promise of inclusion into its community as bearers of rights. *Migrant Imaginaries* argues that the particular formation of Mexicans as a transborder laboring class forced migrants to articulate expansive definitions of civic life and community that defied conventions of national citizenship in both Mexico and the United States. (9)

Camacho continues to write,

The historical racialization of Mexican migrants as temporary workers ineligible for naturalization determined their efforts to acquire rights and complicated Mexican American pursuits of substantive citizenship in the United States. The fortunes of social movements for civil and labor rights rose and fell according to the capacity of leaders to address the migrant presence within their communities. This was not a matter of declaring cross-border unity, *sin fronteras*, but of recognizing the costs that the border inflicts on the full plurality of migrants and *fronterizas/os* subjected to its regulatory force. (9)

Camacho’s analysis signals the significance that labor assumes for ethnic Mexicans’ understanding of their position in the in the United States. While Camacho reinforces the significance of ethnic Mexicans’ cultural politics in producing imaginaries of social belonging outside of citizenship, these imaginaries are largely produced around the figure of the migrant as worker. Thus, it is through the masculinized identity of worker that claims to rights and belonging are largely made, whether these claims are made on the nation-state or some other transnational entity. Camacho’s work also highlights for us the seemingly incommensurability of *migrant imaginaries* with the *pragmatic* work needed to address the everyday subjection experienced by migrants.

The construction of migrant women as criminal threats to the nation, largely through the notion of public charge, generates an environment that condones violence

against them and their communities, including deaths at the border, ICE raids, massive detentions, deportations, and family separations. These forms of violence are conceptualized as logical consequences to migrants' assumed "illegal" border crossings. De-criminalizing efforts are responses to violence experienced by these communities. These attempts to afford some level of protection come from many venues, including the media. However, these efforts are limited by the current framework available to discuss migration. In this section I analyze strategies employed by *Los Angeles Times* writers to sympathize with migrant families facing separation due to deportation. All twenty-four articles sympathized with migrant families affected by deportations, which complicates our understanding of how power works given that in all of these cases there is an attempt to generate support for these migrant families. However, not all migrants are considered worthy of support. The examination reveals how the binary constructions of redeemable "good" immigrants, those that "work hard" and do not engage in criminalized acts, and disposable "bad" immigrants, those that are "lazy" and engage in criminalized acts, work to discipline migrants into "behaving" like ideal citizens while normalizing the violence that occurs to those that deviate from this norm. Furthermore, it highlights how in the public imagination the migrant identity is feminized through the notion of public charge. Claims made to disassociate migrants from state dependency are thus attempts to re-masculinize the migrant identity as exploitable workers.

The stories considered in the analysis follow similar patterns, including families paying taxes, owning homes, having children who excel academically, and essentially fitting into the dominant family ethic. These stories keep making news in large part because they problematize the American myths of the U.S. as a land of opportunity and

as a land of immigrants. In these cases, according to the authors, these families “did everything right” and yet are denied their American Dream. More than a concern for these families, these stories highlight concerns for the nation and how in these cases it fails to meet its expectations.

I begin the analysis with a brief discussion of how the racialization of Asians, in this case South Asians, in the U.S. as model minorities works to ideologically construct the “good immigrant” identity. Significantly, of the twenty-four articles considered, five centered the stories of Asian migrants. According to sociologist Lisa Sun-Hee Park (2005), the construction of the Asian American model minority serves to discipline Asians by defining their worth in accordance to how closely they follow the model minority myth. This myth maintains that Asian Americans are able to integrate themselves into U.S. society because they hold similar cultural values as Americans, which include hard work, diligence, and self-motivation. Asians that do not adhere to this construction are deemed less deserving because they do not have the characteristics that are idealized to form part of the American society (23-24). This construction does not only inform the experiences of Asians, but it is used to discipline other racialized groups, including Blacks and Latinos. The question posed for these groups is, “If they made it, why can’t you?” In addition to functioning as a mechanism to discipline Blacks and Latinos, it also ignores histories of Asian Americans and the continued struggle for social inclusion in the U.S. The fact that several of the articles profiled Asian American families attests to the continued significance of the model minority myth and its use to differentiate between deserving and undeserving immigrants.

The ideological workings of the model minority myth are evident in two articles written by journalist Ann M. Simmons (2004: B.4 and 2005: B.2), which covered the story of Jayantibhai and Indiraben Desai. The couple, Jayantibhai, an Indian national, and Indiraben, a British national, overstayed their visas in the early 1980s and made their lives in the U.S. Central to this discussion is Simmons' attempt to portray the Desais in a positive light by contrasting them with the hegemonic image of migrants as public charges. In three different places within two articles Simmons makes the point that the Desais pay taxes, contrasting them with general notions that migrants do not pay taxes and use resources. Simmons writes "For more than 20 years, the Norwalk couple worked hard. They bought a house, paid taxes and sent their two sons off to college. They were a success story in the making, but for one thing: Their status as illegal immigrants." She includes these details more than once, attempting to further separate them from the image of public charge. Implicit in Simmons' 2005 article is the attempt to distance the Desais from the identity of "criminals." The article is an attempt to answer questions of when and why migrants are deported. She spends a significant amount of time discussing deportation based on issues of criminality and argues that migration policies are less forgiving now than years ago and she implies that they are having negative effects on "deserving" families. Throughout her two articles she includes the fact that the Desais have two sons, both of whom are in college, which further constructs them as "deserving" migrants. Like Watanabe, the framework she employs is a contrast between "good" and "bad" migrants. The Desais are *different* from other migrants. They are not "criminals" or public charges, implying that the Desais deserve the ability to remain in the nation, in contrast to "criminals," who are implicitly undeserving and *are* the people that should be

targeted. Simmons cites Carl Shusterman, the couple's attorney, who states that immigration judges used to be more forgiving of people who had put down roots in the United States, paid their taxes and proved themselves to be model members of society (2005). Again, the "good" migrant is one who pays taxes, owns their own home, sends their children to college, and does not engage in "criminal" activity. These are the "deserving" migrants who should be given special considerations, versus migrants who become "public charges" and engage in "criminal" activities.

Patrick J. McDonnell's (1997) begins his article, "Criminal Past Comes Back to Haunt Some Immigrants," by covering the story of South Asian Saeid Aframian. The article was published one year after the enactment of 1996 federal legislation, which expanded the definition of "deportable criminal alien" and applied it retroactively.

McDonnell begins with the following:

To visit with Saeid Aframian is to spend time with a condemned man, someone far removed from his previous life as a prosperous jewelry salesman and family man with a home in Bel-Air.

His bearded face is skeletal, his deep-set eyes bloodshot and he shuffles about in plastic slippers and a government-issue red jumpsuit like a haunted soul.

"It's like a shadow has been following me and has finally taken over my life," a sobbing, gaunt Aframian said recently during an interview at the U.S. Immigration and Naturalization Service lockup on Terminal Island in San Pedro. "I really need one more chance. It's a matter of life or death."

Aframian, one of thousands of Persian Jews who fled to Southern California after the Islamic revolution in Iran, faces deportation to a homeland where human rights advocates say religious minorities continue to be persecuted.



Although McDonnell covers various stories of migrants awaiting deportation, it is important to note that he frames his article through the story of Aframian, South Asian migrant who McDonnell is attempting to recuperate as deserving of belonging. Immediately, McDonnell marks Aframian's story as significant in several ways. Aframian is characterized as a "prosperous jewelry salesman," a "family man," and a home owner in Bel-Air. Aframian's depiction embodies what are considered to be ideal American characteristics, including hard working, family oriented, and affluent, which is signaled through his home's location in Bel-Air. McDonnell draws on the myth of American exceptionalism to make the case for Aframian's stay by marking Iran as a site of violence and persecution, while the U.S. is signaled as a haven for migrants. This is further evidenced as Hengameh, Aframian's wife, is quoted stating, "I don't understand it [...] This is supposed to be the land of freedom." While McDonnell demonstrates concern over Aframian's deportation, in large part the article centers on the contradictions that these deportations represent for American exceptionality. Critiquing the federal legislations enacted the previous year, McDonnell notes that "it makes no difference if the offenses triggering deportation for those defined as aggravated felons occurred last week or decades ago, or whether the person targeted has led an exemplary life since completing his or her sentence." The irrecoverability of migrants enforced by the new laws apparently contradicts notions of America as the land of freedom and opportunity. Thus, more than these deportations, what is at stake is the failure of the U.S. to live up to its claims of exceptionality.

Within the same article McDonnell presents Refugio Rubio's story. Rubio was arrested in 1972 for drug possession and served his sentence. In 1997 Rubio attempted to

obtain citizenship in large part because of the anti-migrant backlash. Through his fingerprints, his 1972 conviction came up and set the stage for his deportation. McDonnell describes Rubio as “A longtime field hand and laborer who has lived legally in the United States for almost 34 years, Rubio built his own home in the Bay Area community of Vallejo, and is the patriarch of a family that includes seven sons, all U.S. citizens, and seven citizen grandchildren.” In this example we witness the implicit contrast between “good” and “bad” migrants. Rubio is described as hard working, self-sufficient, and having social ties to citizens. Rubio is presented as rehabilitated and is marked as significant because his story highlights how the legal status of individuals can change, in his case making him “illegal.” McDonnell cites Rubio, “If I was a person who continued doing bad things, I could understand this...But I never had trouble with the law again. I've always worked hard and paid my taxes, and my family has never depended on the government.” In part, these stories illustrate the impact that the language of welfare and public charge has on the immigration debate. The following stories further highlight this point.

Journalist Teresa Watanabe published two articles (2003a and 2003b) in the *Los Angeles Times* written that cover the story of the Cabrera family. Benjamin and Londy Cabrera resided in the Bell Gardens area of Los Angeles with their two daughters, Diana, 11, and Jocelyn, 9. Benjamin migrated from Mexico and Londy from Guatemala and they established their lives in the U.S. despite their undocumented status. The couple faced deportation and fought to remain in the U.S., largely justified by Diana’s academic achievement and gifted status. The couple and their supporters maintained that Diana would be denied opportunities if they were deported. Watanabe writes, “Eleven-year-old

Diana Cabrera is a straight-A honors student, hits top scores on statewide achievement tests and has never missed a day of class. The Los Angeles native studies as much as six hours a day. ‘She's the smartest student I've had in 30 years of teaching,’ said JoAnn Burdi, who teaches Diana and other gifted sixth-grade students at Bell Gardens Intermediate School, which serves low- income, mostly Latino families east of Los Angeles” (2003a: B. 1).

Watanabe also notes Diana’s other accomplishments, including her two-year selection for a prestigious summer honors program at Johns Hopkins University. In 2002 Judge Bruce J. Einhorn allowed the couple to remain in the U.S. based on the “exceptional and extremely unusual hardship” this would cause on Diana and her academic achievement and noted the family “had paid taxes, committed no crimes and did not receive welfare.” The federal Board of Immigration Appeals reversed the opinion based on the fact that it would open the door for undocumented migrants with bright children like Diana to remain in the U.S. Burdi is quoted again stating “This is a family that does not rely on welfare. They speak to us in English. They've done it all on their own. This is something our society should be proud of and open our arms to and say: ‘This is what should be a model of what's possible in America.’” The couple’s acquisition of a \$150,000 home and a brand new Nissan Frontier pickup are also noted by Watanabe.

In a second article (2003b: B.3) Watanabe continues the Cabrera’s story and discusses U.S. Senator Dianne Feinstein’s and Representative Lucille Allard-Roybal’s (D-East Los Angeles) introduction of legislation to grant the Cabrera’s permanent legal residency. According to Feinstein, “Some cases deserve special consideration and this is one of them.” In this second article Watanabe once again cites Diana’s brightness and

Einhorn's statement that the family "paid their taxes, committed no crimes and had not received welfare." In both articles, Diana's academic achievements are offered as evidence of the Cabrera couple's civic performance as productive and contributing members of society that are imparting the "right" morals and values onto their children despite their undocumented status. Through the construction of the Cabrera's story, Watanabe reinforces notions of "deserving" and "undeserving" individuals, and consequently contributes to the normalization of violence against people that deviate from the norm. Individuals who fall under the categories of *public charge* and *criminal* are thus made expendable.

In a more recent *Los Angeles Times* article, staff writer Sonia Gorman (2007) describes the separation of the Muñoz family by U.S. immigration authorities as painful. Zulma Miranda and her husband, Abel Muñoz, settled in San Diego although they were undocumented. The article centers on the impact of their deportation on the lives of Zulma and Abel's three children: Leslie, 16, Marcos, 13, and Adilene, 8. The parents now reside in Tijuana while the children live in their San Diego home. Leslie assumed the role of parent for her younger siblings, including the economic burden of paying bills and the home mortgage. Gorman describes the violence the children witnessed as immigration agents came to their home and detained their parents and the many challenges the family faces due to the parents' deportation. Oswaldo Cabrera, director of the Latinoamerica International Coalition and initiator of the campaign, "Adopt an Immigrant," designed to symbolically show support for migrants, is quoted: "With these raids, they aren't just getting criminals. They are breaking up innocent families. This is a great injustice." The innocence of the Miranda and Muñoz family is secured by differentiating "criminals"

from “innocent families,” naturalizing the punishment of “criminals” while attempting to secure protection of “good immigrants.” Gorman then moves on to describe the family, “Muñoz supported the family by working as a landscaper and butcher and then as an electrician, eventually earning up to \$1,000 a week, he said. Miranda stayed home with the children, and both parents volunteered in their schools. The family bought a home and remodeled it. They paid taxes. They took trips to Universal Studios and Las Vegas. They became involved in their church.” The parents’ court testimony is also cited as they described their children as strong students who earned numerous awards. Gorman’s article constructs the Miranda and Muñoz family as the ideal American family; Abel works and earns sufficiently to sustain his family while Zulma stays at home and cares for the children, they are actively involved in their children’s life and in Church, own their own home, pay taxes, and their children are excellent students. Gorman’s narrative presents the family as deserving migrants that, because of unfair immigration policies, face the painful separation of their family. According to Gorman’s narrative, immigration authorities caught the wrong migrants. Gorman’s narrative centers on the idea that in America the sanctity of the family and the protection of the children are imperative.

In these stories there is an explicit attempt to represent migrants as “deserving,” evidenced owning their own home, not being dependent on the state, working hard, and having their children in college or who are “academically gifted.” The debate attempting to defend immigrant rights is limited by these narrow definitions of criminality and dependency. The articles suggest that many of the families affected by immigration authorities’ practices are *deserving* members of society, simultaneously rationalizing the violence that occurs to those that do not fit this category. The idea of *deserving* members

of society is constructed so narrowly, so bounded, that it becomes extremely difficult to meet the requirements. Peoples' compliance with this definition depends on their conformity to racialized, gendered, sexualized, and classed expectations that uphold existing hierarchical relationships of power. Transgression from prescribed roles marks people as less worthy. For people constructed as "criminals," deservingness is permanently foreclosed. The categorization of "criminal" marks an individual as permanently undeserving, rationalizing any consequences they may face during their lives, including various forms of violence. In the case of migrants, the notion of public charge, first used in reference to black women and then remapped onto migrant women, informs their criminalization and limits the framework of debate around migration. The fusing of "criminality" and state dependency that occurred with the production of figures such as the "welfare queen" and the "crack mother" serve to discipline migrants into "good" Americans.

### **Negotiating for Belonging and its Consequences**

The attempts to recuperate migrants as deserving of belonging noted in the previous section are informed by the increased criminalization of migrants and its consequences. In the last decade, the number of migrants in U.S. prisons has expanded considerably, particularly Mexican migrants. For example, in 1995, a year before the enactment of several federal laws targeted at immigration, the percentage of Mexican citizens in U.S. federal prisons was 9.8% (Bureau of Prisons 1995), then in 2007 they comprised 17.1% (Bureau of Prisons 2007). Rather than migrants' increased engagement in criminalized acts, this growth reflects changes in legislation that re-defined the meaning of crime and punitively penalized migrants. The 1996 Illegal Immigration

Reform and Immigrant Responsibility Act (IIRIRA) ordered immigration enforcement authorities to deport noncitizens convicted of an aggravated felony and expanded its definition. Crimes that carry a one year sentence, including for example misdemeanor crimes such as shoplifting, are considered “aggravated felonies” and are applied retroactively. This example highlights the fact that rather than migrant criminality increasing, what changed is the definition of crime, expanding the boundary for deportable noncitizens. However, the current debate over migration obscures this practice of criminalization and institutional targeting of migrants and instead centers the binary between “good” and “bad” immigrants, which places the responsibility on migrants themselves to behave like “Americans” or face the consequences. It delimits the boundaries of the “American” identity, not only informing the migrant experiences but American belonging in general. This dominant framework serves to limit the possibilities for resistance and instead enlists some of the voices of resistance to perform the work of policing the racialized boundaries between deserving and undeserving bodies.

In this section I analyze the story of Alma, a migrant woman deported in June 2008 after being imprisoned for five years, and Isabel, Alma’s fifteen year-old daughter. Mother and daughter became involved in the struggle for immigrant rights when they were confronted with Alma’s deportation and the uncertainty of their relationship created by their forced separation. When Isabel joined her in Tijuana, she became the voice for children of undocumented parents. Isabel was interviewed by the media and was scheduled to speak at the Democratic National Convention in Denver, Colorado. However, the story that they were asked to tell was very different from their actual experience. Rather than speaking of Alma’s imprisonment and the impact that the

expansion of the U.S. prison system has on migrants, Alma's narrative was limited to representing her as a dedicated working mother who was recently detained by police and then transferred to ICE for deportation based on her undocumented status.

Their story highlights the limitations of the current immigrant rights discourse and shows how it is used to discipline individuals to act "American" and reinforce the violability of those who transgress these boundaries. The analysis illustrates how this dominant discourse operates to secure the boundaries of the "American" identity and reinforces the irrecoverability of particular bodies. Rather than interrogating the idea of crime and criminalization, many of these voices struggle to demonstrate migrants' American-ness and seek migrants' inclusion into the nation. The exercise of seeking inclusion, without questioning how the "American" identity is inherently policed by racialized and gendered boundaries, fails to acknowledge how the "American" identity is constituted precisely through difference; how marking differences between good and bad, deserving and undeserving, recuperable and irrecoverable bodies serves to maintain racialized and gendered relationships of power that are used to regulate the makeup of the U.S.

Alma's presentation as a working mother reinforces the disciplining ideas of both "good immigrants" and "good mothers," defined by the individual's proximity to "American-ness," and thus reinforces white supremacist ideas about who deserves protection and who can be punished; who can be recuperated and who should be disposed of. For one, rather than questioning the criminalization of migrants, Alma and Isabel's media story reinforced the masculinized construction of the migrant identity as hard workers. Two, Alma's work ethic is presented to include her in the identity of "good



mother.” Although the identity of “good mother” is largely limited to women who are both biological and social mothers who are self-reliant, preferably through marriage, efforts to expand this definition to include migrant mothers largely focus on women’s pains to provide emotional and economic support for their children.<sup>31</sup> This results because migrant mothers are largely placed outside of deservingness due to their assumed state dependency. For Alma, her imprisonment foreclosed any opportunity of assuming the position of good mother. However, Isabel was the ideal representative for children of deported parent. Although 15 years old, at the time she looked extremely young, she is an eloquent bilingual speaker, and traveled a long way to be with her mother. Immigrant rights advocates asked Alma and Isabel to tell “their story.” However, in an effort to meet the requirements that the dominant “good” immigrant/ “bad” immigrant binary presents, they were asked to leave out Alma’s imprisonment. Alma’s image was adapted to fit into the identities of good migrant and good mother because of her hard work and Isabel as the child-victim of U.S. immigration policies. The analysis of their story highlights how the immigrant rights discourse negotiates for the inclusion of some while re-criminalizing and reinforcing the irrecuperability and thus violability of those outside of the masculinized “good immigrant” identity.

Alma arrived at Instituto Madre Assunta in June. The day I met Alma she was out searching for a job, which she found working at a Chinese and Mexican restaurant in downtown Tijuana. We struck a conversation about my research and she informed me

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<sup>31</sup> There is a growing body of literature that engages in the effort to expand the definition of ideal mother and include migrant women. These include Pierette Hondagneu-Sotelo’s and Ernestine Avila’s “I’m Here, but I’m There: The Meaning of Latina Transnational Motherhood,” in *Gender and Society* 11 no. 2 (1997): 548-571; Rhacel Salazar Parrena’s *Servants of Globalization: Women, Migration and Domestic Work* (CA: Stanford University Press, 2001); and Mary K. Zimmerman et al. *Global Dimensions of Gender and Carework* ( CA: Stanford University Press, 2006).

that she was recently deported after being imprisoned for five years. She began to talk about her experiences but was unable to continue because it was so emotionally painful. We decided to continue our conversation in downtown Tijuana where we could get some lunch since she had not eaten that day. The shelter's director, Orilla, gave Alma a white shirt that she needed for work the next day and we left.

As we walked to the bus stop Alma told me about how she lied to Orilla about her imprisonment because she was afraid of how people might treat her knowing her history of imprisonment. Alma's worries were confirmed. Orilla offered her a job at the shelter working as a domestic. However, when Alma let her know the truth, Orilla informed Alma that under the shelter's regulations she could not hire her and withdrew the job offer. Although upset, Alma decided that she would continue to attempt to have a good relationship with the shelter and its staff because she wanted to be a link between women in prison who face deportation and the shelter. Her plans were to connect people she knows from prison to places that can help them once they are deported. While in prison she developed a relationship with Sonia, a migrant woman serving a life sentence. Alma wanted to work with Sonia to relay information to migrant women in prison. She also planned to collect signatures against California's Proposition 9, "Criminal Justice System, Victims' Rights, Parole," which was on the ballot at the time.<sup>32</sup> While in downtown we spoke for two-hours about her experiences in prison, her separation from her daughter Isabel, the particular experiences of being a migrant woman in prison, her

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<sup>32</sup> According to the Legislative Analysts' Office, Proposition 9 "amends the State Constitution and various state laws to (1) expand the legal rights of crime victims and the payment of restitution by criminal offenders, (2) restrict the early release of inmates, and (3) change the procedures for granting and revoking parole, [http://www.lao.ca.gov/ballot/2008/9\\_11\\_2008.aspx](http://www.lao.ca.gov/ballot/2008/9_11_2008.aspx) (May 9, 2009).

deportation, and her plans for the future. She hoped to reunite with Isabel, her daughter, and settle in Tijuana. We remained in contact thereafter.

We met almost every week. At Instituto Madre Assunta migrant women are usually limited to a two week stay. After her time concluded in early July Alma moved to Casa Refugio Elvira, another migrant women's shelter in Tijuana. While at Casa Refugio Elvira, Alma immersed herself in the immigrant rights movement. She cooked for fundraising events, leaflet at the border letting deported migrant women know of the shelter, attended events and meetings, and volunteered running the thrift store located in the first floor of the shelter. Alma enjoyed the work and felt useful. She was allowed to stay at the shelter as a volunteer and she remained there until the month of August.

Alma continued to work at the restaurant during the day and run the thrift store during part of the afternoon and into the evening. During her stay at the shelter her fifteen year old daughter Isabel visited and stayed with her for a while. Isabel traveled on bus from Union City to Los Angeles and stayed with family friends who then drove her to Tijuana to be with Alma. When Isabel arrived in Tijuana she offered to set up a website to help promote the struggle of women in prison. Isabel created a Myspace site for Alma titled "Mujeres en Prisión: A Alguien le Importas....a Mi!" ("Women in Prison: You Matter to Someone...to Me!"). The following is Alma's statement about herself on the website:

Lately I forgot about my friends in prison because I have been sad but next week I will dedicate myself to them...I was in prison for five years. That place is very difficult and sad. I was in V.S.P.W. in the city of Chowchilla, California. 5,000 women exist in that place, and the majority of them are forgotten by their families and society. Most are there unfairly because of a harsh judge, or because of a bad man. I had the opportunity to leave, but there are a lot of women that are never going to get out. When I left that

place I promised God one thing, to help the women that stayed behind sad, imprisoned...some forever. But for God nothing is impossible, and maybe one day they will get out. I want to help them by sending them money, cards, and letters. If you have a good heart, or if you have ever had a loved one in prison...join me to bring happiness to those that are disposed of because they are not free like you or me. I have communication with them because I got out on July 7, 2008. Communicate with me if you want to help because it is very easy to bring happiness to those that are under a lock that only opens at certain times and who are anxious to hear “open, open the door” and get out and get some air and feel better. They see the color of the sky and they feel better and thank God for one more day. I am beginning this struggle and hope for success. If you want to join me I await your e-mail.—Alma

While in prison Alma made rings, bracelets, and necklaces out of beads to support herself. Once Isabel arrived they both began making them to obtain funds to be able to send to women in prison. They gathered \$70 and sent it to Alma’s friend Sonia to help out other women she saw in need. She also mailed Sonia flyers about the Casa Refugio Elvira to be distributed among women who faced deportation.

Throughout this time period the shelter received a lot of media and general public attention. The attention was also turned onto Isabel as the daughter of a deported mother. She was interviewed by Tijuana and San Diego-based newspapers, radio and television stations, and spoke with government authorities on the experiences of children of deported parents. For example, during their stay at the shelter, Alicia Llanos de Ramos, president of Tijuana’s Desarrollo Integral de la Familia (DIF) and wife of the city’s mayor, Jorge Ramos, visited and made donations to the shelter. Isabel talked at length with Llanos de Ramos and the DIF president committed herself to continue efforts to address the needs of deported migrants, “We want the migration population to receive a dignified treatment and appropriate attention by government bodies in charge of this

complex subject, that their rights be secured” (XIX Ayuntamiento en Tijuana 2008, author’s translation).

Isabel and Alma were also asked to participate at immigrant rights events. No Border Wall, a grassroots coalition dedicated to fighting the construction of a wall along the U.S.-Mexico border, invited Isabel and Alma to speak at an August 3, 2008 Ecumenical Gathering at the San Diego-Tijuana Friendship park. Alma spoke about the difficulties faced by deported parents and introduced Isabel, “It is very difficult...very difficult. More than anything, the separation of the family. Material stuff is just material stuff...but our loved ones, especially our children suffer a lot. And here is my daughter to tell you something.” Isabel took the microphone and with tears in her eyes she said “Hello, good afternoon. I am Isabel and I am actually a citizen of the United States. And I am not only here to help and support my mom, she’s from Mexico, but everybody here on the other side of the border...I really don’t like what is happening right now.” Then Isabel returned the microphone unable to continue because of her emotions and they both hugged for a moment.

Isabel and Alma’s participation in these events speak to their significance in the movement for immigrant rights. However, the story that Alma and Isabel told was a very different story than their actual experience. The narrative Alma and Isabel recited over and over was one in which Alma is represented as a working mother and Isabel as a distressed daughter left behind in the care of relatives, both victims of ICE raids. The following examples from various media sources illustrate the continued adaptation of their narrative. It is important to note that the various adaptations their narrative assumed were in part responses to requests made on Alma and Isabel by immigrant rights activists

that attempted to respond, through this mother and daughter narrative, to the “urgency” of the moment and made use of available tropes. In other words, while these adaptations were deliberate, for immigrant rights activists, the tropes employed seemed to be the only viable ideas to draw from to accomplish the goal of providing protection for migrants.

On Thursday, July 31, 2008 Isabel and Alma conducted a radio interview with Samuel Orozco, a Radio Bilingue producer.<sup>33</sup> The show, titled “The Repatriated,” focused on the mental and physical health of children of deported parents. The interview begins with a nine minute session with Alma and then Isabel is interviewed for an additional two minutes. In this case Alma is represented as a single mother who was deported in May after she was stopped at a police checkpoint. Alma relates the process of being stopped and then detained until immigration enforcement agents picked her up. She talks about remaining in Tijuana instead of returning to Oaxaca, her home state, to be closer to Isabel. Then Alma describes her stay at the shelter. Samuel Orozco asked her what was the most difficult part of her deportation and Alma says “The family separation. The instability of my daughter because of her school.” Next Alma talks about how Isabel depends on Alma’s family to sustain herself, “...precisely last night she was telling me that she missed many opportunities at school because she did not have money to pay...for school stuff...And I tell her that, well that she should not feel bad, that she is very young and that she is going to get better opportunities. This is going to pass and everything is going to be fine.” Afterwards, Orozco interviews Isabel and asks why she has decided not to follow her mother in her return to Mexico Isabel responded that she needs to finish school first. Orozco asks “What is the most difficult part of living this way? I know that it

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<sup>33</sup> Radio Bilingue, “The Repatriated,” July 31, 2008.

has not been that much time yet but in these few weeks that you have been separated, what is the most difficult?” “Well that I see my friends...that they are with their mom and everything and I feel bad because I have not been with my mom for two months. So, I missed her a lot. Then well, I was feeling very bad.” The interview ends with Isabel sending a message to listeners, “Well...what happened already happened and we have to move forward...and support those that supported you.”

There are several important points here. First, what the construction of this narrative erases is that it was not a two month separation, an adaptation that seems necessary to fit their story into the current moment. Rather, it was a five year separation caused by Alma’s imprisonment. Thus, the opportunities that Alma notes Isabel missed out of, are not those that arose in a two-month time period, but rather five years of missed opportunities because of Alma’s absence. Furthermore, when Isabel responds to the question of what was the most difficult part for her, her response could not include how she would be hassled by her peers to talk about why her mother was in prison and the pain this caused her. She also could not discuss an important aspect of her experiences, which is the absence of her mother during her teen years and how seeing her friends’ relationships with their mothers reminded her of what she was missing. To fit their story into the current migration debate required an erasure of the violence generated by imprisonment. Violence against bodies constructed as criminal is justified on the basis that they brought it upon themselves for acting “un-American.” In other words, the identity of “criminal” is in direct contrast with the “American” identity and thus social protection is rendered unavailable.

Omar Millán González, contributor to the San Diego's *Union-Tribune's* Spanish-language newspaper, *Enlace*, wrote several stories on Casa Refugio Elvira and part of his coverage included an *Enlace* article in Spanish titled “‘Quiero que me escuchen’: Hija de madre deportada hablará durante la convención” (August 22, 2008) and a shortened and translated version of this article in the *Union Tribune* titled “ U.S. teen whose mom was deported to tell story at convention” (August 25, 2008). First I will discuss the English shortened version and then consider the lengthier Spanish edition.

The account that Alma, Isabel, and Micaela Saucedo, the shelter's director, provided Millán González is a modified version of the actual story. According to this narrative, Alma “was a cook at a seafood restaurant and managed apartments” and Isabel was “a typical American teenager” until one day in May, “while at her best friend's house, Isabel received a call from her mother, who told the teen that she had just been deported,” suddenly shattering Isabel's world. Millán González writes that Alma “was arrested by immigration authorities near her home in the San Francisco Bay Area. The next day, at 4 a.m., she was dropped off in Tijuana, along with 50 others.” Instantly, according to this narrative, Isabel “became one of the thousands of children caught up in the nationwide crackdown on illegal immigrants.” Millán González goes on to discuss Isabel's invitation to speak at the Democratic National Convention in Denver about her experiences as representative of all children suffering because of their parents' deportation. The article was published prior to the convention and Isabel did not end up attending because of difficulty securing her passport. Micaela is cited as stating that Isabel was selected by Unidad Mexicana, an advocacy organization for the human rights of migrants that Micaela is a part of, because “of the strength she displayed after her



mother was arrested,” referring to her supposed ICE arrest. Micaela is cited stating that Isabel “represents the typical example of this humanitarian crisis that's happening when families are separated by immigration raids.” The article ends by quoting Isabel, “I want to say that (the U.S. authorities) are driving families apart, little by little. I want people to hear me, to hear us.” This narrative presents Alma, a hard working mother, and Isabel, a “typical American teenager,” as victims of ICE practices of separating families. Here we witness additional erasures of their actual experiences. Isabel *is* “one of the thousands of children caught up in the nationwide crackdown” migrants. However, this account obscures how prisons are a fundamental part of this “nationwide crackdown.” As stated earlier, the imprisonment of migrants has dramatically risen in the last decade, resulting in migrant family separations that occur through state parental rights terminations because parents in prison are often unable to meet the requirements to keep their children. Additionally, the required deportation of noncitizens convicted of an aggravated felony creates additional barriers to keeping their children. Thus, the happenings of the current moment in terms of deportations and family separations are not new; they have an extended history in prisons. In this sense, prisons served as laboratories for what is currently happening with immigrant families. However, the dominant immigrant rights discourse’s unyielding efforts to distance migrants from criminality limits the ability to include the experiences of people in prison and their families. In this sense, imprisoned migrants and their families become not only expendable, but violable in the struggle for immigrant rights.

The construction of this narrative in combination with Alma and Isabel’s lived experiences merged with the current moment’s demands to engage the migration debate

in the context of “good” and “bad” immigrants. During an interview I conducted with Isabel she described her experience five years earlier, at the age of 10, when Alma was imprisoned. Similar to the story narrated to Millán González, Isabel was at a friend’s house when she was suddenly separated from her mother. That day Isabel got permission from Alma to spend the night at her friend’s house. A family friend arrived asking for Isabel and asked to talk to Isabel’s friend’s mom. Isabel relates, “They went into the kitchen and I got this really bad vibe...those vibes like, something bad is going to happen or something happened.” After they talked they told Isabel that she would be picked up the next day. When Isabel and the family friend arrived at the apartment in the morning Isabel kept asking about her mom and was told she was working. That evening Isabel received a phone call from Alma but rather than telling Isabel what occurred, Alma told her she was deported and would be with her soon. Isabel kept asking Alma “Why’d they take you? Why’d they take you?” The next day Isabel’s nina (godmother) picked her up and took her to Union City for fear that she would be placed in foster care. Isabel’s world was altered five years prior to that reported in the *Union Tribune* story. Alma’s imprisonment turned their lives around, separating them for five years without the ability to see each other, not the three months reported in the media. Isabel remained with her nina during Alma’s imprisonment. The difference between Isabel and Alma’s reality and the story told in the media represents the limitations of the dominant immigrant rights discourse. Mother and daughter are asked to tell a distorted version of their story to fit into the category of deserving “good immigrants.” The sanitized version’s effort to distance Alma, and by extension migrant mothers in general, from criminality reinforces boundaries between deservingness and undeservingness. There is a willingness to

advocate for individuals like Isabel and Alma when they conform to disciplining narratives of citizenship, particularly hard workers with no criminal records. However, once lines are crossed, as in the case of Alma who is constructed as criminal, the willingness not only dissolves, but in some cases turns into demands to punish individuals that transgress these lines in order to protect “American”-behaving migrants.

For example, consider the National protest/press conference held in San Diego in front of the Federal Building on August 22, 2008, which I attended. During the event co-sponsored by several immigrant rights groups, Enrique Morones, president of Border Angels, spoke on behalf of migrants and maintained that migrants are not criminals. He noted that if people crossing the border are found to be “criminals” they should be put in jail, but otherwise, undocumented migrants deserve protection. What this dominant immigrant rights discourse fails to take into account is that the line between criminal and non-criminal shifts and changes depending on the current socio-political moment. While at one moment individuals or actions can be classified as non-criminal, at another moment changes in legislation can re-classify those same individuals or acts as criminal. Thus, the boundaries used to regulate deserving and undeserving, recuperable and irrecoverable individuals constantly change depending on the organizing logic of the moment. Simply demanding protection of “innocent” migrants does not address the origins of criminality, which is located in the state’s ability to classify and re-classify the meanings of criminality.

Currently, the logic of criminality, of cracking down on crime organizes society and is used to regulate racialized and gendered boundaries of belonging. In other words, the idea of crime is useful because it can change in order to target specific bodies while

erasing how this process is racialized and gendered. Thus, no matter how much of an effort is made to decriminalize migrants, this boundary can and is constantly shifting. However, efforts to expand American citizenship to migrants are still productive in the sense that they strengthen divisions of belonging.

In Omar Millán González's second *Enlace* article, the same story is told as in the *Union-Tribune* piece. However, this is a much lengthier piece. It is important to note the differences. In this piece Millán González adds an entire separate section on Alma. Here, Alma's "life" before and after deportation are presented. For example, Millán González describes how 30 minutes after being deported the local Tijuana police arrested her for "looking suspicious." She spent almost four hours in jail because she did not have any form of identification. Then she is described as trying to contact a coyote she knew from her prior border crossings and how she was going to try to cross again, possibly during Christmas time. Finally, Alma is quoted as saying "We are not displacing anyone in the United States. Immigrants, [*sic*] we are simply doing the job that many people in the U.S. do not want to do. It is convenient for the government to have us work there because we stimulate the economy. We are not terrorists, we are people who want to work." Alma herself employs the rhetoric of hard working migrants although under the current logic of immigration she is considered a public charge since it costs the state thousands of dollars to house people in prison. This narrative, again, is the melding of Alma's actual experiences, such as being jailed after her deportation and looking to cross the border, and the dominant discourse on immigrant rights, which is that migrants should not be targeted because they are economic assets to the U.S. Alma's own effort to fit into the identity of "good immigrant" reinforces her own irrecoverability. Under this logic,

“American”-acting migrants are socially salvageable while migrants such as Alma are made disposable, and in this case Alma herself is enlisted to reinforce these boundaries.

During our interview I asked Isabel about her participation in the movement for immigrant rights. Isabel’s trip to Tijuana to be with her mother whom she had not seen in five years turned her already difficult life around once again. On the day that Isabel arrived in Tijuana she was dropped off on the U.S. side by family friends and walked across by herself. Alma was holding a sign with Isabel’s name on it, not because she did not know what she looked like, but rather, as a welcoming gesture to Isabel. Isabel recounts her story:

I walked over to her and we were just staring at each other...and okay, awkward silence moment...we were just staring at each other and ‘what do we do now?’ Do we hug, do we cry, what do we do? She took me to the bus and then we went to the house and then that same day we started working with...selling waters and sodas on the street so I was helping with that. It was fun. It was pretty awkward in the beginning because I hadn’t seen her for five years...how do I...How am I supposed to react?

Isabel was immediately immersed into the struggle for immigrant rights. During our interview Isabel said, “It happened so fast too. It was the first week and I was already the voice for all the children...of deported migrants. And I was like, what the heck? How did this happen? Nobody told me.”

Isabel, in addition to reuniting with Alma and figuring out how to relate to each other and what they would do in the future, was also occupied trying to bring about change for migrants. Her desire to contribute to this struggle came from her personal experiences and those of people at the shelter. Migrant women arrived at the shelter and told their stories and as Isabel heard them she sympathized with them. When asked about her organizing at the shelter, Isabel said,

I had a lot of experiences there too...especially since like the whole border thing...they were going to put more walls up or something so people can't pass to America...When I went there to the muro [Friendship Park] where people could talk...I was like, "this is really intense." People would sit down and share food and eat. I was like, "wow"... people joke about the migra and stuff 'la migra, la migra...' and I actually saw it. Like the minutemen saying all these bad words to...Mexicans...I never knew there were so many mean people against us, you know? It was so intense.

Similarly, Isabel acknowledges how her experiences at the shelter changed her as a person, "I knew about the migra...that they catch you and throw you back to Mexico...but I didn't think it was this bad. I see the news a lot now, since like all this happened, so I watch the news a lot and they talk a lot about migration and the deportations...and I was like, "wow." I wasn't really paying a lot of attention to my surroundings back then. I was just, oh, into my friends and having fun you know...Now that I am older I see all of this and like, I missed a lot."

What the adapted story that Alma and Isabel are compelled to relate does is erase their experiences as they are shaped by Alma's imprisonment. During their five year separation they remained connected through a few phone calls, but mainly through letters. Isabel saw Alma once during this time period when Alma was first held in a Los Angeles county jail. When she was imprisoned Alma sent Isabel an application to visit her in Valley State Prison for Women. However, Isabel was unable to visit. Isabel recounts receiving Alma's letter:

At my nina's we are not supposed to open the mail. She opens it and gives it to us. But I opened it and I got in trouble because I wasn't supposed to do that. And there was a form to allow us to go to Chowchilla, the prison where my mom was at. I got it and I got in trouble because I wasn't supposed to do that. I had already filled it out and stuff and I told my nina and she said 'No, we can't go,' and I asked 'Why can't we go?' And she said 'First of all, because I am an immigrant,' My Nina is an immigrant

and if they find out or something...she could go to jail herself.' We didn't go.

Isabel's account speaks to the added dimension of migrant families with relatives in prison. Isabel's nina's undocumented status prevented them from visiting Alma. This is an experience that many migrant families face but that is rarely discussed within the immigrant rights movement. Isabel's alleged three month separation deserves attention when the family fits the ideal migrant profile. However, her actual five year severance from her mother does not merit the same consideration once the line between "criminal" and "innocent" is crossed. Alma's undeservingness carries over to Isabel as well.

Children of deported parents are viewed as victims of punitive immigration enforcement policies but for children of imprisoned parents, the criminality of their parents serves to diminish their worth. The lack of attention the immigrant rights movement affords children of imprisoned migrant parents speaks to the differentiating value these children are afforded.

Isabel was unable to speak at the Democratic National Convention in Denver, Colorado. When Alma was deported, Isabel's nina applied for a passport for Isabel so that she could visit Alma in Mexico. However, Isabel had waited so long to see her mother and did not want to wait any longer that she left with only her school identification, an expired California id, and her social security card. Isabel's nina was unable to claim Isabel's passport because she was not the mother and needed proof of legal guardianship. Alma and Micaela mutually decided to not take Isabel to the convention and try to wait to see if Isabel's aunt could obtain her passport. However, this was not the case and time came for Isabel to return to school. Alma, Isabel and I decided

that she would cross with me. The hope was that in the worst case scenario Isabel would be held for a while by the border patrol and questioned. Isabel's desire to see her mother motivated her to leave without "proper documentation" and assume the ambiguous position of a child-citizen with little proof of citizenship, making her vulnerable to additional questioning and violence during her return to the U.S.

Alma accompanied Isabel and me to the border. As we waited in line on the Tijuana side they hugged and wept quietly until we reached the turnstiles to cross to the U.S. side. They said their goodbyes and we walked on. We ended up in a line where the agent left for a few minutes and returned apologetically, "Sorry folks." He then tried to process us quickly. When we walked up to his booth Isabel told him that she did not have either her birth certificate or passport. Isabel handed him an envelope with her student id, an expired California id, her social security card, and a notarized paper signed by her nina authorizing Isabel to travel to Los Angeles to visit some family friends. The agent opened the envelop and took out the notarized paper and said, "What is this? This doesn't mean anything here! I don't know why you are giving me this!" I scrambled to explain that Isabel had placed the letter in the envelop because it was where she kept her important documents, but before I could finish my sentence he interrupted and began asking Isabel questions. The following conversation took place as the agent apparently looked up Isabel's information on the computer:

Agent: "Why were you in Mexico?"

Isabel: "My mom got deported so I came to see her."

Agent: "When did this happen?"

Isabel: "Three months ago."

Agent: "Who is she?" (referring to author)

Author: "I'm a family friend."

Agent: "Where is your dad?"



Isabel: "I don't have a dad."

Agent: "Who are you going to stay with?"

Isabel: "With my aunt in Union City."

Agent: "Okay, go...and be a good citizen."

While relieved that Isabel was not going to face any additional questioning, I left the agent's booth upset at his attempt to discipline Isabel. Isabel and I drove to my house and later that day she boarded a bus to return home.

Alma attempted to cross the border in late September of 2008. During her crossing she landed in a muddy swamp where in a matter of seconds she was engulfed all the way up to her chest. The group of migrants traveling with her reacted immediately and got her out using a thick log. The swamp had consumed all of her clothes leaving her completely naked and covered in mud. One of the men was wearing shorts underneath his clothes and offered them to Alma and another man gave her his shirt. She was in such poor physical condition that the group sought out the border patrol to obtain medical attention for Alma. She was taken to the emergency room and then transported to a county jail. Afterwards she was transferred to the Western Region Detention Facility at San Diego, a private prison run by The GEO Group, a transnational corporation dedicated to the private warehousing of bodies and formerly known as Wackenhut.<sup>34</sup>

Alma was held in immigration detention for six months while she awaited her trial. During this time her lawyer requested to have the charges of crossing the border with a felony dropped, which they did, leaving only the charges of crossing the border illegally. Both Alma and her lawyer expected the judge to release Alma since the average sentence for crossing the border illegally is six months. Alma gathered documents for her

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<sup>34</sup> Geo Group, established in 1984, along with corporations such as Corrections Corporation of America, established in 1983, generate massive profits from the global imprisonment of people.

trial which spoke about her character, including a brief letter which stated that Alma was a person of good moral character that volunteered Casa Refugio Elvira. Alma carried the letter with her in Tijuana so that in case she was harassed by police, she could demonstrate that she was not transient. The letter was signed by Elvira Arellano. Elvira is a well known migrant activist who took refuge in a sanctuary in Chicago, Illinois to condemn the separation of migrant families by U.S. immigration control policies. During the trial, which was held in February of 2009, the prosecutor used this letter to argue that Alma, through her association with Elvira Arellano and the migrant advocacy work she performed, was involved in promoting migrants to cross the border illegally. Arguing that Alma advanced criminal acts against the U.S., she asked the judge to sentence her to forty-eight months in prison. Completely dumbfounded, Alma's lawyer was unable to respond. Instead, Alma argued against the prosecutor's claims as best she could. The judge in turn sentenced her to twenty-six months in prison. The irony is not lost in this part of Alma's narrative. While her lawyer was able to get the charges of crossing the border with a felony dropped, what secured that Alma would return to prison was her work as a migrant rights activist. Alma's association with criminalized immigrant activist Elvira Arellano and allegedly organizing migrants to "illegally" cross the border justified Alma's imprisonment. Her story highlights what the immigrant rights discourse does not acknowledge, which is that definitions of criminality shift and change to fit particular situations. In this case, advocating for immigrant rights is constructed as a criminal act and works to sentence Alma to over two years in prison, which underscores the fact that the subject of the advocacy carried out by the immigrant rights movement cannot be someone like Alma.

## Conclusion

The recent immigrant rights attempts to dislodge criminality from the migrant identity are in large part responses to the criminalization, policing, and violence that migrant communities are increasingly encountering. While these efforts seem imperative given the current anti-migrant climate, it is important to recognize the ways that the immigrant rights discourse participates in reinforcing racial and gender power relations. In this chapter I considered how historically, criminality helped to construct Blackness. One key area in which this occurs was the targeting of Black women's reproduction as criminal. I showed that this patriarchal white supremacist discourse is re-mapped onto migrant women's bodies through the logic of gendered "illegality."

This re-mapping process is essential to neoliberal social organization. Since undocumented migrants are the ideal neoliberal workers given their undocumented, and thus flexible status, relegating them to the space of criminality maintains their flexibility. As in the case of Black women, migrant women's reproduction is targeted to contain their "criminal" reproduction, resulting in separating their reproductive from their productive capabilities and advancing their role as workers. The immigrant rights discourse that attaches the identity of "migrant" to "hard worker" ultimately re-masculinizes migration and reinforces the exploitability of migrant bodies, enabling the regulation of both Black and Brown women's productive and reproductive labor. The current migration debate shapes and limits the immigrant rights discourse to a binary framework that weds the identity of migrant with the masculine identity of worker and allows the criminalization of women's reproduction to go unchallenged.

I also discussed how the efforts of migrant rights advocates to claim migrant innocence is ultimately a negotiation between racial Blackness, perpetually detached from the “American” identity, and racial whiteness, the unmarked racialization of “American.” By reinforcing “American”-ness, as is done when we claim “immigrants are not criminals, immigrants are hard workers,” we essentially allow for patriarchal white supremacy to remain unchallenged and perpetuate the expendability of Black and Brown bodies. We need to move away from the idea, “No One is Illegal,” to “No One is Criminal.” This statement challenges the state’s ability to mark bodies as criminals and as such, challenges patriarchal white supremacy. It underscores the fact that a great amount of ideological and material labor goes into making “criminals.” Challenging the state’s ability to criminalize bodies directs our attention from individual acts of “crime” toward the ways that the creation of “crime” serves social and political purposes.

Whereas this chapter focused on the immigrant rights movement and how it participates in constructing some migrants as irrecoverable, the following chapter considers the patriarchal relationships that develop between individuals and the state to discipline and police migrant women. It shifts attention toward the state and marks its responsibility in perpetuating violence against migrant women in collaboration with individuals. The analysis contributes to the mapping of racialized patriarchal formations that contribute to the violence experienced by migrant women.

## Chapter 4.

### **Violent Formations: Criminalizing and Disciplining Migrant Women's Bodies**

According to prominent theorist Michel Foucault, the disciplining of the body is the process through which social subjects are formed and these practices of subject formation are inherently spatialized (1990 and 1995). The control of bodies and their spatial movement become places and moments of domination. For nation-states the control of national boundaries, especially the movement of bodies, affords their legitimacy. Each individual migration becomes a moment and a site of political agency that threatens and simultaneously provides the opportunity to assert nation-state legitimacy. As such, they are central to the construction and maintenance of the nation-state. The violence experienced by migrants in the U.S.-Mexico borderlands during the last three decades highlights their centrality in the nation-building projects of both the U.S. and Mexico.<sup>35</sup>

In this chapter I consider the stories of detained, deported, and imprisoned migrant women and reflect on the patriarchal relationship between individuals and the state that shape migrant women's experiences. Migrant women's movement through the borderlands is particularly significant since it signals a political social transformation of gendered and racialized relationships at various levels. Women's migration destabilizes their historical relegation to the domestic sphere, both at the level of the home and of the nation. The initial moment of agency—migration—brings migrant women into a co-constitutive relationship with the public political sphere. The process becomes a complex

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<sup>35</sup> Here I use the term "borderlands" to refer not only to the neighboring regions of the geo-political U.S.-Mexico border, but to the various places where migrants travel and where the ideological and material affectability of the border follows them. The borderlands exist where migrants have been or are present.

negotiation to redefine women's social and spatial location in relation to the nation. The destabilization of gender norms generates possibilities of intervention by individuals and the state in the lives of migrant women.

Furthermore, in terms of the policing of the border on behalf of the U.S., this has to be read within the larger historical context that accounts for the role that ideas about race played in the design of the nation. Immigration policy has and continues to serve as an instrument to shape the racial makeup of the nation, although today it largely performs through the guise of controlling crime and terrorism. Thus the violence that migrant women experience in the U.S.-Mexico borderlands carried out by individuals and representatives of the state need to be read as moments forming part of the larger gendered and racialized political struggle to construct history.

As I conducted my research and read through the many stories, it became evident to me that interpersonal and state modes of violence go hand in hand in shaping experiences for migrant women. Initially, I read this relationship and interconnection as one form of violence feeding into the other. However, a closer examination revealed that rather than just informing each other, the boundaries between these modes of violence become blurred to the point that distinguishing where one form of violence ends and the other begins becomes extremely difficult, and in some cases impossible. These changes are produced by the presence of the border. For migrant women, the entrance into the borderlands, which begins the moment the person arrives at the border region for the first time and travels with them thereon after, transforms them and their relationship to the global society so that the lines between the public and the private become blurred. It is at this instant that migrant women's bodies are marked by the border and everything it

represents. From that moment on, migrant women's violability is cemented through their assumed "violation of the nation," constructing them as a public enemy that needs to be punished, and in some cases killed. It is that moment that makes the boundaries between interpersonal and state violence unintelligible.

Before providing the analysis of the stories of migrant women, a discussion of the theoretical framework is necessary. Here I explore some of the ways that boundaries between these modes of violence are distorted and argue that this development is necessary for the legitimization of the state as the benevolent protector of the nation's inhabitants rather than as a site of violence. In other words, the state is able to secure its integrity and erase its responsibility in generating the conditions that make possible the violability of migrant women since it is individuals that perform some of the labor of violence necessary for the U.S. nation-building project.

I take my cue from the work of INCITE! Women of Color Against Violence (2006), which asks the question, "What would it take *to end violence against women of color?*" They provide a critique of the anti-violence movement which increasingly relies on the state and they compel us to move beyond this model given that for women of color, the role of the state is not of the benevolent protector but rather as a perpetrator and enabler of violence. In addition, they maintain that struggles for racial justice tend to silence women of color around issues of domestic violence in order to "maintain a united front against racism" (1). INCITE ! encourages us to rethink strategies so that rather than contribute to the strengthening of the state, as is often the case with the anti-violence movement which relies heavily on the criminal justice system, we engage in strategies that work *against* the state and that make women of color safe.

The experiences of migrant women require us to complicate the relationship between interpersonal and state violence against women of color that expands on the understanding provided by INCITE!. In the case of migrant women, their status as migrants calls upon individuals and other nation-states to help police and enforce not only the territorial but also the racialized boundaries of the U.S. Ruth Wilson Gilmore, in discussing prisons within the U.S., defines racism as “the state-sanctioned and/or extralegal production and exploitation of group-differentiated vulnerability to premature death” (2007: 247). The historical development of the policing of U.S. territorial borders is rooted in a history of white supremacy in which groups racialized as non-white are constructed as threats to the nation and systematically targeted. If we employ Gilmore’s conceptualization of racism to the policing of the nation-state’s boundaries, then it becomes clear that producing the social irrecoverability of migrant women *is* part of the labor of violence that individuals and states carry out in the name of the U.S. nation.

Here the work of transborder feminism scholar Rosa Linda Fregoso (2007) is useful to theorize the violence experienced by migrant women. Fregoso contributes to scholarship on the femicide in the city of Juarez, Chihuahua, a body of literature that considers violent interpersonal and state intervention in migrant women’s lives. Fregoso provides a critique of existing explanations for these continued events of gendered violence experienced largely by poor, young, and brown Mexican women. Rather than these moments of violence and death resulting from the women’s “immorality,” claims made by the Mexican state which attempted to represent the women as living “double lives,” or from top-down explanations of macroprocesses of globalism that equate the ability to exploit migrant women with the ability to exterminate them, Fregoso urges us



to complicate the analysis to account for the multiple structures of oppression in the lives of these women (42). Part of this account needs to consider how the representation of the border as a zone of “excess” contributes to the gendered violence in the borderlands. Citing Melissa Wright’s work, Fregoso writes, “In large measure, the stereotype of maquila workers as ‘prostitutes’ is part of a much longer history of othering practices derived from colonialist fantasies about the border as a zone of ‘sexual excess’ and border women as ‘culturally bound to sexual chaos’” (43). Fregoso continues, “The devaluation of border female sexuality...is part of a more generalized narrative about the border as a place of excess, violence, prostitution, drugs, and contraband that circulates in the Mexican popular imaginary” (43). The “excess” of the border thus participates in the construction of migrant women’s expendability and violability. Fregoso argues that to provide an accurate understanding of gendered violence at the border, we need to consider the role of the state in “creating a climate of violence” (50). In discussing Mexican law, Fregoso cites Macaulay who argues that Mexican law interprets gender violence as “crimes against the honor of the family” (51). This interpretation has “lethal consequences for women, since Mexican laws ‘still consider the honesty, honor, and good name of the woman to be relevant to the characterization of certain sexual crimes and to determine their punishment’ (Macaulay 200, 149)” (51). Women’s migrations to and through the border, a space that is constructed as a zone of “sexual excess,” disrupts their patriarchal confinement to the domestic sphere and places them outside of patriarchal state protection. Once in this space of “sexual excess,” women themselves are marked as expendable and thus violable. As Fregoso argues, we need to conceptualize the violence and death experienced by women in the borderlands as racialized, classed, and

racialized forms of “state-sanctioned terrorism” (50-54), as moments and spaces of violence and death produced by the very state that purports to police such exceptionality.

### **Roadmap**

I begin by discussing the gendered racialization of migrants as seen in legislations passed in 1996 that linked migration to crime and state dependency within migrant women’s bodies, rendering their social and physical death logical and necessary for the U.S. nation-state. Then I discuss the stories of migrant women in prison whose children are placed in foster care system and illustrate one of the ways that social death is carried out through the separation of mothers from their children. These stories reveal how the boundary between states, in these cases the U.S. and Mexico, is blurred when Mexican social services are enlisted to perform the labor of the U.S. welfare state. I present two additional stories of migrant women who attempted to cross the U.S.-Mexico border and were unable to do so. Their stories highlight the role that some individuals perform in the policing of borders, and in doing so, participate in marking migrant women as irrecoverable, and thus violable subjects.

### **Legal Manufacturing of Migrant Criminality**

During the decade of the 1990s, we witnessed the passing of punitive legislation that linked migration to state dependency and criminality. Two of the most significant pieces of legislation include the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and the Personal Responsibility and Work Opportunity Act (the Welfare Reform Act), both enacted in 1996. IIRIRA was presumably enacted to target “criminal aliens.” In partnership with the Antiterrorist act passed during the same year, IIRIRA increased the number of deportable migrants. Combined, these two

legislations amended and added new offenses to the definition of *aggravated felony* and made this new definition apply retroactively. In chapter three, I provided the story of Refugio Rubio, which exemplifies how these policies operate. Mr. Rubio was a documented migrant who was convicted for the possession of marijuana in the early 1970s and was charged with a minor offense and performed community service. Due to the intensified anti-immigrant climate of the mid-1990s, he applied for his naturalized citizenship. During his interview he was arrested and an immigration hold was placed on him because the offense he had committed back in the 70s was now considered an aggravated felony and he was deportable under the new laws. In his case, these shifts move him from “legal” to “illegal.” His story highlights how shifting definitions of criminality serve to produce deportable bodies.

In addition, the changes implemented in 1996 created a “criminal alien identification system,” intended to locate migrants with prior convictions who were now made deportable (Dole 2006). These policies facilitated the deportation of imprisoned migrants, regardless of their legal status. To underscore the significance of the policies, let me provide some numbers. In 1998 62,108 people were deported for criminal status. That number increased to 99,924 by 2007, a 38 percent increase within nine years (2007 yearbook of Immigration Statistics).

In addition to expanding the number of deportable migrants, it also included restrictions for migrants’ access to state resources. IIRIRA contains a section titled “Restrictions on Benefits for Aliens.” The following is a summary of this section provided by the Immigration and Naturalization Services (INS):

Title V contains amendments to the welfare bill, the Social Security Act, and the INA which are directed at limiting aliens' access to public benefits. Proof of citizenship is required to receive public benefits and verification of immigration status is required for Social Security and higher-educational assistance. A transition period (until April 1, 1997) is established for aliens who are currently receiving food stamps. (U.S. INS, 1997)

What is significant here for my purpose is to underscore the punitive nature of these policies which criminalize and expand the number of migrants that can be deported and the way that the logic of IIRIRA conflates migration with state dependency and criminality.

Enacted the same year as IIRIRA, the Welfare Reform Act incorporated many of the restrictions that California's Proposition 187 attempted to implement, targeting migrants' use of public resources. It restricted access to Medicaid, food stamps, cash assistance for poor families, and assistance for the disabled and elderly migrants. In addition to limiting migrants' access to these benefits, the Welfare Reform Act targeted people convicted for felony drug offenses by banning them for life from certain resources, including the Food Stamp program.

Again, what I stress is that similar to IIRIRA, the logic of the Welfare Reform Act merged migration, crime, and state dependency. In discussing these anti-immigrant policies, activist scholar Syd Lindsley argues that the criminalization and attacks that migrants undergo, especially Mexican migrant women, at the most basic level has little to do with the costs that this group has on the state and the nation. Rather, these policies "reflect assumptions about the value of immigrant mothers in U.S. society" and their passing is "an attempt to regulate and control immigrant women's mothering" (2002: 185).

The context that I present here illustrates how migrant women and their communities are made violable by the state. Militarizing the border, criminalizing migrants, limiting access to public resources, and expanding mechanisms for the deportation of both documented and undocumented people predictably results in increased poverty and violence. This includes the substantial family separation that is occurring as migrants are held by the state either in detention centers, jails or prisons, and then deported. The following stories not only rupture the notion of the U.S. state as protector, but they also illustrate how it enlists other nation-states, in this case Mexico, and individuals to protect and enforce racialized boundaries of belonging. In doing so, it erases its responsibility in constructing criminalized migrant women as irrecoverable subjects vulnerable to various forms of violence and in some cases premature death.

### **Migrant Mothering and U.S. Carcerality**

For women in prison, losing their children to the state is too often a reality. Under changes implemented in 1997 federal legislation, the Adoption and Safe Families Act, parental rights termination must be initiated by social workers when children are in foster care for fifteen of the last twenty-two months. Placing children with families or friends is increasingly difficult given the requirements established by child welfare policies. These include conducting a criminal background check on everyone in the home, demonstrating the ability of the person to provide “a safe, secure, and stable environment and necessities for the children.” The home “must have sufficient bedrooms so that no more than two children are in each bedroom, children over the age of 5 of the opposite sex may not share a bedroom, and no room commonly used for other purposes may be used as a bedroom.” Finally, with the exception of infants, adults cannot share a bedroom with any

children. The requirements are applied to all the children in the home, including the caregivers own children. For anyone in prison, but in particular for migrants, placing children with relatives or friends is very difficult given the standards established by child welfare policies. An additional factor that contributes to this is the caregiver's legal status. A person who is undocumented can, and often is, denied custody of children because their undocumented status represents instability for children since they can be deported in any given moment. One option that migrants are presented with is having their children placed in their country of origin. However, home evaluations must be carried out and the home must meet the same standards as placement homes in the U.S. In the case of Mexican migrants, the U.S. child welfare services enlists the Mexican social services to conduct home evaluations, and for the six migrant women that I met and that attempted to have their children placed in Mexico, none of the homes were able to meet these standards. What these stories highlight is how the state, under the disposition of benevolent protector, separates migrant families and erases its responsibility in their separation. Under the current logic of migration, the violence experienced by migrant communities is conceived as of their own making since they presumably chose to enter the U.S., more than likely "illegally." Their presumed "illegality" marks them as enemies of the nation and constructs the violence they experience logical. For migrant women in prison, separation from their children is further rationalized by marking them as "bad mothers" through their imprisonment and then through their inability to secure "adequate" caretakers. The role that the welfare state has in bringing about these separations is veiled when the Mexican state is enlisted to perform the home evaluations on behalf of the U.S. social services, which creates an

impression of objectivity in the process. I present Lupe's story to show how this process operates.

Lupe and her husband Salvador are undocumented migrants and both were imprisoned for drug-related charges. The couple requested to place their six children with Alberto, the children's paternal uncle. Lupe and Salvador signed forms giving power of attorney and temporary guardianship of the children to Alberto. They also requested that if the children could not be placed with Alberto and his wife that custody be given to Roberto and Berenice, who were family friends. In a letter to Justice Now, the organization where I interned, Lupe wrote, "But if you can talk with them [Roberto and Berenice] and orient them on how they can do it so that the children can be placed with them until I get out. On September 20 at 8:30 I have an appeal for my children and I have to have who they are going with but I in no way want my children to be placed for adoption. Or have them send them to my mother in Mexico. She has also asked for them. I want to be sure that I am not going to lose my children."<sup>36</sup> Both couples, Alberto and his wife and Roberto and Berenice were denied custody of the children because their homes were found to be "inadequate." Lupe's lawyer filed a complaint on her behalf arguing that the court had erred in the children's placement. The Health and Human Services Agency<sup>37</sup> responded to her complaint by defending their position, "The agency investigator believed the children could not be placed with Alberto and Lucia because they lived in a two-bedroom apartment with one other adult and three children and did not meet the criteria for foster care licensing regulations. Further, Alberto had not

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<sup>36</sup> Lupe's own written account, August 13, 2004.

<sup>37</sup> From here on termed the "agency," which is the term the report employs.

obtained the necessary supplies to take care of six more children, refused to be fingerprinted, and was an undocumented illegal alien.”<sup>38</sup> The court used these factors to argue that the parents had not made suitable arrangements for the care of their children during their incarceration. The removal of Lupe’s children was rationalized as her fault. Her inability to make “suitable arrangements” for her children was cited as the cause for the children’s foster care placement, rather than the standards enforced by child welfare services. It is important to note that foster parents who are not related to the children receive more financial support than relatives, which indicates a willingness to separate children from their families because if the families were offered similar support, less family separation would take place.<sup>39</sup>

In addition to submitting the two couples as potential caretakers, Lupe submitted several names of relatives in Mexico as potential caretakers, including her mother. The children’s grandparents’ home was evaluated by the Mexican social services agency and was found inadequate for placement. For migrants with children in foster care, such as Lupe, a standard shaped by white middle-class ideals is enforced through child welfare policies and people on both sides of the border are required to meet these measures. While the intent of the process can be to conduct a thorough investigation and a genuine attempt to place the children with family members, the standards themselves serve as mechanisms that separate families. Rather than considering the difficulty in meeting these requirements, the state places the responsibility on the parents. The Agency sites that “the

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<sup>38</sup> Court of Appeal, Fourth Appellate District, Division One, State of California, January 24, 2005.

<sup>39</sup> Professor of law Myrna S. Raedar cites Gently (2001) in “Gendered Implications of Sentencing and Correctional Practices: A Legal Perspective,” in *Gendered Justice*, ed. by Barbara E. Bloom, 173-207 (Durham: Carolina Academic Press, 2003).



arrangements made by the parent must be suitable or adequate,” and that the purpose of dependency law is to “...ensure the safety and well-being of children.” In Lupe’s case, the Agency argued and the court agreed that the arrangements presented by Lupe would place the children’s welfare at risk. Lupe, and every migrant woman I met that was either separated or faced separation from their children said that if their children were taken, they would return to the U.S., even if it meant more prison time or having to take their children forcibly from foster homes or adoptive parents.

While conducting research in a migrant shelter in Tijuana I met Carmen. She migrated to Tijuana from Guadalajara to try to find work. Similar to Lupe, Carmen was also imprisoned, which resulted in being permanently separated from her son. The following is part of our conversation:

Carmen: I was sent to prison in 98 and was there for three years. I needed money and they offered to pay me well if I delivered two pounds of drugs. It was meta...meta...something like that. It ended up that the person that was going to pick up the drugs was a cop and a bunch of them surrounded me with pointed guns and arrested me. They gave me three years. I had my two-month old son with me and they took him from me. I lost my son. When I was in prison they would sometimes take me to custody court hearings, but people in prison don’t have a voice in that. As if I wasn’t even in the room. I don’t speak English.

Author: Did you have a social worker?

Carmen: No, I never saw one. If I did I don’t know.

Author: Did you have a lawyer?

Carmen: No, nothing. They didn’t help me in anything that had to do with my son’s case. After prison they deported me but I crossed back to look for my son. I wasn’t going to let them take him from me. When I arrived I joined many programs.

Author: What kind of programs?

Carmen: Parenting programs, drug programs, anything to get my son back. I had gained visits with him and everything, but someone called the INS and they caught me again. That time they put me in jail for seven months and then they deported me. Now my son is ten years old.

Author: Do you know who called the INS?

Carmen: I think it was a neighbor, but I’m not sure.

Author: Do you know where your son is at?

Carmen: They sent me a letter to Guadalajara letting me know that he was adopted, I think by a Japanese woman. But I have no contact. I still have faith that I will find him. I have two sons and a daughter that are grown up. I want them to meet their brother, to look for him.

Author: And why didn't they place him with a family member?

Carmen: The Mexican government went to my parent's house and evaluated it but I do not know what happened.

Carmen's narrative is similar to many of the stories I witnessed of migrant mothers in prison through my advocacy work. The lack of support from lawyers and social workers, the limitations that not knowing the English language imposes on their ability to fight for their children, and the inevitable fact of deportation are factors that are consistently cited as playing a role in the separation between imprisoned migrant mothers and their children.

For Carmen, returning to the U.S. to claim custody of her son, even if it meant risking spending additional time in prison, and joining various programs to demonstrate her aptitude as a mother were actions that were invalidated when someone took it upon themselves to call the INS and have her deported. Carmen's story shows how nationalism works to rationalize violence against people constructed as "enemies of the nation." The INS had informed Carmen that someone had called to report her as an "illegal" migrant. In her case, an individual's actions, calling the INS to deport her, resulted in Carmen losing complete custody of her son, even though she was meeting the requirements imposed by child welfare policies since she was able to obtain visitation rights with her son. This illustrates how individuals can make use of state mechanisms to inflict violence on people under the premise of protecting the nation. The naturalized logic that undocumented migrants are automatic threats to the nation calls on legal residents and

citizens to police the nation, and the violence that occurs from these actions are rationalized as acts carried out against an enemy on behalf of the nation. Simultaneously, as with Lupe and other imprisoned migrant mothers, the Mexican state participates in imposing this violence, in part through the home evaluations that it conducts on behalf of the U.S. child welfare services.

Women's significance to the nation-state lies mainly within the concept of motherhood. The state's responsibility is largely imagined as the protector of the "national" family, and thus of mothering. For women in prison, separating them from their children denies their value as mothers and secures their worth as "ideal" neoliberal laborers by separating their productive from their reproductive labor. However, for imprisoned migrant women, separating them from their children reinforces their status as irrecoverable subjects; they are denied their worth as mothers and their value as laborers since under current laws they are permanently banned from re-entering the country. The presence of migrant women's bodies changes and shatters the account of the state as protector when, to defend the racialized white nation, it makes them socially irrecoverable as it negates their mothering and threatens them with re-imprisonment if they are caught crossing the border. Their deportation attempts to dispose of any evidence and liberate the state of any moral responsibility. However, for many of the deported migrant women who were forced to leave their children behind, the border followed their bodies, and they traveled back and attempted to re-enter the nation-state in search of their children. Once again, the nation-state has to contend with their presence when they refuse to disappear and leave their children behind, as in the case of Lupe and Carmen.

It is important to note the essential work performed by the Mexican state in perpetrating violence against migrant women. The role of Mexico begins long before the individual's migration. It begins with its neglect and inability to work towards creating the conditions where migration is a real choice, and not one structured by a person's positionality. Part of this is the work that Mexico performs on behalf of the U.S. Mexico's participation in creating the conditions that lead people to migrate produces an exploitable labor force for the U.S., and benefits Mexico, for example, through the remittances that its nationals send back. However, its tasks do not end there. As Lupe's and Carmen's stories illustrate, the relationship that the U.S. and Mexico developed includes the function of managing the return of those that are marked as unfit by the U.S. nation-state. Lupe's and Carmen's imprisonment and deportation presents the additional challenge of managing their children's social belonging, whether they remain in the U.S. or are sent to Mexico. The U.S. welfare system demands that Mexico apply regulations produced in the U.S. that privilege white middle-class standards of the "ideal" family to presumably protect the children. Its responsibility for the violence caused in the process of severing migrant families is erased by enlisting the Mexican state to act on behalf of the U.S. welfare state, blurring the lines between the two states and placing the ultimate responsibility of their children's fate on migrant mothers.

While in the above section I discussed the experiences of imprisoned migrant women and how their imprisonment served to further construct them as bad mothers, resulting in separating them from their children and reinforcing their social irrecoverability, the following story reveals how women who deviate from what it means

to be a proper woman can be punished by the state. It demonstrates how individuals make use of existing notions of deviancy to exert control over other individuals.

Dariela is from Honduras and arrived in the United States in 1999. She was involved in an abusive relationship with Maria who was a U.S.-born citizen. The couple lived in Hanford, California, approximately thirty miles south-east of the city of Fresno. Maria threatened Dariela that if she did not have a sexual relationship with Maria or if she left their home, she would call the INS to have Dariela deported. Dariela's mother migrated from Honduras to search for Dariela, who, because of her relationship, had ended communication with her family. After an episode of jealousy in which Maria accused Dariela of sleeping with her own mother, the abuse in their relationship intensified. In a letter Dariela writes,

One day I told her "I don't care anymore, go ahead and call INS. Do whatever you want." I was very tired of all of it. She hit me until she broke the t.v. control and then she called the police and they took me to jail for domestic violence, and I was the one that was abused. But that is how the law is...she is American and I did not speak English and I am an immigrant, things went bad for me. I spent thirty days in county jail and then she got me out with "house arrest." After that I stayed there for a couple of months and then I told her "I am leaving to Los Angeles with my mother." She couldn't believe it, but that's what happened. She would stalk me. She would call me every hour and tell me that if I had another partner that I should choose between death or prison.

After a while Maria calmed down and Dariela believed that they could be friends. In February of 2002 Maria invited Dariela over to celebrate Maria's birthday.

I went to her house and once there she went to the store with her eldest son and she left me with her three other children, two girls and a boy. Everything went well until I told her that it was time for me to leave to my mother's. I returned to Los Angeles on February 8<sup>th</sup>. When I arrived she told me that Maria had been calling and at that moment the phone rang and when I answered she said, "Dariela, what do you prefer, jail or death? because I am going to kill you. If you are not mine you are no one's. I

prefer you jailed or buried.” I told her that she was crazy. Then she asked me why I had abused her children. My mouth was wide open. She had reached a limit. I told her to do what she needed to do and she asked me, “Are you sure? Because I am going to call the police.” I told her to do it because I had nothing to fear.

Maria called the police and the investigation took about a month, during which Maria continued to visit Dariela. After a month of investigation Dariela was arrested and taken to county jail and incarcerated for four months until her trial concluded. Dariela wrote the following about her experience:

By August 8<sup>th</sup> of that same year they sent me to prison with a forty-five years to life sentence. In court I had a public lawyer who did not speak Spanish and never interviewed me. He would just talk with me five minutes before going into court. I was an immigrant and also a lesbian. They gave me an interpreter who would only tell me about half of what was being said. I had many people on my side but during court they did not let me have any witnesses. During court they would say that Maria was my roommate and I would tell them that she was my partner. There were some friends that wanted to go into court and they didn't let anyone in. It's very difficult, especially when I think of all the sacrifices I did to try to get to this county and to end up in prison for life without being guilty.

In prison Dariela received several letters where Maria apologized for what she did. In a letter to Dariela, Maria wrote that she had asked the children's social worker if it was possible to take her children to visit Dariela, but the social worker denied her request since Dariela was imprisoned for sexually abusing the children. At the time of this writing Dariela waits to hear from The Innocence Project, which accepted her case.

Dariela's story reinforces my argument that interpersonal violence is enabled by the role that the state performs in disciplining and punishing that which is constructed as deviant. Initially Maria enlisted Dariela's undocumented status to secure control over Dariela. When Dariela defied Maria and threatened to leave, Maria enlisted the state to

discipline Dariela by incarcerating her for thirty days on charges of domestic violence and then having her released on house arrest, further securing control over Dariela. When Dariela finally left, Maria again resorted to the state to discipline Dariela, this time employing notions of sexual deviancy that are already attributed to Dariela due to her sexuality. The relationship that develops between Maria and the state—the ability to discipline Dariela—is produced through the complex intersections that make up Dariela’s positionality. Her undocumented status, her inability to speak English, and being a lesbian are facts constructed as deviant that allow state intervention into a person’s life. Maria made use of these notions of deviancy to secure control over Dariela via state intervention. As much as state mechanisms participated in the disciplining of Dariela, the individual’s agency, in this case Maria, is essential to securing domination.

### **Gendered Border Violence**

While in the previous section I discussed violence against migrant women in the U.S., it is also necessary to examine the violence experienced by migrant women attempting to cross the border. In these stories it is much more difficult to locate the role of the state because individuals carry out the violence against migrant women. But it is precisely this difficulty that marks the importance of understanding the patriarchal relationship that develops between individuals and the state.

Taking up Rosa Linda Fregoso’s call to understand how both the Mexican and U.S. states create the climate of violence that enables the expendability and violability of women in the borderlands, using Sylvana Falcon’s “Rape as a Weapon of War: Advancing Human Rights for Women at the US-Mexico Border” (2001), in this section I consider how the state’s militarization of the border contributes to the violability of

migrant women. In this article Falcon argues that rapes at the border are one outcome of the militarization of the border and that, far from being random acts by individuals, they are systematic acts that participate in marking relationships of power through the dehumanization of women (31), essentially constructing them as a racial enemy of the nation (34). The logic of the militarization of the border constructs this space as a war-zone where wars against “threats to the nation” are waged. Falcon cites Timothy Dunn’s analysis of the Low Intensity Conflict (LIC) military doctrine, which places “emphasis on the internal defense of a nation; an emphasis on controlling targeted civilian populations rather than territory; and the assumption by the military of police-like and other unconventional, typically nonmilitary roles, along with the adoption by the police of military characteristics (Dunn 1996: 21)” (32). Taking from Dunn’s work, Falcon provides an analysis of various cases of rapes of migrant women by Border Patrol agents and demonstrates how the climate generated through the militarization of the border is conducive to these gendered forms of violence. Falcon cites the following factors that contribute to the pervasiveness of militarized border rape: “unaccountability, abuse of power, ineffective hiring protocols, minimizing human rights standards, and a culture of militarization” (42).

Falcon’s work helps us to understand how the militarization of the border makes migrant women vulnerable to gendered violence. In addition to producing the situation in which state representatives perpetuate gendered violence against migrant women, the border-crossing conditions migrant women are subjected to enable individuals’ ability to exert certain levels of power against migrant women. Thus, in addition to considering the violence carried out by state agents against migrant women, we also need to take into



account how personal relations participate in enabling and/or perpetuating violence against migrant women. I now turn to the stories of Jesusa and Lucia, two migrant women who tried to cross the U.S.-Mexico border and failed for different reasons.

I met Jesusa at the migrant women's shelter in Tijuana where I conducted my research. Jesusa attempted to migrate to the U.S. with her two children to reunite with her husband who had resided in the U.S. for the last four years. The two children crossed the border on the first try, but Jesusa attempted six different times unsuccessfully. On her fifth attempt she almost drowned in a water canal and on her sixth attempt the person smuggling her into the U.S. tried to rape her. This is when she decided to end her journey to the U.S. and return home. However, her husband had already spent part of their savings paying for the children's border crossing and he refused to return the children to Mexico. Instead, he told Jesusa that if she wanted to see her children, she had to cross the border. The shelter's social worker presented the option of having the Mexican consul retrieve Jesusa's children for her, but warned that her husband may be arrested. I am unaware whether her husband returned with her children or sent them back to Mexico, whether she opted to have the Mexican consul retrieve her children for her, or whether she attempted to cross the border to reunite with her family. The time agreed for me to perform my research at the shelter expired while Jesusa was still there. However, Jesusa's story exemplifies how individuals, in this case Jesusa's husband, participate and enable state violence against migrant women. Although Jesusa had already been confronted with the possibility of death and sexual violence, her husband insisted that she cross the border. The violence that Jesusa and other migrant women experience at the border is a production and an expected outcome of state practices, such as the militarization of the

border, which function to police racialized social and boundaries of belonging. If we return to Gilmore's definition of racism as "the state-sanctioned and/or extralegal production and exploitation of group-differentiated vulnerability to premature death," then Jesusa's husband's insistence that she cross the border, even if it results in the violation of Jesusa, enables the work of the state of making certain bodies violable and vulnerable to premature death. If Jesusa decided not to cross the border or if her husband refused to return her children, then, as in the case of Lupe, Jesusa's separation from her children that the border produces and that is secured by Jesusa's husband contributes to her social irrecoverability by negating her mothering. In her case, Jesusa does not even have to cross the territorial border of the U.S. to be violated by the state. Her presence in the borderlands and her status as a mother are sufficient.

Unlike the stories that I discussed thus far, which are largely limited to the notion of social irrecoverability, for Lucia, her irrecoverability materialized at the border upon her death. I met Lucia at the same migrant women's shelter as Jesusa. She had migrated from Mexico to the U.S. where she married a migrant man from Peru. After having three children, they left to Peru where they lived for a short period of time. Lucia suffered physical and emotional abuse from her husband and decided to leave him. She traveled with her three children to Tijuana to cross over to the U.S. During one of her attempts the guide wanted them to travel down "El Espinazo del Diablo," the Devil's Spine. Lucia refused to go down the cliff because of its steepness and the group was immediately detained by the border patrol. After this experience she decided to try crossing through a different area, the Douglas-Agua Prieta border crossing. About a month before ending my research at the shelter I was informed by one of the staff that Lucia's body was found in

Agua Prieta, Sonora, a border town adjacent to Douglas, Arizona. Apparently, she was killed during one of her attempts to cross the border. I am unaware of who killed Lucia or why. What I do know is that she died trying to come to the U.S. Lucia's death is the materialization of racist and white supremacist policies implemented by the U.S. nation-state to "secure" its boundaries. Whether state agents or other individuals carried out her killing, the responsibility lies in the hands of both the U.S. and Mexican states for producing the very possibility of Lucia's death. Lucia's account complicates our understanding of the patriarchal relationship that develops between interpersonal and state modes of violence. Rather than one informing the other, in her case, the person who killed Lucia performed the work of the state by bringing about Lucia's death, distorting the boundaries between interpersonal violence and state violence. In the case of the social irrecoverability that occurs through the deportation of migrant women and severing them from their children, it is often contested when mothers who lose their children attempt to return and reclaim them. In these cases, the state has to contend with the physicality of their presence, even if it means re-imprisoning or detaining and deporting them. In Lucia's case, we have to ask, "does she disappear?" Is the work of the state of making migrant women irrecoverable subjects finally accomplished, at least in this instance?

The stories that I presented here reinforce INCITE!'s argument that we have to move beyond strategies that rely on the state for protection because it is the very state that enables and perpetrates violence against women of color. For migrant women, the border marks their bodies as enemies of the nation that need to be punished, and in some cases, killed. This transformative moment obscures the lines, not only between the interpersonal and the state, but even between states as well. The transnationality of the experiences of

migrant women, in particular the way that one state is deputized to carry out the labor of violence of the other, compels us to rethink the state beyond the boundaries of the nation, a conversation that I continue in the following chapter. Furthermore, these experiences force us to expand the understanding that INCITE! provides of the patriarchal relationship between interpersonal and state violence and explore the ways that the interpersonal blends with the state, moving us closer to answering the question, “What would it take *to end violence against women of color?*”

## Chapter 5.

### **Domesticating Migration: Coordinating State Violence Beyond the Nation-State**

One of the major risks that hundreds of migrants deported daily to Tijuana confront is illegal arrest by the city police and, with the pretext of “not having an identification,” they are interrogated, mistreated verbally and on occasions physically, and in other cases robbed, only to be subsequently transferred to face a city judge who, invariably, will give the victim up to 36 hours of lockup in the City Institute for Offenders (Clark-Alfaro 2008, author’s translation).

The above quote is taken from “Migrantes Repatriados: Arresto y Detenciones Arbitrarias. Derechos Humanos: Derechos Violados” (Repatriated Migrants: Arbitrary Arrests and Detentions. Human Rights: Violated Rights), a study conducted by Victor Clark-Alfaro, researcher at the Centro Binacional de Derechos Humanos, located in Tijuana, Mexico. The study documents over 187 cases of repatriated migrants arrested by Tijuana police for “not having an identification” that took place between the August 21, 2007 and April 18, 2008.

Migrants’ vulnerability, produced in part through their displacement and lack of resources, easily transform them into scapegoats in efforts to legitimize the state. The study highlights Mexico’s active participation in the criminalization of migrants, and demonstrates that their criminalization is a fundamental mechanism of global governance that, because of the global proliferation of the “war on crime,” is not limited to national boundaries.

The pretext used for the arrests is migrants’ lack of proper documentation. Although many of the arrested migrants carried with them one or more identifying documents, such as deportation documents, their detention wristband, and identifications provided by either migrant shelters or the government office Desarrollo Integral de la

Familia (DIF), these were often not considered valid. The following are quotes from interviews with arrested migrants:

- (053) The police ripped my deportation documents when they detained me.<sup>40</sup>
- (052) I only have my deportation papers, which I showed the judge, and [she/he]<sup>41</sup> said that it was going to be 24 hours.
- (020) The police arrested me because I did not have an identification, but I do, the one from the Casa del Migrante (Scalabrini), but they said it was not valid, that it wasn't good.
- (013) I had my deportation documents and the police took them from me, and they took me to jail for not having an identification.
- (080) I showed the police the identification from Casa del Migrante, and they told me it wasn't good, and up I go, the same with the judge.
- (079) I showed the judge the ID from Casa del Migrante, [she/he] saw it and didn't tell me anything, [she/he] gave me 24 hours.
- (063) I showed the police the identification from Casa del Migrante and they told me it was not valid, and they took me with the judge and I showed it and [she/he] said the same thing and gave me 10 hours (jail time).
- (071) I had a the American identification wristband and the police took it and detained me.
- (116) At the time when I was deported the police detained me, asked if I had an identification, and I did not, but I did have the wristband, but they didn't care and put me in the police car.
- (119) The police detained me because I did not have an identification, I explained to the judge, I showed my wristband, and [she/he] told me 'that is not valid,' and gave me 16 hours.
- (018) They arrested me because they said that the DIF identification was not valid, they took the 100 pesos that I had, and they took me to the judge who said my identification was expired and gave me 36 hours.

The study characterizes the pervasiveness of migrant arrests by Tijuana police as social performances that attempt to publicly demonstrate that the government is combating crime. Interviewed police agents are noted stating that they have daily quotas that they need to meet. Thus, migrants become raw material through which the state legitimizes itself not only to its citizens, but to the rest of the world as well, especially the U.S.

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<sup>40</sup> The quotes are numbered because this is how they appear in the study.

<sup>41</sup> I use [she/he] because in the quotes the gender of the judges mentioned is not marked.

The irony of the situation is noted as Mexican migrants in the U.S. are elevated to the status of heroes by Mexican politicians as remittances represent a very significant part of the Mexican economy. The study marks the contradiction of Mexico's behavior towards migrants: "In the U.S., immigration authorities detain undocumented Mexicans for not having 'papers'; in Tijuana city police detain repatriated migrants for 'not having identification documents'." It is noted that whereas the U.S. has immigration authorities and groups such as minutemen who control and criminalize migrants, Tijuana has the local police who perform as "migrant hunters." While the Mexican government presents itself indignant at the anti-Mexican migrant discourse and treatment in the U.S., "when the same migrant is classified as a deportee, the government forgets its discourse and becomes a violator of migrant rights."

The public availability of migrant bodies for arrest is generated through displacement, homelessness, and their need to search for resources and employment in the public sphere. The location of migrant shelters concentrates migrants in these spaces, which is accompanied with police presence, "Directors of the migrant shelter, Salvation Army, complain about the constant police presence outside of their location with the purpose of arresting migrants sheltered there: 'We have confronted the police to demand that they not take migrants' (Personal communication: Director of the Salvation Army Migrant Shelter: 2008)." The following discussion of a neighborhood in Tijuana where migrants are concentrated reinforces the study's premise that Tijuana local police function as an extension of U.S. immigration policy.

Colonia Postal is a busy neighborhood seated on top of one of Tijuana's many populated hills. The neighborhood is located approximately 1.5 miles south of the U.S.-

Mexico border. Remarkably significant in this space is the presence of two migrant shelters established by Scalabrinian missionaries whose objective is to provide social, cultural, and spiritual guidance and support to migrants.<sup>42</sup> Casa del Migrante (Casa), established in 1987, and Instituto Madre Assunta (Instituto), established in 1992, are two out of the six migrant shelters that exist in Tijuana. Casa provides temporary shelter and services to migrant men and Instituto was created to address the particular needs of migrant women and children. Although both shelters are located on a fairly quiet street, Calle Galileo, two blocks away from the main street, Avenida Defensores de Baja California (Avenida Defensores), their existence produces an effect that travels beyond their walls and even the boundaries of Colonia Postal. Migrant women recount time and time again finding themselves with nowhere to go and remembering stories they heard in the past of shelters dedicated to migrants. If they have money with them they can ask a taxi driver to take them to Casa del Migrante. However, in some cases women do not have the resources to pay a taxi and end up walking to the shelter, in some cases taking all day to arrive to their destination. There are instances where taxi drivers or other individuals offer to take them to the shelter free of charge and in other cases people along their way provide them with money to pay for bus fare. The widespread support of migrants and the knowledge of these shelters and their location highlight the significance that these two shelters have come to assume in this transnational city and beyond.

For six months I conducted research at Instituto Madre Assunta. I would walk across the U.S.-Mexico divide and board a bus that took me from the San Ysidro border

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<sup>42</sup> Members of the Congregation of the Missionaries of St. Charles, which are usually referred to as Scalabrinian missionaries, focus their work on providing support and guidance to migrants and refugees.



crossing to the corner of Calle Galileo and Avenida Defensores in Colonia Postal. During my two-block walks to and from the shelter, I witnessed migrant men waiting for employment at this main intersection, men talking about their migrations, and many migrants, men and women, walking along the streets with small bags of belongings.

In addition, I also witnessed police driving by with men handcuffed in the back of their trucks. The location of Casa Migrante and Instituto Madre Assunta concentrate migrants in this space and creates an acute perception of Colonia Postal as a migrant space. Migrant presence carries with it the meanings that are ideologically infused to the border and the migrant figure, including criminality. Beginning in the 1970s with the deployment of the U.S. War on Drugs, concerns over the border area increased for both the U.S. and Mexico. The border is increasingly imagined as a hub of criminality, including “illegal” border crossings and drug trafficking (Dunn 1996; Andreas 2000; Payan 2006). Efforts to control the border region are driven by the “law and order” logic that drives national and international politics, which in the border region centers on the militarization of the border as the ultimate response to these perceived threats. An effect of this response is the conflation of the migrant figure with crime. In addition to the ideological labor carried out in U.S. politics and media which present migrants as threats to the U.S. by portraying them as “drug traffickers,” “gangsters,” and “breeders,” the Mexican government also participates in the criminalization of migrants through its “law and order” response to the presence of migrants. Part of the response of the Mexican government to the presence of migrants in this space is by concentrating police in this area thereby contributing to migrant criminalization. Colonia Postal epitomizes the contradictions that migration poses for the Mexican nation-state. While actively

participating in the production of this migrant space by providing economic and institutional support for the creation of shelters such as Casa del Migrante and Instituto Madre Assunta, the constant *taking* of migrants (arresting and separating them from what is supposed to be a place of protection) by Tijuana police highlights how the government is also active in containing individuals present in this space whose bodies carry the border and all its meaning with them. Witnessing the *taking* of “migrant” men by local police revealed for me the Mexican government’s criminalization of and punitive response towards migrants. The construction of social irrecuperability of migrants in the U.S. carries into Mexico as state agencies, in this case the local police, re-criminalize and target migrants.

In the two previous chapters I discussed the role of the immigrant rights movement and the relationship between the state and individuals in disciplining and punishing women for performing an activity ideologically masculinized—migration. Following this thread, in this chapter I center the Tijuana police and its role in the gendered disciplining of migrant women. While the criminalization of migrant men is explicitly evident in their everyday arrests by Tijuana police, in the case of migrant women, it is more complicated to decipher how they are criminalized. Part of my objective is to understand how women experience border policing. In other words, if the migrant body being *taken* by Mexican authorities is predominantly male, how do women experience migrant criminalization in this space? Are they arrested, “like men,” or do they have particular gendered interactions with state authorities? What their experiences reveal is a contradiction that the Mexican government faces in responding to migration.

While Mexico benefits from migration and actively participates in generating and furthering these movements, it also participates and contends with the criminalization of the border and bodies that find themselves in the borderlands. By analyzing the experiences of migrant women at the Instituto I consider the role of the Mexican government in actively policing the border. The analysis is informed by Kelly Lytle-Hernandez's work which shifts the lens towards Mexico and its central role in shaping border policing. A significant part of the scholarship dedicated to the history of the militarization of the border, some of which I discuss throughout this work, tends to focus on the U.S. and its state representatives as originators of violence (Dunn 1996; Nevins 2002; Andreas 2000; Palafox 1996 and 2000; Palafox and Dunn 2000; Brownell 2001; Falcón 2001). In contrast, I focus on the Mexican side of the border, in particular Tijuana, and consider Mexico's predicament as it attempts to police its northern border while being faced with demands to protect one of its most marginalized populations—migrant women.

What the analysis reveals is that Mexico's predicament is shaped by the liminality of the border. While the border forms part of the domestic sphere since it defines the limits of the territorial nation, it also forms part of the international public sphere as it is the space where Mexico negotiates its relationship to the world in general and to the U.S. in particular. The liminality of the border constructs this space as a "historiographic surface," which, according to political theorist Allen Feldman "is a place for reenactment, for the simulation of power and for making power tangible as a material force" (2). The U.S.-Mexico border is a space where history is written, particularly by and through the bodies of migrants. The narrative afforded by Mexico is the protection of the feminized

domestic sphere while the public sphere is written as the space of rationality where “free-choice” and “personal responsibility” governs. Migrant women who transgress the boundaries of heteronormativity, for example, by migrating—moving from the private to the public—are often made responsible for what happens while they inhabit this space. The stories of migrant women reveal that the nation-state is involved in reinforcing heteronormative relations between individuals and the nation. Furthermore, the Mexican government’s punitive response to migrants makes it a participant in the construction of migrants as criminals as it responds to the border through increased policing and militarization, further naturalizing violence against migrant bodies. By participating in the criminalization and containment of migrant bodies, the Mexican government operates as an extension of U.S. immigration control practices that constitute migrant women as violable. These practices speak to the institutionalization of violence that is performed by both states to police national borders and reflect some of the ways that criminalization is used to organize global racialized relationships of power.

### **Roadmap**

Historically Mexico has not engaged the issue of migration in a singular way (Clark-Alfaro 2008). Its development and positioning in the global political-economic field, especially its relationship to the United States, has influenced Mexico’s internal response to migration (Gonzalez Gutierrez 2006; Delgado Wise and Márquez 2005; Vila Freyer 2007; Gonzalez Ortiz and Rivera Sanchez 2004; Imaz Bayona 2003). I begin this chapter with a discussion of Mexico’s relationship to the U.S. in terms of border control and highlight Mexico’s active participation in the criminalization of the border and of migrants. I then shift the analytical lens to Colonia Postal in Tijuana, Mexico and to the

experiences of migrant women who inhabit this space. I highlight the contradictory responses that the Mexican government offers migrants and how the gendered criminalization of the border that is mapped onto migrant bodies results in making local police authorities function as an extension of U.S. border control. I conclude by discussing how the developing relationship between the U.S. and Mexico to “secure” the border results in the institutionalization of violence performed by both states to police national borders and how the notion of criminality that is used to organize relationships of power is not limited to the nation but extends beyond its borders, highlighting how the U.S. construction of migrant women as irrecuperable subjects has transnational implications.

### **State Violence Beyond the Nation-State**

Mexican and U.S. histories are necessarily interrelated, and contradictorily embedded in conflict and collaboration. This relationship is especially marked by the U.S.-Mexican war of 1846 which ended in 1848 with the signing of the Treaty of Guadalupe Hidalgo. The treaty granted the U.S. over 500,000 square miles of Mexican territory. It is at this moment that what we now know as the U.S.-Mexico border takes physical shape. The establishment of national borders creates the possibility for their control, implicating bordering nations in a bilateral negotiation of what “control” will look like. While migration control along the U.S.-Mexico border is mainly regarded as actions performed by the U.S., Mexico possesses a vital role in this process (Lytle-Hernandez 2006).

Mexico has a long and active history of intervention in matters of migration. Mexican migration scholars Raul Delgado Wise and Humberto Marquez Covarrubias

(2005) cite Jorge Durand's chronology of Mexican migration policies, which underscores Mexico as an active border policing agent. Durand's chronology is divided into the following:

- i) 1910-1940, a time period when migration is conceived negatively and thus attempts to dissuade it are made; ii) 1942-1964, migration as a bilateral negotiation through the Bracero Program; iii) 1964-1986, the politics of no politics shaped by the criminalization of migration; iv) 1987-2000, a politics of attention and closeness towards migrants given the visibility of the phenomenon, and v) 2000 onward, the failed attempt to negotiate a migrant agenda and continued politics of attention and closeness. (14)

Whereas Durand extends the third phase to 1990, Wise and Covarrubias limit it to 1986 to recognize the impact of the passing in the U.S. of the Immigration Reform and Control Act (IRCA) and to account for neoliberal politics that shaped the economic integration of Mexico and the U.S. since this time period.<sup>43</sup> Although this overarching chronology underscores the actions of the Mexican government in shaping emigration, this reading needs to be complicated to account for Mexico's paradoxical behavior towards emigration within and across these different eras. While appraising this entire history is outside of the scope of this chapter, U.S. historian Kelly Lytle-Hernandez (2006) provides a reading of one of these key moments, 1940-1954, and highlights the contradictory, and in this case punitive, nature of the Mexican government's politics towards emigration. She centers the bilateral collaboration of border policing that the

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<sup>43</sup> The third era, the politics of no politics, is challenged by Cecilia Imaz Bayona, who notes that traditionally, Mexico has exerted a politics of protection to its nationals abroad, and although there were no policies to curtail migration to the U.S., between 1965-1976, following the termination of the Bracero Program, the Mexican government decided to develop the border area through assembling plants (maquiladoras) as a way to absorb returning migrant labor (9), to prevent potential emigration, and to give job opportunities to the border area that remained separate from the rest of the country (14), "La Relación Política del Estado Mexicano Con Su Diáspora en Estados Unidos," in *Migración y Desarrollo* [http://meme.phpwebhosting.com/~migracion/ponencias/15\\_1.pdf](http://meme.phpwebhosting.com/~migracion/ponencias/15_1.pdf) (February 24, 2009).

U.S. and Mexico participate in, revealing Mexico as a dynamic actor that shaped how the U.S.-Mexico border is domesticated. Her work provides the framework to think through the contemporary relationship between Mexico and the U.S. in terms of border policing.

Lytle-Hernandez provides a critical re-examination of the 1954 Operation Wetback which is credited for the deportation of over one million people. She demonstrates that unlike conventional narrations of this moment, Operation Wetback was ten years in the making and Mexico, beyond being a simple collaborator, was actively policing the border to prevent emigration. In contrast to Durand's chronology, Mexico's attempts to prevent emigration continued throughout the 1940s and into the 1950s. Lytle-Hernandez argues that Mexico had for many decades attempted to prevent emigration to the United States. She notes that after the end of the Mexican Revolution in 1917, the new Constitution allowed for transnational migration. However, it required that every Mexican national secure a labor contract before migrating. According to Lytle-Hernandez:

This administrative restriction rendered legal labor migration of Mexican workers to the United States virtually impossible, because U. S. law prohibited offering contracts to foreign laborers before they entered the United States. For poor Mexicans, therefore, labor migration to the United States was often a crime south of the border just as their inability to pay U. S. immigration fees and/or pass literacy exams often forced them to surreptitiously cross the border in violation of U. S. immigration law. (pars. 5)

Lytle-Hernandez highlights an important aspect of Mexico's role in the criminalization of Mexican migrants. Not only was migration criminalized by the U.S., but in this instance, the Mexican Constitution explicitly criminalized its emigrant nationals. In addition to this

Constitutional effort, the Mexican government performed other actions to prevent emigration, including establishing migration stations along busy border-crossing points.

While Mexican emigration decreased during the Great Depression, in part caused by the massive deportations that the U.S. government carried out during this time period, World War II reinvigorated the demand for Mexican labor. Again, the Mexican government attempted to limit the emigration of its nationals. According to Lytle-Hernandez, the rationale was two-pronged. First, emigration generated shame for Mexico since it exposed the failure of the Mexican Revolution. Second, it drained the country of one of its most valuable resource—cheap and flexible labor. Thus, while Mexico did agree to enter into a bilateral labor negotiation with the United States, the Bracero Program, Lytle-Hernandez reads this as an attempt by the Mexican government to exert more control over emigration. This guest worker program consisted of an arrangement between the U.S. and Mexican governments in which Mexican nationals were recruited to work in the U.S. and in turn the U.S. agreed to implement protections for Braceros. The program not only enabled the official recruitment of Mexican laborers, but it also generated a stream of undocumented migration produced in part through the relations that Braceros created in the U.S.<sup>44</sup>

The Mexican government received pressure from various sectors of the country, especially businessmen who were losing Mexican laborers due to emigration. “The Mexican government responded to these demands by improving the enforcement of its own emigration laws and used the Bracero Program as an opportunity to negotiate the

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<sup>44</sup> Also see Kitty Calavita’s *Inside the State: The Bracero Program, Immigration, and the I.N.S.* (New York: Routledge, 1992) for further discussion on how the Bracero Program helped institutionalize Mexican migrant labor into the U.S. labor economy.



deportation of illegal Mexican labor out of the United States” (pars. 10). In addition, the Mexican government demanded that the U.S. enhance border control and deport unauthorized Mexican nationals. Lytle-Hernandez notes that “These demands for improved control over unsanctioned entry into the United States linked the U. S. Border Patrol directly to the Bracero Program” (pars. 11). The U.S. government responded by increasing personnel at the border. This is significant because, according to Lytle-Hernandez, “Prior to 1943, more U. S. Border Patrol officers worked along the northern border than along the southern. However, the majority of new officers hired after 1943 were assigned to stations along the U. S.-Mexico border” (pars. 12).<sup>45</sup> In other words, Mexico’s demands contributed to shifting the United States’ attention towards its southern border. In order to exert pressure on the U.S., the Mexican government threatened a complete revision of the Bracero Program agreements. The U.S. Border Patrol responded by setting out “Special Mexican Deportation Parties” formed to detain and deport undocumented Mexicans. These examples highlight how the Mexican government shaped U.S. border control logic and policies that centered on Mexican nationals. As the numbers of deportees increased, the U.S. and Mexican governments arranged to collaborate on the deportation of undocumented Mexican nationals, setting up ports of delivery where the U.S. Border Patrol delivered deportees into the hands of Mexican immigration officials who in turn transported them to the interior, in many cases far away from their home states.

Lytle-Hernandez writes:

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<sup>45</sup> Lytle-Hernandez cites Richard Tait Jarnagin’s, “The Effect of Increased Illegal Mexican Migration upon the Organization and Operations of the United States Immigration Border Patrol, Southwest Region” (PhD diss., University of Southern California, 1957), 90.

Although police practice is defined as a site of state violence that is limited by the boundaries of the nation-state, the cross-border policing of migrants linked the distinct territories of U. S. and Mexican police authority...With cross-border collaboration...U.S. and Mexican officers were able to transform the line that marked the limits of their jurisdictions into a bridge that linked rather than divided the two distinct systems of migration control. Upon that bridge the consequences for unsanctioned border crossing were merged. No longer were the detentions and dislocations that accompanied migration control isolated within one nation or territory. In the United States, those identified as illegal immigrants were subject to surveillance, detention, and deportation. In Mexico, they would face the disruptions and anxieties of forced dislocation to unfamiliar places. In each location, however, the consequences of having committed the symbiotic crimes of unsanctioned emigration and undocumented immigration were bound together through the collaborative practices of U. S.-Mexican migration control. (pars. 21)

This binational relationship of border control generated new forms of policing and enabled “coordinating state violence beyond the limits of the nation-state.” This reading that Lytle-Hernandez affords of the period leading up to Operation Wetback not only disrupts the understanding of the 1942-1954 era as an time of collaboration defined through the Bracero Program, but it demonstrates Mexico’s active participation in the criminalization of Mexican migrants.

Expanding on Lytle-Hernandez’s framework of considering Mexico as an active agent in the criminalization of the border and of Mexican migrants, in the following section I consider the ways that gender informs the Mexican nation-state’s response to migrants. I now turn to discuss the experiences of migrants in the Tijuana border space, which highlight how Mexico’s policies serve to discipline migrant women while also collaborating with the U.S. in racializing migrants as criminals and engaging in the process that Lytle-Hernandez describes as “coordinating state violence beyond the limits of the nation-state.”

### **Domesticating Migrant Bodies**

The police come by once in the morning and once in the afternoon. Sometimes we can get away. I've been taken a few times. They probably think I'm selling drugs or something because they see me all tattooed. They need to meet their quota to show that they're doing their job. If we don't have an identification they take us in and we either have to pay a fine or they keep us for up to seventy-two hours. I had one from the shelter at the beginning but it's only good for the first few days. I don't know what the shelter did that for a while the cops couldn't come by here and pick up people like that, but they started doing it again. It's all about the money. I was deported five months ago and I've tried crossing five different times. One time I tried to cross through Arizona and I was put in immigration detention for a few weeks. I'm going to try again this weekend...we'll see how it goes. I need to get back because I have my four little girls over there. I'm not with my babies' mom but I don't ask them for anything because I don't want to take anything away from my girls. It's hard to get a job here. They ask for references, which I can't give them and they look at you all dirty and they don't want to give you a job. People used to come by and pick up groups of people to go work, but since the cops started rounding people up they almost don't come no more...once in a while. We eat mostly bread because a Christian brother comes by every Tuesday night with a bunch of bread for people here. Some of it is good. Sometimes we eat because we wash cars and get some money that way.

Javier, undocumented migrant in Tijuana, June 10, 2009

Javier is an undocumented migrant who spends most of his time in the Colonia Postal while he tries to make it back to Oxnard, California, his hometown where his family is located. The police harassment that Javier exposes is a common phenomenon in Colonia Postal where Casa Migrante and Instituto Madre Assunta are located. During one of my visits to the Instituto Madre Assunta, Leti, an eight year-old girl staying at the shelter with her mother and sister, spent much of her time looking out the shelter's gate. Leti entered the garage/meeting room where some of us were sitting and approached her mother, "Look Mami, they are taking them again. They are picking them all up. Poor

things.” When I asked Leti who was being taken she responded, “The police are outside picking up the men. They come a lot and take them away.”

During another visit to the shelter I met Ilea, Ilea’s mother-in-law Ana, and Juan, Ilea’s fifteen year old son. They attempted to cross the border with Ilea’s husband, David, but the entire group was caught, with the exception of the person leading them. David was arrested by the border patrol and accused of human trafficking. Everyone but David was deported and the family had no way of communicating with him. Juan was fifteen at the time but looked older and Sister Orilla, the shelter’s director, informed them that the shelter was for migrant women and children and Juan could only stay for a couple of days.

Ana and Juan related their story and their encounter with Tijuana police. Ilea left to work cleaning a house and Ana and Juan left to wash clothes at a local laundromat. Juan sat down on the sidewalk, drinking a soda while waiting outside. Two policemen walked up to Juan and asked him for his identification. Juan answered back saying no, that he was not doing anything wrong. The police told him to go with them and started to grab him from his shirt. Juan yelled for his grandmother and Ana ran outside. She yelled at them not to take him, that he was her grandson. The police responded yelling at her that it was not true and continued to pull him towards the police truck. The ordeal went on for a few moments until Ana realized that Juan had her wallet and she took it from him to show the police her identification. They hesitantly let Juan go. After that event Ana and Juan decided not to go outside the shelter unless it was absolutely necessary.

Javier’s and Ilea’s and Juan’s stories reveal that policing and arrests by Tijuana police are deliberately directed toward migrant bodies. Often, migrants attempt to avoid

being identified by the border patrol by traveling without identification. Also, several migrant women reported that the border patrol did not return their belongings when they were deported, leaving them without identification. Thus, the police's insistence that migrants show their identification when they are aware that more than likely they will not have it with them illustrates a deliberate attempt to detain migrants. Similar to the U.S., a key response offered by the Mexican state to manage the phenomena of mass deportations is policing and incarceration of migrants.

For Mexican migrants, being marked "criminal" remains with them even when they are in their country of origin. This migrant criminalization extends to Tijuana residents when they are also harassed by the police because they "look" transient, which attests to the generalized criminalization of this borderland space. At the time of this research arrested deportees were often put to work on local city projects. This is reminiscent of U.S. Black codes as those arrested are then made to provide free labor.

The criminalization experienced by migrants is not uniform; rather, it is very much gendered. Part of the ability to target migrants is related to the physical access Tijuana police are able to secure over migrant bodies. At Instituto Madre Assunta migrant women and children are allowed to stay throughout the day. In the case of migrant men at Casa del Migrante, they are allowed to spend the night but have to leave the shelter early in the morning. Thus, gendered ideas of femininity afford migrant women a level of protection that is not extended to migrant men. Ana and Juan's decision to remain inside the gates of the shelter for the rest of their stay highlights this fact. However, for Juan, his physical appearance—looking older than his age—and his gender limited the protection

the shelter extends to him and his family since the director informed them that he could only stay a couple of days.

For migrant women, the response by Mexican police is a series of contradictions. In some cases, the status of being a woman affords some insulation from becoming targets of the local police. Several of the women at the shelter were directed, and in some cases driven to the shelter by Tijuana police. According to the shelter's social worker, men do not receive similar attention but are more often left to find their own way to shelters either through Grupo Beta<sup>46</sup> or through other means. However, in other cases, similar to men, migrant women face arrest, a form of state control that is enabled by people's status as migrants. In other words, women face arrest for performing an action that is thought of as traditionally performed by men—migration. In both cases, the police serves as a disciplining mechanism that regulates gender norms, either by providing a form of protection to women that is often not afforded to men, or by treating women “like men” by arresting them.

During one of my visits to Instituto Madre Assunta a group of three migrant women arrived, Cici and Lorna, who previously spent time at the shelter, and Vicky. The group arrived at the Instituto with hopes of obtaining assistance for Vicky. Cici was imprisoned in Central California Women's Facility (CCWF) and during her imprisonment she met Vicky, although they never spoke to each other while inside. Cici was deported and secured a place to live in Tijuana. During a trip to Tijuana's downtown she came across Vicky, “As soon as I saw her I remembered her from prison. She never

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<sup>46</sup> Grupo Beta de Proteccion al Migrante was established in 1990 with the purpose of protecting migrants' human rights and to save the lives of migrants crossing the border, Instituto Nacional de Migracion, *Grupo Beta de Proteccion a Migrantes*, [http://www.inami.gob.mx/index.php?page/Grupo\\_Beta\\_de\\_Proteccion\\_a\\_Migrantes](http://www.inami.gob.mx/index.php?page/Grupo_Beta_de_Proteccion_a_Migrantes) (November 2009).

spoke and always kept to herself. When I saw her she was so dirty. I could tell she was living on the street. I took her home with me to see what I could do for her. I wasn't going to leave her out on the street." Vicky is a woman in her mid-fifties born in Los Angeles, California. For years she used drugs, which led to her incarceration. She has a difficult time communicating, both in English and Spanish. There was a misunderstanding over her citizenship and she was deported to Mexico, "I am going to court hearings about my citizenship. I don't have an id so I got deported. I need an id to go to court." She was in the process of trying to obtain identification to deal with her deportation case. She also noted the importance of her identification to deal with Mexican police, "I need an identification because the police. They stop me all the time and ask me 'Are you selling drugs? Are you using drugs?' Water is hard to find here in Tijuana so the police see you dirty and they pick you up." Vicky's story reveals how racialization of migration shapes border control. Although Vicky asserted her U.S. citizenship to ICE agents, her lack of "proper" documentation, her racialization as Mexican, her criminalized appearance, and her difficulty in communicating in either English or Spanish led to her deportation. Her gendered criminalization continued in Tijuana. In addition to being unable to remain clean which marks her as transient, her manner of dress signals masculinity. She wore brown baggy shorts below her knee, a beige t-shirt, white socks and tennis shoes, and her body is marked by old faded tattoos. The police harassment described by Vicky reveals how women who transgress the boundaries of heteronormativity are targeted for disciplining. Her forced migrant status made her vulnerable to the violence experienced in the borderland, including having to live on the streets, which merged with her masculinized appearance and resulted in her arrests. In

this case, the Tijuana police's harassment of Vicky served to discipline and punish Vicky for performing masculinity.

Alma's story, which I discussed in chapter three, "Reinforcing Boundaries," also reveals how the Tijuana police are involved in disciplining migrant women into femininity. Alma was imprisoned in the U.S. for five years and then deported to Mexico. Alma's narrative highlights how the police are involved in disciplining women into normative gender roles. Alma wrote of her experiences in a letter, including her deportation. In discussing the moment when she was deported, she wrote:

I walked across the rails and walked towards where the taxis were at. I was putting the laces on my shoes because in immigration detention they take them off. I didn't know where to go. I was thinking, when a Mexican police woman told me, "What are you doing mami?" In that instant she grabbed me and put handcuffs on me. I could not believe it. "This cannot be happening." She put me in a truck full of drunk homeless men and it smelled horrible in there. She took us to the police station and they lined us up there. We were in front of a man's office where we were going to get a fine for not having an id with a picture. I showed him my paperwork for my deportation and he let me go. I left there around 10a.m. and I asked for directions to downtown.

During a conversation Alma discussed her deportation and subsequent arrest, "The night that I arrived here, thank God that I was picked up by the police. What if I was taken by a couple of, a couple of bad men?...I was deported at three in the morning...I don't know why they don't put a better time. Really...I would really like Mexico...okay, they are going to deport my people, but you know what, deport them in the morning. Why do they have to throw us out exactly at midnight? one in the morning? three in the morning? Why?" Alma's arrest was directly correlated to her status as a migrant given the fact that Alma was arrested at three in the morning near the border crossing and was putting her laces on her shoes; it is common knowledge that while in immigration detention



migrants' shoe laces are removed for safety. Arresting Alma was a punitive act since she was not even asked for identification. At the same time, Alma being thankful for her arrest highlights some of the challenges migrants face at the border. While her arrest is a violent act in and of itself, the fact that individuals with a badge can take a person away at any moment for any reason, Alma perceived it as the lesser of evils since not being arrested resulted in facing potential danger by other individuals. Alma's narrative reveals how one state action (her deportation) enables another state action (her arrest), illustrating the punitive nature of official (deportation) and unofficial (arrest of migrants in Mexico) immigration control policies.

Alma's appearance also contributed to her arrest. When undocumented people in prison are released, they are not given the new clothes, shoes, or the two-hundred dollars that citizens are provided. Instead, Alma was deported in her prison clothes, which consisted of baggy light blue denim jeans, a large gray t-shirt, and tennis shoes. Alma had her hair shaved from the bottom half and in a tight pony tail. Her masculinized appearance contributed to her arrest. Alma was very aware of how her appearance transgressed social norms of femininity, and attempted to fit herself into these norms, "When I was going to get out I started letting my hair grow, because I said, 'I am going outside to a society'...I have my daughter. But I would shave all of this [signaling the lower half of her head]". When I asked Alma about the possibility of returning to the U.S., she responded: "I don't want to go back just like that. Right now if they [border patrol] pick me up this nervous...Look how I am [noting her shaking hands]. No, besides, I want my hair to grow out for my daughter." Alma was aware that her appearance marked her as socially deviant and attempted to gain social acceptance by trying to

change her appearance. However, her hair did not grow out soon enough and her prison clothes further marked her as deviant, which figured into her arrest. The arresting police woman's comment, "What are you doing, *mami*?", served to re-signify Alma as female, which underscores how her arrest essentially performed as a disciplining act.

In both Vicky's and Alma's cases, their masculinized appearance played a central role in their interactions with Tijuana police. In Alma's case, she attempted to discipline her body into femininity even before being deported but was unable to, ideologically enabling the police to take on the role of disciplining her into heteronormativity.

In a different case, Nora, a forty-three year old migrant woman made use of her femininity in attempts to secure the safety of her husband. The couple migrated to Tijuana in hopes of crossing the border. She was three months pregnant but miscarried during one of the attempts to cross the border. Her husband stayed at Casa del Migrante while she stayed at Instituto Madre Assunta. While Nora remained mostly inside the shelter, her husband spent most of his time on the street looking for work. In the case of migrant women, in addition to temporary housing, they are provided with three meals a day. In contrast, migrant men receive one meal in the evening and have to find their own means to food throughout the day. When possible, Nora would give some of her food to her husband.<sup>47</sup> Through a government rent subsidy program Nora received approximately one-hundred and thirty dollars to rent a place to live. They moved to their new place but they still intended to cross the border. A few weeks after the couple left I ran into Nora on the street near the shelter. By that time her husband worked at a furniture store on the

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<sup>47</sup> Throughout the time I visited Instituto Madre Assunta I witnessed on several occasions women covertly place food from their plates into plastic bags and later deliver them to their partners outside of the shelter.

corner of Calle Galileo and Avenida Defensores as a mover and she accompanied him to work. Nora did not get paid but she accompanied him anyway because within the time period they had spent in Tijuana he had already been stopped by the police during eight different occasions and arrested three times for not having identification with him. She hoped that her presence would provide her husband some protection from further police harassment.

Nora's story highlight how gender shapes migrant experiences. Nora was allowed to stay in the shelter and provided food. In contrast, her husband was made vulnerable to the violence of the borderlands, which included sometimes going hungry and being taken by the local police. Nora decided to accompany her husband to his work, essentially using her feminized body in order to afford him some level of protection. It highlights the ways that migrants creatively make use of what resources are available to secure their well-being and that of others. In essence, Nora subverts heteronormative ideas of gender by taking her feminine body into public space and providing a level of safety to her husband who is outside of feminized domestic protection.

Stories of women using notions of femininity to provide some protection to migrant men are not uncommon. Reyna was imprisoned for five years in Central California Women's Facility. Linda attempted to cross the border through the Nogales border-crossing and was given a seventy-five day sentence for attempting to cross the border undocumented and she was sent to the Federal Correctional Institution in Dublin, California. Both were deported to Tijuana around the same time and met at the Instituto Madre Assunta. While outside of the gates of the shelter, Reyna and Linda observed as

the police arrested several migrant men and questioned the police's actions. Linda narrates,

We started to tell them, 'Why are you taking them? They are not doing anything! They don't do anything to anyone.' And they told us that the men were disturbing the public and to shut up or they'd take us too. I told them that we are running away from those racists over there but they are worse because they are treating their own people like that. Now we have to run from them too. They are more racist. Then the police started to leave and Reyna tells me so that they can hear, 'Leave them alone already, can't you see that they need the money for their lunch.' And the police come back and tell her to get on the truck and she asks them, 'Why aren't you taking her too? She was telling you things as well!', and the police tell her, 'Yeah but you said we needed money for lunch. Now for that you are going with them,' and they took her too. Later in the day Reyna arrives outside singing, 'I've arrived from where I was'.

Linda marks an important connection between U.S. authorities and Tijuana police in the treatment that they afford to migrants. She notes that not only do migrants have to run from U.S. authorities, but they have to run from Mexican police as well, and she claims that these are both forms of racism. This is important in that she marks the capturing of migrants on both sides of the border as essentially forming part of the same large structure of racism. Tijuana police, similar to U.S. authorities, contribute to the racialization of migrants as criminal. As Linda notes, this racialization is gendered.

While Reyna and Linda were both on the street, similar to the migrant men arrested by the police, they were not arrested. It is not until Reyna and Linda confront the police in efforts to defend the migrant men that they became targets. The police attempted to discipline both women by warning them to "shut up" or they would also be taken. While both women defy the police's disciplining of them into feminized silence, it is when Reyna disrupts their legitimacy by marking their actions as corrupt that she is arrested.

I observed a similar situation with Noemi, a migrant woman who had attempted to cross the border on three different occasions. Noemi befriended one of the migrant men outside of the shelter. A group of us observed as the police rounded migrant men and ordered them on the police truck. Noemi rushed to the shelter's gate and told them, "Don't take him! He's my husband and we have to leave to Mexicali in a little while. Let him go!" The police responded, "We'll let him go at the station, but right now we have to take him." About thirty minutes later Noemi's friend arrived at the gates and we heard him call out, "Noemi, they let me go! I'm here already." According to Noemi, her friend told her that he was let go at the police station immediately because of her conversation with the police officer. In this case, Noemi's use of her status as "his wife" ensured that he would not spend the usual amount of time in jail that men in his situation usually do.

While in Nora's, Linda's and Reyna's, and Noemi's cases they attempted to make use of notions of femininity to secure the protection of migrant men. For women, their feminized bodies are often what make them the targets of violence. Ofelia is a young Mexican migrant woman. During one of the times she tried to cross the border through Mexicali the guides told the group to get into a water canal and stay under a palm tree. The water reached up to their chin and they were left there about sixteen hours until the border patrol left and the guides told them to get out and start walking. They were eventually caught by the border patrol and deported. In another one of Ofelia's attempted crossings she was told by the guide that if they were caught, to say that he was her husband so that he would not be accused of smuggling. She agreed, she noted, because she knew that if he was tried the entire group could be detained until his trial. According to Ofelia, the trial could take up to three months. The group was composed of several

men, Ofelia, and Susana, a sixteen year old girl. They were spotted and detained by the border patrol. Susana was ordered by one of the border patrol agents to undress Gustavo, a migrant man who was assumed to be the guide. Antonio, another migrant, offered himself instead but the border patrol insisted that Susana undress Gustavo. Ofelia stated that Susana was traumatized from this experience and did not want to know anything else about crossing the border. The group was taken into custody by the border patrol and they gave their official declarations which were to be used in the trial against the guide. Unlike in most cases where migrants are transported on bus to the San Ysidro border and released into Mexico, Ofelia and two of the men were taken and transferred directly from the border patrol into the hands of Mexican police and driven to the police station in Tijuana to have their declarations taken again. The ordeal ended at two in the morning and they were told they could leave. The group asked to stay in the police station given the time and the danger they may face on the streets. Instead, they were told “This is not a shelter and that is not our problem. You have to leave.” Ofelia, who had met the two men during the trip, was forced to leave with them. The two men had a distant uncle in Tijuana so they called their mother and obtained his number. They then called their uncle and took a taxi to his house. The following day she was taken to the shelter.

There are several significant factors to be noted in Ofelia’s narrative. In addition to Ofelia, several migrant women at the shelter related how border-crossing guides instructed them that if caught, to state that they were a married couple. If successful, performing heteronormativity affords the guides protection from being prosecuted for human trafficking. However, migrant women transgress the boundaries of heteronormativity when they migrate, especially if they migrate alone. The border

patrol's action of having Susana undress the guide functions as a violent sexual act, inflicting a trauma that leads Susana to decide not to cross the border, essentially disciplining her into femininity by deciding to not migrate. Sexual violence thus functions as a tool for immigration control by deterring women from migrating and punishing those that do. In Ofelia's case, she is further exposed to violence by the Mexican police who send her away in the middle of the night with two strangers into the streets. Fortunately for Ofelia and the two men, they were able to secure a safe place to stay. Finally, Ofelia's story exposes one of the ways that the Mexican state, in this case the police, is involved in the management of migrant bodies and labors to police migration into the U.S. The fact that the U.S. Border Patrol handed Ofelia and the two men directly into the hands of Mexican police to take down their declarations, in effect making Mexican police a participant in a U.S. criminal investigation, constructs the Mexican police as an extension of the U.S. border patrol. Ofelia's story signifies the gendered bilateral labor carried out to "secure" the U.S.-Mexico border.

I share a final story to highlight the relationship of collaboration that the U.S. and Mexico have formed to control migration at the border. I met Gabriela at Instituto Madre Assunta. She is in her early twenties and a migrant from the Mexican state of Michoacán. She attempted to cross the border on two different occasions and planned to try again. The following week as I returned to the shelter I walked through the turnstiles that serve as the U.S.-Mexico divide. On the right was a parked border patrol bus and several migrants lined up against the wall. On the Mexican side of the border a Grupo Beta member called out their names one by one and directed them towards the Grupo Beta station. I caught a glimpse of a person that looked like Gabriela but I was unable to call to

her because she entered the station. A while after I arrived at the shelter Gabriela was dropped off by Grupo Beta and she entered the shelter, returning from an unsuccessful border-crossing attempt. Gabriela's story demonstrates the relationship of collaboration that Mexico and the U.S. have formed on the issue of migration. Although Grupo Beta was established to protect migrants' human rights, in this case the protection migrants are afforded is part of the deportation process.

### **Conclusion**

In this chapter I centered on Colonia Postal, a predominantly migrant space in the border-city of Tijuana, Mexico, and on the gendered criminalization of migrants. The analysis of this space reveals the conflicting relationship that the Mexican government shares with migrants. While the Mexican government responds to the needs of migrants, for example, by providing support for migrant shelters such as Instituto Madre Assunta and Casa del Migrante and the creation of government bodies such as Grupo Beta, it also contributes to the criminalization of migrants by concentrating police in this migrant space. The strategies of policing employed by local authorities are directly related to migration control. Asking for identification and targeting individuals who "look" transient make migrants direct targets for police harassment and arrest. Women who perform masculinity are targeted and punished "like men," revealing how heteropatriarchal policing serves to discipline their bodies. Finally, the collaboration between the local Mexican authorities and the U.S. border patrol speak to the phenomenon of "coordinating state violence beyond the limits of the nation-state" that Kelly Lytle-Hernandez argues developed between Mexico and the U.S. to secure the interests of both nations.



Chapters one through five focused on understanding formations of violence that are gendered and racialized and that result in criminalizing and disciplining migrant women. Relationships between the state, advocates, and individuals develop which result in violence against migrant women that participates in separating their productive from their reproductive labor. The following chapter is taken as an opportunity for self-reflection and considers some of the ways that even the most radical spaces can contribute to these violent formations. It provides a critique of advocacy work within prison abolition and suggests re-thinking of this work that at various moments participates in passing judgment over who deserves and who does not deserve being advocated for.

## Chapter 6.

### **Working toward Freedom: Displacing the Confession and Offering Testimony; A Theoretical Consideration of and for Prison Abolition**

Prison abolition is not a new phenomenon. In the U.S. it has its roots in the movement to end slavery and other forms of unfreedom, such as segregation.<sup>48</sup> During the 1970s critiques of prisons as sites of repression flourished as incarceration rates increased. The growth in the number of political prisoners highlighted the repressive nature of prisons, which ignited demands for reform, and in some cases, bringing to an end the system of imprisonment. Prison abolition efforts waned for a time. *Critical Resistance: Beyond the Prison Industrial Complex*, a conference held at Berkeley, California in September of 1998 brought together over 3,500 people to engage in a dialogue around the issue of prisons. The conference provided a critique of the U.S. prison system as a profit-driven hybrid of public and private interests that targeted poor communities of color for imprisonment, calling this the Prison Industrial Complex (PIC). The conference served to re-invigorate prison abolition efforts nationwide. This includes the creation of several prison abolitionist organizations, including Critical Resistance (CR), which inherited its name from the conference.

The analysis provided by the *CR* conference was appropriated by youth in 2000 and used to organize against California's Proposition 21, the "Gang Violence and Juvenile Crime Prevention" initiative that was on the March ballot of that year. Prop. 21 expanded the criminal justice system's reach into communities of color by intensifying

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<sup>48</sup> For a discussion of the notion of unfreedom and the connections between slavery and prisons, see Kim Gilmore's "Slavery and Prison—Understanding the Connections," in *Social Justice* 27 no. 3 (2000): 195-205.

the criminalization of youth of color as gang members. Anti-prop. 21 organizing highlighted how the energy of the *CR* conference of 1998 transcended its three-day trajectory. Employing the critique of the conference, in particular the notion of the PIC, youth across California waged the “Schools Not Jails” campaign against Prop. 21 and demanded that resources be invested into the education of youth rather than in their incarceration. As a student activist, the “Schools Not Jails” campaign of 2000 was my introduction to prison abolition, which I continue to be involved in as an activist-scholar. My participation with Critical Resistance, an internship with Justice Now in the summer of 2004, and my membership in the California Coalition for Women Prisoners (CCWP), all prison abolitionist organizations, provides me with insight into some of the dilemmas prison abolitionists face.

This dissertation has centered on examining how various actors participate in the criminalization of migrant women and how these processes makes this group vulnerable to various forms of violence. The fundamental concern is to find ways to end violence against women of color and our communities. In this chapter I consider some of the ways that the advocacy work of the prison abolition movement, under the charge of bringing relief to people in prison, can result in additional violence against people in prison. I hold on to the vision of freedom provided by prison abolition and provide a possible method for addressing one of the areas where violence is experienced—“confession.”

In this chapter I shift the analytical lens towards the prison abolition movement and in particular my experiences in it. Specifically, my involvement with the CCWP’s Compañeras Project which I analyze using critical reflection. I provide a theoretical analysis of the use of Michel Foucault’s (1990; 1995; 2003) notion of “confession” in

prison abolitionist efforts in order to provide a critique of the ways that these efforts can unintentionally participate in perpetuating violence against people in prison. Under the governing logic, people convicted of a crime are assumed guilty because they either confessed to their crimes or the evidence “confessed” for them. The confession is extremely powerful because the individual partakes in marking themselves “criminal,” and thus, irrecuperable. Understanding the work that the confession performs and the ways that individuals participate in extracting these confessions provides a critique of prison abolition efforts as well as different directions we can take.

Although here I discuss confession in the realm of prison abolition, Foucault does not delimit the definition of “confession” to acts of wrong-doing, but instead, he discusses the act of confession as an interpretation of the body, what he terms “hermeneutics of the self.” According to Foucault, confession, rather than being a disclosure of the self, discursively constitutes the self by speaking their inner feelings, desires, thoughts, etcetera, which are in turn interpreted. That interpretation is then used to fix that body into an essential self by grouping together that body’s sensations into a “domain of knowledge,” in essence objectifying the body. Once objectified and fixed into an essential self, the body can then be arranged according to its positioning on the grade of normality, which is the location where power is exercised. Through political philosopher Chloe Taylor’s *The Culture of Confession from Augustine to Foucault: A Genealogy of the ‘Confessing Animal’* (2008), I consider Michel Foucault’s critique of “confession” and examine how some prison abolitionist efforts participate in acts of confessions, in effect partaking in exercising power over imprisoned bodies. I reinforce Taylor’s argument that rather than relying on confession, a coercive act that makes the

person confessing vulnerable to the confessor, that we instead employ testimony, which tells “a truth” about the past to provide self-and social transformation. I place Taylor’s work in conversation with scholar-activist Joy James’ *The New Abolitionists: (Neo) Slave Narratives and Contemporary Writings* (2005), in which she differentiates between emancipation and freedom, emancipation as something that is given and freedom as something that is created or taken. I put forward the notion that to move closer towards freedom that we displace the confession and instead privilege testimony in our abolitionist efforts.

In discussing prisons, in particular their use as weapons of a domestic war being carried on against poor people and people of color, and in arguing for the need to dismantle them, the first objections that arise from most people are, “What about the rapists? What about the murderers?” In an effort to decriminalize people in prison as much as possible, the discussion too often turns into a lecture on how the majority of people in prison are there for non-violent crimes. In other words, prison abolitionists often attempt to demonstrate that people are not inherently criminal, but rather, that the definition of crime changes and expands over time as a response to social crisis’, which results in the criminal justice system absorbing a larger number of people. For most people the questions still remain, “What about the rapists? What about the murderers?” In this chapter I ask what the implications of not asking these questions are. What if information on the types of criminalized acts people in prison engage in is not made available in our abolitionist efforts? In other words, what if, as abolitionists, we do not ask people in prison for a confession?

In March 2009 I gave a paper at a conference on gender in which I presented the story of Alma, a migrant woman who spent five years in a U.S. prison and was subsequently deported, without disclosing why Alma was sent to prison. I was one of four panelists and the first audience member who raised their hand during the question and answer session asked me, “I think that the hanging question in the room is, what did Alma do to go to prison?” Through me, the assumed expert, the audience wanted to hear Alma’s confession. Although an unconscious act, I realized then that I had not included information on the criminalized act that Alma was sent to prison for because providing Alma’s “confession” allowed the audience to perform their own judgment of Alma; to mark her as innocent or criminal, depending on their own subjectivity. I responded to the question by stating that I wanted the audience to see Alma as something other than criminal, and including information on the criminalized act she was sentenced for obstructed this goal. The response satisfied the audience member. This experience taught me an important lesson: while our impulse is to *know*, in the Foucaultian sense of the word, some people are willing to forego this knowledge when they are aware that *knowing* performs additional violence against already violated bodies.

My analysis is informed by feminist race theorist Saidya Hartman’s *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America*, in which she compels us to move away from the spectacle of brutal violence, from the “routine display of the slave’s ravaged body,” (3) and instead she centers on “scenes in which terror can hardly be discerned” (4). Rather than participating in the recitation of the material atrocities of slavery, Hartman instead focuses on the “mundane and quotidian,” on the “outrages of slavery...as they involve notions of slave humanity” (5) and discerns

from these spaces the institution's terrifying nature. Hartman asks, "how does one give expression to these outrages without exacerbating the indifference to suffering that is the consequence of the benumbing spectacle or contend with the narcissistic identification that obliterates the other or the prurience that too often is the response to such displays?"

(4). Insisting that we examine the ways that we participate in the perpetration of violence when we observe the spectacle of terror, Hartman suggests examining the "diffusion of terror and violence perpetrated under the rubric of pleasure, paternalism, and property"

(4). Heeding to Hartman's suggestions, I attempt to move away from the spectacle of violence and consider how advocacy work within prison abolition can perform as an unintended site of violence as it simultaneously struggles to obtain freedom for people in prison.

### **Emancipation v. Freedom/ Confession v. Testimony**

In *The New Abolitionists: (Neo)Slave Narratives and Contemporary Prison Writings*, drawing connections between enslavement and the current U.S. prison regime, Joy James brings together the narratives of imprisoned intellectuals that in one form or another provide visions of freedom beyond our current carceral state. This assemblage of experiences and voices of people in prison offers not only the vision of a world without prisons, but a radical definition of freedom. A significant contribution James provides is a critique of advocacy abolitionism, which she offers by differentiating between *emancipation* and *freedom*:

Advocacy abolitionism and its narratives by nonprisoners—like state narratives—grant only "emancipation." Neither advocacy abolitionism nor state abolitionism can control or create "freedom" from the captive....we can note that despite the common assertion that "Lincoln 'freed' the slaves," the President issued proclamation and legislation to establish

emancipated people. Emancipation is *given* by the dominant, it being a legal, contractual, and social agreement. Freedom is taken and created. It exists as a right against the captor and/or enslaver and a practice shared in community by the subordinate captives.... Freedom is an ontological status—only the individual or collective—and perhaps a god—can create freedom. (xxii-xxiii)

Borrowing from political philosopher Chloe Taylor's consideration of Foucault's understanding of confession as embedded in coercive relations, and her differentiation of confession and testimony, in this chapter I draw from my research and experiences in the prison abolition movement and consider the ways that this movement incorporates confession and testimony as organizing methods and maintain James' argument that this movement provides, among many visions, an ideological conceptualization of freedom that moves away from emancipation and towards radical freedom. While acknowledging that the ideological and material practices of this movement are contradicting at times, it remains significant that the overall ideological goal driving material practices of prison abolition is the ideal of radical freedom.

In *The Culture of Confession from Augustine to Foucault: A Genealogy of the 'Confessing Animal'*, Chloë Taylor provides a genealogy of what Michel Foucault terms the "confessing animal," and contributes to Foucault's argument that contrary to dominant narratives of confession that conceive of it as "human nature," our impulse to confess was inculcated onto our bodies through various disciplining practices. Far from being liberating, confessing performs the act of fixing our identities to an essential self. Foucault defines confession as a declaration of the truth of oneself, always made in the presence of another:

a ritual of discourse where the subject who speaks corresponds with the subject of the statement; it is also a ritual which unfolds in a relation of



power, since one doesn't confess without the presence, at least the virtual presence, of a partner who is not simply an interlocutor but the agency that requires the confession, imposes it, weights it, and intervenes to judge, punish, pardon, console, reconcile. (7)

“a ritual [...] where articulation alone, independently of its external consequences, produces, in the person who articulates it, intrinsic modifications: it makes him innocent, it redeems him, purifies him, promises him salvation. (8)

Taylor notes that confession is not limited to speaking of wrong-doings; “Rather, confessions as understood here are statements which claim to explain the being of the subject who is speaking, which are introspective, which utterances change her...and which are told despite claims of repression, or with difficulty and shame” (8). Our desire to *know* the other and extracting confessions for this purpose fixes the other into that identity, foreclosing the possibility of being otherwise, and thus marking confession as coercive (174). Even when confessions are offered to bring “a desired sense of recognition, a shared humanity, of affirmation, community, or forgiveness,” the confessant’s recognition is decided upon by the confessor. To return to Joy James’ differentiation of emancipation and freedom, recognizing imprisoned people’s humanity qualifies prisons as impossibilities. In other words, if people in prison are constructed as something other than criminal, then it becomes much less possible to rationalize prisons. However, because people in prison are assumed to be confessed “criminals,” this constructs them as essentially criminal, foreclosing the possibility of being otherwise and providing the rationalization for their unfreedom.

Advocacy abolition thus remains coercive because it relies on emancipation; it relies on the dominant, advocates and the state, to recognize and allow imprisoned people to be other than criminal. It “confesses” the humanity of imprisoned people to the state,

advocating for forgiveness, clemency, mercy, and justice, acts that may or may not be afforded depending on the state's judgment.

Taylor provides four alternative methods that subvert the confession—autobiographical silence, non-confessional autobiography, which she terms testimony, and political and artistic practices. Taylor employs Derrida's notion of political confessions, which she argues should be termed testimonials, to differentiate between confession and testimony. Unlike confession as defined by Foucault which is about revealing a true inner self, something that is hidden and essential that is revealed of the individual, nation or group, testimony is about things that are already known or becoming known, such as historical events, “what is being admitted is not avowed as a revelation of national character, an essential truth, but as something which happened but which should not have, need not have, and which must not happen again. As such, the truth which is admitted to is not personal or introspective, is not secret or hidden, and is not essential to the self or to the group in whose name the leader is speaking” (188).

While confession is about revealing and knowing the self, testimony tells “a truth” about the past to provide self- and social-transformation (188). For the prison abolition movement, the question then becomes, can we make use of testimony and not reify relations of power? Can the experiences of imprisoned people as testimonials to state violence subvert the violence of confession? Can we create freedom without asking imprisoned people to explain if and why they engaged in criminalized acts? Returning to James' distinction between emancipation and freedom, unlike emancipation, freedom “...is taken and created,” and does not rely on the dominant for recognition. The question remains, how do we take and create freedom within a carceral state? I am not so

presumptuous as to attempt to answer the question of how do we go about taking and creating freedom. Rather, here I make use of Taylor's differentiation between confession and testimony to highlight how employing these two different methods shapes prison abolition organizing, which may provide insight into how we should work towards transforming ourselves and in the process transforming society to make freedom a real possibility.

### **When the Work of *Knowing* Works Against Efforts to Create and Take Freedom**

My internship in 2004 with Justice Now provided me with insight on the relationship of immigration control and incarceration that shaped this project. Justice Now is a prison abolitionist organization that, while it works on strategies to create a world without prisons, such as campaigning to prevent the creation of more prisons, it also performs advocacy work for women in prison to address their immediate needs, such as addressing the poor health care women in prison receive and the sexual violence they experience. I was assigned to advocate for five migrant women in prison with parental rights termination cases. Because my role was that of an advocate, I was involved in "obtaining confessions" in order to adequately provide advocacy. The organization had to know all the facts of their criminal case, including motives, their migration history, their relationship with their partners and their children, names and addresses of relatives, the list goes on and on. During the internship, if I was not researching policies around their cases, I was writing letters to judges, and calling lawyers, social workers, and family members. Although this was my responsibility as an intern, I also felt personally driven since our actions could impact whether this group of women lost their children to the state or not. These cases consumed more than my time; they consumed me emotionally

and any mistake I made increased my sense of guilt of not being able to advocate for the women. On one occasion I had asked Laura, one of the women I was advocating for to call me at three in the afternoon on a Friday. That Friday afternoon I was so overwhelmed that when one of the directors asked the interns if anyone would go buy stamps, I immediately offered myself since it would give me time to be away from the office. When I returned they informed me that Laura had called and Brittany, one of the other interns, had to communicate to Laura in her limited Spanish that I would be back in a while. The guilt of not being there for Laura remained with me for a long time. During a phone call with Laura's children's social worker I was informed that they were adopted, and I was so distraught that I left to the restroom to cry, feeling that in some way I contributed to that separation. While even at that moment I somewhat understood the problematic of advocacy work, the fact that unfree people have to rely on another's decisions to advocate for them, I naively presumed that somehow I could help in some way. In 2005, I wrote my master's thesis, "Violent Intersections; The Role of Prisons and Welfare in the Exclusion of Mexican Immigrant Women," which considered the experiences of migrant women in prison and the phenomena of their family separation. Throughout the piece I struggled to demonstrate how social forces informed the choices available to this group and how race, class, gender, sexuality, and nation informed their experiences, and argued that prisons served as a channel for exclusion.

I did not think of my master's thesis for over a year. However, I recognized the importance of understanding the relationship between prisons and migration, and thus I set out to answer these questions in my dissertation. I first joined the California Coalition for Women Prisoners Compañeras Project in May of 2008. The Compañeras Project was

established in 2005. This project was created as a way to address the particular experiences and needs of Latina migrant women in prison. In particular, language barriers and migrant status presents distinct conditions of imprisonment. Accessing adequate health care or legal services is very difficult and it becomes more so when the person cannot communicate with service providers. The situation intensifies when migrant women have to contend with placing their children with family members who may themselves be undocumented or lack English speaking skills or when they are faced with deportation at the end of their sentence. The project aims to create strong relationships between Latina migrant women in prison and people on the “outside,” build leadership skills for women inside and project volunteers, and provide education on their rights so that they can exercise some control over their situations. My involvement with the project provided me the opportunity to examine the racialized and gendered intersection of migration control and incarceration. I initially intended to gather their stories to examine how the incarceration of migrant women serves to police the racialized boundaries of the United States by serving as a channel for their deportation. I read through their case files. When I first met the group of *Compañeras*, a few talked about their cases. However, most remained silent on this issue. There was more interest in talking about other things, such as the propositions on the California ballot. A big concern for the group was proposition 9, Victims Rights and Protection Act, which among other things, changed parole hearings. Before its passing, an individual denied parole had to wait between one and five years for another hearing. Proposition 9 extended it from three to fifteen years. Several of the women were actively organizing against this proposition, writing letters, getting signatures, and informing other imprisoned women on the issue. Our conversations also

centered on the Presidential race and many expressed hope that Barack Obama would bring positive change, especially for migrants. A number of Compañeras were excited over an event that several members of the group were organizing with other imprisoned women, Peace Day, a celebration of each other's culture. And yet, with others we talked about their plans once they are released from prison. What I realized during that first meeting was that silence is a method. In terms of prison abolition, not asking for their stories allowed our relationship to form based on our moments together and what is important to us at the time, and not solely on what we can offer each other, such as offering me their stories in return for advocacy work. While still remaining coercive given their imprisonment, silence shifts the balance of power somewhat towards the center. In regards to research, silence allowed my project to be shaped by the group since they directed the knowledge produced in our encounters. In not discussing their cases, in not asking them to disclose the horrific details of their stories as I had done back in 2004, a different space of dialogue was allowed to exist. Yes, violence is a matter of fact for this group of women both before and during their incarceration and it is one of the points of discussion during our conversations. However, it is not the focus, except when it is so present that it needs to be spoken.<sup>49</sup>

In this chapter I steer away from the spectacle and instead focus on the relationship between the Compañeras Project volunteers and the Compañeras in prison, and the traversing of boundaries that it enables. In doing so, I decide to remain silent where silence is necessary to diminish the violence already experienced by Compañeras

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<sup>49</sup> Below I discuss Aide's story as an example of when the presence of violence is so overwhelming that it needs to be directly addressed.

in prison, and offer our experiences as testimonials of how silence enables the undermining of boundaries. In not discussing their individual cases, I intentionally foreclose the opportunity for the reader to judge individuals and cement them into “criminal/innocent” binary.

### **Working Against Confessions**

When I first contacted CCWP, Xiomara, the Compañeras Project director, was skeptical of allowing me to join because the organization had prior experiences of academics joining the organization to conduct research and leaving once they obtained the information they needed. After discussing the project and my objectives in joining the project Xiomara agreed to have me join the team as a volunteer. In July of 2008 I flew to San Francisco to go on my first visit. I expected that it would be similar to the visits that I participated in while I was an intern at Justice Now. Our group was composed of Xiomara, another volunteer, Adolfo, and myself. Our car ride to Valley State Prison in Chowchilla served as a moment to get to know each other. The visits with the group of Compañeras surprised me. I expected that we would be allowed only to speak with one person at a time for a period of thirty to forty-five minutes. Instead, each of the volunteers sat in groups with three to four Compañeras. When I asked Xiomara if it was allowed she told me we could do it unless the guards told us something about it. In every visit we continued to sit in groups of up to seven people. During one of our visits we even informed the guard at the visiting room that we were going to sit outside because the weather was so nice. Xiomara is not a self-described anti-prison organizer. Xiomara noted that we are not there to advocate for them. The way that she visualized the project was as a way to let this group of women know that they have people outside who care.

By conceptualizing it in this manner, she generated an atmosphere of possibilities, not only for the shape that this particular project could take, but she also opened up an opportunity to re-think advocacy work within prison abolition. In the case of the Compañeras Project, it is what the entire group decides. Although limited by the fact that it is a project that can be done away with if the prison administration decides to do so, and by the fact that it is a project of an advocacy organization, CCWP, the project is largely independent. For example, during one of our visits Xiomara was asked by CCWP leaders to gather surveys from the group of Compañeras by asking questions such as, “How is your mental health affected by being in a cage?” As we discussed the survey in the car on our way to VSPW, Xiomara said “What kind of bullshit is that? Imagine us going to these Latina women and asking them, ‘¿Como esta afectando su salud mental el estar en una jaula?’ If we asked that question they’d laugh at us and think that *we* are crazy.” Then Xiomara suggested that we could ask the question if we wanted to, but she thought it was best that if the women talked about their mental health we could take some notes down. Xiomara’s approach, of involving herself in this project not because she feels morally responsible to this group of women or because she is part of a larger movement, but rather, because she has genuine empathy towards them, allows for relationships based on mutual cooperation and trust to be built.

In chapter four, I considered Alma’s story and demonstrated how the immigrant rights movement negotiated for the belonging of “good immigrants,” resulting in the re-criminalization of “bad immigrants,” which Alma automatically forms a part of given her imprisonment. I met Alma at the Tijuana shelter where I conducted my research and I became very close with her. She would often speak of Soledad, her partner that she left at



VSPW when she was deported. When I told her about my first visit to VSPW with the Compañeras Project, she became excited hoping that Soledad would be part of the group. Soledad was not in the group of women we met during my first visit, but I asked about her and was informed that she was part of the group at some point in the past, but this was no longer the case. The following day as I read through the Compañeras Project files, I saw her name on a file under “OUT,” meaning that she was released from prison. However, I knew that this was not the case because Alma was recently released and Soledad had many years to complete her sentence. I inquired and a past director of the project had taken Soledad off of the list. According to Soledad, she and the director disagreed on an issue and after that, she was never called to visits again. This highlights the coercive nature of advocacy work which is a relationship of dependence between advocates and people being advocated for. When Soledad disagreed with her *advocate*, she was dropped from the project. Xiomara was upset and immediately added Soledad on to the list of Compañeras to be visited. By the following visit I got to meet Soledad. Throughout Alma’s stay in Tijuana and then in immigration detention, I served as an intermediary between both. Alma would give me letters to send to Soledad from San Diego because sending them from Tijuana took a much longer time. Soledad would then send letters for Alma to me since it was much less expensive to send them to a national address than to Mexico, and I would take them to Alma during my weekly trips to Tijuana. During our visits I delivered messages to Soledad from Alma letting her know how she was doing. Both Alma and Soledad would ask me not to tell the other how they were *really* doing.

They would both ask me to tell the other that they were doing well and not to worry. I noticed a difference between my individual relationships with each one. In Alma's case, when I first met her and asked if she would share her story with me, she asked me "And what do women who tell their stories get?" I told her "nothing," that what I could offer was documenting these stories to create awareness of what is happening and hopefully generate some social change. Our relationship became one of collaboration as she was key in providing support for my project by connecting me with other migrant women in Tijuana who spent time in prison and sharing her experiences as an immigrant rights organizer, while I continued to support her in various ways. That relationship changed when she was detained after attempting to cross the U.S.-Mexico border and was captured. At that point our relationship became more of dependency since her mobility and communication was limited and I served as an intermediary. In contrast, the relationship that I generated with Soledad, who never disclosed any facts of her case, was radically different. In Soledad's case, our relationship is limited to prison visits and letters. However, there has never been a moment when she has requested or expected that I do something for her. Our relationship is of shared concern for what is happening in prison and she shares what she is doing to work against injustices inside while I share with her developments around this issue on the outside. By not asking for her confession, by not asking to *know* Soledad, this created the opportunity to generate a relationship based on mutual concerns with creating change rather than *knowing* each other. In Alma's case, this was not presented as a possibility because by asking for her confession, what she had done and why, this generated a hierarchical relationship of dependency.

During the days that Alma attempted to cross the border I left to a prison visit. Alma continuously asked me to let Soledad know that everything was going to be fine, to not worry about her crossing. Alma's failed border crossing resulted in her incarceration and an additional sentence of twenty-seven months. Throughout her incarceration, I continue to serve as a connection between both women by receiving and sending their letters. I retell this part of Alma's and Soledad's story because it highlights key points. Practices such as incarceration and deportation are carried out as punishments to individuals marked as criminal. The process of separation between those that are imprisoned and/or deported and their families, friends, homes, and communities is an essential and punitive aspect of these methods of punishment. Alma and Soledad's story shows how they are able to not only forge a relationship of love within the violent space that is prison, but that they are able to remain connected to each other in spite of Alma's deportation and re-incarceration. It highlights the role of the Compañeras Project in facilitating this connection when Xiomara placed Soledad on the visiting list, not only because she was upset at the fact that Soledad was dropped from the Project, but because she realized the significance it had for both Soledad and Alma. Finally, their story underscores a closeness that exists between migrant women in prison and migrant women at the border. While Alma physically left prison, she remains connected to it through her friendships and her relationship with Soledad.

Although the Compañeras Project began in mid-year 2005, it is not until Xiomara became the director of the project that the group became more stabilized. This is largely so because it is an entirely volunteer-run program and maintaining a volunteer membership requires a lot of time and effort that few people can provide. The most

important aspect of the project is the visits we conduct every other month with the group of Compañeras. The visits are not only a moment for the volunteers and the Compañeras to socialize, work with, and learn from each other, but also significant and related is that they become moments when the purpose of prisons—the dehumanization and isolation of people—is disrupted. Xiomara schedules people to visit with us according to their preference. Luz, Tereza, and Soledad, an older group of women, ask to be scheduled at the same time for several reasons. Tereza is a Portuguese migrant woman who has difficulty with both the Spanish and English language. Soledad knows both English and Spanish well, so she assists Tereza when she needs help communicating. They became very close friends in prison and ask to be scheduled together because they get to catch up with each other in a more relaxed environment. Luz is also friends with Tereza and Soledad and likes visiting during their slot because of the generational difference between them and the rest of the group. I visit with this group and so it becomes a moment of socializing for all four of us, and our conversations often center on some of the generational divisions of the women in prison and on their hopes of being released.

Similarly, Joana and Dariela ask to be scheduled together. They have been partners for several years and are housed in different units, which makes it so that they do not see each other as often as they would like. The visit for the couple is an opportunity for them to be with each other. They both ask to be scheduled at noon because the person who delivers food to the visiting room arrives at 11:30a.m. Before entering prison Xiomara gives each of the volunteers fifty one-dollar bills to buy food for the women in prison. CCWP is a non-profit organization funded largely through grants, including the Compañeras Project. The food sold in prison is very expensive in prison and by the end

of the day most of the \$150 is spent on food for fourteen to fifteen women, five or six of whom only get drinks and snacks since we visit with them before 11:30a.m. Our visits are made even more enjoyable as we sit in a large group eating and talking about whatever is interesting or urgent at that moment. Thus the structure of the project functions as a means to allow this group of women to be and socialize with friends and loved ones, in effect challenging the role of prisons in the destruction of human connections for people in prison. This format is vastly different from prison visits I conducted in 2004. At that point, because the objective was advocacy, we would meet individually with the group of women anywhere from thirty minutes to an hour. The visits centered on gathering information to continue working on their cases. We had a list of questions that we needed to address and too often I would find myself unable to gather all of the information and asking the person to call the office to continue gathering information to work on their cases. In comparison to the visits with Compañeras, these visits were more somber and a sense of urgency dominated our conversations.

The difference is located in the notion of advocacy, which is inherently confessional. With Justice Now, although the long-term goal is to create a world without prisons, there was an attempt to address some of the immediate needs women in prison face, such as health care and family separation. In contrast, the central focus of the Compañeras Project is not advocacy work, thus making the confession unnecessary. Most of the members of the group have life sentences and those with children have them placed with family or were taken by the state years ago. Thus, the urgency seems not to be present in the same way, allowing us to focus our conversations around the future, rather than the present. This imagining immediately brings about notions of freedom,

which opens the conversation to considerations of how to define freedom and strategies towards this. While much remains within the realm of coercion, of having the state recognize their humanity and afford them freedom, the very act of conjuring freedom in an unfree space becomes a radical act of freedom in and of itself. I am not arguing against advocacy organizations such as Justice Now, which address some of the immediate and real needs of people in prison. What I want us to consider is can we take and create freedom rather than relying on emancipation? If so, how do we go about it? And what does this imply for existing advocacy prison abolitionist organizations?

### **The Advocate's Impulse and its Harms**

While aware of the drawbacks of advocacy work, it is difficult not to give in to the impulse to respond when we witness people in situations of vulnerability. However, our responses can have unintended consequences that, rather than provide relief, ultimately make us participants in the violence experienced. That is the case for Nyla and myself. Nyla was on the list of Compañeras to be visited by the group of volunteers. I wrote to everyone on the list introducing myself and letting them know of our visit. The letter to Nyla was returned since she was transferred to Central California Women's Facility (CCWF), which is across the street from Valley State Prison for Women (VSPW). I wrote to Nyla at CCWF and she was very excited to hear from someone. She migrated to the U.S. in 1968 and never returned to Mexico. She spent almost eight years in prison and was deported to Mexico in June 2009. Through letters Nyla shares her fear of being deported, "I have to admit I am a little afraid of my future. I have no family in Mexico. I would very much like to know what's in store for us immigrants as far as INS

goes.” I wrote to Nyla letting her know what I had seen happen to other women coming from prison and possible shelters where she could stay for a few days right after her deportation. In her response Nyla writes, “I don’t really know too much about what’s going on out there, I just know that INS is picking me up, and will be deported. To be honest instead of being happy because I will be getting out, I am dreading it. I’ve been told that the detention centers are hell.” Nyla’s fears shape and carry into her interactions with her family, “I really haven’t mentioned it to them that I will be deported. I just can’t bring myself to telling them I won’t come home. My youngest son has mentioned it, but then I tell him not to worry. When I try to talk to my mom about it she tells me they can’t do that, that I been here all my life. All she tells me is don’t sign anything. All I know is that I don’t want to stay in the detention center longer than I have to.” Nyla tries to comfort her son by telling him not to worry, while Nyla’s mother attempts to comfort Nyla by telling her that she cannot be deported because she has been here all of her life. In our letters Nyla wrote her story, why she was in prison and what had motivated her to do what she did. Our relationship, even though it was through correspondence, centered not on providing actual advocacy, but on offering Nyla some hope. Nyla writes, “Can you tell me any success stories about some of the women that have been deported? Like, are they living and adjusting well to living in Tijuana. I need to hear something positive. That will keep my negative thoughts from thinking I will end up homeless under some bridge in T.J.” I initially wrote of Alma, who was deported after being in prison and found herself at a good place as she obtained a place to live, secured a job, and was active in organizing for immigrant rights. Towards the end of her sentence Nyla asked me about how Alma was doing, and she wanted to hear how well she was. I had to respond to Nyla

letting her know that Alma was caught after trying to cross the border and placed in immigration detention. I could not provide Nyla with the story she hoped to hear. While not officially an advocate, our relationship was one based on me offering Nyla information on the outside world; however, she depended on me to offer hope. By initially responding to her appeal by writing about Alma's "success," I set us both up for disappointment. It was a hope short-lived as Alma was re-imprisoned. Nyla's response was one of disappointment to know that Alma, who found herself in a similar situation as Nyla, did not "make it"; my efforts to provide relief *for* Nyla resulted in additional violence.

### **When Violence Needs to Be Spoken**

There are moments when violence seeps in to the point that it needs to be spoken. During our November 2008 visit I noticed that Aide was quiet and somewhat distant. Soledad and I moved from the group to talk at a different table for a moment and Soledad informed me that everyone was upset. She said that they were all having a difficult time, especially Aide. A few days prior to our visit Aide was informed that her niece was killed by her husband. Soledad said that the news resonated and affected most of the group, "We are reminded that that could have been us." When we returned to the larger group I noticed as we sat that a few of the women asked Aide how she was doing. Then Aide herself shared what had occurred and said how upset she was. She wanted to call her family to see how they were doing but felt that she could not do so because they were already dealing with so much, and her call would force them to relive what they went through with her case. This painful and personal moment for Aide became a self-reflective moment for the entire group of imprisoned women since they read their own



experiences through Aide's niece's death. It became a moment of realization that, as Soledad noted, that could have been almost any one of them. During that visit the group expressed solidarity with Aide's niece and Aide through the care and concern they demonstrated for Aide and the inevitable sadness that overwhelmed the group. Aide has not shared her story with me or other members of the group. Aide does not have to speak herself, she does not have to confess why she is in prison to obtain solidarity with the rest of the group. Her imprisonment and her niece's death are sufficient to conjure solidarity and empathy from the group. These acts, her imprisonment and her niece's death, serve as testimonial to patriarchal violence, both interpersonal and state. There is no demand on behalf of any of the members to *know* Aide; rather, the shared understanding of their situation is sufficient.

### **Working Towards Freedom**

One of the most recent developments is the creation of a group of Latinas in prison, of which Joana and Dariela are central organizers. Their goals are to provide Latinas with information on how to protect and enforce their rights in prison, and also to provide information on issues such as family separation and deportations. What is interesting to me is that the key organizers of this group are *Compañeras* that have not shared their stories. In other words, the organizers are women who refuse to confess. Instead, their focus is on equipping the group's members with tools to minimize the violence they experience because of their imprisonment. While the creation of the group is fairly recent, they already have significant accomplishments. Their first group meeting consisted of close to forty women, which is a very significant number given the limitations imposed on people in prison. At that meeting they discussed what the group

envisioned for themselves. One idea was to provide information on resources for women who are going to be deported after they complete their sentence. As a result I gathered information on shelters for migrant women in Tijuana, Baja California and that information was disseminated to the group. Another idea was to have an immigration lawyer visit with the group to answer questions, which as I write this is in the process of being organized. A final example is a newsletter that the group is creating to create connections not only among migrant women in prison, but people on the “outside.” While remaining an emancipatory project since it relies on institutionalized mechanisms to demand and enforce their rights, it simultaneously works towards freedom as it is imprisoned women themselves who resist their dehumanization and claim the rights to have rights. The group’s organizing speaks back to the dehumanization of imprisoned people who, because of their assumed “confession,” are marked as criminal and thus inherently violable. The group’s resistance to their dehumanization disrupts their essentialized criminality which serves to transform them and open the possibility of being otherwise.

## **Conclusion**

In this chapter I attempt to provide testimony of my experiences as an activist-scholar involved in prison abolition in order to provide a critique of advocacy abolition which centers on emancipation, while holding on to the notion of freedom. What the experiences I include here demonstrate is that it is difficult to maintain a distinction between confession and testimony. However, more than anything, what this chapter highlights is that self-reflection needs to be central to our organizing efforts and remaining aware of how we reify relations of power moves us closer to our objective,

which for me is freedom rather than emancipation. In chapter three I critiqued the immigrant rights movement which reinforces racialized and gendered boundaries of belonging by claiming “immigrants are not criminals/immigrants are hard workers.” I demonstrate that this utterance deploys the disciplinary discourse of good immigrant which does not attempt to transform hierarchical relations of power, but rather, attempts to expand who can access power, which innately marks some bodies as inherently irrecuperable. Alike, advocacy abolition participates in similar maneuvers by relying on emancipatory methods to advocate for people in prison. I suggest that prison abolition organizing move beyond methods of “confessing” the innocence and victimization of people in prison because it remains coercive since emancipation relies on the advocates’ and state’s recognition of the humanity of people in prison. The experiences of people in prison should provide testimony to happenings without attempting to understand “why they do what they do.” By not participating in acts of confession, we force ourselves and hopefully others to engage in actions that move us towards freedom not because we judge some individuals as recuperable, but rather, because in doing so we transform ourselves and society and this transformation moves us closer towards freedom.

## Conclusion.

### Envisioning and Working Toward Freedom

“What would it take *to end violence against women of color?*”

INCITE! Women of Color Against Violence (2006)

“We call on social justice movements to develop strategies and analysis that address both state AND interpersonal violence, particularly violence against women. Currently, activists/ movements that address state violence (such as anti-prison, anti-police brutality groups) often work in isolation from activists/movements that address domestic and sexual violence. The result is that women of color, who suffer disproportionately from both state and interpersonal violence, have become marginalized within these movements. It is critical that we develop responses to gender violence that do not depend on a sexist, racist, classist, and homophobic criminal justice system. It is also important that we develop strategies that challenge the criminal justice system and that also provide safety for survivors of sexual and domestic violence. To live violence free-lives, we must develop holistic strategies for addressing violence that speak to the intersection of all forms of oppression.”

INCITE! Women of Color Against Violence and Critical Resistance (2006)

This study is my struggle to seriously engage the discussion generated through the work of organizations such as INCITE! Women of Color Against Violence and Critical Resistance. I attempt to contribute to the discussion of state and interpersonal violence lived by women of color and our communities by considering the experiences of imprisoned Latina migrants. My first step is to place the immigrant rights movement in conversation with the prison abolition movement and maintain the need to engage in the labor initiated and developed by the prison abolition movement of imagining *and* generating radically alternative ways of being with each other. In other words, through this study I link immigrant rights activism to the abolitionist agenda and reinforce the notion that central to creating a different social world is taking on the work of political imagining. I maintain the urgency of engaging such labor because, as the experiences of

migrant women demonstrate throughout this study, at stake are consequences that too often materialize through violence.

The dialogue generated in this study between the prison abolition and immigrant rights movement contributes to the dismantling of the visionary borders that the immigrant rights movement seems to be fixed in. At the time of this writing events are developing that inevitably the Obama administration is engaged in a debate over immigration reform and changes seem inevitable. It is important to consider how changes are imagined and bear in mind their consequences. A significant example to reflect on is the Immigration Reform and Control Act (IRCA) of 1986, the last major immigration reform that provided legalization for a significant number of people. While this reform did provide over two million undocumented migrants with permanent residency and allowed them to petition for their families, simultaneously, IRCA drastically militarized the border, significantly contributing to the violence and mounting number of deaths at the border. The immigrant rights movement's focus on a path to legalization is limited by the hegemonic "good immigrant"/"bad immigrant" dichotomy. This dichotomy valorizes "hard work" and "criminal innocence," categories that are gendered, racialized, sexualized, and classed, and reinforces the expendability and violability of people that find themselves on the "bad immigrant" divide of this dichotomy. A legalization process based on this dichotomy, as the example of IRCA demonstrates, fails to address the root causes of migration. As long as this is the case, undocumented migration will continue to form part of the constitution of the U.S. and the violence experienced as a result of border policing will persist.

The significance of the prison abolition movement is its focus on dismantling binaries that construct recuperable and irrecoverable subjects. Rather than attempting to find recuperable “criminals,” this movement interrogates the state’s ability to create criminal subjects and the social, political, and economic implications of such a creation. This movement demonstrates how imprisonment is a central tool used in the gendered and racialized governance and formation of U.S. society. Drawing from this movement, this study suggests that if the immigrant rights movement seriously wants to engage the work of ending the violence experienced by migrants, it has to re-engage in the labor of imagining visions of belonging and freedom that do not only deviate from, but dismantle the “good immigrant”/“bad immigrant” dichotomy, and instead center the state’s ability to produce “illegality.” This move shifts attention from migrant personal responsibility toward the state’s involvement in producing “illegal immigrants” that assume the status of ideal neoliberal laborers—exploitable, disposable, and violable bodies. It also underscores how the deployment of such binaries participates in the racialized policing of U.S. citizenship.

The analysis centers on the experiences of jailed, imprisoned, detained, and deported Latina migrants. Rather than attempting to locate criminality within migrant women themselves, such as asking “why do Latina migrants engage in crime?,” “to what extent do Latina migrants engage in crime?,” “how has Latina migrants’ engagement in crime changed over time?” or “how does Latina migrants’ engagement in crime compare to other groups?,” the framing of the research question itself shifts attention from individual actions and centers on destabilizing the objectivity of law and demonstrating that the construction and deployment of crime participates in the racialized, gendered,

sexualized, and classed organization of society. The analytic lens turns on statecrafting projects that manifest themselves in the experiences of migrant women. The study discloses how the criminalization of Latina migrants is central to U.S. racialized neoliberal governance. Neoliberal transformations construct this group as ideal neoliberal laborers due to their exploitability, which is secured through their legal existence in or closeness to “illegality.” However, moments arise when their actual physical exclusion is deemed necessary, such as in moments of national “crisis,” and measures are employed to secure their removal. This study demonstrates how the criminalization of migrant motherhood, which draws on the histories of Black motherhood, employs notions of state dependency that prove to be productive in constructing migrants in general as public charges. This production ideologically enables strategies of removal, such as police performing the duties of border patrol agents and ICE raids.

The limitations of the immigrant rights movement’s strategies of expanding the category of recuperable “good immigrants” are underscored in the experiences of criminalized Latina migrants. One, immigration laws privilege migrants who are conceptualized as self-sufficient, which is largely a masculinized construction that has overwhelmingly benefited men over women. Two, migrants deported under the category of “criminal alien” are permanently banned from the U.S. and thus foreclosed from recuperability. Thus, jailed and imprisoned migrants are permanently barred from U.S. social belonging.

Furthermore, this movement’s strategies fail to account for the ways that interpersonal violence interconnects with state violence. As the experiences discussed throughout demonstrate, “illegality” is differentially lived and too often the status of

“illegal,” which is a state construction, enables interpersonal forms of violence, such as is the case for undocumented migrant women in relationships of domestic violence or people violated by individuals while attempting to cross the border. Additionally, these strategies neglect to account for the role that other nation-states assume in shaping migrants’ experiences. As the case of Mexico displays, the criminalization of migrants travels with migrants themselves and they face additional forms of violence even once deported to their countries of origin. A path to legalization for a select number of people fails to address these structural concerns and instead provides a temporary valve to relieve some of the pressure built up over years and that will continue if the root causes of migration are not addressed. This includes the central role that “illegality” assumed in providing the U.S. with exploitable and disposable laborers that generate wealth for the nation.

If we decide to seriously take on the labor of ending violence against migrants, the question then becomes, how can we engage in the political labor of imagining radically new ways of conceptualizing social belonging while addressing the immediate concerns of migrants? Once again, the prison abolition movement provides some direction.

About two years ago I was fortunate to be invited to form part of A New Way of Life Re-entry Project, located in the Watts area of Los Angeles. Although my involvement was brief, lasting for about three months, I witnessed how prison abolition works on the ground. Taking from this brief experience and the project’s own narration located in its official website, the following provides a schematic discussion of the



envisioning *and* practical work that A New Way of Life engages to promote social re-entry for women leaving prison.

The goal of the organization is to provide a living environment for formerly imprisoned women that is conducive to their ability to not only be reintegrated, but to thrive in society. This is also evident in the values promoted by the project:

We believe all people, including former prisoners, are valuable and should be treated with dignity and respect.

We believe that prisons and punishment are not effective tools for positive change and that treatment better serves the individual and society.

We believe everyone who is given a chance, regardless of the past, can excel with support and community intervention.

We believe in the power of mentoring to help people achieve their dreams.

By motivating, supporting, and creating opportunities for others to excel, mentors are valuable role models that build confidence and self-esteem.

We believe in the ability to empower people by educating them about systems of societal dysfunction, thereby transforming their beliefs.<sup>50</sup>

The values espoused here by the organization highlight the visionary work that the organization engages. According to these values, every member of society is indispensable. In other words, there are no expendable bodies; everyone has something to contribute if offered the opportunity.

In addition to providing a vision of social belonging in which everyone, regardless of their past actions, are considered valuable members of society, A New Way of Life engages in the practicality of implementing such a vision and thus contributing to creating a world where imprisonment is not our response to acts constructed as deviant.

The project provides services in three stages: *getting started*, *getting established*, and *getting independent*. The first stage, *getting started*, includes “pick ups from prison and jail; clothing and toiletries; assistance in obtaining government documents, including

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<sup>50</sup> <http://www.anewwayoflife.org/aboutus.html> (April 2, 2010).

California identification card, Social Security card, and Birth Certificates; weekly 12-step meeting onsite; assistance in obtaining health and mental health services; opportunity to participate in day treatment; assistance in meeting conditions of parole-probation; and transportation assistance.” The second stage provides “assistance with family reunification, including court advocacy, mother-child activities, educational resources for children, child support, and parenting workshops; referrals to career and educational counseling; and educational programming on topics such as financial literacy, the criminal justice system, recovery and personal growth, health and nutrition.” Finally, the third stage provides “assistance in searching for permanent housing; support in developing a drug-free lifestyle; and advocacy and leadership training.” The project offers these services which provide necessary support for the social reintegration of formerly imprisoned women while simultaneously working to promote “alternative sentencing, reduced reliance on incarceration, and more resources for reentry.” In other words, the organization is productively constructive as it strives to meet the immediate needs of women leaving prisons and it is simultaneously productively destructive by working against the expansion of the criminal justice system which absorbs so many members of our community members.

Central to the A New Way of Life’s goals is to provide leadership development and political education that de-naturalizes imprisonment. Rather than engaging in narratives of personal responsibility, the project incorporates political consciousness as a goal and means for self and social transformation,

It has been our experience that the process of developing a critical analysis of the social, political, and economic circumstances that contributed to one’s incarceration can be a powerful tool in healing from the trauma of

imprisonment, addiction, and violence. Further, becoming a participant in efforts to change those conditions for better, can contribute to a process of self-discovery, understanding, and empowerment.

The educational and leadership development offered by A New Way of Life is coordinated in partnership with Critical Resistance. The LEAD Project (Leadership, Education, Action, and Dialogue) encourages participants to contextualize their experiences of imprisonment within larger processes of social organization that contributed to their situations. In other words, rather than asking them for *confessions*, rather than trying to understand “why they did what they did,” the project destabilizes the common sense of imprisonment. According to the project, through the political education and leadership development offered, “Not only do project participants better understand the connection between the prison system and the many issues that confront them upon release, but they are also provided opportunities to gather necessary skills to become effective change agents in their own communities.”

The example of A New Way of Life provides cues for strategies that social movements can engage to move beyond governing dichotomies of “deserving” and “undeserving” members of society. The Project engages the labor of imagining every member of society as indispensable; every body matters and everyone has something to contribute. Furthermore, the Project also takes into account the immediate needs of formerly imprisoned women; it simultaneously addresses these needs while it attempts to one, provide the necessary skills and opportunities to ensure that the participants are able to independently meet their needs in the future, and two, work toward transforming society so that the experiences of participants do not replicate themselves in the experiences of other women.

What insight can A New Way of Life offer the immigrant rights movement? First, and a central argument made throughout this study, is the need to move away from dichotomies that work to pass judgment over “deserving” and “undeserving” bodies. Instead, we need to account for the ways that the state differentially structures experiences for people through ideas of race, gender, class, sexuality, and nation. In terms of the immigrant rights movement, this raises the question of migrants who fall on the “bad immigrant”; how can we organize without passing judgment on “deserving” and “undeserving” migrants? If as A New Way of Life argues, no one is expendable, then what does this mean in terms of immigrant rights organizing? From this study we can identify two main interconnected concepts that help to racially police U.S. belonging: “state dependency” and “criminality.” Part of the work that the immigrant rights movement needs to center in its strategies is deconstructing these ideas by shifting from an “immigrants are not criminals, immigrants are hard workers,” toward marking “state dependency” and “criminality” as a state production.

Just as significant as developing strategies that do not reinforce dichotomies that mark bodies as “deserving” and “undeserving” is addressing the immediate needs of migrant communities. However, this labor needs to incorporate an abolitionist agenda that radically addresses the causes of migration and the significant role that the U.S. has in generating migration through statecrafting projects that further corporate interests. Migrations should be real choices rather than movements shaped by structural forces, such as neoliberal capitalism. Although this may seem idealistic, how are we to practically create a different social world if we do not engage in the important labor of

imagining other ways of being with each other and bringing about radical freedom for everyone?

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