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Publication Date

2022

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UNIVERSITY OF CALIFORNIA, MERCED

Racialization Processes Embedded in Immigration Visa Categories

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

in

Sociology

by

Michelle D. Yeung

Committee in charge:
    Professor Marjorie Zatz, Chair
    Professor Sharla Alegria
    Professor Kit Myers

2022

The Dissertation of Michelle D. Yeung is approved, and it is acceptable in quality and

form for publication on microfilm and electronically:

Dr. Sharla Alegria

Dr. Kit Myers

Dr. Marjorie Zatz (Chair)

University of California, Merced

2022

DEDICATION

For my family.

TABLE OF CONTENTS

LIST OF FIGURES

ACKNOWLEDEMENTS

support and endless conversations and laughs. Our conversations after class not only helped me better make sense of course material, they also contextualized my experience in graduate school. I would not have made it through graduate school had it not been for your camaraderie.

To my friends from home, thank you for your constant words of encouragement and unwavering confidence in my abilities. Christina Peter, thank you for convincing me to apply to graduate school, for every cup of coffee you bought me, and for the space on your couch to write the first chapter of this dissertation. Yu-Hui (Amy) Lin, I am eternally grateful for the inspirational conversations with you that helped push my work and analyses in ways that I would not have thought possible. To Laura Melgarejo, your friendship and support has been a motivational force since our days of advocating for immigrant rights together. It was our conversations from 13 years ago that helped shape a lot of this project. To all the other friends who treated me to a cup of coffee or a meal, you all know the way to a graduate student's heart.

Finally, I thank my parents for patiently waiting for me to embark on a new path. Your support gave me the confidence to try something new and continue trying even when it felt wrong. To my grandma, thank you for sharing our family's immigration history with me, which cultivated my passion for immigrant rights advocacy. All of you helped make this journey less lonely and more of a team effort.

VITA

2007	B.A., International Relations and Communications, University of California, Davis
2015	Master, Sociology and Interdisciplinary Social Sciences, San José State University
2022	Ph.D., Sociology, University of California, Merced

Teaching

2015-2019	Teaching Assistant, Sociology Department, University of California, Merced
2019	Instructor of Record, Sociology Department, University of California, Merced
2020-2022	Teaching Fellow, Sociology Department, University of California, Merced

Research

2018	Graduate Student Researcher, Racialization of Labor, Supervised by Sharla Alegria
2019	Graduate Student Researcher, Parental Deportation, Supervised by Marjorie Zatz

FIELDS OF STUDY

Sociology; Immigration; Race and Ethnicity; Critical Race and Ethnic Studies; Law and Society; Asian American Studies

ABSTRACT

"Racialization Processes Embedded in Immigration Visa Categories"

Michelle Yeung, Ph.D. in Sociology, University of California, Merced, 2022
Marjorie Zatz (Chair)

Following the Hart-Celler Act of 1965, many assumed the U.S. immigration system would have a more egalitarian approach. Doing away with the country-based quota system paved the way for an intricate system of visas based on familial ties, occupation, and humanitarian need. However, I argue that within this system are implicit racialized narratives that naturalize a hierarchy among immigrants via their access to different immigration benefits. More specifically, I problematize visa categories as a site for racial formation and ask, how is race constructed in visa categories? Conversely, how do visa categories influence how we understand race and racialized groups?

Using transcripts from the debates over Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S.744), I look at how race is constructed in discussions about visa categories. I focus on three concepts or tools to highlight how a racial hierarchy is maintained in discussions about employment-based visas, family reunification visas, and the broader topic of national identity. First, administrative burdens provide the procedural logic by detailing the types of visas available and their eligibility requirements. Second, controlling images provide the narrative justification for treating immigrants differently by typifying them into certain roles. Third, the violence of value maintains the oppositional relationship between desirable and undesirable groups, which normalizes the overall hierarchical structure. In addition, I complicate this dichotomous relationship by highlighting the role redemption embedded in the Registered Provisional Immigrant status, which upholds a national narrative about compassion.

CHAPTER 1: INTRODUCTION

When it comes to anti-immigrant comments made by politicians, former President Trump tends to rank first. Most notable are his comments about Mexican immigrants during his 2015 presidential campaign. He claimed, Mexico is "sending people that have lots of problems, and they're bringing those problems with us *[sic]*. They're bringing drugs. They're bringing crime. They're rapists" (Phillips 2017). If elected, he promised to take action to curb this influx of undesirable migrants. Fast forward to 2019 in his presidential address on immigration, he outlined his border security proposal with similar anti-immigrant rhetoric. He linked migrants coming from the U.S.-Mexico border to drugs and claimed, "thousands of Americans have been brutally killed by those who illegally entered" (Politico 2019). The most interesting part of his speech was how he justified his proposal. "Then why do wealthy politicians build walls…? They don't build walls because they hate the people on the outside, but because they love the people on the inside" (Politico 2019). In one part of his speech, he characterized Mexican immigrants as drug dealers and killers. Then, later in his speech, he argued his sentiments were made out of "love for the people on the inside," meaning U.S. citizens. He tried to defend his proposal to militarize the border as a way of caring for the nation and its people. As shocking as his comments were, they are not unique. Even his logic of using compassion and care to legitimize policies that vilify migrants from south of the border is not new. In fact, the frames of threat and protection have been embedded in immigration policy discussions dating back to the Chinese Exclusion Act (Lee 2002).

While former President Trump's comments might be memorable, we need to contextualize his opinions within a longer history of narratives that racialize and gender generations of immigrants. The narratives have been well-practiced in political speeches, as well as in legislative debates. For legislative debates, in particular, the narratives become embedded and legitimized into laws that determine access to resources. The framing of Mexicans as dangerous leads to funding for border enforcement along the U.S.-Mexico border (Massey, Durand, and Malone 2002). Chinese immigrants portrayed as "good immigrants" during the Cold War era facilitated their entry as refugees (Hsu 2015). Thus, it is vital we gain a better understanding of how these narratives become interwoven into our laws and, ultimately, our national narrative.

Though we have not seen comprehensive immigration reform policy since the 1986 Immigration Reform and Control Act, each presidential campaign promises some kind of overhaul. In the first day of his presidency, President Biden signed a total of seventeen executive orders, six of which were related to immigration. He also initiated discussion on his immigration reform bill, "The U.S. Citizenship Act of 2021." As we wait for the next round of debates, we can analyze previous attempts at reform to foreshadow what is next to come. In 2013, a bill for comprehensive immigration reform was hotly debated in the Senate. This was the last time a reform bill garnered widespread attention and political momentum even though it ultimately failed to pass. I focus on comprehensive reform because it provides an ideal situation where racialized narratives of different groups are discussed in relation to each other. While there are many aspects about immigration reform that need careful consideration, I want to draw attention to visa

categories. Visa categories are important as a means of determining immigration benefits, but also and more broadly as a site for constructing narratives about immigrants.

According to the U.S. Department of State (2022c), there are approximately sixty-five different immigrant and non-immigrant visa categories. These categories include unique statuses for workers with special skills, particular occupations, or entrepreneurs from countries with trade agreements with the U.S. Categories also include statuses for people with different familial ties, such as spouse, child, parent, or siblings, to either a U.S. citizen or legal permanent resident. Together, this network of visa categories represents the "legal way" that is often touted in immigration reform debates as the principled way for people to come to the U.S. For each category, there is a particular form and process each applicant must go through. For example, individuals coming to work as temporary or seasonal workers or in positions requiring specialized knowledge must receive a foreign labor certification from the Department of Labor and fill out the I-129 form in order to obtain a visa. Students, physicians, and exchange visitors must receive approval from the Student and Exchange Visitor Information System (SEVIS) and fill out the DS-160 form before getting a visa approved.

While reform debates tend to focus on contentious topics like border enforcement and immigration status for undocumented immigrants, discussions about visa categories tend to be less contentious, even somewhat resembling clerical discussions. When visa categories are discussed, two main concerns tend to dominate the conversation. First, employment-based visa holders will impact job opportunities for those already in the U.S. and legally allowed to work. Second, the ability of people to petition family members to immigrate will lead to over-population. Discussions about these concerns center on limiting the number of visas or changing the application process. However, I argue it is within these seemingly clerical discussions about administrative processes that social norms, assumptions, and beliefs are created and reinforced, particularly in terms of race. Visa categories serve the purpose of creating the legal avenues that facilitate immigration to the U.S., however, it is through the types of visas available and their eligibility requirements that they create desirable and undesirable groups. Characteristics that determine desirability may include occupation, country of origin, or familial relation.

Essentially, *by looking at immigration debates and policies, I ask, how is race embedded in visa categories? Conversely, how do visa categories influence how we understand race and racialized groups?* To an extent, this project picks up where scholars like Glenn (2002), Ngai (2004), Park and Park (2005), and Rudrappa (2010) left off. It seeks to understand the power relations and racial hierarchy constructed through immigration laws. In addition, I bridge conversations about visa categories with burgeoning research on the racialization of immigrant enforcement measures (Golash-Boza and Hondagneu-Sotelo 2013; Johnson 2009) by looking at how racialization processes in both relate to one another.

RACE AND IMMIGRATION

Omi and Winant (1994) conceptualize race as a sociohistorical process that organizes groups into a hierarchy based on phenotypes. By sociohistorical, the authors argue that racial categories existing in today's U.S. society, such as Asian and Latina/o,

were created, defined, and redefined over time through multiple dimensions of society. More specifically, the authors look at how race has transformed in the realms of legal, political, and everyday experiences in society. The meaning of race is negotiated in racial projects, or moments that "connect what race *means* in a particular discursive practice and the ways in which both social structures and everyday experiences are racially *organized*" (Omi and Winant 1994:56). Even though racial categories change over time, they continue to exist in a hierarchy where the category White American is at the top and other categories are defined as not White American. Racial projects occur everywhere, but my focus is on the role of laws and the state.

Bonilla-Silva's (1997) concept of racialized social systems highlights how race operates on a structural level, such as in state institutions. He defines it as "societies in which economic, political, social, and ideological levels are partially structured by the placement of actors in racial categories or races" (1997:469). These categories are hierarchically arranged; differentiating access to rewards and structuring group interests and life chances. The group at the top of the hierarchy receives the most benefits in terms of economic, political, social, and ideological levels (Bonilla-Silva 1997:469). Thus, racial categories are given meaning and power because they are used to dictate access to material goods in a hierarchical order. State-created systems, like landownership, welfare, and immigration, place racialized groups in various parts of the hierarchy which determine their living conditions.

To illustrate this point, several scholars analyze the impact of the Treaty of Guadalupe Hidalgo in 1848 and its role in constructing Mexican Americans as "off-white" or "not quite white" (Glenn 2002; Gomez 2008). Following the annexation of the New Mexico territory, the addition of Mexican citizens as U.S. citizens led to a redefinition of the racial order (Gomez 2008). Gomez argues, Mexican-Americans were only considered "off-white" because they were still inferior to Anglo-whites but were positioned superior to Pueblo Indians and Black people, especially elite Mexicans. Laws played a pinnacle role in institutionalizing and defending Mexican Americans' claim to Whiteness, allowing land ownership, access to citizenship during a time when it was limited to free White men, and giving institutional support to arguments linking Spanish descent to Whiteness. However, legal recognition as White did not mean Mexican Americans were treated as equal to Anglo-whites. Even though Mexican Americans were allowed to own land, most lost their land when ownership switched from a Mexican system based on communal ownership to an Anglo-American system based on legal titles (Glenn 2002:148). In terms of employment, Mexican men and women were segregated into manual labor jobs, while Anglo-whites held mostly managerial positions (Glenn 2002:153). Thus, as an "off-white" group, Mexican Americans' position between Anglo-whites on one end and Pueblo Indians and Black people on the other end stabilized the racial hierarchy and incentivized their desire in maintaining the structure.

Immigration law is also fertile ground to show how the state utilizes racial categories to not only construct race but also use it to differentiate access to resources. The Chinese Exclusion Act (1882-1943) is typically deemed the first immigration policy that targeted a specific racial group for exclusion from the U.S. (Lee 2002). Lee argues the Chinese Exclusion Act introduced the "gatekeeping" ideology to U.S. immigration policy, emphasizing the racialization of Chinese immigrants, the need to contain their

potential as a threat, and the need to protect Americans from other dangerous immigrants (2002:38). To this end, the Act instituted five major changes to U.S. immigration laws. First, it created the first department devoted to inspecting immigrants. Second, it established the tools to monitor and control immigrants' movements, occupation, and relationships. Third, the Act created a list of documents immigrants would be required to submit to officials in order to enter the country. Fourth, the Act officially defined unlawful immigration as a criminal offense. Fifth, making unlawful immigration into a criminal offense also set the grounds for what would determine deportation laws.

In addition to racializing Chinese immigrants, implementation of the Act had implications for how working-class Chinese immigrants, especially women, were situated at the intersections of race, class, and gender (Calavita 2006). The Act was informed by class, resulting in barring working-class immigrants from China. The racial and class elements combined to conceptualize the "coolie," a racialized narrative used to demonize working-class Chinese immigrants. This narrative accomplished two goals: 1) it fueled anti-immigrant sentiment, and 2) it differentiated working-class immigrants from merchants. Gender and sexuality informed the policy by using the image of the Chinese prostitute to further prohibit working-class Chinese women from immigrating to the U.S. Not only did the Chinese Exclusion Act institutionalize immigration enforcement practices and limited access to immigration benefits for select groups, but it also constructed the initial racialized narrative around Chinese immigrants.

Ngai (2004) argues the quota-based system established in the Johnson-Reed Immigration Act of 1924 was the ultimate result of writing racial hierarchy into a nation-state project. Following World War I, the U.S. needed to establish its nation-state boundaries by clearly defining who could become a citizen and who could not (Ngai 2004:10). Immigrants from eastern and southern European countries, particularly Jewish immigrants and suspected communist sympathizers, were considered undesirable which prompted the creation of a country-based quota-system. Although the system meant to restrict this undesirable group, in actuality, it reduced their numbers and nearly excluded other groups who were categorized as races, like African Americans and Asians, rather than by their nationality. In the end, the system organized the world's countries and racial groups into a "hierarchy of desirability" (Ngai 2004:17) and crystallized racial difference into the U.S. immigration system. Labor needs and constructing the immigrant as an ideal worker were also major factors in identifying which groups were deemed desirable, and under what conditions (Calavita 1984; Glenn 2002; Ngai 2004). Thus, both the Chinese Exclusion Act and the Johnson-Reed Immigration Act provided the mechanism, ideology, and racial roadmap that continues to implicitly contour U.S. immigration policy today.

For many, the Hart-Celler Act of 1965 was a major turning point in terms of how race was embedded in immigration laws (Kim 2007; Park and Park 2005). The Hart-Celler Act officially took away the quota-based system using nationality and implemented a system based on labor needs and family reunification (Kim 2007). Eligibility to enter the U.S. and possibly obtain citizenship was no longer dependent on one's national origins, but largely based on one's connection to the U.S., either through family ties, an employer, or the ability to prove one is a refugee or asylee. Some argue, however, that even though the policy changes took away explicit mention of race, racial

ideologies continued to influence the creation and development of the new system. For example, Hsu (2015) looks at how students from China who escaped to Taiwan were framed as good, studious, and assimilable in the 1960s. To showcase its democratic values and guard against communism, the U.S. government enacted several policies aimed at providing aid to Chinese foreign students in the U.S. who could not return to China. Chinese refugees were framed as vulnerable victims of communism and, most importantly, assimilable. This narrative and the eligibility requirements used to determine refugee admissions set the stage for discussions leading to the Hart-Celler Act (Hsu 2015:169).

Avoiding the use of explicit racial categories, discourse about immigrants relies more on racialized ideologies as a proxy to maintain the hierarchy. For example, Kim argues that the current system operates on a contradiction between viewing immigrants as an "economic burden" or cost while also profiting off of them (2007:469). Policies passed after the Hart-Celler Act expanded restrictions on poorer migrants and opportunities for skilled workers to come to the U.S. (Park and Park 2005). Application requirements for family-based visas, cuts in access to welfare services, and continually increasing the number of employment-based visas illustrate this contradiction. As a racialized social system, today's immigration policies continue to place individuals in categories that structure rewards and the life chances available to them. Visa categories, in particular, provide the framework to maintain an immigrant hierarchy and the stage to develop racialized discourses to justify it.

BACKGROUND OF VISA CATEGORIES

Before we dive into the proposed changes in the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S.744), we need to understand the laws that shaped visa categories as we experience them today. Two immigration acts essential here are the Hart-Celler Act of 1965 and the Immigration Act of 1990.

Following on the heels of the 1960s Civil Rights Movement and international tension, the U.S. government was feeling the pressure to showcase its ability to embody democratic values (Fitzgerald 2014). As a result, President Kennedy moved to transform the U.S. immigration system and distance itself from the restrictive system of per-country quotas. He "envisioned a system governed by the skills of the immigrant and family reunification … these proposed changes meant both an increase in fairness to applicants and in benefits to the United States" (Hing 2012:94). On October 3, 1965, the Hart-Celler Act of 1965 was enacted into law. Each country, except for those in the Western Hemisphere, was given a limit of 20,000 visas annually. Countries in the Eastern Hemisphere were allotted a total of 170,000 visas. While countries in the Western Hemisphere did not have a per country limit, the region as a whole was limited to 120,000 visas annually. In addition, a visa preference system was established – categorizing individuals either in terms of family ties, occupational status, and a specific category for those "fleeing communist-dominated countries or the Middle East" (Hing 2012:96). A non-preference category was also created for those that invested at least $40,000 in a business in the U.S. These changes created the framework for the broad

categories of visas we know today. It also set the tone for what the immigration system would prioritize – job skills and family reunification.

The Immigration Act of 1990, passed on October 26, 1990, further refashioned the visa system by setting the annual visa cap to 675,000 beginning in 1994 (Hing 2012). This bill is largely credited for creating the complex network of employment-based visas we have today (Hing 2012; Park and Park 2005). Currently, there are mainly four visa categories: family-sponsored, employment-based, refugee or asylum, and diversity visas (Kandel 2018). The total number of visas issued continues to be limited to 675,000 per year and any one country is not allowed more than 7% of this limit.

Within family-sponsored visas there are four additional hierarchical preference categories: 1) unmarried sons and daughters of U.S. citizens, 2) spouses and unmarried children of permanent residents, 3) married children of U.S. citizens, and 4) siblings of U.S. citizens (Park and Park 2005:19). Each category has a limit to how many visas can be issued each year. The second category, for immediate relatives of permanent residents, has the largest limit at 114,200 visas per year. The total number of visas issued under any family-sponsored category may not exceed 480,000 visas per year.

Similarly, employment-based visas are separated into five categories: 1) "priority workers," 2) professionals holding a special degree, 3) skilled workers, 4) "Special immigrants," and 5) investment visas (Park and Park 2005). The first category is further divided into three sub-categories for individuals with "extraordinary ability," "outstanding professors and researchers," and "multinational executives and managers" (Park and Park 2005:22). The third category is also divided into three additional sub-categories: non-temporary skilled work, those holding a professional degree, and other non-temporary workers which included unskilled laborers. In addition, the second and third categories require the employer to petition with the U.S. Department of Labor to certify there are no qualified workers already in the U.S. and there will be no adverse effects to workers in the U.S. The maximum number of visas in this category may not exceed 140,000 visas. The U.S. immigration system has another category of temporary work visas, or the H-2A category, that is mainly for agricultural work and is a continuation of the previous Bracero Program (Kosegi 2002).

The remaining two categories are diversity visas and refugee visas. Diversity visas are given to countries that have used less than 25% of their allotted per-country limit, but these visas are limited to 55,000 visas per year. Scholars argue this category is actually "anti-diversity" considering it gives preference to European countries (Johnson 2009; Park and Park 2005). They argue this category was created in reaction to the change in immigrant demographics following the Hart-Celler Act of 1965. Finally, the refugee or asylum visa category is available to those that can prove they suffer from severe persecution and discrimination in their country of origin (Bruno 2018; Kandel 2018). The limit for this category is set by the incumbent President of the U.S. at the beginning of each fiscal year (Bruno 2018). Ultimately, both of these immigration bills shaped how we have come to understand visa categories and set the foundation for what the comprehensive reform bill attempted to alter in 2013.

S.744 was one of the most recent pushes for comprehensive immigration reform that garnered much public attention and anticipation. Touted as a bipartisan bill authored by the Gang of Eight, the proposed legislation consisted of four main elements. First,

S.744 would have created a pathway to citizenship for undocumented immigrants called the Registered Provisional Immigrant (RPI) status. Individuals who had been in the U.S. since December 31, 2011, did not have a criminal record, passed a background check, and paid taxes owed could have applied for the status by paying an additional application fee and $1000 penalty fee (American Immigration Council 2013). After six years, applicants could reapply for RPI and show they have been consistently employed. Only after ten years as RPI and assuming additional border enforcement measures, known as "trigger" measures, are met, could those in RPI status apply for legal permanent resident. DREAM Act eligible applicants, or those who came to the U.S. prior to the age of 16 and met certain education or military requirements, could also apply for RPI status but would be able to apply for legal permanent resident after five years.

The second element would have increased border enforcement in several ways. Referring to the "trigger" measures mentioned before, the bill would initiate the Southern Border Security Strategy, which included additional fencing along the U.S.-Mexico border and controlling 90% of border crossings. These measures were called "triggers" because applications for RPI would not be processed until the Southern Border Security Strategy had begun implementation. Those in RPI status may not adjust to legal permanent resident until the enforcement program had been "substantially completed." In addition, S.744 would mandate the use of E-verify, a program that verifies a person's work authorization documents with government records, as well as an entry-exit system at all entry points, including along the U.S. border and at airports. This system would track all who were coming into the U.S. with a visa and potentially flag those who had overstayed.

The third element would have eliminated family-based visas for siblings and adult married children of U.S. citizens. New employment-based visas were also added for undocumented agricultural workers (the Blue Card) and nonimmigrant seasonal workers (the W-visa). Unlike the W-visa, the Blue Card is a permanent status that would allow for a pathway to citizenship with an expedited process similar to DREAM-eligible applicants. The fourth element would be the merit-based system. Largely based off Canada's program, it entails a two-tier points system where applicants earned points for academic achievement, employment record, and certain familial and community ties. I go into more detail about these changes in the following chapters.

By looking at these pieces of legislation together and at the evolution of the visa program, we can begin to grasp how the narrative about what our immigration system stands for compares to the actual laws we pass and continue to propose. The shift from a per country quota system to one that is focused on family reunification and immigrant job skills was enveloped in the nation's need to cement its identity as a leading democratic nation-state. The 1990 bill further illustrated the country's commitment to facilitating immigrants with certain employment skills by creating a vast array of employment-based visas. As Park and Park (2005) note, the changes in 1990 reoriented immigration visas towards a market-based approach – prioritizing cost-cutting and talent. In 2013, we see efforts to move away from family reunification by limiting options and tying it to border enforcement measures, while still expanding opportunities for skills-based immigration through the merit system. As I move through my analysis, I show how these proposed

changes attempt to reinforce a hierarchy of immigrants through the institutions of labor and family.

THEORETICAL FRAMEWORK

While the focus of this project is on racial projects within the construction of and debates about visa categories, I pay particular attention to colorblind racism or covert instances of race making. Reacting to claims of a post-racial society and the belief that if people do not mention race then racism and racial inequality would dissipate, colorblind scholarship argues that by omitting explicit mentions we are actually reinforcing prejudice and inequality. Critical Race scholars consider it is a "formal ideology or set of norms that obscures continuing patterns of White dominance in the post-civil rights era" (Kim 1999:117). On a micro-level, research shows how individuals maintain the significance of race in social interactions (Bonilla-Silva 2009; Obasogie 2010). Colorblind rhetoric (Crenshaw 1998) or colorblind ideology (Carbado 2002) are also tools used at the meso-level, such as in Supreme Court hearings, to mask the history and contexts that perpetuate racial inequality.

Immigration scholars have identified the use of implicit racialized discourse in laws such as the Immigration Reform and Control Act and the Immigration and Nationality Act of 1990. Newton (2008) illustrates how paying taxes transformed into a rhetoric differentiating deserving citizens and undeserving Mexican immigrants who did not have social security numbers (but may have paid some taxes anyway). Both Kim (2007) and Park and Park (2005) explain how the market-based language used to pass the 1990 legislation depicted Mexican immigrants as economic burdens and Asian immigrants as assimilable workers.

Ultimately, I argue that lawmakers use implicit racialized discourse to naturalize a hierarchy among immigrants via their access to different immigration benefits. The rhetoric centers on claiming who is an insider versus an outsider. Insiders typically enjoy positive frames, such as contributors to the nation or exceptional members of society, which become the justification to simplify their visa application process or ensure those benefits are extended to their families. Outsiders, on the other hand, are framed as a drain on social services or a threat to U.S. security. This logic justifies increasing barriers in their application process or questioning whether they deserve any immigration benefit at all. In a sense, the categorization of insider and outsider determines access to material resources and dictates whether a person is valued or devalued. This state-created value system is naturalized as a necessity for a nation's identity and sense of security.

In my analysis of how the implicit racialized discourse operates to construct this value system, I utilize three concepts – administrative burdens, controlling images, and the violence of value. Each plays a role in cementing insider and outsider categories, and ultimately naturalizing a racialized hierarchy among immigrants.

To understand the impact of visa categories it is also important to recognize that they exist within a complex bureaucratic structure. In the Weberian sense, the key characteristics of bureaucracies are that they follow strict processes, are hierarchal, and impersonal (Weber 2009). This allows bureaucracies to work efficiently and appear rational. Forms and application processes, then, appear to have a logical purpose.

Applicants are more worried about knowing what applications to fill out, next steps in the process, and decision outcomes rather than questioning why the process is the way it is. Silently occurring through this structure is the distribution of resources, construction of social categories, and the ability to maintain the status quo. Researchers have studied how these bureaucratic structures perpetuate inequality, developing concepts like bureaucratic violence (Norberg 2021), administrative violence (Spade 2015), and administrative burdens (Herd and Moynihan 2018).

To highlight racial projects in discussions about visa eligibility requirements and processes, I borrow the concept of administrative burdens because it differentiates between the types of burdens that people face. According to Herd and Moynihan, administrative burdens are "the learning, psychological, and compliance costs that citizens experience in their interactions with government" (2018:22). Learning costs involve the time and effort it takes people to learn about a government program, including eligibility requirements and application processes. The psychological costs associated with applying for government programs include stigma surrounding the program, frustration during the application process, and uncertainty in the outcome. Compliance costs are the obstacles confronting potential immigrants seeking to meet application requirements, either in their attempt to meet eligibility requirements or gather information needed to complete the application. For example, if you are looking to renew your driver's license, the learning costs entail going to the website for the department of motor vehicles or physically going to the office to obtain an application for renewal form, learning what documents you need to submit and where to submit the completed form. Considering renewing a driver's license is a common process that most people need to do, there is little stigma associated with it, so there are limited psychological costs. Compliance costs include any fees you would need to pay, efforts to obtain required documents, and the process to submit the completed application. The authors also point out that spatial organization of waiting rooms or the time it takes to wait in line throughout the process are part of compliance costs that can also contribute to psychological costs.

The authors ultimately argue these burdens are political. They are points of communication between the state and applicant, suggesting how the state conceptualizes possible beneficiaries of the program. For administrative burdens, "those who are powerless or are categorized as undeserving are more vulnerable to burdens" (Herd and Moynihan 2018:31). Therefore, burdens are often unequally distributed and the decision to increase or decrease barriers is a signal of the ideal applicants' desirability. Even though the authors conceptualize administrative burdens in relation to citizens interacting with the government during the process of applying for government-provided services, the concept also aptly applies to immigration services. Though not citizens, workers applying for an employment-based visa also incur learning, psychological, and compliance costs. While my project does not focus on the applicants' experiences going through the application process, the concept of administrative burdens is useful for my analysis as it highlights the politicized nature of the process and the creation of value within negotiations about application processes.

The second concept I borrow is from Collins (2009) where she develops this concept of controlling images in her analysis of Black women's oppression. Collins

argues Black women have been objectified into themes that demonstrate their outsider status. The controlling images of "welfare queen" and "mammy" illustrate society's assumptions and expectations about the possibilities for Black women. To be sure, I am referring to the imagined images that society conjures when thinking about Black women but not how Black women actually are. These controlling images are constructed throughout history by various narratives emanating from media and political discussions. These "controlling images are designed to make racism, sexism, poverty, and other forms of social injustice appear to be natural, normal, and inevitable parts of everyday life" (Collins 2009:77).

Within immigration debates and discussions, I believe framing the imagery about immigrants in terms of controlling images highlights the power dynamics that restrict immigrants and people of color, alike. Policy discussions can construct immigrants as a "docile worker," "successful immigrant," or "dangerous criminal." It is a vicious cycle of taking existing controlling images and then repackaging them in terms of the social problems and policy restrictions at hand. These are controlling because the narrative coming out of the debates presents a mold into which immigrants are expected to fit. Policy-makers craft visa categories with an idea of how immigrant laborers ought to be, and that becomes the image society expects and uses to measure workers. That initial idea is informed by existing racialized notions and needs of the powerful elite. In addition, the concept of controlling images highlights both the ideological power and material goods determined through these images.

The third concept I utilize is Cacho's (2012) violence of value. According to the author, "value is made intelligible relationally" (Cacho 2012:13). The state portrays a group as valuable only by describing another group as less valuable, sometimes explicitly and sometimes implicitly. The violence of value, then, is when a racial group gains state recognition only by devaluing another group. The problem is not whether people participate in this practice, but the value system created by the state. In fact, Cacho argues racialized groups are trapped in this cycle where gaining state recognition or value requires rejecting the devalued. She writes, "to make sense of systemic and systematic racism, the state recruits people of color to demand their due recognition as deserving U.S. citizens or law-abiding immigrants, but the manner of their recruitment requires that they do so by disavowing another devalued racial other of U.S. citizenship and American empire" (Cacho 2012:15). Having a visa or citizenship status is valuable because there is a comparison group that is criminalized and considered unworthy. Most importantly, everyone trapped in this cycle is still negatively impacted by the same value system. The idea of being valued only diverts attention away from the system of inequality it exists within.

The network of visa categories inherently creates this value system through the eligibility requirements, comparisons made between visas, and between applicants and American citizens. Especially in comprehensive immigration reform legislation where different statuses are vying for a spot, lawmakers are constantly comparing employment visas with family visas and existing statuses with the newly created RPI status. They also weigh types of application requirements, making it simpler or harder for people to reach U.S. citizenship and thus suggesting who is more valued. This ultimately creates a hierarchy within immigrant statuses. However, at every stage from immigrant to citizen,

people, especially people of color, continue to face barriers that signify they are devalued, ranging from accessing welfare services (Fox 2012; Fujiwara 2008) to being labeled as perpetually foreign (Kim 1999; Romero 2008). This state-created value system serves to divert attention away from continued systemic issues. Ultimately, I use this concept to illustrate how visa categories construct a hierarchy among immigration statuses that have, in turn, become proxies for racialized groups.

All three of these concepts are tactics that mask inequality and naturalize the accompanying power relations. Administrative burdens provide the procedural logic, controlling images provide the narrative justification, and the violence of value holds the entire hierarchy together. While I analyze how these tactics are used somewhat separately, at times, they rely on and legitimate each other. For example, the controlling image for H-1B workers is that they are high-skilled, exceptional, and docile workers. This justifies arguments to fast-track their application process and supports the comparison that they are more desirable than low-skilled workers.

METHODS

Data

Using the Library of Congress database, I collected transcripts of congressional hearings and language of the proposed Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S.744). I coded 155 actions for S.744. Congressional records categorize "actions" as each time a piece of legislation was discussed in a committee, amendments were made, or a clerical action was passed. Essentially, actions were transcripts of these discussions. The hearing data provided a window into how elected officials define and justify elements of immigration reform, as well as, how they position them in relation to each other. For example, how are H-1B visas compared with H-2A visas? Or how do border enforcement measures weigh against family visas under the banner of *comprehensive* immigration reform?

Analysis

Ethnographic content analysis is a reflexive process oscillating between data collection, coding, concept development, and analysis (Altheide 1987). Taking written documents as a form of human action (Altheide 1987:76), congressional debates and written laws become a part of culture because they partake in the social meaning-making process of concepts like race. Analyzing documents using ethnographic content analysis means to "place documents in context … in order to theoretically relate products to their organizational production" (Altheide 1987:74). This approach allows me to analyze the laws that create visa categories and related discussions as cultural products embedded in state practices and the values they uphold.

Throughout this process, I borrowed three analytical concepts from Glenn (2002) to guide my analyses. First is relationality, or the idea that racial categories have meaning because they are defined as "dichotomous oppositions or contrast[s]" (Glenn 2002:13). Groups of people are essentialized into groups and organized into a hierarchy. Relationality is not only an important concept to understand hierarchy and power relations created between racialized groups, but also in instances where race does not

seem at play. The second concept is the relationship between cultural representations and material relations. Racial meanings embedded in cultural representations are borrowed from material conditions, and vice versa, material conditions are impacted by cultural representations. Different types of visa categories have varying degrees of access to citizenship, which is a form of material condition. Cultural representations also impact discussions about which groups are more or less deserving of certain types of visa categories; therefore, visa categories also highlight the relationship between cultural representations and material relations. Lastly, power is a useful analytical concept. Glenn defines power as "lodged, taken-for-granted assumptions and practices, takes forms that do not involve force or threat of force, and occurs in dispersed locations" (2002:16). In this sense, power is not always exercised explicitly; in fact, it suggests power can be found in areas that are not conventionally political. Glenn's conceptualization of power is an important reminder to understand power relations embedded in the administrative negotiations that often constitute debates about visa categories.

My analysis focused on how race is coded into descriptions of visa categories and debates over their eligibility requirements. Using the three analytical concepts as a guide, I conducted my analysis in two phases. In the first phase, I used a set of pilot codes borrowed from existing literature and adapted them to my project. Pilot codes included *employability*, *moral character*, *economic impact*, *assimilability*, and *define family.* Research finds that characteristics demonstrating an immigrant's employability, such as special skills and level of education, are commonly used to advocate for student, employment, and refugee visas (Hsu 2015; Park and Park 2005). Moral character points to whether a person has a criminal record or can be described as "law-abiding," which is another common eligibility requirement and frame for expanding visa programs (Hsu 2015; Johnson 2009). Narratives about immigrants' economic impact as "freeloaders" (Newton 2008), costly (Park and Park 2005), or an "economic-burden" (Kim 2007) are also deeply embedded into debates about immigration reform and visa programs. Assimilability refers to assumptions about immigrants' potential to become embedded into society or remain a "permanent foreigner" (Hsu 2015; Newton 2008). These discussions lead to justifications for whether certain immigrant groups can obtain a more permanent status, such as citizenship, or must remain temporary visa holders. Finally, sections about defining family included descriptions of which relationships counted as family and instances where various familial relationships are organized in terms of preferences and offered different access to permanent residency. This allows me to compare descriptions of family in discussions of visa categories with the heteronormative definition of family (Collins 1998; Smith 1993) and analyze how this can impact access to resources (Coontz 2000). In addition, I coded excerpts that mentioned a specific visa type in order to develop a narrative of how visas were described. In total, this phase garnered 1,568 excerpts.

In phase two, I focused on developing thematic codes and memo writing. To start, I separated the codes according to chapter themes – labor, family, and nation building. Next, I identified trends by analyzing excerpts according to specific codes within each chapter theme. To illustrate my process, I included all excerpts that mentioned an employment-based visa, labor industry, and descriptive codes about workers into the labor subset. Then, I analyzed excerpts within each code and noted commonalities within

each code and across different codes. For specific visas, I analyzed all excerpts that mentioned H-1B and H-2A visas, finding trends for each visa type and comparing those trends between the two categories. As trends became apparent, I wrote memos connecting my findings to theoretical concepts, as well as returning to existing literature to help me contextualize my analyses. For a list of codes included in each subset refer to Appendix A.

CHAPTER OVERVIEW

To illustrate how discussion about visa categories contributes to the construction of race, I focus on a specific aspect of the debates on S.744 in each chapter. Examining excerpts about specific employment-based visas or a labor industry, chapter two details how workers are portrayed and the expectations linked to different labor industries. I highlight three themes that illustrate how lawmakers construct an ideal immigrant worker. First, the willingness to decrease administrative burdens, such as additional forms and wait times, suggests the applicant is desirable; whereas efforts to increase administrative burdens suggest the opposite. For example, lawmakers consistently wanted to decrease barriers for science, technology, engineering, and math (STEM) workers and international students, allowing them a simpler path to stay. Debates to increase application barriers for Blue card workers, those who are undocumented and have worked in agriculture, and W-visa holders, those eligible for a nonimmigrant seasonal work visa, pushed for adding border enforcement measures before the new program went into effect. Second, lawmakers made different assumptions about whether workers from specific labor industries should be allowed to stay permanently or temporarily. STEM workers were assumed to want to stay in the U.S., while agricultural and other low-skilled workers were expected to stay temporarily. Third, whether workers were framed positively or negatively was influenced by if they were described as a worker in a specific industry or a visa holder. The difference is the relationship the visa applicant has to government resources. Immigrant workers were viewed more negatively by foregrounding that the worker was utilizing a government resource. Overall, workers were described more negatively when they were mentioned in relation to a visa category but more positively described when they were tied to a specific labor industry.

In chapter three, I focus on excerpts that discuss changes to family-based visas and the proposed merit-based system. In these discussions, we see how immigration laws uphold the traditional family ideal by decreasing the administrative burdens for immediate relatives of legal permanent residents. At the same time, visa categories for siblings and adult married children were eliminated, suggesting an increased value for immediate family members and decreased value for other familial relations. Additionally, these eliminated categories were added to the newly proposed merit-based system, sparking comparisons between familial relations and what is considered merit. Merit, or the characteristics for which applicants gain points in order to immigrate to the U.S., largely consisted of socioeconomic factors and assumptions about what makes a successful immigrant. These discussions created a dichotomy between family and merit, weighing each one to see which is more valuable. These discussions illustrated a shift from prioritizing family reunification to a market-based immigration system. Changes to

family visa categories impacted who was allowed to immigrate with less administrative burden and who was reduced to a quantified relationship compared to socioeconomic accomplishments. With family visas mostly utilized by immigrants from Mexico and countries in Asia, these discussions ultimately place families from these countries at a disadvantage and frame them as undeserving and devalued.

Chapter four concentrates on narratives about the nation and how discussions about visa categories contribute to a racialized national identity. According to Collins (1998, 2001), the traditional family ideal is an ideological tool to understand and build a sense of nation. Most importantly, this ideal normalizes a hierarchy among family members under the guise of unity. Similarly, narratives around national identity center around commonality and national pride while normalizing the hierarchy between insiders and outsiders. Immigration laws ultimately try to determine who are outsiders and who can become an insider, or a U.S. citizen. In this chapter, I discuss how different groups of immigrants are positioned on a scale of immigrant desirability in the discussions about visa categories and the newly proposed RPI status in S.744. As outsiders, immigrants are weighed and measured in terms of their desirability and likelihood of becoming an insider, positioning groups with different access to resources. However, these discussions are typically embedded within a narrative that portrays the nation as exceptional, compassionate, and fair. This narrative suggests the proposed law is beneficial to immigrants and the country, giving the appearance that the U.S. is a benevolent nation even though, in truth, immigrants are being cherry-picked based on their potential to contribute to the U.S. In the final chapter, I revisit these themes and their implications for future pushes for comprehensive immigration reform.

As we move through each chapter, it becomes clearer that these racialized narratives and accompanying hierarchy have long been embedded in our immigration laws. This is, in part, why characters such as former President Trump could use these readily available frames and have them resonate with a large enough crowd to elect him. At the end of this project, I hope to generate some discussions about how we can destabilize the connection between these narratives and law-making.

CHAPTER 2: VALUE OF LABOR

On November 5, 2021, Vice Mayor Liang-Fang Chao of Cupertino, California sent an email to parents in the school district opposing the push for ethnic studies classes (He 2021). She argued ethnic studies misrepresents history and claimed policies such as the Chinese Exclusion Act were not about race but more about protecting American workers from job competition. She argued that because the law did not prohibit *all* Chinese or Asian immigrants it was not rooted in racism. She then likened the purpose of the Act to today's "H1" visa program because both supposedly attempt to limit foreign sources of job competition. Though her comments were quickly met with heated pushback and calls for an apology, this story sets the stage for how employment-based visas contribute to a colorblind rhetoric.

California had recently passed Assembly Bill 101 (2021) mandating high school students complete an ethnic studies course in order to graduate. According to her comments, the focus in Ethnic Studies curriculum on the Chinese Exclusion Act as a racial issue is incorrect because we need to understand it within the time period it was passed. It was not considered racist to single out Chinese people during the late 1800s. The Act, in her opinion, is best understood from an economic and labor standpoint – foreign labor supply should be limited if it reduces job opportunities for Americans. Not only did she erase the racial implications of the Act by applying the "language of the market" (Park and Park 2005), she used her argument to critique Ethnic Studies curriculum. In addition, Vice Mayor Chao connected the Act to H-1B visas, though she referred to it as H1 visas. She justified H-1B visas as a beneficial tool to limit job competition, again framing the policy from an economic and labor standpoint. The use of this framing to first erase the racial implications of the Exclusion Act and then apply it to H-1B visas illustrates the utility of the "language of the market" in transforming racist policies into colorblind racist logic. By re-packaging the Act in terms of labor competition, it provides the narrative camouflage needed for future policies. When policies are portrayed as innocuous, it becomes easier to believe they are administrative changes that do not have social implications for race, gender, or class.

In this chapter, I highlight similar maneuvers that take seemingly race neutral debates that construct and maintain a racialized hierarchy of labor. The discussions about ideal workers for specific labor industries and the immigration benefits connected to those ideals suggest workers are deemed as desirable and potential insiders, or undesirable and criminalized outsiders. To start, I provide a brief summary of the existing literature on how labor, as an institution, has evolved and the role immigration laws have contributed to those changes. Then, I describe the complex network of employment-based visas currently in use along with the proposed changes in S. 744 (2013). Next, I review the general trends found in the discussions on employment-based visas during the debates over the proposed immigration reform legislation. The final three sections are broader themes that highlight specific tactics lawmakers used that contribute to a racialized hierarchy. The three themes are administrative burdens, assumptions about settlement, and the contrasts between when immigrants are labeled as visa holders versus workers.

LABOR AND IMMIGRATION

Often, when we think about labor, images of individuals working for a wage or thoughts about its connection to local and global economies come to mind. We think about how individuals are enabled or prevented from engaging in the labor market and, consequentially, how the labor market can impact people's everyday lives. However, if we reframe labor as a racialized and gendered institution then our focus shifts. Labor, itself, becomes a dynamic concept. As an institution, labor is constructed, embedded with power relations and requires constant maintenance. A driving factor in labor are labor markets, which are "socio-political constructions that require a state's active involvement in facilitating the creation of supply, demand, surplus, and scarcity of labor within its boundaries" (Rudrappa 2010:362). By shifting our focus, we can emphasize how the institution of labor is changing and maintained in terms of what and who we need and how they are defined. There are two processes within existing literature on labor that are particularly useful for us here – the commodification of labor and racialization of labor. With the help of state practices, these processes create and maintain a racialized hierarchy through visa categories.

Literature on the commodification of labor explores the processes that transform people's labor into a tradable or sellable item. The way we understand labor in the U.S. today is in large part a result from the legacy of slavery (Bonacich et al. 2008; Rudrappa 2010). The slave trade transformed workers' ability to labor and bodies into sellable items. Labor was not about building skills and passing down knowledge but about monetary value. Commodification divorced the individual from the laboring body, thus making concern for their rights and well-being seem irrelevant. Citizenship rights and control over their own labor power were denied to those enslaved. This created a category of worker that was naturalized as disposable, exploitable, and inferior.

In addition, Rudrappa (2010) argues labor is a fictive commodity. The exchange between laborer and employer is constantly contested, whether on an interpersonal or structural level. Workers protest their working conditions and employers respond, sometimes with positive changes or with retaliation tactics such as lay-offs or hiring temporary workers. Laws passed to increase worker benefits may lead employers to rely more heavily on temporary workers who may not be entitled to those benefits. Commodity represents a passive position on the part of those being sold, when, in reality, the commodification of labor is an active relationship. Human laborers have more agency than a book or other sellable objects. The point Rudrappa makes is that the process of commodification is driven by human action and power relations. However, even if workers play an active part, employers hold more power and actively work to maintain it.

The second process is the racialization of labor. According to Bonacich et al. (2008), racialization of labor involves placing racialized groups in a hierarchical system for the purpose of labor exploitation. As slavery commodified bodies, race was used to justify the trade, hierarchically differentiating between people of African descent and White Europeans. Depending on a person's racialized-gendered location, there are associated advantages and disadvantages. Those lower in the hierarchy tend to enjoy fewer rights on the job and are considered outsiders in terms of national belonging. While commodification focuses on changing the nature and meaning of a person's labor power,

the racialization of labor centers race relations as an axis of *how* the labor hierarchy is structured.

Adding to this definition, the racialization of labor also refers to racial groups deemed appropriate for certain labor sectors. According to Wooten and Enobong (2012), appropriate labor is a negotiated ideal that labels certain workers as best suited for a specific type of work. The connections between race and labor industry are fortified to the point where race becomes an implicit job criterion. The definition of appropriateness and the justifications are constantly redefined, and these processes represent "a form of institutional work where interested parties attempt repair and recreate the definitions of 'appropriate'" (Wooten and Enobong 2012:295-296). For example, the authors argue the definition of an ideal laborer for domestic work shifted along with changing race, class, and gender relations from the 1800s to post-industrialization. Young white women, preferably family members or neighbors, were the ideal labor pool for domestic service in the 1800s because it was seen as a form of apprenticeship. As standards of white middle class womanhood transformed, the institution of domestic work followed suit. Domestic service became a servant position. Historically denied "true womanhood," Black women were defined as "appropriate" domestic servants. Their labor position and racialization went hand-in-hand to justify their forced labor in the fields and then their labor in the house and were used to redefine domestic service**.** Later, Latinas would similarly be racialized as ideal domestic workers (Villanueva 2002). Ultimately, the idea of an appropriate worker becomes a controlling image that dictates the type of job one is likely to obtain, and the type of worker employers seek out.

Ultimately, the product of transforming the meaning of a person's labor power or the labor industry itself is the creation and maintenance of a labor hierarchy. Commodifying and racializing labor strips workers of their rights, including citizenship and labor rights, which places them in an inferior position in comparison to those that can fully access these rights. Hierarchies within labor include relegating groups of people to certain industries, such as agricultural work, domestic service, and information and technology. Different industries are further separated by occupational prestige, which could determine their treatment in policymaking. If an industry is more positively viewed, they may be given more consideration for expedited, simpler processes and in other ways reduce barriers to resources. In terms of immigration, this could include increasing visas for favorable industries while making the application process more complicated and cumbersome for less favorable industries.

State processes, like employment visas, legitimize and systematize these processes. Legislators negotiate who is an ideal laborer when they make assumptions about who will utilize certain visas then adjusting visa parameters based on those assumptions. While certain skills and characteristics may be ideal for an occupation, the descriptions used to construct this ideal are often wrought with racialized meanings. In fact, Rudrappa (2010) comments employment-based visas reinforce the commodification of immigrant labor, considering a worker's ability to labor depends on visas that can be calculated, increased, and decreased. Visas create workers that are flexible and, therefore, exploitable. In the U.S., the agricultural industry has a rich history of guest worker programs and work visas that do just this. Science, technology, engineering, and math

(STEM) industries are additional areas with an expanding network of visas that maintain an exploitable workforce.

The systematization of supplying immigrant labor for agriculture largely came from the Bracero Program (1942-1964), a guestworker program overseen by the Immigration and Naturalization Services (Calavita 1992). The program institutionalized aspects of migrant labor that made them ideal to farmers – controllable, available, and cheap. The use of piece-rate wages, locking workers to a specific farmer, and preventing them from staying in the U.S. created a work force that was expendable and movable. At the same time, nativist sentiment, moral panic spread by media, and immigration laws constructed Mexicans as a social pathology. Migrant workers from Mexico were framed as stealing jobs from Americans, depressing farm wages, and violating the nation's sovereignty (Calavita 1992; Ngai 2014). This sociopolitical context created two contradictory controlling images for Mexicans – the ideal farmworker and criminalized migrant. In fact, it is the combination of contradictory controlling images that justified policies to keep the workers available but temporary (De Genova 2004). Later, these images would expand to include Latinos in general and other sectors as well, such as the meat-packing industry (Olivos and Sandoval 2015).

These controlling images become key in the debates about S. 744 and employment visas for agricultural workers (H-2A). Lawmakers maintained an assumption that farmworkers should be temporary workers, returning to their country of origin when the job was complete. This narrative also naturalized the view that working conditions for this line of work is often grueling and undesirable, or a "job that no one wants."

Burgeoning research highlights the racialization and commodification of Indian workers in the information and technology (IT) sector. Since the program began in 1990, H-1B visas have maintained a flow of IT laborers to the U.S. while limiting their ability to dispute labor conditions or bring their families (Banerjee 2006; Matloff 2003; Park and Park 2005; Rudrappa 2010). Banerjee (2006) describes a three-tier system where large companies use subcontracting firms to hire contract workers from India using the H-1B visa. The tier system enables major companies the ability to avoid taking responsibility over these workers. The subcontracting companies are responsible for recruitment and place workers based on projects while collecting a percentage of their salary as commission. Workers are either limited to the projects the subcontracting company places them at or they are not paid if there are no projects available. The situation forces workers to accept subpar labor conditions for fear of losing their job and immigration status – what Banerjee (2006) likens to "indentured servitude." Over time, Indians have been naturalized as best fit for the IT industry (Banerjee 2006; Sahoo et al. 2010). This assumption adds to the image that Asian Americans embody the model minority myth, a monolithically immigrant group that supposedly attained socioeconomic mobility (Park and Park 2005). Still, IT workers from India are rarely hired into management positions and often relegated to lower-ranking positions (Banerjee 2006; Matlock 2003). These positions tend have lower pay and are more susceptible to job instability.

The controlling images created from this history of commodification and racialization reappear in the debates over S. 744. Legislators use these narratives to justify administrative processes and make certain assumptions about the workers, such as

their preference to stay or return to their country of origin. They also develop a dichotomy between desirable and undesirable laborers, while ultimately creating a system of exploitable laborers and othering that benefits the nation-state and redirects the focus from the real beneficiaries – employers.

DESCRIPTION OF VISAS

Employment visas are broadly driven by the applicant's economic relationship with the U.S., whether that is a job opportunity, investment, trade or special labor skill. In general, these visas can be divided into permanent and temporary workers. The main difference between these two types is permanent worker visas already assume the applicant will eventually adjust to a permanent resident and later be eligible to naturalize as a U.S. citizen. Some temporary worker visas allow the applicant to adjust their status to permanent resident, however, it is not the initial intent of the applicant.

Employment-based visas for permanent workers are based on achievements in a certain occupation, designation as a "special immigrant," or those that invest in businesses. "Special immigrant" status includes a wide variety of groups that were categorized as such through various individual immigration amendments. Some groups include employees of U.S. foreign service posts, Afghan or Iraqi translators, and Panama Canal Zone employees. There are five types of visas – EB-1, EB-2, EB-3, EB-4, and EB-5 – within this permanent worker category.

Within the temporary worker category, there are a total of twenty-six different types of visas. E-visas are reserved for individuals entering the U.S. to trade or invest and who are nationals of countries with a formal treaty agreement with the U.S. There are four types of E-visas. H-visas include seven sub-categories and are largely available to workers in specialty occupations, agriculture, and non-agricultural seasonal work. There are several categories that are reserved for those in specialty occupations and are nationals of Chile or Singapore (H-1B1) or come to the U.S. to conduct research with the Department of Defense (H-1B2). While most H-visas are restricted by applicant qualifications, only visas for temporary agricultural workers (H-2A) and temporary non-agricultural workers (H-2B) are restricted to a list of "eligible countries." As of 2019, the number of eligible countries for H-2A (USCIS 2021) and H-2B (USCIS 2022) were 81 and 84, respectively. It is worth noting that China and India are not among the eligible countries for either visa, however they do send the largest percentage of H-1B workers.

L-visas apply to individuals that need to enter the U.S. because the company they work for transfers them to a U.S.-based office. There are two types of L-visas, one for managerial or executive employees and another for employees with specialized knowledge. Individuals considered to have extraordinary ability in the arts, science, education, business, athletics, or the entertainment industry can apply for O-visas. There are three types within this category. Internationally recognized athletes or those playing for major league sports and their support personnel can apply for P-visas. Q-1 visas are reserved for those participating in a cultural exchange program and R-1 visas are for religious workers. TN visas are reserved for professionals coming from Canada and Mexico.

Finally, there are five additional visas set aside for students (F-visas) and temporary business visitors (B-1, GB, and WB). F-3 visas are reserved for students that are also nationals of Canada and Mexico. For business travelers, B-1 is a broad category applicable to anyone temporarily entering the U.S. to conduct business. GB visas are for those only intending to arrive in Guam or the Northern Mariana Islands. WB visas are reserved for nationals who belong to countries in the Visa Waiver Program (VWP). There are a total of forty countries in the VWP. Nationals of countries in the VWP are exempt from needing a visa for business or vacation related travels of up to ninety days. To be included, countries must offer the same benefit to travelers holding a U.S. passport, have less than 3% of nonimmigrant visa applications denied, use machine-readable passports, and be determined to not be a threat to U.S. security (Siskin 2004).

In S. 744 (2013), two new employment-based visa categories, W-visa and Blue card, were introduced, though never implemented. The W-visa category would have provided temporary status for agricultural and seasonal workers. Consisting of two subcategories, W-2 visas are reserved for contract-based employment and would officially replace H-2A visas. W-3 visas are created for at-will employment, meaning workers would be entered into a database where employers can use to hire employees. This type of visa is further restricted to registered positions and registered employers. To become a registered employer, the company must submit an application to the Secretary of Labor detailing the number of workers to be hired, dates of employment, and a description of the type of work. Registered positions are limited to types of occupations that require little to no preparation. Preparation includes special skills or training needed in order to perform the job. The bill explicitly prohibits the use of W-visas for positions that require a bachelor's degree or higher or describes a job for a computer operator or programmer.

The Blue card would have provided temporary status to undocumented agricultural workers already in the U.S. To be eligible, the applicant must have worked a minimum of 100 work days or 575 hours in the past two years, prior to December 31, 2012. Derivative status is also available if the spouse and children can prove they were physically present on December 31, 2012 and pass a background check. Applicants must pay a $100 fine to the Department of Homeland Security as penalty for being in the U.S. without documents. After five years, Blue card holders can apply to adjust to legal permanent residents if they have fulfilled one of the following two requirements: 1) worked at least 100 work days per year during an eight year period or 2) worked at least three years of agricultural work for at least 150 work days per year during a five year period. In addition, to adjust to legal permanent resident the applicant must pay an additional $400 fine, pass another criminal background check, and pay all previously owed taxes.

Even though there is a bevy of employment-based visas, my analysis focuses on the H-visas, W-visas, and the Blue Card program, as shown in Table 2.1. These visas were discussed the most during the debates.

TABLE 2.1: Employment-based Visas Mentioned in S. 744

Visa Category	Purpose	Top sending country (2013)
H-1B	Specialty occupation worker *(E.g. STEM)*	India
H-2A	Temporary or seasonal worker *(E.g. Agricultural)*	Mexico
H-2B	Temporary or seasonal worker *(E.g. construction and hospitality)*	Mexico
W-2* *(Replaces H-2A)*	Contract-based agricultural worker	Not applicable
W-3*	At-will agricultural worker	Not applicable
Blue Card*	Status for undocumented agricultural worker	Not applicable

* Proposed in S.744 (2013) but was never implemented
Source: U.S. Department of Homeland Security. "2013 Yearbook of Immigration Statistics."

THEMES IN DATA

Excerpts related to employment-based visas were split into three subcategories – by industry, visa type, and level of skill. There was a total of 502 excerpts out of the 1,568 total that focused on employment. An example of the codes included specific visa categories, labor industries, *administrative burden*, and *economic impact*. A full list of the codes included are in Appendix A. While specific labor industries fall into certain visa types, I analyzed them separately to compare and contrast trends in how immigrants were framed when they were either tied to the type of work they did or the type of visa they held. Six different labor industries were mentioned, including construction, dairy farming, forestry, meatpacking, agriculture, and STEM. Visa types were further broken into six categories – H-1B, H-2A, H-2B, H-visas, W-visa, and Blue card. Most excerpts specifically mentioned a type of visa (e.g. H-1B or H-2A), however, some excerpts generally talked about H-visas so I grouped them as a standalone category. While there was overlap between labor industry and visa type with low- and high-skilled labor, there was also more variation in terms of how lawmakers differentiated between the two. As a result, analyzing excerpts by skill-level enabled me to parse apart different trends and compare them to trends in the other two sub-categories.

I begin my analysis by exploring the question of whether there are explicit connections between race and labor – namely, was race specifically linked to a particular labor industry or visa type? Next, I provide general trends found in the three subcategories of labor industries, visa types, and low-/high-skilled laborers. Finally, I highlight three themes that represent the racialization of labor within discussions about employment-based visas.

Mentions of Race

  To embark on an analysis of the relationship between labor and race, it is important to identify whether race was explicitly or implicitly used. In other words, did lawmakers mention a particular racial group when describing certain workers? Or did lawmakers use other characteristics to signify a racial group? Overall, there were limited instances where a specific racial group was mentioned when describing workers in particular labor industries or those holding certain types of visas. There were only two comments that specifically linked Latinos to agricultural work or other related industries. For example, lawmakers mentioned Latinos made up most of the workers in meatpacking plants, though not in the agricultural industry both belong to the food processing industry.

> *"Have you ever been to a meatpacking plant? You go and find out who is working in that plant. Mostly Hispanics, people from other parts of the world, not because native-born Americans are lazy; we have higher hopes."*
> (Excerpt #498 Republican)

  More common were excerpts referring to agricultural workers as undocumented immigrants. Though undocumented immigrant is not a racial category, there is a wealth of research that argues the term is used to racialize Latinos, more specifically Mexicans (Chavez 2008; De Genova 2004; Newton 2008; Ngai 2014). The socio-political context surrounding the Bracero Program legally constructed the undocumented immigrant, or illegal alien, framed as criminal and undeserving. Over time this concept represented a controlling image influencing how Mexican immigrants were portrayed in media and the law. It was a central frame in the passage of key immigration legislation, such as the Immigration Reform and Control Act of 1986 and the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (De Genova 2004; Newton 2008). Thus, Latinos came to be racialized as criminal and underserving via the framing around undocumented immigrants.

  While explicit mentions of race were not common, the few instances illustrate who is the assumed appropriate agricultural worker – undocumented or Latino. Not only do lawmakers call upon an image of a certain body (e.g. brown and poor), these images are also hierarchically positioned. These workers are imagined as inferior because "native-born Americans…have higher hopes." Additionally, the undocumented immigrant is not only framed as undeserving but the legal status forces immigrants to exist outside of legal protections and remain exploitable. Together, it leads to agricultural workers and those in other related industries to be racialized as Latino, disposable, and outsiders.

Overall Trends

  Labor Industry. STEM and agriculture were the most discussed employment industries. In general, workers in specific industries were described positively. STEM workers were praised for their entrepreneurship and general contributions to the nation's

economic growth. "Best and the brightest" was a common descriptor for STEM workers or those with a graduate degree in a STEM field. The agricultural industry typically includes fruits, vegetables, and dairy farms. Agricultural workers were praised for doing a job that supposedly no one else wanted, fulfilling industries' labor needs, and sustaining an industry that is the "backbone of our nation."

There were a few excerpts that viewed STEM or agricultural workers negatively. Those comments tended to frame foreign workers as a source of job competition for American workers or the cause of rising unemployment and decreasing wages. Additionally, there were two common critiques unique to each industry. Several negative comments claimed that increasing foreign STEM workers would exacerbate existing issues of gender inequality in two ways. Senators noted that global discrimination against women has created unequal access to education for young girls. This translates to fewer and fewer women getting into jobs that require higher educational attainment. As a result, women are excluded by default from accessing H-1B visas and STEM graduate programs. The other form of gender inequality focuses on women in the U.S. working in STEM fields. Senators argued the increase in H-1B visas will create an additional source of job competition for women in the U.S. by bringing in a male-dominated foreign workforce.

For agricultural workers, the critique focused on the negative impacts of workers' families. One claim is that an increase in foreign agricultural workers can lead to "chain migration," the pejorative term to describe immigrants bringing their family members or applying for their immigration at a later date. A similar claim argues that workers coming for a few years will want to live with their families but will refuse to return to their country of origin once the employment contract is over. According to some of the senators, it would be difficult to deport workers if they had their families with them.

> *Then, how should we best create a seasonal worker, guest worker program for our agricultural industry, which does need seasonal workers? And we can create something that will work for them, but, boy, that takes a lot of care too. This bill says people come—many of them in these guest worker programs— for 3 years with their family, and they get to stay another 3 years and maybe another 3 years. Presumably, if they do not have a job, they are supposed to go home. Do you think we are going to try to round up people and deport people who have been here for 6, 9 years, deport them and send them home if they are out of work for a while? It just doesn't sound like a practical solution. So a real temporary guest worker program, it seems to me, should be drafted with great care, and to the extent possible a person would come without family to do a specific job and then return.* (Excerpt #343 Republican)

From this excerpt, we see how this lawmaker's idea and expectations about agricultural workers were ultimately tied to the type of work – seasonal harvest meant seasonal

immigrant. Most importantly, the ideal seasonal immigrant should leave their family behind and expect to stay only temporarily.

While comments describing workers in terms of their labor industry were overwhelmingly positive, it is important to note the different themes in both positive and negative comments. Both groups were framed as beneficial to the nation, however, STEM workers were praised for an industry that was valued for its creativity or potential to build. Agricultural workers, on the other hand, were valued for work that was considered unfavorable, jobs that no one else wanted. Both agricultural and STEM labor is commodified using visas, however, there is less concern for the individual well-being of the former. Even after recognizing that job conditions for agricultural work are not ideal, the conditions are naturalized and become a source of praise for the immigrant worker. Also, while both industries create products that are vital to the nation and its people, only one is recognized as productive.

Aside from job competition, negative comments also differed in their focus between the two industries. Gender inequality in STEM was framed more as an imported problem, an external source of inequality that challenged our domestic egalitarian principles. However, the critique in bringing in foreign agricultural workers focused on the workers' personal relations. Family relations were evaluated in terms of worker productivity and framed as potentially violating immigration laws. While in both cases, the critique points to a potential social problem, only the latter is pathologized as a problem tied to the individual worker – either the worker or their family will choose to stay without authorization. The responsibility of adding to gender inequality, however, is not placed on the individual foreign male STEM worker but on a broader group-level issue. Women and family are framed differently depending on the industry. On the one hand, women are situated as a valuable resource that needs protection and, on the other, they are viewed as an unwelcomed responsibility, a social problem.

Even though both industries have their share of positive and negative comments, the different focal points highlight a hierarchy between industries. The labor of STEM workers was highly esteemed while agricultural labor was viewed as undesirable but necessary. The undesirable label was reinforced by portrayals of family members of agricultural workers as problematic. This hierarchy maps onto to the racialization of Asians and Latinos, leaning into frames of Asians being socioeconomically successful and Latinos as a disposable labor force.

Specific Visa Categories. While comments by labor industry were generally favorable, there was more variation in how workers were described when they were identified by a specific visa category. H-1B, H-2A, and H-2B visas were the most frequently mentioned in these immigration debates. Comments about H-1B visas were quite evenly split between positive and negative sentiments. This category of workers was praised for being innovative and entrepreneurial, fulfilling industry's labor needs, and contributing to overall economic development. Critiques within this category focused more on employers. For example, several of the excerpts mentioned employers abusing the program and advocated for increased restrictions on "H-1B dependent" employers. These are employers that hire a certain percentage of H-1B workers in relation to the total number of their full-time employees. So, an employer is designated as H-1B dependent if

the company has over 51 employees and H-1B employees make up at least 15% of that total. Senators argued that these employers rely on employment visas to hire a labor force for cheaper wages and fewer benefits in comparison to U.S. workers. Still, a few comments from lawmakers argued an increase in H-1B visa holders would be a source of job competition for American workers. Similar to the general trends for STEM workers, positive comments about H-1B visa holders focused on their contributions to the nation. Negative comments also focused on egalitarianism but, instead of focusing on workers, the attention was on employers as wrong doers.

While the comments for H-1B visas were more balanced, excerpts about H-2A and H-2B visas were overwhelmingly negative. Excerpts about H-2A visas largely critiqued the program for instituting a process that was too cumbersome for farmers and its inability to fulfill industry needs. Similar to critiques about H-1B visas, negative excerpts about H-2A focused on employers. However, instead of framing employers as wrong doers, they are portrayed as inconvenienced and in need of sympathetic policy changes. The difference between the two is most likely due to the different portrayal of the potential labor force. STEM workers are valorized for their contributions, while agricultural workers are characterized as the last resort or those willing to do the job no one wants. Supposedly, without an alternative domestic labor source, there is no threat of job competition or employers abusing the system.

H-2B visa excerpts focused more on the workers as a source of job competition, some specifically claimed that people entering under the program would compete with "young Americans" for jobs. To illustrate who would be negatively impacted by H-2B visa holders, senators referenced college students struggling to find work and high unemployment within minority groups. It is worth noting that this comparison situates H-2B visa holders in direct competition with young people and people of color. The narrative suggests foreign workers are negatively impacting these two vulnerable groups directly, while eliding other interacting factors such as the rising cost of higher education and the instability of low-wage work.

Since W-visa and Blue card categories were only introduced but never implemented; there was little discussion about the potential impacts of the program. A majority of the excerpts focused on describing and negotiating eligibility requirements. There were several instances where lawmakers attempted to simplify the application process, but, similar to the other visa categories, the focus was to benefit employers rather than workers.

The biggest difference between the three types of H-visas mentioned is that negative comments typically focused on *employers* for H-1B and H-2A visas, but *workers* were the center of critiques for H-2B visas. There were, however, more positive comments about H-1B workers in comparison to the other categories, suggesting a slightly more positive opinion of this group. Even so, the overarching trend for H-visas is that they were generally viewed negatively. This point is more glaring when compared to excerpts categorized by labor industry, which were predominantly positive regardless of the type of labor.

Low- and High-skilled Workers. Lawmakers used the terms low- and high-skilled worker rather broadly, however, several groups consistently fell into each category. Most

of the excerpts coded as low-skilled workers referenced workers in relation to specific visa categories, such as J-1, H-2B, and W-visa holders. The second most common reference indicated low-skilled workers were synonymous with undocumented workers. A few labor industries were also referenced in relation to low-skilled labor, such as agriculture, food, hospitality, and construction. Lawmakers would mention low-skilled workers and then provide particular visa categories or labor industries as examples. The connection to undocumented workers was a little more indirect. Sometimes lawmakers talked about low-skilled workers applying for the Registered Provisional Immigrant (RPI) status. Another indirect reference was when lawmakers assumed increasing low-skilled visas would lead to a decrease in undocumented immigrants.

High-skilled workers largely referenced workers or graduates with degrees in a STEM field. Students are included in this group because the discussion about students characterized them as future STEM workers or entrepreneurs. Thus, even though the visa category is different for those entering the U.S. as a student versus a worker, the distinction was lost when both were generally referred to as high-skilled workers. In addition to those in STEM fields, medical doctors and nurses were referenced as high-skilled workers in a few excerpts. H-1B visa holders were also included in this category, though this group was less common than excerpts referring to workers or students in a STEM field. Finally, there were instances where lawmakers simply mentioned low- or high-skilled workers without additional descriptors.

The general trends found in both low- and high-skilled worker excerpts followed a similar pattern to the previous two categories. Workers were framed positively when their labor industry was foregrounded, but more negative if they were described in relation to a visa category. Within the low-skilled worker category, comments were overwhelmingly positive when the worker was tied to a specific labor industry. Workers were valued as a "stable, dependable, legal workforce," and important for the economy. In contrast, comments were largely negative when workers were referenced in relation to the J-1, H-2B, or W-visa or as undocumented. Following the critiques of H-2B visas, lawmakers argued these low-skilled workers would become a source of job competition and cause wages to decrease. More specifically, the threat of job competition would potentially have a negative impact on youth, low-income African American and Latino low-skilled workers.

Similarly, in the high-skilled worker category, nearly all of the excerpts were positive, commonly praising those in the STEM field as bringing innovation and entrepreneurship to the U.S. and ultimately helping the economy. There were a few negative comments when high-skilled workers were referenced as H-1B visa holders. The main critique was that foreign high-skilled workers were a source of job competition and part of the problem was employers abusing the visa program. Excerpts focusing on medical doctors and nurses were also generally positive but instead of concentrating on their potential contributions the focus was on reducing barriers to their application. For example, arguments were made to exempt medical doctors and their dependents from the physical presence requirement and employment-based visa limits. Broader mentions of high-skilled workers focused on their potential to improve the economy and achieve the *American Dream.*

In general, the trends within low- and high-skilled worker excerpts parallel the differences between descriptions that focused on their visa category and specific labor industry. Regardless of whether workers were labeled as low- or high-skilled worker, they were positively portrayed when their labor industry was referenced and negatively portrayed if they were referenced in relation to their immigration status. While there were a few negative comments in the high-skilled worker category, positive comments far outweighed them. Comparing low- and high-skilled worker excerpts, there is an overall preference for high-skilled workers. Low-skilled workers, on the other hand, were most commonly framed negatively or as a problem.

Overall, regardless of how lawmakers categorized workers, by labor industry, visa, or supposed skill level, we can see similar trends. Whether referring to STEM workers, H-1B visa holders, or high-skilled workers, the comments were generally more positive with the exception of slightly more negative comments for the visa category. Agricultural and seasonal workers and low-skilled workers were largely portrayed negatively. Even if lawmakers recognized their work was necessary, agricultural work was considered part of the "bottom rung." As a result, we see a hierarchy of labor industries and workers. Next, I expand on three themes that explore more about how power relations and a labor hierarchy are maintained.

ADMINISTRATIVE BURDENS

Administrative burdens are the costs associated with applying for government services. Herd and Moynihan (2018) identified three types of costs – learning, compliance, and psychological. Here, I highlight the ways lawmakers used administrative burdens to place value on a category of applicants, such as agricultural workers or H-1B visa holders, thereby conveying whether they were desirable or not. The complexity of the application process, the number of requirements applicants must fulfill, and the stigma linked to applying for the immigration benefit are types of costs that signify desirability and insider-outsider status. Lawmakers' willingness to reduce burdens suggests they viewed the applicants as potential insiders. Efforts to increase burdens suggests lawmakers viewed applicants as outsiders.

In general, there was either no mention of adjusting the application process or more consideration to reduce administrative burdens when workers were identified by their industry. Conversely, there was more emphasis on increasing administrative burdens when workers were connected to a specific visa category, especially for W-visa and Blue card holders. Similar to the differences in general trends, excerpts focusing on specific labor industries portrayed workers as more favorable than excerpts focusing on visa categories, with the exception of H-1B visas.

For H-1B visas or STEM workers, one approach to decrease administrative burdens was to exempt certain groups from the visa cap or increase the cap for certain visa categories. For example, one suggestion was to exempt high-skilled workers or occupations eligible for H-1B visas from employment-based visa caps. Included in this group are physicians, those with advanced degrees in STEM, multinational executives, and professionals deemed as having "extraordinary ability." For H-1B visas or STEM workers, lessening these burdens in order to expedite or simplify the application process

for particular groups signified them as desirable. For example, there was a proposal to expedite naturalization applications for workers employed at a national laboratory and another proposal to "staple a green card" to applications where the applicants have an advanced degree in STEM. The proposals illustrate the desire to simplify applicants' process to transition from employment-based visa holder to a legal permanent resident to entice them to stay permanently.

There was, however, a push to increase administrative burdens for H-1B visas which focused on employers, specifically for "H-1B dependent" employers. "H-1B dependent" employers were seen as unscrupulous employers that took advantage of the visa system in order to bypass hiring workers already in the U.S. and hire foreign workers for cheaper wages. As a result, lawmakers advocated for restricting the ability of these employers to hire more foreign workers and increase the compliance costs in the application process. Proposals suggested "good faith" hiring processes in order to prevent employers from using the program to rely on a cheaper labor force.

Only a few excerpts showed efforts to reduce administrative burdens for specific agricultural industries. Dairy farm workers were described as having "rich cultural histories and family ties to herding," therefore it was imperative that farmers have special exceptions to ensure they can continue hiring the workers they needed. Access to foreign loggers were also portrayed as vital to the forestry industry, so several comments urged loggers be included in the W-visa program.

Similar to agricultural industries, H-2A and H-2B visas only had a few considerations to reduce the burdens experienced throughout the application process. An amendment was introduced to allow former H-2A workers who were living abroad to be eligible for the Blue Card, circumventing the physical presence requirement. For H-2B visa holders, one suggestion was to exclude returning workers from the visa cap if they were working under the same program during the 2013 fiscal year. Additional worker protections were added for H-2B visa holders, such as wage protections and worker grievance channels. Overall, however, there was limited discussion about decreasing administrative burdens for agricultural or seasonal workers, particularly in comparison to discussions regarding STEM or H-1B workers. Surprisingly, there was no mention of increasing burdens either.

W-visa and Blue card, however, had an overwhelming focus on increasing administrative burdens. To be eligible for the W-visa, applicants are required to pass a security and criminal background check, have never been ordered to be deported, have never violated previous terms of admission as a non-immigrant agricultural worker, and have not re-entered the U.S. without inspection since December 31, 2012. In addition, workers could be deported if they remain unemployed for more than 60 consecutive days. These processes assume applicants are predisposed to commit crimes, break immigration laws or have the potential to become a public charge. The proposed application process for Blue card status also included a criminal background check and a $100 fine for being in the U.S. without documents. Lawmakers argued the requirements were far too simple compared to the proposed RPI status, since both programs were geared towards undocumented immigrants already in the U.S. and pushed to increase the fine to $1000. Ultimately, these types of eligibility requirements increase the psychological and compliance costs for potential applicants.

The most extreme example of increasing administrative burdens was efforts to tie certain visa categories to the border enforcement system, or what was popularly referred to as trigger measures. For W-visas, an amendment that was introduced but then withdrawn would have required E-verify to be widely enacted before the W-visa program could begin. Another trigger already in the proposed legislation would pause allowing dual intent for various visas, including H-1B and W-visa holders, until the Student and Exchange Visitor Information System (SEVIS) shared its data with the Customs and Border Patrol (CBP). Both the E-verify program and CBP are part of the border enforcement system. Similar to the application requirements for the W-visa and Blue card, these trigger measures effectively tie these visa categories to themes like security threat and criminal.

The few efforts to minimize obstacles in the application process for W-visa and Blue card holders mainly simplified the process for employers. In terms of visa caps, the legislation, as is, would give the Secretary of the Department of Homeland Security the ability to add more registered positions for specific employers, providing a work-around to the visa caps. Another proposal attempted to simplify the process for employers if they wanted to maintain specific H-2A workers under the new W-visa program. Logging workers, in particular, were ensured that if they were currently eligible for an H-2A visa then they would also be eligible for a W-visa. A proposed amendment would allow workers who worked for employers under the H-2A visa but who were not physically present in the U.S. to apply for the Blue card. This amendment, though mainly impacting a worker's ability to apply for the program, was framed as a benefit to companies that have "done the right thing;" in other words, hiring workers with work authorization.

Embedded in these conversations about application processes are signifiers of desirability and a hierarchy of immigrant workers. We continue to see similar trends, such as generally more favorable treatment for workers when they are identified by labor industry and unfavorable treatment for those identified by visa category. The most obvious difference is the administrative burdens for STEM workers compared to those for agricultural visas, specifically the W-visa and the Blue Card. It is clear from looking at the efforts to expedite and simplify their process that STEM workers were more desirable and considered potential insiders. W-visa and Blue Card applicants, on the other hand, are marked as outsiders given the additional barriers added to their process. In fact, adding the "trigger" measure and tying the agricultural visas to immigration enforcement is an extension of the criminalization Latino farmworkers faced during the Bracero Program period. The dual framing of the workers as necessary labor and a social problem, therefore, is embedded in the visa. Thus, administrative burdens help to illuminate how foreign workers are placed in hierarchical positions of advantage and disadvantage, which also lends itself to racialization.

ASSUMPTIONS ABOUT SETTLEMENT

A recurring theme in the excerpts about STEM or H-1B visa holders was the assumption that they wanted to stay in the U.S. permanently. Overwhelmingly, senators suggested STEM workers either would want to settle in the U.S. or it was in the nation's interest to retain them in order to maintain global competitiveness and prevent them from

becoming international competition. For many of the comments, it did not matter if the person already had a job in the STEM field. Those graduating with an advanced degree in a STEM field were given the same consideration, to the point where several excerpts mentioned "stapling a green card to their diploma." Most interestingly, a person's decision to settle in the U.S. was an important consideration. Some lawmakers claimed if a person wanted to stay then they should be allowed to stay permanently.

The assumption that this group of workers prefers to settle and the willingness of legislators to make the process as easy as possible is a sign that this group is seen as insiders who are highly valued, and valued differently in comparison to agricultural workers. Even though both STEM and agricultural workers enter the U.S. through non-immigrant employment-based visas, the ease for one group to transfer into an immigrant-based visa category varies greatly. H-1B visa holders were allowed dual intent since the Immigration Act of 1990, which according to Park and Park (2005), already began blurring the boundaries between immigrant and non-immigrant. For agricultural workers, there was almost no discussion about the possibility of staying permanently even if they wanted. There was one mention that if temporary seasonal workers wanted to stay, they "could apply for a green card" but there was no consideration about making that process easier; in fact, there was no discussion on making that process legally possible. There were several excerpts that assumed agricultural workers preferred to return to their home country or simply that they will return, regardless of their own wishes. Connecting this to the negative comments about agricultural workers bringing their families, there is an explicit notion that this group of workers do not want and should not create ties that could lead to permanent settlement.

In the following excerpt taken from a summary of recommendations from the Committee on Homeland Security and Governmental Affairs, we see lawmakers describe an ideal comprehensive immigration policy that includes Mexican agricultural workers being able to return to Mexico and STEM graduates to remain in the U.S.

> *if we had a smart, comprehensive immigration policy in place, one that actually allowed people to legally go from Mexico into to* [sic] *the United States to work for a while and then go back, to go back home where a lot of them want to go, anyway, that would be helpful. To the extent that we had a situation where somebody comes to this country to go to school, go to college, ... maybe in one of the science, technology, engineering, math (STEM) subjects—... had a chance to stay here, the idea of stapling that green card to their diploma, that is going to help a little bit, too, in terms of those folks that overstay their visas.* (Excerpt #30 Committee Report)

The different assumptions between the two groups are normalized to the point where it seems logical or common sensical. There does not seem to be a doubt that Mexican laborers *should* return and STEM workers *should* stay.

Again, we see a hierarchy developed and maintained between agricultural workers and STEM workers. The expectation that agricultural workers should not settle

permanently in the U.S. implies their undesirable outsider status. Similar to the observations about administrative burdens, these workers are placed in the contradictory position of being needed but also pathologized. By contrast, the consideration for STEM workers' personal preference and the assumption that they want to permanently settle in the U.S. illustrates their desirable potential insider status. The point to note here is that these beliefs are presented as common sense, which normalizes the differential treatment.

VISA HOLDER VERSUS WORKER

A third theme that illustrates how value is created and distributed is looking at how workers are treated differently when their labor contributions are foregrounded versus when their visa category is foregrounded. Whether workers are referred to by a specific labor industry, visa category, or as high, or low-skilled, we continue to see the same trend – workers are viewed more positively when their labor contributions are foregrounded. The focus on a person's labor industry frames the person in terms of their labor contributions, while referring to people via their visa category or undocumented status frames the person in terms of their relation to the government. In addition, by foregrounding the visa status it also reinforces the commodification of a person's labor which can naturalize their well-being as irrelevant. Regardless of whether lawmakers were referring to STEM or agricultural workers, comments were more positive and focused on their contribution as workers to the economy and nation. There was also more willingness to ease the administrative burdens required, or at least no effort to increase the burdens, as was the case for agricultural workers. However, it is worth noting that the same distinction did not apply to STEM workers and H-1B visa holders in terms of assumptions about temporariness or permanency. This most likely represents a general preference for STEM or high-skilled workers.

When immigration status was foregrounded, workers were more likely to be situated as a foreign labor force that harmed workers already in the U.S. in some way. Either employers tried to exploit them to avoid hiring domestic workers who would likely be more costly, or the foreign workers posed a threat of job competition themselves. Even when workers were identified as low-skilled but statuses like H-2B, J-1, or W were mentioned, the comments tended to be more negative.

The same workers could be referenced when either a labor industry or a visa category are foregrounded, but it is the narrative accompanying those discussions that illustrates how value is created. The same computer engineer who is part of the group of STEM workers that represent the "best and the brightest" is also part of the group of H-1B visa holders that is a source of job competition. The same farmworker is both a needed worker that is "willing to do the job that no one else wants to" and the potential W-visa holder that needs to prove they are not predisposed to criminal activity. It is how we categorize people coming into the U.S. through the immigration system that constructs the grounds for being valued or devalued.

Visa application forms depict this distinction best by naming the potential visa holder the "beneficiary." The applicant, then, is situated in the position as gaining a benefit from the government, while the government is positioned as the arbiter of goods and resources. In this relationship, the applicant is an outsider waiting for the

government's adjudication. However, depending on how a worker is portrayed it can determine whether they will be viewed as an outsider or a potential insider. The former is greeted by numerous obstacles to prove themselves while the latter is met with minimal administrative burdens. Ultimately, this strategy has the potential to maintain power relations and naturalize a hierarchy based on how a group is portrayed.

CONCLUSION

Throughout this chapter, I have highlighted the varied ways employment-based visas engage in racializing different groups of workers and contribute to a hierarchy of workers and labor industries. Trends in the excerpts repeatedly show an implicit hierarchy between STEM and agricultural workers, regardless of how they are referenced. STEM workers are consistently valorized for their individual contributions to the economy and the nation, to the point where they assume a potential insider status with efforts to fast track their application process. Even though their labor is commodified through visas, their individual needs tend to be given more consideration in comparison to agricultural workers.

Agricultural workers were also praised but for doing the "jobs no one wants." While there was recognition of their contributions to the national economy, this was accompanied by assumptions that these workers would not settle in the U.S., nor should they bring their families. Compared to STEM workers, farmworkers were positioned as a temporary and disposable labor force. Latino agricultural workers, more specifically, were framed both as necessary but also as a social burden. Stemming from narratives that began during the Bracero Program, the need for their labor was mixed with messages of lawlessness and criminality. The link to criminality was most glaring in the discussions to link border enforcement measures with the W-visa and Blue Card program. The narrative built around agricultural workers, therefore, is as outsiders, ones the nation must be weary of.

Lastly, whether workers were referenced in relation to their visa category or their labor industry influenced whether they would be viewed as desirable or not. While agricultural workers undoubtedly were narrated as more undesirable, they experienced more positive framing when lawmakers mentioned the type of farm work they engaged in. Similarly, even though STEM workers tended to have positive descriptions, there was more negative framing when they were referenced as H-1B visa holders. The difference here is that foregrounding the visa category highlights the person's relationship to the government as someone who is applying for a benefit. As a laborer, the person is then framed as a contributor to the nation. Thus, not only do discussions about employment-based visas maintain a hierarchy among workers but the way they are framed can also be impactful.

Even though there were limited references to specific racial categories, we can identify a pattern of how racialized groups map onto this hierarchy of workers. Latinos were mentioned several times in relation to agricultural workers. The same racialized discourses used to discuss Latino immigrants, such as assumptions of being undocumented and criminal, were also used to describe farmworkers. STEM workers also share similar racialized discourses with Asian Americans in terms of the model

minority myth. In addition, the top sending countries using each type of visa follows the same trend with India using the largest proportion of H-1B visas and Mexico making up the largest number of H-2A and H-2B visas, according to the Department of Homeland Security. The racialized discourses inform the visa discussions and the trends in top sending countries help reify those same discourses. In the next chapter, I focus on how discussions about family visas contribute to a similar pattern of racialization through discussions about visa elimination and the newly proposed merit-based system.

CHAPTER 3: DEFINING FAMILY

Following the passage of the Hart-Celler Act of 1965, many believed the foundational principle underlying U.S. immigration laws would center on family reunification. The Act introduced a family preference system that enabled an increase in families predominantly from Asia and Latin America to come to the U.S. The current family-based preference system continues to mirror this initial structure. However, recently there have been increasing calls for a change to family-based immigration, mainly towards an economic-based visa system. The changes proposed in S.744 (2013) indicated this desire by expanding employment visas, reducing family visas, and creating a new point system based on socioeconomic factors. But what do these changes mean for our immigrant families? And what definition of family is being codified in our immigration laws?

While excerpts on employment-based visas covered a broad range of visa categories, discussions about family visas centered on three key changes, specifically the redefinition of "immediate relatives," elimination of two family visa categories, and the creation of the merit-based system. These discussions attempt to legally define family, creating a hierarchy from a desirable to an undesirable type of family. The value and importance of certain familial relationships are weighed and measured to then decide which families are given or denied access to certain resources. Additionally, while the debates on the legal definition of family are central, it is important to keep in mind that the impacts of these changes are not neutral but are raced and classed. The racialized discourses used to problematize family reunification visas reify the racialization processes of families of color, particularly those from Mexico. Given that families from Mexico also utilize family visas the most, the impacts of these changes have both ideological and material consequences. It is only when we closely analyze how families are portrayed in these discussions that we can identify the racialized undertones and the resulting hierarchy of families.

To begin, I discuss a definition of the ideal family, which is embedded in laws and used as a standard for the types of families considered desirable. The changes proposed in S.744 utilize this ideal to define family visas but also create institutional practices to reinforce the standard. Next, I introduce Ciabattari's (2017) four frameworks commonly used to understand family in the U.S. Depending on which framework is used, it can either humanize families or reduce harmful impacts to families as a mere by-product of policy change. Before diving into the themes in the data, I provide a brief background of the existing family preference system and the changes proposed in S.744. The last three sections focus on each of the themes in the data. First, I explore how the changes to the preference system attempt to reinforce the traditional family ideal, thereby also creating a definition of the undesirable family. Second, I explain the importance of frameworks and show how families are divided between desirable and undesirable based on how family unity is portrayed. Lastly, I discuss how lawmakers dichotomize familial relationships and ideas of a successful immigrant. These discussions highlight the shift from an immigration system focused on family reunification to one that is focused on economic growth.

TRADITIONAL FAMILY IDEAL

Analysis on family in the U.S. tends to begin with the notion of the "traditional family" (Ciabattari 2017; Collins 1998 and 2009; Coontz 2000; Smith 1993). In the United States, the traditional family generally refers to parents and their children, biological or adopted. However, as a socially constructed concept, I borrow the definition of "standard North American Family" (SNAF) to highlight the embedded social and cultural meaning behind the concept. Coined by Smith (1993), SNAF refers to a heterosexual married couple that lives together and may or may not have children. Within this family structure, men are employed full-time and tasked with financially providing for the family. Women may or may not financially contribute to the household, but their primary task is to care for the husband, children, and overall household responsibilities. SNAFs are typically middle- to upper-class and racially homogenous. For many scholars, this notion is an ideal that dictates what the normative family is and, simultaneously, creates the deviant family (Collins 1998; Smith 1993). According to Coontz (2000), rather than a norm that developed over time, this ideal gained momentary popularity in the 1950s, which was largely due to the political and economic context of the post-World War II era. Still, SNAF and its accompanying gendered, racial, and classed effects has proven a pervasive controlling image. As a note, I use SNAF and the traditional family ideal interchangeably throughout the chapter.

The ideal serves a "dual function as an ideological construction and as a fundamental principle of social organization" (Collins 1998:63). Even though this is not the lived experience for many, SNAF is tightly woven into everyday social institutions, defining what is considered acceptable for both families and individual members, particularly women. Research about mothering and the cult of motherhood explores how the high standards within the traditional family ideal polices women's sexuality and reproductive rights (Coontz 2000), pathologizes mothers of color (Collins 2009), and structures their labor participation (Wooten and Enobong 2012). Other studies on divorced parents and LGBTQ families illustrate how those that do not fit the standard create new definitions of family (Dominguez-Martinez, Jones, and Walther 2020).

In addition to pathologizing people's lived experiences, systems like immigration and social welfare utilize this ideal to grant differential access to legal, economic, and social resources. The unequal access to resources shapes the particular type of family structure a person is able to create (Ciabattari 2017; Coontz 1995). Depending on the advantages or disadvantages people face, they need to decide how many children they can support, and whether they decide to create a family in the sense of a standard nuclear unit or one with a wider network of individuals. Throughout history, we see immigrant families create new structures in response to various policies. In the early 1900s, property ownership laws and labor conditions enforced in the colonized lands of Mexico drastically altered the role of the extended family while the Chinese Exclusion law led to the phenomenon of Paper Sons, young men immigrating to the U.S. from China with fake documents proving their citizenship (Thornton Dill 1999).

The Hart-Celler Act ultimately expanded the possibilities for immigrant families, especially from Asia and Latin America. U.S. deportation policies in the 20th Century not only altered the life outcomes and health of immigrant families (Boehm 2016), but also

created transnational families, where parenting became a tenuous task crossing multiple borders (Abrego 2014). In addition to immigration, welfare policies and practices in the U.S. restrict access to financial resources for immigrant families, thereby limiting their chances to survive and thrive (Fox 2012; Fujiwara 2008). These policies have long shaped what immigrant families look like and the type of structure available to them. Ultimately, immigration laws have the potential to be either a source of opportunity or an obstacle for families.

The traditional family ideal continues to shape who is allowed to come and the resources they can access in terms of family-based immigration. Depending on whether families fit this ideal, administrative burdens, including application process and fees, drive whether families can stay together or not. SNAF guides the type of visa that should be made available, which then determines whether there is even an application process for certain family members to begin. These factors boil down to whether immigration laws recognize a certain relationship as family and the value it places on that relationship. Those that do not fit this ideal are marked as deviant and undesirable. Their options for immigration relief become increasingly limited.

FAMILY DISCUSSED AS FRAMEWORKS

To understand when the law recognizes certain familial relationships and how it imposes the traditional family ideal on immigrants, we need a better sense of how families can be framed. I introduce Ciabattari's (2017) four frameworks of how families are typically talked about in the U.S. as a guide to how policymakers utilize the concept in debates. In the first framework, families are defined in terms of structure, and are recognized through legal definitions and processes, such as marriage and adoption. The second framework assumes families are the same as households, so those living in the same residential unit are considered family. According to Ciabattari, this conflation illustrates the bias towards nuclear families in the U.S. and the general disconnect between the understanding of families and the reality that there are a variety of family structures and living situations. In the third framework, families are understood in terms of the role each member occupies and how their interactions create a familial identity. Finally, instead of framing family members in pre-determined roles, the fourth framework offers an interactional focus, defining families in terms of their shared activities and relationships. This approach seems to allow for the greatest flexibility in what is considered a family and broadens the possibility for a variety of families to be recognized. Ciabattari argues no approach is dominant; instead, the type of frame can change according to who is using it and under what circumstance. For example, if someone were talking to friends about their family they may include cousins, aunts and uncles or close friends, but when they fill out a form the list of family members might be limited to spouses and children. Similarly, depending on which frame is used, the value and importance of familial relationships change when it comes to discussions about family reunification visas.

Except for the household frame, we see each approach used throughout the immigration debates for S.744 (2013). Immigration laws depend on, and, at times, determine the structural definitions of family, while narratives used within debates apply

a mix of structural, roles, and interaction frameworks. Lawmakers emphasize the supportive and productive roles when pushing to expand or maintain visas for siblings or same-sex couples. In this case, the use of roles and interaction frames become the justification for structural forms of family. Conversely, lawmakers tend to rely on the structural frame to justify limiting access to family reunification provisions. That is, when the roles and relationships are ignored and only the legally recognized ties are prioritized, then it becomes easier to justify excluding some people. The value of extended family members, and sometimes spouses and children, to potential workers or contributors to the nation are reduced as a consequence of such framings. Thus, it is important to identify which frames are used within policy debates because the result impacts the set of advantages and disadvantages people could potentially face.

BACKGROUND: FAMILY VISAS

Existing Family Preference System

Family-based immigrant visas are separated into two types – immediate relative and family preference. According to the U.S. State Department, immediate relatives are individuals with a "close family relationship with a U.S. citizen" (U.S. Department of State 2022a). This includes the spouse, minor children, and parents of U.S. citizens. Family preference visas are reserved for individuals with "specific, more distant, family relationships with a U.S. citizen and some specified relationships with a Lawful Permanent Resident" (U.S. Department of State 2022a). Specific relationships include adult children and siblings of U.S. citizens and spouses and unmarried children of lawful permanent residents. Immediate relative visas are available only for U.S. citizens and are not restricted by numerical limits. Family preference visas, however, are open to both U.S. citizens and lawful permanent residents but are limited by annual visa caps. The top three countries to utilize the immediate relative category in 2019 are Mexico, China, and the Philippines (U.S. Department of Homeland Security 2019).

Within family preference visas, there are four hierarchical categories: 1) unmarried children of U.S. citizens, 2) spouses and unmarried children of permanent residents, 3) married children of U.S. citizens, and 4) siblings of U.S. citizens (Kandel 2018; Park and Park 2005). Each of these categories are further restricted by a specific cap (as shown in Table 3.1) and a 7% country limit. While there is no limit for immediate relatives, family-sponsored visas are capped at 480,000 per year. Out of this total, a minimum of 226,000 visas must be distributed among the four hierarchical categories. To understand how visas are calculated, we can think of it in terms of phases. In the first phase, we would subtract the total number of immediate relative applications from the 480,000 total. The remaining visas are then allocated according to the preference hierarchy. While there is no available data on individual countries utilizing individual preference categories, the Department of State does provide wait times for countries with the longest backlogs. As shown in Table 3.1, Mexico has the longest backlogs for all categories, meaning applicants need to wait years before having their cases processed due to visa and country limits (U.S. Department of State 2022b).

Table 3.1: Family Visa Preference System (*as of 2022*)

Visa category	Purpose	Limit	Country with Longest Wait times (February 2022)
F1	Unmarried adult children of U.S. citizens	23,400	Mexico
F2A	Spouses and minor children of legal permanent residents	87,900	All Current
F2B	Unmarried adult children of legal permanent residents	26,300	Mexico
F3	Married adult children of U.S. citizens	23,400	Mexico
F4	Brothers and sisters of U.S. citizens	65,000	Mexico

Proposed Changes

Through S.744 (2013), lawmakers sought to make three major changes to the family preference system and combine aspects of it with the newly proposed merit-based visa system. The first major change was to eliminate preference categories for married children and siblings of U.S. citizens, F3 and F4 visas, respectively. Family members in these categories would no longer have a designated visa category, and instead their familial status would be attributed points under the newly proposed merit-based system. Second, spouses and minor children of legal permanent residents were re-categorized as immediate relatives and not subject to visa caps, similar to spouses and minor children of U.S. citizens. Third, visas for unmarried children of legal permanent residents could not exceed 40% of all family-based visas. The total for family-based visas remained at 480,000 per year. Visas would be calculated among the different categories in the same way as the existing system, however instead of four preference categories there would only be three in the new structure. Table 3.2 illustrates the proposed changes to the family preference system.

In addition to the changes to employment and family visas, a crucial change to the U.S. immigration system introduced in S.744 was the merit-based visa system. Largely modeled after Canada's merit system, the new program is separated into two tiers. A maximum of 250,000 visas must be evenly distributed across both tiers. While an applicant can accrue points in similar categories in both tiers, Tier 1 focuses more on education level and type of employment. Tier 2, on the other hand, focuses more on job

experience, such as length of employment and accomplishments obtained through employment. In both tiers, points are also given for English proficiency, civic involvement, age, familial relation, and country of origin. Familial relations specifically refer to siblings or married children of U.S. citizens. Essentially, points given for familial relations and country of origin attempt to compensate for removing F3, F4, and Diversity visas in the newly proposed legislation. A more detailed chart of the qualifications for each tier is provided in Appendix B.

Table 3.2: Comparing Existing to Proposed Changes

Visa category	Existing Law (2019)	S.744 (18mos after enactment)
F1 *Unmarried adult children of U.S. citizens **	Limited to 23,400	Limited to 35% of family-based visas
F2A *Spouses and minor children of legal permanent residents*	Limited to 87,900	Recategorized as immediate relatives
F2B *Unmarried adult children of legal permanent residents **	Limited to 26,300	Limited to 40% of family-based visas
		Married adult children of U.S. citizens under 31 years of age Limited to 25% of family-based visas
F3 *Married adult children of U.S. citizens over 31 years of age*	Limited to 23,400	Eliminated Worth 10 points in merit-based system
F4 *Siblings of U.S. citizens*	Limited to 65,000	Eliminated Worth 10 points in merit-based system

* Unmarried adult children refers to those 21 years or older.
Source: Kandel, William. 2018. "Permanent Legal Immigration to the United States: Policy Overview"

THEMES ABOUT FAMILY

There were three overarching themes in the discussions about family-based visas: negotiating a definition of family, the contradiction between unity and chain migration, and the dichotomy between family and merit. Each theme illuminates the ways in which a hierarchy of families and processes of racialization get embedded in immigration debates. For this chapter, I drew from excerpts that were coded for specific family-based visas, the merit-system, and thematic codes such as *defining family* and *chain migration*. This yielded a total of 623 excerpts. A detailed list of codes included in this analysis is provided in Appendix A.

Defining Family

Two proposed changes illustrate how family is negotiated and redefined in these debates. First, the legal definition of "immediate family" is revised to include spouses and minor children of legal permanent residents. The second proposed change was to eliminate visas for adult married children and siblings of U.S. citizens. Both of these changes alter who is recognized within the family category. Legally including or excluding certain family members has a practical purpose, to clarify the structural definition and determine who can access the accompanying material goods. Symbolically, the ability to redefine our relationships as "immediate" or "dependent" represents the nation-state's position in culturally determining who is recognized when we talk about family reunification. Expanding the definition of "immediate family" re-enforced the traditional family ideal that spouse and minor children are the prioritized definition of family. By including the nuclear family members of legal permanent residents, it expands the family ideal to more than just U.S. citizens. At the same time, by restricting the ability of U.S. citizens to petition for adult married children and siblings, the boundaries of who is family becomes increasingly sharper. Regardless of whether one is a citizen or green card holder, the prioritized definition of family is reduced to spouses and minor children. Unmarried adult children of U.S. citizens and married children under the age of 31 are marginally included but with a limit. Married adult children over the age of 31 and siblings are largely excluded from being recognized under any specific category.

In addition to the proposed changes mentioned, S.744 also introduces a temporary visa status, the V-visa, to initially help reduce family application backlogs. This visa only applies to the following with approved petitions: 1) unmarried children of U.S. citizens or legal permanent residents, 2) married children of U.S. citizens younger than 31 years old, 3) siblings of U.S. citizens, and 4) married children of U.S. citizens over 31 years old. The visa expires 30 days after an application is denied. The point to note here is that the V-visa treats the categories of family differently. The visa includes work authorization except for siblings and married children of U.S. citizens over the age of 31, essentially the two visas being eliminated. Additionally, it is only valid for 90 days for these two groups regardless of the final decision on the application. So, as this legislation reinforces the desired definition of family, namely parents with young children, it is also signifying an undesirable definition of family. The boundaries are sharpened through administrative burdens such as eliminating the visa category, or official recognition of the relationship, and limiting access to economic resources. These actions suggest a devaluing of

particular familial relationships and add to the list of inequalities that shape the family structure possible for immigrant families.

       While these changes appear objective and race neutral, their impacts disproportionately hurt families from certain countries. China, India, Mexico, and the Philippines are consistently the top countries that utilize family reunification visas, including F3 and F4 visas. According to the U.S. Department of State (2022b), the application backlog for these countries is so severe that families from Mexico who applied for their married children in 1996 and siblings in 1998 are having their case reviewed as of February 2022. For families from the Philippines, applications for married children and siblings submitted in 2002 are being reviewed starting February 2022. For families from these countries, the proposed policy changes would create administrative burdens that would disrupt their well-being by eliminating a pathway for family reunification and financial resources. In addition, the burdens racialize these families as undesirable and not fitting the traditional family ideal.

       These changes to the structural definition of immigrant families illustrate how the state maintains the traditional family ideal and ultimately drives a value system that results in different access to material goods. Family members that meet the traditional family ideal are given higher value by expanding their visa availability. Conversely, siblings and married children of U.S. citizens over the age of 31 are devalued by striking them out of the structural definition of family and increasing their administrative burden. Moreover, even as the proposed changes attempt to solidify the traditional family ideal, we see this is not the case for all families. Families from countries with the longest backlogs not only suffer from the legal consequences but are also increasingly devalued.

Family Unity or Chain Migration

       Another trend that emerged in the data about family is the contradiction between the emphasis on family unity versus chain migration. By family unity, I am referring to instances where keeping families together was a priority for lawmakers. The majority of these excerpts had an emotional appeal to think about the impact of keeping families together, whether that includes maximizing work productivity, equality, or the emotional hardships of family separation. These excerpts focused on the role or interaction frame of family and the importance of allowing families to stay together.

       In the excerpts about family unity, it became a priority when specific relationships were highlighted. For example, several excerpts stressed the importance of recognizing same-sex couples. These comments framed family unity as egalitarian and important for labor productivity. In other words, workers in same-sex marriages would be more productive if they could be with their families. Additionally, the recognition of same-sex marriages draws upon the national narrative of equality and fairness and connects it to family unity. Other relationships mentioned were families of Filipino World War II veterans, families of refugees and asylees, sibling relationships, and international adoptees. We see family unity portrayed as a resource; that family members play a role as a source of financial and emotional support for each other.

       Chain migration rhetoric, on the other hand, demonizes the idea that immigrants come as a family. We saw the chain migration narrative used in the previous chapter,

where the possibility of agricultural workers coming with their family was critiqued and narrated as a social burden. Without their families, workers would supposedly be more likely to return to their country of origin and it would prevent the risk of them settling permanently. For family reunification visas, the argument behind chain migration is that when one person comes, they are connected to additional family members, like a chain-link. That first person then becomes the gateway through which other people can file a petition and immigrate to the U.S. This argument stems from nativist fears that this chain-link is endless, leading to an unlimited number of immigrant arrivals. To illustrate the sentiment behind chain migration rhetoric, let us take a look at a report published by Negative Population Growth, Inc., a non-profit focused on policy recommendations to curb and reverse population growth in the U.S. The report describes family reunification visas as a system of how "immigration begets more immigration" (Vaughan 2017). So those arriving through a family petition will continue to bring more people in using the same process. According to the report, the problem with chain migration does not stop there because these immigrants will ultimately have U.S. born children which would contribute to exponential population growth. Here is where anti-immigrant sentiment becomes clear. Immigrant families are not only demonized for coming as a family, even their offspring are marked as outsiders under this rhetoric. So, even though these are U.S. born citizens they are continually marked as foreign and outside the American polity. To be clear on who the report is problematizing, the author points out that "Mexico has the highest rate of chain migration" (Vaughan 2017:1). We see this same argument used to oppose some of the changes in S.744.

In the excerpts about chain migration, lawmakers centered the structural definition of family and framed it as a social problem. The focus in these excerpts tended to be undocumented immigrants. In the following excerpt, a lawmaker takes issue with the merit-based system for including points for sibling relationships and the number of people eligible for the Registered Provisional Immigrant (RPI) status.

> *But this is only a fraction of the chain family-based migration that will occur over the next 10 years under this legislation because the 11 million illegal immigrants who are given green cards and even citizenship will be able to bring in their families as well over time, and they can be approved on an expedited basis.* (Excerpt #301 Republican)

Here, the ability to petition for family members is no longer about unity but a problem of chain migration. Suddenly, family members become a liability. They are no longer framed as a source of financial and emotional support but as a potential threat of overpopulation and exhausting social services. While family unity for specific types of families focuses on their roles as supporters, discussions about family for undocumented immigrants use the structural frame. Family members are recognized only in terms of their legal relationship. Similarly for agricultural workers, their families were limited to a structural frame which was leveraged to advocate for temporary work visas. The difference here is whose family is being considered and the moral judgement of those

families. When is it a matter of family reunification, and when is the same action redefined negatively as chain migration? The idea of chain migration pathologizes family networks. It subjugates these families to a temporary status, relegating them to temporary work visas and prohibiting their ability to lay roots for future generations.

Thus, although both groups of excerpts, family unity and chain migration, are about families immigrating together, the tone, moral judgement, and valuation are completely different. By not calling attention to the roles and relationships family members fulfill, it becomes easy to mark them as potentially burdensome. Continuously using a structural framework enables the dehumanization of these families and disposability of them as workers. Also, the question of whether it is a matter of family reunification or chain migration is really more about which type of immigrant is valued more. Here, we even see the traditional family ideal selectively applied to those deemed desirable or deserving. The choice of which narrative is used and whether the traditional family ideal applies demarcates the difference between desirable and undesirable, potential insider and outsider. Framing the familial relationships as either structural or role-based helps naturalize this hierarchy.

Family-Merit – A Dichotomy Created

Whereas, in the previous section we saw how family relations were valued differently; here, we look at how discussions about the proposed changes created a new dichotomy of desirability between merit factors and familial relationships. The new merit-system included points allocated to "non-merit" factors, such as community involvement, country of origin, having a U.S. citizen sibling, or being the adult married child of a U.S. citizen. Controversy over this point category provoked a debate over the definition of merit and what should be the core principle of the point system. While the merit-based system would embed familial relations into a point scale, lawmakers took the opportunity to construct oppositional categories out of family and socioeconomic characteristics like level of educational attainment. Arguments about whether a sibling should be valued the same as a master's degree became a common talking point. Family relations became quantifiable and calculable.

To better understand their argument, we must first explore how lawmakers conceptualized merit. According to lawmakers who used Canada's model as the standard, merit was defined in terms of characteristics that allow immigrants to succeed in a new environment. In separating family-based and merit-based applicants, lawmakers needed to define what characteristics make the latter group distinctive. In the following excerpt, we see one Senator bluntly explain what factors should be considered merit:

> *If you are younger, you get points. If you have more education, you get points. If you speak the language, you get points. If you have special skills, you get points. You get points for that…. People apply, and the ones who are most qualified, the ones who are going to be likely to be the most successful in Canada, are the ones who get admitted— not the ones that aren't able to speak the language, who don't have skills that Canada*

needs, and who are going to struggle in Canada. Why shouldn't you choose the ones who have the best opportunity to be successful? This is so basic. (Excerpt #461 Republican)

To be successful, therefore, is to be someone who can linguistically navigate the new environment, but, most importantly, is of a certain socioeconomic status and can contribute economically.

This notion of a successful immigrant – one based on economic measurements – becomes a controlling image. Immigrants who are young, highly educated, proficient in English, and are employable in what is considered a high-skilled occupation then become the ideal immigrant. These applicants are considered sufficiently meritorious to earn a visa through the new system when, in reality, the merit-based system is tailored to this image and rewards those who fit the mold. While it creates the standard immigrants are measured by, it passively creates an unsuccessful group, like those using family reunification visas and working in low-skilled jobs.

Critique about the merit-based system largely focused on the fact that an applicant could accrue ten points for family relations or two points for civic involvement. According to the critiques, the current proposal was not a merit-based system because these two factors should not be considered merit. Throughout the debate over S.744, the broader message about the type of immigration reform needed was a modern system that can be part of the nation's economic growth plan. Many took this approach to justify the need for a merit-based system that would introduce "successful" immigrants to the U.S. and encourage a move away from family-based immigration. Allocating points for a sibling relationship or being a married child of a U.S. citizen was a sign that family categories were still being favored. According to lawmakers, we needed to be selective of who enters the U.S. by quantifying their contributions, specifically socioeconomic contributions.

This critique, in fact, was heavily rooted in the chain migration narrative and its accompanying nativist fears that immigrants would take over. According to their argument, immigrants already in the U.S. will apply for their family members to come to the U.S. irrespective of so-called merit factors (Hing 2021). Not only would this lead to people petitioning for family members, but there was an assumption that this would lead to an increase in low-skilled workers. The underlying logic is that those who utilize family relations to gain points would not score high in other socioeconomic factors. Essentially, proponents of this logic envision immigrant families exponentially growing and over-saturating the labor market with low-skilled workers, thus taking jobs away from citizens. In the following excerpt, we see a lawmaker describe how he foresees the merit system playing out.

The bill's proponents also suggest that the bill reduces chain migration by eliminating siblings—brothers and sisters—and married children categories from the family-based visa system. However, the bill awards points in the new merit-based system to siblings and married children,

> *allowing the same chain migrants to receive merit- based visas ahead of many highly skilled and educated merit-based visa applicants.* (Excerpt #307 Republican)

Again, the chain migration rhetoric appears here as well. It becomes apparent that there is a hierarchy where so-called "chain migrants," read as those accruing points through family relations, will take advantage of the system and acquire a visa before more deserving groups, such as high-skilled or highly educated applicants. This lawmaker's comments also make it clear that those who have familial relations and those with high socioeconomic characteristics are two mutually exclusive groups. Thus, immigrant communities known to have arrived through family reunification visas are devalued as "chain migrants" and assumed to be qualitatively different from those that have so-called merit.

In constructing the dichotomy between family relations and merit factors, not only do lawmakers position the latter as more deserving but they also numerically compare the two characteristics.

> *If you are two children, two young people in Honduras or Argentina who wish to come to America, one of them has a brother in America, one of them has dropped out of high school, does not speak English, has not held a job before, and has no real skills, the other one was valedictorian of his high school class, he has 2 years of college, speaks English well, studied hard, and is preparing himself to come to America. Let's say he has 4 years, a college degree. Under this merit-based point system, the brother gets 10 points and the young man with the college degree gets 5. It is chain migration by another name. It takes a master's degree to get as many points as having a brother in the United States. We were told we were going to move away from that and more to an honest and competitive system.* (Excerpt #461 Republican)

The newly created point system can now be used to quantify family relationships and measure them as more or less valuable compared to socioeconomic factors. To take an education degree and measure it against a person's family member is an example of how relying on structural framing of families can easily justify harmful policies that ultimately deny family unity. Focusing on the structural frame of family makes it easier to overlook how having a brother can help financially and build community. Most interesting about this Senator's comments is that a system solely based on merit is considered an "honest" system; suggesting a family reunification system is a dishonest program fraught with fraud. Comments such as this are spread throughout debates over the proposed merit system, placing family and socioeconomic factors in opposition to each other and ultimately valuing the latter over the former.

Within the debates about the new merit-system and the allocation of points to "non-merit" factors, lawmakers created a new dichotomy comparing family and socioeconomic status. On the one hand, characteristics such as age, occupation, and academic achievement were used to define merit and construct a successful immigrant, a deserving applicant. On the other hand, those who do not fit these standards are assumed to be unsuccessful immigrants, undeserving applicants who will resort to gaming the system for entry. Specifically targeting those who utilize family reunification visas or have familial relationships, the incorporation of these characteristics into a point system further makes the comparison measurable.

There are two main points to note about this dichotomy. First, the discussions illustrate how focusing on the structural definition of family can make inhumane policies seem administratively mundane. By not taking into account the importance of a family member's role or interactions within the family unit, the relationship is reduced to a number, a checkbox on an application that quantifies an applicant's worthiness of a visa. Subtle messages devaluing those who utilize family reunification visas as unsuccessful, morally questionable, and the cause of seemingly endless numbers of immigrants to enter the country go unnoticed. Most importantly, this frame becomes institutionalized and dictates that only those who fit the valued definition should have access to the material goods. Second, the comparison with socioeconomic factors marks a distinctive shift from an immigration system where family reunification visas exemplified the humanitarian theme of the Cold War era to one that is focused on modernization and economic growth.

CONCLUSION

Just as we saw with employment-based visas and the creation of an ideal worker, discussions about family-based visas were also embedded with controlling images like the traditional family ideal and the successful immigrant. The proposed changes to the family preference system sharpened the contours of the definition of family U.S. immigration laws were willing to recognize. Expanding the category of "immediate family" to legal permanent residents and eliminating the visa categories for siblings and adult married children suggest the type of desired family, namely parents and their young children. By affirming the desired type, an undesirable type of family is concurrently constructed. In the contradiction between using the narrative of family unity versus chain migration, the choice not only suggested the type of family that was undesirable but also that this narrative was selectively applied. Undocumented immigrants, commonly racialized as Mexican, were consistently problematized as causing unwanted population growth. In fact, on several occasions Mexican workers and families were vilified as burdensome, morally questionable, and viewed as outsiders. The choice of whether to describe families migrating together as a matter of unity or chain migration, then, is not random but tailored to those already deemed as outsiders.

Finally, in their defense of a merit-based point system, lawmakers defined and quantified merit to reinforce the idea of a successful immigrant. Characteristics such as youth, high educational attainment, English proficiency, and employability in a high-skilled occupation became the ideal immigrant. This was juxtaposed with applicants who earned points based on their familial relationship, such as a sibling or an adult

married child of a U. S. citizen. While the successful immigrant represented the desirable group, those earning points for familial relationships were marked as undesirable. Essentially, lawmakers constructed a dichotomy that weighed socioeconomic factors against familial relationships.

Throughout these themes is an argument about the importance of frameworks. The way families are framed within these debates naturalizes their treatment and the accompanying administrative burdens. In each theme, the structural frame was used on families considered undesirable. Focusing on the legal definition of family diverted attention from who were most impacted and the racialization processes that concurrently existed. Simply eliminating categories that are determined by legally defined familial relationships makes the disproportionate impact on Mexican families seem like a by-product of policy change. In contrast, families who were deemed desirable were described in terms of their roles as part of financial and emotional support systems. Emphasizing their roles and interactions with each other humanizes the families.

Ultimately, this analysis of excerpts on family in immigration debates illustrates another form of hierarchy constructed in the debates about S.744. The way in which family-based visas are defined and debated sheds light on the types of families who are considered problematic and criminal and those who are meritorious and ideal. In the next chapter, I continue to look at family but as it relates to national identity. It focuses on the contradiction between drawing the boundaries between the desirable and undesirable immigrant and maintaining a national identity that revolves around the motto "a nation of immigrants."

CHAPTER 4: NATIONAL IDENTITY

Congressional debates about S.744 (2013) largely focused on employment-based visas, the new merit-based system, and the pathway to citizenship for undocumented immigrants. While previous chapters focused on different sections of this conversation, this chapter explores them together and as they relate to a national narrative. The U.S. has long touted itself as a "nation of immigrants," an exceptional social experiment that draws people from all over the world to create a nation that is the beacon of democracy and populated with citizens that built the nation through their hard-work and grit – or so the narrative goes. However, as we compare the narrative of who "is" the nation with how we go about dictating the laws that select who deserves to come and settle within the national boundaries, we begin to see a different story, one of a racialized and gendered national narrative. By this I mean, the proposed changes to immigration laws run counter to the "nation of immigrants" frame. Not only are the changes selective of who is welcomed, they position groups into a hierarchy between desirable and undesirable.

This is possible because a "good story," to borrow from Newton (2008), does its job to mask the power relations created. According to Newton, "policy designs rest on a national mythology about what types of immigrants made America, and which ones lack the values, traits, or contributions that would earn them inclusion in that story" (2008:4). Thus, the narrative of "nation of immigrants" naturalizes the hierarchy created by different immigration statuses. In the previous chapters, my focus was on the implicit racialized messages operating within discussions about specific visa categories. Here, I take a step back to analyze the broader rhetoric about immigration reform policy and national identity.

To begin, I review two racialized narratives of immigrants in the U.S. to guide our understanding of how these debates engage in these narratives, giving the illusion that one is better than the other. Next, I describe the hierarchy created through immigration statuses by introducing the concept of an immigrant desirability scale. Finally, I discuss the overall themes in how lawmakers constructed the nation's identity and the implications this identity has for reform policy. Considering the focus of this chapter is on immigrant desirability and national identity, I used the following codes for my analysis: *deserving*, *nation*, *American exceptionalism*, and *right kind of immigrant*. This created a sub-dataset with 257 excerpts.

CONSTRUCTING A RACIALIZED NATIONAL NARRATIVE

Discussions about a nation's narrative of itself typically focus on the boundaries governing citizenship (Brubaker 1992; Bloemraad 2006) or demarcations of insider versus outsider such as sense of belonging (Yuval-Davis 2007). The analysis I present here focuses on the national narrative constructed within the negotiations of different types of outsiders, specifically varying immigration statuses and their level of desirability. My analysis seeks to complicate the binary distinction between insider and outsider and explore the avenues of an outsider becoming an insider, albeit, a conditional racialized insider. To begin, I revisit Collins's (1998, 2001) analysis of family and its utility in understanding the nation state.

Collins (1998, 2001) refers to the traditional family ideal as an ideological tool to understand national identity. She argues society uses how we understand family as a model for how we construct and understand national identity. There are three main similarities I borrow from Collins (2001) to inform my analysis of how immigration debates contribute to a racialized national narrative. First, in both cases, there is an effort to determine who is the insider and who is the outsider. Families tend to view themselves as a specific unit, whether they are tied by specific roles or interactions. A distinction is made between those who are considered family and those who are not. Similarly, nation-states and their accompanying patriotic performances create the distinction of who is part of the nation and who is not. Immigration laws are the crux of this distinction, literally determining who is welcomed and may apply to come to the U.S. and those who are criminalized for coming as unauthorized. Immigration laws also determine who is allowed to naturalize and become a U.S. citizen – the ultimate insider status.

Second, national identity resembles the traditional family ideal in that there is a hierarchical structure between insider, outsider, and even within differently valued insiders. Individuals from one family are considered outsiders to another family. There is a division of labor and hierarchy between parents and between parents and children even though all are considered insiders to that family unit. Similarly, within a nation there are insiders or citizens that are treated unequally. Stemming from the nation's inception, a racialized hierarchy was formed among whites, indigenous groups, and enslaved Africans. Transforming though persisting, this created the basic structure of how citizenship rights were applied. Indigenous groups were treated as outsiders – nations within a nation. Enslaved Africans were treated as second-class insiders with few rights but kept under the power of white settlers who enjoyed full rights. According to Collins (2001), a racialized national identity was solidified through this hierarchical structure. Immigrants arriving later would fit into various sections of this hierarchy depending on how they were racialized and gendered.

The third similarity is that the notion of family and nation normalizes the tension between unity and hierarchy to mask the embedded power relations. Family members are united as one entity, as citizens are united as one nation. Within families, members understand their hierarchical position in relation to other members, mostly through measures like age, gender, and wealth. This arrangement is seen as normal within families and thus as a necessity for families to function. These hierarchical arrangements are replicated within nations along social identities such as age, race, gender, and class status. Power relations remain masked when these hierarchies are normalized; they become the "natural order" of things necessary to sustain the larger entity. This warrants narratives that blame African Americans for their own unemployment rather than looking at the power relations that were created since slavery to keep African Americans oppressed. Proponents argue meritocracy continues to be a core value of the U.S. and it works, so the only explanation is some (in this case, African Americans) are not trying hard enough. Similarly, Senators that argue for an increase in agricultural workers suggest these jobs are too hard and low paying, so U.S. citizens do not want them. Instead of interrogating the power of large corporations and the need for an exploitable work force, lawmakers praise some immigrant workers for contributing to the national

economy. These examples show how hierarchies in society are taken for granted and aspects of national identity can be used to mask the power relations.

Thus, lawmakers utilize the nation's identity as a tool to glaze over the contradictions between unity and hierarchy. It becomes second nature to ignore how immigrants are valued differently because the focus is on how the immigration system protects and improves the nation. To better understand how immigrants or outsiders are valued differently, we need to look at the racialized narratives used to construct them.

Model Minority Myth

Predominantly used to describe Asian Americans and Asians in the U.S., one of the racialized narratives I focus on is the model minority myth. I briefly mentioned this narrative in relation to workers in the science, technology, engineering, and math (STEM) fields, however I dive deeper into the history and its impact here. Largely based off of the experiences of and assumptions about East Asians, the model minority myth became popularized in the 1960s when news articles wrote about the successful assimilation of Japanese Americans (Espiritu 2006; Poon et al. 2015; Simpson 2001). It assumes Asian Americans and Asians have successfully assimilated to American culture and achieved the American dream. Despite the challenges faced through immigrant hardships and discrimination, this group still managed to achieve socioeconomic mobility, learn English, and become contributing members of society. Most importantly, the model minority myth assumes Asian Americans and Asians are successful because of their cultural beliefs and practices (Espiritu 2006). Following this logic, there is the assumption that the "model" minority was able to succeed without any government assistance and thus other minorities should be able to do the same.

Many scholars have argued, however, that this belief is largely a myth. First, it is a myth because there is no one standard experience for Asians and Asian Americans (Hing 1993; Takaki 1998). The umbrella term encompasses such diverse experiences in immigration journey and racialization that to claim the group as a whole succeeds is to erase the differences between the groups. For example, the experiences of refugee resettlement faced by the Cambodian, Hmong, Laos, and Vietnamese communities are vastly different from Filipinos who were colonized subjects and were turned into unwelcomed foreigners after the Tydings McDuffie Act of 1934. Neither of these experiences are similar to the immigration histories of the Chinese, Japanese, and Koreans who began coming nearly a century before as laborers or foreign students. Each of these communities continue to have new community members join today, creating a growing gap between those who have been here for generations and those who arrived within the past few years. All of their experiences, however, are overshadowed and subsumed under the model minority myth.

Second, immigration laws have contributed to the idea that Asians and Asian Americans are more successful academically and on the job market, thus leading to socioeconomic mobility. When immigration from Asian countries drastically increased in the 1960s, it was largely due to immigration policies that encouraged foreign students from China and Taiwan (Hsu 2015). As we saw in the chapter on employment-based visas, H-1B visas ushered in another wave of highly educated immigrants – "engineering the model minority" (Park and Park 2005). These types of policies select immigrants who

are already highly educated and more likely to work in well-paying jobs. In addition, Feliciano (2005) found that Asians who immigrate to the U.S. are on average more educated than those who do not immigrate and that increases the likelihood their offspring will also attend college. Finally, the term suggests Asians and Asian Americans have successfully integrated into American society. Those who study assimilation tend to argue Asian immigrants and their descendants are assimilated based on outcome measures such as income, education, and English proficiency (Sakamoto, Goyette, and Kim 2009; Sue and Okazaki 1990). However, instances of othering continue to persist whether it is everyday micro aggressions or the recent racialized violence against Asians due to COVID-19. Not only does this area of research cater to the biases of the model minority myth, but they inadequately study the racialized experiences that demonstrate some still do not consider Asians as part of the American "family."

Ultimately, this myth serves as a "political wedge" that pits communities of color against one another. Poon and colleagues called it an "insidious racial device used to uphold a global system of racial hierarchies and White supremacy" (2015:6). To declare one group as successful is to imply, implicitly and explicitly, that another group has failed. The attention is directed on the racialized groups rather than the broader systems of oppression. At the height of its usage, the model minority was presented in opposition to black and brown communities to suggest there was something inherently inferior about the latter groups, which is why they did not enjoy the same success. According to Espiritu, it was used to "delegitimize black and brown demands for economic equity and formal political claims" (2006:415). While scholars have argued the concept is a myth, media and political discourse continue to use it to construct an immigrant group that is monolithically successful. This can be detrimental for Asian Americans, Asians, and other communities of color. Anti-affirmative action groups use the model minority myth to suggest Asian Americans experience reverse discrimination and should not be punished, creating animosity between communities of color. The underlying argument is that they succeeded by working hard, so other groups should be able to as well. In another example, during the 1990s, the model minority myth was used to discredit social service needs of elderly Asian immigrants, claiming they had wealthy family members to rely on (Fujiwara 2008).

As a racialized discourse, this narrative has been crafted and recycled through policies and public discourse. It is vital we recognize the underlying politicized nature of the myth and its utility in creating a hierarchical structure. Particularly for visa categories, we should understand how this narrative is used to justify processes that essentially try to separate the model from the antimodel. This logic, however, would not be able to thrive unless there was an equally thriving oppositional narrative – the illegal alien.

Illegal Alien

Popular anti-immigrant rhetoric tends to focus on undocumented immigrants, or the pejorative term "illegal alien." The narrative around the illegal alien[*] is someone

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[*] For the purposes of this section, I use illegal alien to refer to the subjugated other created from the laws and accompanying rhetoric.

typified as criminal because they crossed the border without authorization. Following the events of 9/11, the illegal alien was also connected to terrorism, adding a new level of suspicion and criminality to the narrative (Chavez 2008). They are usually assumed to be poor and uneducated, leading to accusations that they come to steal jobs and use social services. So, not only are they seen as criminal but also as a potential social burden. Ultimately, the illegal alien is thought of as an undeserving intruder. Most importantly, the image of the illegal alien is often tied to Mexicans and vice versa. The connection between this narrative and Mexicans has a lot to do with immigration laws. We touched briefly upon the criminalization of Mexicans in the chapter on labor, however, here I historicize it a little more in terms of immigration laws.

Researchers argue the illegal alien is a "political subject" (Ngai 2014) or a "socio-political condition" (de Genova 2004). Illegality, as a legal condition, was born out of the institutionalization of immigration documentation, militarization of border crossing, and deportation laws (de Genova 2004; Ngai 2014). Traffic between the U.S.-Mexico border was porous throughout the late 1800s (de Genova 2004). However, starting in 1919, Mexicans needed to apply for entry if they wanted to come to the U.S. (Ngai 2014). This created the legal documentation that would determine if someone were labeled legal or not. In addition to creating a per country quota system, the Immigration Act of 1924 also created the U.S. Border Patrol and made unlawful entry a deportable offense. Not only was there paperwork to determine if someone was legal, now there would be a punishment assigned to those who did not have the necessary documents. Together, these factors took a common activity of crossing the border without inspection and labeled it as immoral and criminal. Add these factors to the media-generated moral panic all contributed to Mexicans typified as illegal aliens.

The specter of the illegal alien continues to thrive in more recent discussions. In the 1990s, media reports of immigrants crossing the U.S.-Mexico border fueled public panic of an invasion, particularly in California (Massey, Durand, and Malone 2002; Newton 2008). This led to policy proposals in California and the passage of federal laws that focused on punishing those crossing the border without authorization and restricting access to social services. The illegal alien rhetoric was also central to debates over the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437), a proposed immigration reform bill that mainly increased enforcement measures. Former President Donald J. Trump notoriously utilized this rhetoric to demonize Mexicans on his 2015 campaign trail and throughout his presidency.

Like the model minority myth, the consequences of this rhetoric harm Mexican Americans, Mexican immigrants, and other communities of color as well. Regardless of immigration status, the racialization of Mexicans as undeserving intruders puts the community in a constant state of fear and vulnerability, such as through immigration enforcement raids and racial profiling practices (Johnson 2010; Romero 2008; Zatz and Smith 2012). Often, these impacts are gendered and classed, creating different types of vulnerabilities within the community (De Genova 2004; Golash-Boza and Hondagneu-Sotelo 2013; Zatz and Smith 2012). Additionally, depicting Mexicans as the quintessential illegal alien overlooks the struggles of those who are undocumented and not Mexican, such as Central Americans and Asians. This places all immigrant groups at a disadvantage in terms of having their needs met and developing a sense of belonging.

As a discursive strategy, the specter of an illegal alien pairs well with the model minority myth as justification for the layers of bureaucracy that encompass the visa system. The bevy of categories and application processes further legitimize the boundaries between documented and undocumented, and deserving and undeserving. It also buries the social and legal history that constructed the illegal alien and naturalizes the assumption that to come as undocumented is an individual moral failing, more specifically a failing of Mexican migrants.

IMMIGRANT DESIRABILITY SCALE

Aside from debating about particular provisions of immigration legislation, lawmakers were also defining the type of immigrant they felt deserved to stay in the U.S. and those they thought presented a danger. I argue that through these debates they provided what I call a "scale of immigrant desirability," a gradient range that ranks outsiders in terms of their potential to become insiders. On one side of the scale, we have the ideal immigrant or the "right kind" of immigrant the country should encourage and retain. In the middle, we have redeemable immigrants or those who can go through certain administrative barriers to become acceptable. Finally, there are undesirable immigrants that exemplify the type of immigrant that laws were created to guard against.

In existing literature, many scholars focus on the dichotomy of deserving and undeserving. Scholarship on citizenship looks at the ways one is signified as a citizen or a foreigner, either through naturalization laws (Haney-Lopez 2006), deportation laws (Ngai 2014), or discursive practices (Newton 2008). Even the politics of belonging, according to Yuval-Davis (2007), is about maintaining the boundary between "us" versus "them." Thus far, I have also concentrated on the aspects that differentiate between deserving and undeserving within employment-based and family-based visas. Here, I aim to complicate the dichotomy by conceptualizing it as a scale in which there is a path for people to transition from outsider to insider. Menjivar's (2006) concept of liminal legality similarly talks about the in-between spaces of legal and illegal, like the limitations of statuses like Temporary Protected Status (TPS). However, statuses like TPS and Deferred Action for Childhood Arrivals (DACA) never included a pathway to citizenship. The assumption of liminality is somewhat inherent in the status. The Registered Provisional Immigrant (RPI) status, family, and most employment-based visa, on the other hand, allow applicants to believe they may one day become U.S. citizens. This possibility, though a precarious one for some, upholds the "myth of 'immigrant America'" or the belief that when one comes and settles in the U.S. they will eventually become a U.S. citizen (Ngai 2014). It is faith in the administrative burdens that make a transition seem probable and reinforces the idea that the American Dream is accessible to all.

For the debates about S.744, I break down the types of immigrants that fit into each category along the scale. There are five types of immigrants who were largely considered the "right kind." These groups of immigrants were depicted as deserving or worth helping when lawmakers described the purpose of reforming the current immigration preference system. Aligned with my observations in the chapter on employment-based visas, high-skilled workers and foreign students in the STEM industries were most often referred to as deserving to benefit from the proposal. The

second most referred to group was DREAM-eligible individuals, or those who arrived in the U.S. at a young age without documents and essentially grew up in the U.S. These individuals were typically framed as absolved of immoral action because as children they did not choose to migrate. In addition, their academic achievements and hard work were core elements of how lawmakers presented their deservingness. Agricultural workers and innovators or entrepreneurs were the next most mentioned groups. Finally, immigrants who meet the merit-based points system or are described as "most likely to be successful" was the fifth group. These groups were portrayed as the types of immigrants who, without a doubt, should be allowed to stay in the U.S. Praised for their hard work, high educational achievement, economic contributions, and exceptional skills, these immigrants represented what lawmakers want the audience to believe are America's values. Essentially, they are the group of immigrants already considered insiders in all but official status.

The characteristics this group is valued for are similar to those emphasized in the model minority myth. Lawmakers emphasize their socioeconomic achievements and ability to succeed on the basis of their own hard work and grit. The underlying message is also that members of this group would not become a public charge or reliant on social services. Similar to the anti-affirmative action arguments, praising immigrants for succeeding without public assistance reinforces the idea that those who do use public assistance are bad for the country.

Aside from DREAM-eligible individuals consistently referred to as deserving, undocumented immigrants, in general, were largely framed as either redeemable or undeserving. Lawmakers recognized that undocumented immigrants contributed to the community and economy; however, they could only be accepted if they passed a series of administrative burdens to apply for the RPI status and proved themselves. They could redeem their moral standing by admitting their wrong-doing and prove their loyalty by meeting application requirements such as paying taxes and learning English. The following is an excerpt from a Senator explaining the process.

If you can prove you were here continuously before December 31, 2011, you have a chance to step forward, register with the government, and submit yourself to a back-ground check. If there is a serious problem with your criminal background, you are finished. Leave. You cannot become a citizen. But if there is not, you can pay your taxes, pay a fine, live legally in America, work legally in America, travel, and come back into this country, and work towards citizenship over time. It is a long process. They will be monitored. They will be forced to learn English to make sure they and their children can be part of America and its future. (Excerpt #615, Democrat)

From this excerpt, we see the path to redemption is a series of checkpoints focused on a person's confession to breaking the law, proving economic contribution, and assimilation progress. Though not the desirable immigrant, this process gives the illusion that

undocumented immigrants can somehow recuperate their moral standing. They have the potential to transition from an outsider to an insider. Ultimately, it is an illusion because the status is still "provisional" with the possibility of an indefinite roadblock to becoming a U.S. citizen if the amendment to include a trigger is passed. The trigger would require a certain level of border security to be established before individuals with RPI status can adjust to a legal permanent resident. This state of redemption continues to place immigrants in a precarious and in limbo status.

The idea of redemption is not a new concept to U.S. immigration laws. The loyalty tests forced onto Japanese Americans while they were imprisoned in camps during World War II similarly required them to prove their innocence and supposed American-ness. Many of those test questions also revolved around evidence of assimilation. In the Cold War era, when China transitioned from an enemy to an ally, Chinese Americans were pressured to come forward and admit if they entered the country with falsified documents. The cases were highly publicized, giving the impression that people can be absolved from moral wrongdoing. However, Ngai (2014) argues these cases were more about punishing Chinese leftists and reifying the image that Chinese immigrants were untrustworthy and dangerous. Even the "amnesty" provision in the Immigration Reform and Control Act of 1986 had similar undertones of redemption but the harmful impacts of enforcement to immigrant communities outweighed the positive impacts of some gaining status. These policies illustrate a trend of the U.S. attempting to appear compassionate towards those deemed morally questionable but, in reality, creating the illusion of acceptance.

Finally, at the other end of this scale are undocumented immigrants who were portrayed as undesirable or not the ideal immigrant. Following the "illegal alien" narrative, these excerpts suggested undocumented immigrants posed a security threat and were considered dangerous to the American public. Lawmakers argued that too little information is known about this group, so it is questionable if they are in the U.S. to work towards the American dream or to do harm. Other lawmakers argued that undocumented immigrants should not benefit from reform legislation because they essentially broke the law. The following excerpt illustrates how lawmakers explicitly described desirable versus undesirable immigrants.

> *We want to make sure that this immigration bill only benefits those who are worthy of it. This bill is for the men and women who have come to this country to build a better life for themselves and their families, not those who would abuse them. It is for those who are willing to work hard, not for those who have served hard time. It seeks to open the door to American citizenship for those who share our values of respecting and protecting human life, not those who would commit crimes against the most vulnerable among us.* (Excerpt #1181 Republican)

For lawmakers utilizing this argument, there is no path of redemption for undocumented immigrants. In general, the undesirable end of the scale is rooted in assumptions about

potential security threats, breaking the law, and moral character. Racialized as Latino, this narrative is accompanied by beliefs that Central Americans and Mexicans are prone to criminal activity like gang violence. They are positioned as the ultimate outsider.

These discussions about different groups of immigrants allow us to tease apart who are the desirable immigrants lawmakers have in mind when debating amendments to immigration laws. The important attributes for this group are highly educated, economic contributions, and fit within the American Dream narrative of hard-working and willing to make sacrifices. They are willing to work and contribute to the national economy and identity. In fact, these general attributes can be applied to any immigrant; however, lawmakers only apply them to those deemed desirable, namely DREAM-eligible individuals, those in the STEM fields, and occasionally to workers in the agricultural industry. It is this selective application that betrays the narrative of the nation itself, that of welcoming *all* immigrants. In fact, we create a hierarchical scale of desirability, one that separates outsiders with different advantages and disadvantages.

Additionally, even though this scale of desirability marks a favorable immigrant group, they will only become conditional insiders at best. Like the model minority myth, their position as desirable is constructed in relation to those deemed undesirable. Immigrants, regardless of how they entered the U.S., are embedded in existing forms of racialization. Recalling from the introduction, the U.S. was founded by creating the racial hierarchy between free white men (insiders), African slaves (second-class insiders), and indigenous groups (outsider). This remains the racialized framework the scale of desirability operates within. The narratives attached to immigrants through their immigration statuses paves the way for how they will be fitted into the framework.

Thus far, the discussions about the "right kind" of immigrant give us an idea of how lawmakers rank outsiders in terms of desirability – either as potential insiders, redeemable outsiders, or outsiders. Each of these ranks have their own accompanying administrative burdens, advantages, and disadvantages. It is important to note the hierarchy immigrants are placed in via their immigration status and the ability of the scale to give the illusion that the U.S. continues to be a compassionate and exceptional nation. So, how do lawmakers make sense of this scale in their discussions?

WHO IS THE NATION

Instead of making sense of this scale, lawmakers framed the policy changes as integral to the nation's identity. Lawmakers on either side of the political spectrum focus their attention on the narrative of who the nation was and who it continues to strive to be. These narratives drew on a romanticized version of U.S. history and an exaggerated sense of exceptionalism that resembles many political speeches. The purpose of these frames is to foreshadow the policy changes as rooted in national values and historical legacy. The hierarchical scale being created becomes hidden behind the backdrop of a grander national narrative.

There were three central frames used to talk about the nation's identity during these debates. First, lawmakers retold a romanticized history of the U.S. that focused on immigrant successes and the nation's role. Several lawmakers harked back to the spirit of European settlers and early waves of immigrants as a reminder of their sacrifices and

hard work. Other lawmakers invoked the symbolism of the Statue of Liberty and its famous poem to promote the idea that we welcome all immigrants, which is what makes the nation unique.

> *In my city—the city in which I was raised and in which I live—there is that beautiful lady in the harbor with that bright torch. That has been America, and that lady has said through the centuries: If you come here and work hard, stay clear of the law, no matter who you are and what your economic level is, we welcome you. We want you to become an American.*
> (Excerpt #718, Democrat)

Characterizing the U.S. as a "nation of immigrants" continued to prevail throughout the debate. Lawmakers drew upon personal immigrant history stories or examples of successful immigrants who contributed to the U.S. to illustrate the importance of immigrants. Referring to immigrants with well-known accolades, such as in the following excerpt, was commonly used to showcase the importance of immigrant contributions.

> *In fact, history shows that immigrants have helped America lead the world in innovation and entrepreneurship for generations: More than 30 percent of U.S. Nobel Laureates were born in other countries. Ninety of the Fortune 500 companies were started by immigrants, and 200 were started by immigrants or their children* (Excerpt #963 Democrat)

These images paint a portrait of a benevolent country that opens its doors to all and has benefited from the talents of those who happen to immigrate to the U.S.

American exceptionalism was the second common theme. Lawmakers described the nation as unique among all countries; some even called the U.S. the "greatest experiment in the history of mankind" because people from all over the world can gather and learn to live together. Others claimed the country was a "beacon of hope and opportunity" in the world. This was made more explicit when lawmakers commented on other countries – drawing on images of immigrants fleeing violence and poverty to come to the U.S. in search of the American dream. These comments were reminiscent of how the nation crafted its identity during the post-World War II era, particularly as the leading example of democratic states. The commitment to American exceptionalism makes the proposed policy appear as if it improves the country and is what makes the country exceptional. Under this framing, changes such as the expansion of employment-based visas and introduction of the RPI status are about hope and opportunity.

Lastly, lawmakers emphasized the nation as a land of law and order. These comments were largely made in reference to undocumented immigrants. The assumption was that unauthorized immigration was uncontrollable, so Senators argued there was a need to return to stricter laws. This became the justification for increased administrative

burdens for those applying for RPI and supporting the amendment that would delay their ability to apply for a green card. The following excerpt illustrates how lawmakers drew upon an image of a compassionate and exceptional country but one that requires stricter laws.

> *The American people happen to be very compassionate. I know they are*
> *just trying to find a better opportunity and live the American dream, those*
> *people who come here undocumented. We are the best country in the*
> *world. We should be proud of it. We are an exceptional nation. But we are*
> *a great country because we have always abided by the rule of law.*
> (Excerpt #1326 Republican)

The national identity is linked to these laws, so the administrative barriers for RPI applicants become a way to also recuperate part of who the nation purports to be.

As with many political speeches, the framing of the national identity is that it is exceptional, in part because it is built by immigrants but also because it abides by the rule of the law. Therefore, though the nation is compassionate, it is the laws we have that allow us to continue to be great. My goal in this section is not to celebrate the national identity but to highlight the practical purpose of this type of rhetoric in policy debates. Framing the nation as compassionate and law-abiding creates a smokescreen that focuses on what the country stands for and redirects the attention away from the power relations embedded in the laws. In fact, this narrative justifies treating immigrants differently because the nation's identity requires it to be both compassionate and law-abiding. Returning to the concept that the nation is a family, some hierarchy within the polity is necessary for the nation to function as a whole.

CONCLUSION

In the previous chapters we looked at visas categories individually to analyze the racialized narratives used to construct the ideal worker and the ideal family. Here, we examined the broader attempt to differentiate between deserving and undeserving immigrants. A comprehensive immigration reform bill provides a unique opportunity to understand how lawmakers balance creating advantages and disadvantages like expanding visa categories and increasing enforcement while aligning it with the nation's identity.

I first introduced Collins's (2001) use of family as an ideological tool to understand the nation. Like families, a nation includes a dual process of defining insider versus outsider and naturalizing a hierarchy among the members considered insiders. Immigration laws are the core apparatus in making the distinction between insider versus outsider. However, instead of focusing on the hierarchy among insiders, I look at the hierarchy created among outsiders or, in this case, different immigration statuses. Narratives used to talk about visa categories and unauthorized immigration position groups along a scale of desirability, from potential insider to redeemable outsider to

outsider. Potential insiders include STEM workers, DREAM eligible individuals, and immigrants assumed to be successful. Redeemable outsiders encompass those who are considered undeserving but are provided with a pathway to citizenship given a laundry list of administrative burdens. This largely refers to undocumented immigrants that can apply for statuses such as the Blue Card or the RPI status. Outsiders are undocumented immigrants that have a criminal record or are simply typified as criminal.

Introduction of the scale highlights two important points. First, it is ultimately informed by existing racialized narratives of immigrants, such as the model minority myth and the illegal alien. Utilizing these narratives to invoke notions of deserving and undeserving embeds immigrants in power relations that are racialized, gendered, and classed and naturalizes it as simply part of the immigration system. Second, I argue the redeemable outsider creates a bridge between deserving and undeserving. It provides the assumption that there is a path for everyone to become an insider. This is important because it gives credit to the nation's claims of being compassionate.

Finally, framing the nation as compassionate and exceptional but also a state of law and order was central to how lawmakers presented the proposed legislation. This created the façade that the proposed changes benefit immigrants and exemplify the type of nation the U.S. strives to be. It also naturalized the hierarchy created through the different immigration statuses as a necessary element that benefits the nation. In the final chapter, I revisit key take-aways from each chapter but also explore the continued challenges in advocating for comprehensive immigration reform.

CONCLUSION

A major goal of analyzing legislation that has been proposed but not passed is to gain insight into how we can approach future proposals for immigration reform. Even though S.744 (2013) did not pass, future proposals will most likely retain some of the same elements. In 2019, then-President Trump introduced an outline for a new immigration system that echoed elements from S.744, such as reducing family reunification visas and including a merit-based point system (Chishti and Bolter 2019). The lessons we learn from studying S.744 allow us to preemptively develop counter narratives and alternative policy proposals.

I began this research with the intention to understand how race was constructed in visa categories and, conversely, how visa categories inform our understanding of race. Rather than looking at enforcement measures, I problematized visa categories as a site for racial formation. Many of the discussions about visas center on administrative processes or technical calculations about limits. In my analysis, I point out the power relations hidden within those discussions. Ngai (2014) argued the quota-based system prior to the Immigration Act of 1924 constructed a "hierarchy of desirability." I expand upon her concept and further contend that discursive frames and bureaucratic processes maintain a more complex version of this hierarchy. As such, I focused on different sections of the proposed legislation S.744 to highlight processes of racialization and what I call a scale of desirability.

In the following sections, I begin with a review of the relationships among administrative burdens, controlling images, and the violence of value. These three elements operate throughout the discussions and formation of visa categories to construct a hierarchy among immigrants. Next, I emphasize the importance of researching how colorblind racism operates within social institutions. Then, I evaluate some of the limitations of this research, as well as avenues for future studies. Finally, I end with a discussion about the implications of my findings for organizing around comprehensive immigration reform.

ADMINISTRATIVE BURDENS, CONTROLLING IMAGES, AND THE VIOLENCE OF VALUE

Throughout our analysis of each type of visa, we have seen the role of administrative burdens and controlling images in constructing a racialized hierarchy of immigrants. In employment-based visas, immigrants deemed deserving were given more consideration to reduce their administrative burden by increasing visa opportunities or simplifying their application processes. For example, lawmakers advocated for H-1B visa holders, which included science, technology, engineering, and math (STEM) workers, to be exempted from the annual visa cap for employment-based visas. This type of exemption would eliminate the wait for workers to come using an H-1B visa. More commonly, lawmakers assumed STEM workers and foreign students preferred to stay in the U.S. and advocated for an expedited application process for them to receive a green card. They were often described as "the best and the brightest," which justified the option to "staple a green card" to their application. Not only was reducing administrative

burdens a sign of a group's desirability, but it also signified lawmakers' acceptance of them as potential insiders to the point where it was logical to expedite their status from a non-immigrant visa (H-1B) to a green card holder without additional processes.

Those deemed undeserving, on the other hand, had considerably more complex application processes even though they were also coming to the U.S. for work. Visas for temporary agricultural workers (W-visas) and undocumented agricultural workers (Blue card) would have included various processes that signaled their undesirability. W-visa applicants would need to pass criminal background checks and prove they were consistently employed, or they would be deportable. Lawmakers tried to negotiate higher penalties for Blue card applicants because of their undocumented status. Most egregious was the suggestion to add border enforcement trigger measures before certain visas, like the W-visa, would be implemented. Essentially, the more arduous application process signified lawmakers thought of these workers as criminals and permanent outsiders.

Different familial relationships also experienced an increase or decrease in administrative burdens depending on whether those relationships were considered central to the lawmakers' idea of a family. Wait times for spouses and children of legal permanent residents would be reduced since the proposed legislation redefined their status as "immediate family," a category that does not have a visa limit. By contrast, visas for siblings and adult married children of U.S. citizens would be eliminated, thus taking away an opportunity for some types of relationships to reunite with family. The difference in administrative burdens illustrates a preference for families that meet the traditional family ideal, or two-parent households with young children. The categories that would be eliminated continued to be stigmatized in discussions about the merit-based system. Being a sibling or an adult married child of a U.S. citizen would have earned an applicant points in the merit system, however, lawmakers argued these factors were not as valuable as characteristics like education attainment and job experience. These administrative burdens added prestige to those who were desirable and stigma to those who were deemed undesirable.

Moreover, the impacts of these burdens disproportionately impact certain immigrant communities. Immigrants from Mexico tend to utilize the family-based visas that would be eliminated by this bill the most (U.S. Department of State 2022b). In addition, Mexico is the top sending country for both agricultural (H-2A) and non-agricultural seasonal workers (H-2B) (U.S. Department of Homeland Security 2013). This suggests they would also be most likely to use the W-visa and Blue card if the proposal had become law. Therefore, many more Mexican immigrants would have to bear the stigma created by the administrative burdens. Immigrants from India make up the largest group utilizing H-1B visas. Though they are portrayed in a positive light, this can typify Indian immigrants into a certain labor industry and feed into other racialized narratives like the model minority myth.

The prestige or stigma attached to different visa categories also contributed to the controlling image connected to each group. As workers, the discussions around different labor industries and their subsequent visa categories led to different versions of the ideal worker. For H-1B or STEM workers, the ideal worker was highly educated and expected to permanently settle in the U.S. For agricultural workers, on the other hand, they were expected to remain temporary – come when they were needed and return to their country

of origin once the work was done. According to some lawmakers, the ideal agricultural worker should not bring their family because then they would be less likely to settle. These workers become an undesirable but necessary labor force. Coupled with the administrative burdens tied to each type of visa, the hierarchy between the two types of workers becomes even clearer. The administrative burdens legitimize the controlling images and codifies it within immigration benefits and penalties. In turn, the controlling images are recycled through discourse to justify the administrative burdens and typify immigrant workers for certain types of work.

Similarly with families, the portrayal of some families as contributing to chain migration and a problem leading to over-population was a sign of undesirability. Again, this controlling image was largely placed on Latino families who utilized the visas to be eliminated the most and made up a large portion of undocumented immigrants. While families of STEM workers were not explicitly mentioned, the preference for immigrants with high socioeconomic status was evident in the debates over the merit-based system and whether it should include points for family relations. Thus, the images conjured up about family followed the same trajectory as those created in labor visas.

Finally, we see value created in this hierarchy between desirable and undesirable – both ideological and material value. Evident in instances where different immigrant groups are being compared, the desirability of one group is heightened because there is an oppositional group that represents what is undesirable. Some examples of these instances are in discussions about high- versus low-skilled workers and immigrants coming on family reunification visas versus those coming on merit points. To some lawmakers, the availability of visas for low-skilled workers or family reunification visas, who were assumed to be low-skilled workers, would result in an unfavorable decrease in high-skilled workers. In a zero-sum fashion, the resources for one group meant a decrease for the other.

Setting aside the fact that visa caps are an arbitrarily calculated limit, positioning groups against each other in this way creates the illusion of value. Undocumented youth who reject the DREAMer narrative, portrayed as up-standing community members who did not choose to cross the border, recognize this cycle of valuation and devaluation (Lauby 2016). Their claim to value rested on the devaluing of other undocumented immigrants, including their parents. The violence in this type of value is the fact that none of the groups actually have the upper hand. The racialization and power relations that oppress communities of color do not stop once a person is no longer an immigrant or even for their offspring generations later. However, the illusion that some immigrants are more desirable than others generates value and legitimacy in and through the immigration system.

To summarize, the combination of these three concepts highlights how immigration laws and debates build and maintain a racialized hierarchical system through visa categories. Administrative burdens create the material value that simultaneously is fueled by and bolsters controlling images. Together, they construct a value structure among immigrants where different groups are compared to each other in order to justify the system as a whole.

COLORBLIND RACISM

To study issues of race and racialization, it is imperative we look deeper into the ways colorblind racism is embedded into our systems. How are racial hierarchies maintained without mentioning race? What tools can we use to identify instances of colorblind racism? The key is to follow the allocation of material goods and framing used to describe different groups. Here, I focused on administrative burdens and controlling images as tools of colorblind racism. Administrative burdens refer to the rules, regulations, and processes that represent a form of bureaucratic power. They ultimately determine who can access immigration benefits and who is prevented from doing so. When we pair this with the controlling images used to construct ideas about immigrant groups, they become the mechanisms by which inequality and colorblind racism can persist over the years.

As I discussed in chapter four, the narratives used to describe the national identity are just as important as those used to describe immigrant groups. In the debates over S.744, the U.S. national narrative relied on three themes – a romanticized memory of history, a tale of exceptionalism, and the adherence to law and order. Not only did this narrative justify an immigration system based on weighing and measuring people's lives, it paved the way for an immigration status that hinged on the idea of redemption. The introduction of the Registered Provisional Immigrant (RPI) status initiated the illusion of a process for immigrants to transition from undesirable to desirable. Those eligible for RPI status would need to pass through several rounds of administrative burdens, from criminal background checks to English proficiency tests, with fees adding up at each stage. This process could take applicants over ten years before they reach U.S. citizenship. It is framed as a path for applicants to redeem their moral-standing and prove their loyalty. Essentially, the RPI status accomplishes two important tasks. First, it creates the illusion that the hierarchy between desirable and undesirable is not deterministic, keeping the "myth of 'immigrant America'" alive. Second, it legitimizes the nation's narrative of being compassionate and exceptional but also upholding its laws. This is important because it illustrates how a national narrative can act as a smokescreen for mechanisms that maintain racialized hierarchies.

Finally, while analyzing racialization processes within one social institution allows for an in-depth understanding, it is also vital we recognize the synergistic power of institutions working together. The power relations developed in the institutions of labor and family influence and are informed by those created through the immigration system. As we saw in chapters two and three, visas for employment and family reunification impact definitions of the ideal worker and ideal family. These feed into a scale of desirability that naturalizes the exploitation of immigrant workers and prevents certain families from accessing resources. Other institutions, such as welfare, healthcare, and education, should also be analyzed in conjunction with immigration. By mapping out how material goods are allocated and how frames about immigrants are used throughout these institutions, we can gain a better understanding of the systemic barriers immigrants face in the U.S. When we silo analyses, the solutions proposed may create more barriers in one area while solving some in another.

Thus, if we trace how institutions allocate privileges and stigma, either through material goods or ideological frames, we can gain a better sense of how colorblind racism

operates. By focusing on these forms of racism, we can then move away from legislation that only targets explicit forms of racism. As a society, we are far too wrapped up in racial epithets and outright denigration of immigrants. While these are egregious, they are not the only ways, and I would even argue, they are not the dominant way racial inequality persists. Colorblind racism can easily breed complacency if we ignore the ways it maintains power relations.

LIMITATIONS AND FUTURE RESEARCH

There are two main limitations in this project. First, while I engage with intersectionality theories and concepts, there is limited analysis particularly on how these discussions impact immigrant women of color. This was partially due to data limitations considering there were no publicly available data with applicants' sex by visa type other than in broad categories such as family and employment. One way to expand my analysis of the impacts on women would be to compare the different labor industries applicants entered after receiving their visa. Even though these data are only available for non-agricultural seasonal visa holders (H-2B), it would enable me to see the types of feminized labor industries included and the proportion of laborers entering those industries. Second, another limitation is the lack of analysis of how the media framed immigrants and S.744 at the time. Research has shown media portrayal can influence policy outcomes (Chavez 2008; Hsu 2015; Massey, Durand, and Malone 2002). Including news articles could shed light on whether media engaged with the same desirable versus undesirable rhetoric. Considering the sensationalized trend of news coverage, journalists are more likely to mention specific racial groups or interview certain people when talking about various provisions of the proposal. This could provide insight into how the media racializes certain visa categories and determine if it is aligned with lawmakers.

To complement this research, future projects should look at the stories immigrants tell about themselves and the types of narratives they employ. Along with legislative bills, the Library of Congress includes individual relief bills. These bills are submitted by a lawmaker on behalf of an immigrant requesting some sort of immigration relief. Even though these bills are vetted through a lawmaker, they could still shed some light on how immigrants attempt to portray their experiences to advocate for their deservingness. Do they participate in the same racialized narratives, or do they use counter-narratives? How do they insert themselves into the national identity? Answers to these questions could complement the arguments I have made here regarding lawmakers' engagement with racialized discourses.

IMPLICATIONS FOR COMPREHENSIVE IMMIGRATION REFORM

The frames and narratives we have discussed thus far have the tendency to breed distrust and division among immigrants. Commonly used frames position immigrants at odds with each other, which leads to different ideas of the best solution. As of 2022, there has not been another push for comprehensive immigration reform that had the same momentum as S.744 in 2013. While we wait for the next proposal, now is the time when

we can hone the tools we have to be prepared. What questions should we be asking to achieve reform that supports all immigrants? How do we build an immigrant rights movement that is multi-racial? How do we close the gap between the so-called desirable and undesirable outsiders?

There are two points I aim to emphasize with this research. First, we need to know the types of questions to ask in order to ensure proposed legislation is not creating more problems for immigrants than solutions. By analyzing S.744, we saw the importance of identifying administrative burdens and discursive frames which create a hierarchy between immigrants. To make this actionable, we can start by asking, how are material advantages and disadvantages being allocated? Is the framing of the proposal dichotomizing immigrants into favorable and unfavorable groups? To some, this question may seem obvious, but that is exactly why we need to denaturalize this way of viewing immigrants. In addition, we need to ask, how does the proposed legislation interact with how immigrants are treated in other institutions, such as healthcare and education? While these are just initial questions, they can lead to a more holistic analysis of policy impacts.

Second, my goal throughout this project was to draw connections between the narratives about the "illegal alien" and the "model minority" in order to naturalize and even suggest there is a necessity for a multi-racial immigrant rights movement. After spending several years working in coalition with immigrant rights groups, I experienced the challenges in building multi-racial partnerships. In my efforts to build a base of supporters within the Chinese community around the Development, Relief, and Education for Alien Minors (DREAM) Act in 2011, I was met with the perception that undocumented immigrants were not prevalent in the community and it was only a Latino issue. When I attended coalition meetings on behalf of an organization that largely served Chinese immigrants, I was often thanked for attending in solidarity. It was constantly overlooked by both the Chinese community and other activists that Asians also have a stake in the policy's success. Lawmakers' and the media's use of the two frames about immigrants give legitimacy to the divisions they create. Essentializing undocumented immigration as a Latino issue also meant silencing the experiences of undocumented Asian immigrants. This led to groups like ASPIRE, a group of pan-Asian undocumented immigrants, to form in order to bring awareness to their presence.

Nevertheless, if immigrants themselves view these issues as compartmentalized, community-specific problems, then it can prevent effective solidarity and reciprocal empathy. The issues we face in the immigration system are intimately tied to how both of these narratives build off of and construct one another; therefore we need to denaturalize and disrupt their silent presence. Only by doing so can activists and the broader pro-immigrant community build multi-racial networks of solidarity.

There are many times when immigration reform that truly benefits immigrants can seem elusive. With every *solution* proposed it seems as if more issues arise and various immigrant communities are continually left out. Migration is a global phenomenon and, unfortunately, so are the inequalities immigrants face when trying to enter a new country. For example, recently, the United Kingdom initiated a new visa program that encourages the "best and the brightest" from a list of 37 universities around the world (Bubola 2022). The visa allows students to apply for a two- or three-year work

visa in the United Kingdom after graduation. The program is limited to those with certain types of degrees, such as science, engineering, and medicine. Critics argue the program is elitist because the majority of the eligible universities are from Europe, the U.S., and East Asia. The rhetoric and the racialization implications are very similar to how the U.S. treats H-1B visa holders and international students in STEM fields. The move to market-based immigration policies may be an international trend among countries that hold the most power and resources. Thus, the lessons we learn from examining U.S. policies may also be applicable to other countries.

Regardless of how vast the problem seems, it is imperative we continue to seek out better ways to care for our immigrant communities. We need to prioritize their humanity and recognize the structural factors that lead to migration rather than framing it as an individual problem. Just like a research project, finding ways to care will need to be an iterative process but it is one that is worthwhile.

APPENDIX A: LIST OF CODES USED IN EACH CHAPTER

Employment

Economic impact
Job market competition
Guest worker program
Guest workers are temporary
Positive impact of guest workers
Negative impact of guest worker program
High vs low skilled
High-skilled worker
Low-skilled worker
Immigrant labor worth
Right kind of immigrant
Deserving
Administrative burden
Labor Industry specific
Construction industry
Dairy farmers
Forestry
Agriculture industry
Meat packing industry
Tech or STEM
Blue Card
EB-2
EB-3
EB-4
EB-5
EB-6
Employment
E-visa
H-1B
H-1C
H-2A
H-2B
H-5A/B
H-visa
W-visa

Family

Administrative burden
Chain migration
Dichotomizing
Deserving
DREAMer narrative
Family reunification/ values
Right kind of immigrant
Defining family
Merit based system
Immediate Family Visa

National Identity

Moral character
American people
American values
Compared to older European immigrants
Ethics
Compassion
Responsibility
Law and order
Nation
American dream
American exceptionalism
Right kind of immigrant
Deserving

APPENDIX B: PROPOSED MERIT-BASED SYSTEM

Tier One

Category	Type	Allocated Points
Education	Doctorate	15
	Masters	10
	Bachelors	5
	(An applicant can only gain points from one of these)	
Employment	Zone 5	10
	Zone 4	8
	(Additional points gained for each year a person worked in that position)	
Entrepreneurship	If hired 2 or more employees in Zone 4 and 5	10
High Demand Occupation	Tier 1 occupations	10
English Language Proficiency	Score 80 or above on TOEFL	10
Civic Involvement		2
Family Ties	Sibling or Married son and daughter of U.S. Citizen	10
Age	18-24	8
	25-32	6
	33-37	4
Country of Origin	From a country with less than 50,000 admitted to the U.S. in the past 5 years	5

Tier Two

Category	Type	Allocated Points
Employment Experience	Points for each year of work experience *(Will count no more than 20 years)*	2 per year
Special Employment Criteria	High demand tier 2 job Zone 1 Zone 2 Zone 3	10 10 10 10
Exceptional Employment Record	Determined by promotions, longevity, changing from lower to higher zone jobs, and pay increase	10
Caregiver	Someone who is or has been a primary caregiver	10
English Language Proficiency	English Proficiency English knowledge	10 5
Civic Involvement		2
Family Ties	Sibling or Married son and daughter of U.S. Citizen	10
Age	18-24 25-32 33-37	8 6 4
Country of Origin	From a country with less than 50,000 admitted to the U.S. in the past 5 years	5

Occupation Zones:

Zone 1 – Requires little to no preparation

Zone 2 – Requires some preparation

Zone 3 – Requires medium preparation

Zone 4 – Requires considerable preparation

Zone 5 – Requires extensive preparation

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