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## California's Dark Past and Bright Future on Immigration Policy

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### INTRODUCTION

Immigrant integration has gained considerable interest by scholars, policymakers, and activists in California, as the state has made historic investments in the lives of its immigrant residents. In 2015, it became the first and only state to provide undocumented children access to full-scope Medi-Cal, and the Governor's 2016-2017 budget expanded the state's commitment by setting aside \$145 million to provide healthcare coverage to over 170,000 children, regardless of their federal immigration status. Meanwhile, legislators and advocacy groups continue to press for full integration in a "Health for All Act" to cover all undocumented California residents. Other immigrant friendly states are making similar strides, but none have reached California's same level of success.

The movement by states to regulate immigrants is not new, and California has a troubled past of leading the country on exclusion. This report provides a historical overview of California's policies on immigrants, from its founding in 1850 to its present leadership on immigrant integration. The first section introduces how immigration law has evolved from a state power to a federal power, and why states continue to regulate immigrants today. The report then turns to a focus on California's leadership in immigrant policy, first in the mid-1800s as the country's first state to pass restrictive policies on Asian and Mexican immigrant labor, followed by sections revealing its role in shaping key Twentieth Century policy areas, from voting rights, to social welfare rights, labor rights, and sanctuary policies. While most of California's history is filled by racist anti-immigrant policies, the report ends on the brighter note of highlighting California's shift from restriction and to integration in the late 1990s and current policy innovations.



## THE EVOLUTION OF IMMIGRATION POLICY

Immigration law in the United States began with state and local policies, not federal policy. After American Independence and the passage of the U.S. Constitution, the newly formed national government purposely avoided passing federal policies that would regulate immigration, to avoid igniting regional and state divisions over issues like slavery.<sup>1</sup> Southern and Northern states grew opposing views on how free and enslaved blacks ought to be regulated, and differences emerged in their economic interests and labor needs. These regional differences grew more intense during the antebellum period, making it politically impossible for the national government to take the lead on immigration or to consider passing a uniform national immigration law.

Looking at early America, instead of national leadership, states and localities led in regulating migration. These policies might look different from today's federal immigration law, but they functioned in similar ways to control immigration. Antebellum states and localities passed restrictive criminal, poor, public health, and slavery laws, to regulate entry, exit, and removal from national, state, and local borders, and established internal controls over the movement of people.<sup>2</sup> The federal government only took control of regulating movement when it came to runaway slaves, enacting the Fugitive Slave Act of 1783 and 1850; in response, Northern "free" states were mobilized by abolitionist coalitions and enacted a range of state policies to protect runaway slaves from being returned back to slavery, creating conflicts with pro-slavery federal law and Southern interests.<sup>3</sup>

In addition to slavery law and regulations placed on blacks, scholars find that Northern seaboard states, like Massachusetts, passed policies and set up enforcement mechanisms to control the movement of immigrant paupers as early as the colonial period, and continued to expand their control over entry and settlement until the 1870s.<sup>4</sup> Colonial and antebellum states classified many groups as "foreigners," including Native Americans, African Americans, women, Asian

Americans, Latino Americans, and the poor, and used this foreigner status to restrict their presence, movement, and rights from 1600 to 1900, when the federal government stepped in to take control of the national border for the first time.<sup>5</sup> Moreover, early state and local governments enacted their own welfare policies, including outdoor relief, public aid, and indoor relief.<sup>6</sup>

The abolition of slavery after the Civil War created the conditions for the federal government to begin leading immigration control, and states' prior policies greatly shaped the types of federal policies that emerged during this transition period. Immigration policies of nineteenth-century Atlantic seaboard states, particularly New York and Massachusetts, laid the foundations for federal immigration policy in the 1880s.<sup>7</sup> Federal laws were modelled after state policies, restricting the same classes of people and developing similar enforcement mechanisms. In addition to eastern seaboard states, California played a key role in helping to shape when and how the federal government started to control immigration. California's policies in the 1850s and 1860s, which restricted Chinese migration, were used as the model for the first federal immigration law in 1875, which banned the entry of involuntary Asian migrants, prostitutes and criminals in the United States, and later, the infamous Chinese Exclusion Act of 1883.<sup>8</sup>

With the passage of federal Chinese Exclusion Acts, the federal government began to reign supreme on matters related to immigration, particularly on such decisions as the entry and exit of immigrants, deportation/removal, and the terms of their residence in the country.<sup>9</sup> The Supreme Court began to separate regulatory power in the late 1800s and created two distinctive categories of law: immigration law and immigrant policy.<sup>10</sup> Immigration law covers entry, exit, removal, and residency terms, and the Supreme Court continued to make this area of law the exclusive power of the federal government throughout the Twentieth Century. Immigrant policy, by contrast, covers a broader set of regulations by states and localities to

govern and distribute resources to residents, and has a direct impact on the lives of immigrants.

States and localities no longer set up national exclusions on who can enter or reside inside the United States, and no longer spearheaded the enforcement of immigration law. A growing body of research on immigration federalism, however, shows that states continue to: lead policymaking in areas untouched by federal law, partner with the federal government to enforce immigration law, and pass immigrant policies that directly impact the lives of immigrants residing in their jurisdictions.<sup>11</sup>

### SOURCES OF IMMIGRANT RIGHTS

National, state, and local power to control and exclude immigrants in various aspects of life, from movement across borders, to detainment and removal proceedings, and access to basic resources and benefits, is mitigated by immigrants' rights. Scholars have long raised questions about the differential rights given to immigrants and citizens, to make sense of citizenship—defined as a type of membership in a political community, rights, benefits, and protections.<sup>12</sup> T.H. Marshall's classic study of citizenship aggregates political, social, and civic rights to define full citizenship.<sup>13</sup> Debate has emerged over where to place immigrants along this spectrum, of some level of rights, to full citizenship rights, and to consider what it means for immigrants to hold some of the rights that citizens hold. Immigrants are described as having "semi-citizenship," since they are granted some rights and are considered members of a national, state, and local political community.<sup>14</sup> Despite their legal status, even undocumented immigrants have a baseline of rights in the United States.

Noncitizens (legal immigrant and undocumented immigrants) have always held some level of Constitutional rights in the United States.<sup>15</sup> Once the federal government took over immigration law, the Supreme Court began to rule on cases dealing with immigrant rights and set up a baseline of procedural due process rights, granting noncitizens 5<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> Amendment protections. Scholars explain that these rights grew out of the idea

that immigrants are Americans-in-waiting, and Courts have historically extended rights to lawfully residing immigrants who declared their intention to naturalize.<sup>16</sup> A baseline for immigrant rights was most notably extended by the Supreme Court's equal protection ruling in *Plyler v. Doe* (1982), which expanded immigrant rights to include equal access to K-12 education, regardless of their immigration status.<sup>17</sup> This type of extension of rights to immigrants creates what one scholar calls the "paradoxical idea of 'noncitizen citizenship,'" and has stirred debate over the meaning of national citizenship.<sup>18</sup> Some are alarmed by immigrant rights, arguing that it devalues national citizenship by treating immigrants and citizens alike.<sup>19</sup>

The rights of immigrants have roots in multiple political communities.<sup>20</sup> Beyond Constitutional rights, immigration and urban scholars show that state and city government policies also establish a baseline of rights and integrate immigrants into local communities.<sup>21</sup> San Francisco provides municipal ID cards to all of its residents, including undocumented immigrants, as part of its local vision of membership.<sup>22</sup> The city also passed sanctuary policies that prevent its local police from participating in the enforcement of federal immigration law, which scholars argue set up a type of local citizenship because it "encourage[s] undocumented immigrants to feel protected, despite living in the 'shadows,' and to participate in local matters as members of their communities."<sup>23</sup> Integration and rights not only originate nationally or at the state and local level. Scholars show that transnational and postnational ties create alternative memberships and personhood rights.<sup>24</sup>

Antebellum states not only spearheaded America's first immigration laws, they were critical leaders who paved the first inroads for Constitutional and legal rights in the United States. Led by abolitionists, Northern states enacted personal liberty laws that created a legal framework for protecting black residents and runaway slaves, who lacked any form of protection under federal law.<sup>25</sup> In the wake of the Civil War, the Republican controlled Congress and abolitionists not only led

in reforming national policy, they used these state laws as a model for drafting the 14<sup>th</sup> Amendment's equal protection and due process provisions, which later provided the legal basis for immigrants' right to K-12 education. Today, states like California are continuing to expand the baseline for immigrant rights and facilitate the lives of their immigrant members, especially undocumented immigrants, despite their exclusion and unlawful status under federal immigration law.

Although the federal government gained control over entry, exit, and removal in the late 1800s, states and localities have remained in control of immigrant policy and have enacted a range of policies either to restrict or integrate immigrants within their jurisdictions. At the same time, Supreme Court decisions and federal immigration law continue to re-shape states' power to regulate the lives of immigrants, and clarify the distinction between immigration law (which is federally controlled) and immigrant policy. The report now turns to reviewing California's Twentieth Century leadership on key immigrant policy areas.

### **CALIFORNIA'S EARLY RESTRICTIONS ON ASIAN AND MEXICAN IMMIGRANTS**

State building in California formed out of white migration, motivated by anti-black racism in the mid-1800s and an effort to flee slavery in the South and abolition in the North.<sup>26</sup> Establishing a new state and economy, however, required that white Californians recruit cheap labor from Chinese immigrants for mining, railroad construction, manufacturing, and farming, and later recruit cheap labor from Mexican immigrants for similar purposes. Racism is engrained in California's early state building efforts led to the state's first immigration laws, formally restricting blacks from entering the state, while simultaneously recruiting less threatening immigrant groups to exploit as cheap labor.

California's early immigrant policies were framed out of economic competition between Chinese workers and native white workers, and were restrictions placed on Chinese immigrant

residents.<sup>27</sup> Labor leaders in San Francisco organized large anti-Chinese clubs in every ward of the city during the 1860s, and comparable associations followed in cities and towns throughout the state.<sup>28</sup> Daniel Tichenor and Alexandra Filindra explain, "[r]acial hostility and economic insecurity fueled the rise of a powerful anti-Chinese movement in the early 1870s, one that came to dominate California politics and led to the state law restricting Chinese immigration."<sup>29</sup> Republican Governor Leland Stanford successfully pressured the state legislature to discourage immigration by the "degraded" Chinese immigrants and pass the state's Anti-Coolie Act of 1862, which was a tax placed on Chinese workers to "protect Free White Labor," despite the fact that Stanford employed them as cheap labor on his farms and railroad enterprise.<sup>30</sup> Over the next few years, California led the country by enacting many anti-Chinese laws designed to restrict new immigration to the state and to deprive Chinese immigrants residents from having civil, economic, and social rights.<sup>31</sup> Scholars explain that employers' desire for low-wage labor often conflicted with these exclusions on Chinese laborers, a tension that helps explain shifts between periods of relative openness to and recruitment of Chinese immigrants, and periods of harsh crackdowns on immigration.<sup>32</sup>

Once the federal government gained supremacy over immigration law, from 1875 to 1924, it only restricted Asian and Southern European immigration, and left Mexican immigration unregulated.<sup>33</sup> Scholars agree that the lack of federal restrictions on Mexican immigrants, in particular, resulted from California and other Southwestern states' need for cheap, temporary, and controllable immigrant labor.<sup>34</sup> California benefited from federal immigration law, and led the country in passing a range of restrictive state policies targeting Mexican residents to ensure that they remained socially, economically, and politically vulnerable as a labor force inside the state.

There were also tensions between federal policy and California's racial goals of making Mexican residents a powerless labor class, which led

the state to enact new race based immigrant restrictions. The United States signed the Treaty of Guadalupe Hidalgo in 1848, which granted U.S. citizenship rights to 80,000 Mexican nationals and classified them as “white.” California view these classifications of Mexican nationals as a major political threat, since its State Constitution in 1850 granted suffrage to white men.<sup>35</sup> California passed policies to exclude its Mexican residents (including those who were U.S. citizens) from having the right to vote, linking their *mestizo* descent (Indian or Spanish descent) to exclusions, and then expanding state level restrictions even further.<sup>36</sup>

Natalie Molina explains, Mexican Americans and immigrants existed between two worlds – one where they are classified white with access to national citizenship, and another where Mexicans (citizens and immigrants) were considered culturally nonwhite.<sup>37</sup> California and its localities, particularly Los Angeles, often used racial identity, and not citizenship status, to control the lives of its Mexican residents.<sup>38</sup> After naturalizing as U.S. citizens, scholars highlight that Mexican Americans lost voting rights, trial by jury rights, and property rights under California state laws.<sup>39</sup> The state set up commissions and courts to remove land from Mexican Americans, and then legally banned them from owning property, despite their U.S. citizenship status.<sup>40</sup> As one scholar put it, “[d]espite de jure [U.S.] citizenship status, Mexicans could not exercise the franchise [in California] with anything close to the same ease of lighter-skinned Angelenos.”<sup>41</sup> Thus, while the federal treaty of 1848 was very inclusive of Mexican national, California re-classified its Mexican residents as a nonwhite racial caste subject to restrictive state policies.<sup>42</sup>

## VOTING RIGHTS

In early America, states attracted new settlers by allowing them to vote and hold office, and for nearly 150 years, noncitizens could vote in local, state, and national elections. States’ political leaders grew anxious about the increase in immigration from Southern and Eastern Europe from 1880 to the end of WWI, sparking them to pass laws

requiring U.S. citizenship to vote.<sup>43</sup> California’s history with suffrage is unique, however. While other states incentivized migration from white European immigrants with voting rights, California restricted voting rights in its 1850 Constitution to only include white, male, U.S. citizens, and proceeded to pass state laws that denied eligible Mexican Americans from having voting rights, including literacy tests, poll taxes, early registration, and residency requirements for voting.<sup>44</sup>

Scholars studying California today and its dramatic shift away from restriction and towards integration, have focused on identifying the legal and political conditions necessary for allowing immigrants to vote. Constitutionally, the 14<sup>th</sup> Amendment’s equal protection clause entitles noncitizens to a right to vote, but states control who has voting rights.<sup>45</sup> Moreover, scholars note that the 15<sup>th</sup>, 19<sup>th</sup>, 24<sup>th</sup>, and 26<sup>th</sup> Amendments prevent states from denying U.S. citizens voting rights, but the “one person, one vote” jurisprudence on suffrage leaves open whether or not states can grant immigrants voting rights.<sup>46</sup> The courts in the 1970s protected immigrants by establishing close judicial scrutiny for social and economic rights, but it did not do the same for voting or political rights, leaving these policy areas at the full discretion of states and localities.<sup>47</sup> The primary takeaway from the scholarship is that political barriers, and not Constitutional and federal law, has prevented states and localities from offering voting rights to immigrants.<sup>48</sup>

In 1968, New York City passed the first local law in the country allowing noncitizen parents (of schoolchildren) the right to vote in community school board elections and to hold office on school boards.<sup>49</sup> Specific to California, Ron Hayduk examines post-1990 voting initiatives in San Francisco, Los Angeles and San Bernardino led by labor, civil rights and immigrant right coalitions, but the story has been one of legislative defeats. Local public opinion has prevented local policies in California from passing, often due to ineffective framing around the value of noncitizen voting rights.<sup>50</sup>

In February 1996, San Francisco's Supervisor, Mabel Teng, sponsored a proposal to grant two groups of legal permanent residents (LPRs, or Green-Card holders) the right to vote, including parents the right to vote in school board elections and community college students the right to vote for City College Trustees.<sup>51</sup> Teng explained that his motivation was "to extend the right to legal residents who live here, work here, have kids that go to school here, or who go to school themselves" and "encourage people to participate in the political process."<sup>52</sup> San Francisco's 1996 attempt, and another two ballot measures in 2004 and 2010, failed to pass, largely due to failures in strategic campaigning and public opinion. In 2004, the San Francisco Board of Supervisors voted 9-2 to place a measure on the November ballot to amend the language in the city charter on voter qualifications, but did not receive the needed majority votes to pass. After two decades, in 2016, San Francisco succeeded in passing Proposition N, which allows all immigrant parents the right to vote in school board elections.

The right to vote raises different sets of concerns and questions, from how immigrant voting rights might impact the meaning of national citizenship, and if they might positively impact immigrant representation in local school board elections and enhance the educational outcomes of minority students.<sup>53</sup>

## **SOCIAL WELFARE RIGHTS**

America's federal welfare state formed during the 1930s in response to the Great Depression, through Franklin D. Roosevelt's New Deal, a series of federal programs, public work projects, and financial reforms and regulations. The national government took on a new role of creating safety nets and helping the lives of everyday Americans, but federal policy and programs were not fully inclusive. Roosevelt needed Southern Democrats' support to pass New Deal legislation and formed a coalition of white liberal and conservative policymakers, which led to the addition of racial exclusions in New Deal welfare programs.<sup>54</sup> Moreover, federal policy was inclusive

of all immigrants, but placed states in control of administering federal programs, which led to exclusions at the state level of racial minorities and immigrants.

The Federal Emergency Relief Administration (1933) appropriated \$500 million to states (as matching grants) to spend on either direct relief or work relief. This would have given blacks and Mexicans "unprecedented" access to relief.<sup>55</sup> However, states and localities controlled the implementation of FERA funds, and in the South and Southwest, state and local officials purposely shut down local relief offices during harvest seasons, with the goal of securing growers control over black and immigrant labor.<sup>56</sup> States also controlled FERA relief funds by appointing state emergency relief administrators.<sup>57</sup> California's Governor James Rolph appointed an avid anti-immigrant conservative, Archbishop Hanna, who made Mexican exclusion the centerpiece of California's administration of federal relief programs.<sup>58</sup> By contrast, Illinois protected its white immigrant residents' access to federal relief and banned discrimination by social workers and relief administrators.<sup>59</sup>

California not only led on restricting immigrants at the state level, it was the key state to push for restrictive federal policies. The Social Security Act of 1935 barred agricultural and domestic workers from Social Security and Unemployment Insurance, disqualifying large numbers of blacks, Mexicans and other minorities; however, it made no mention of citizenship or immigration status. Between 1935 and 1971, no federal laws barred noncitizens from access to: Social Security, Unemployment Insurance, Old Age Assistance, Aid to Dependent Children, Food Stamp program, and Medicaid.<sup>60</sup> California leaders pressured Congress to change federal policy throughout the Twentieth Century, and succeeded in 1972, when federal law began to restrict immigrant access for the first time.<sup>61</sup>

In 1994, California once again led the country by passing Proposition 187, a law barring unauthorized immigrants from most public benefits and services,

and created a state level immigration enforcement scheme (that was ruled unconstitutional). Like in the 1970s, California leaders and its restrictive state policy influenced federal social welfare policy, the Personal Responsibility and Work Opportunity Reconciliation Act (PWORA) of 1996, which barred states from using federal funds to provide Medicaid and welfare to legal and undocumented immigrants, among other exclusions.<sup>62</sup>

## LABOR RIGHTS

The New Deal of the 1930s established federal programs for work relief, like the Public Works Administration and Civil Works Administration, that were highly inclusive of immigrants.<sup>63</sup> Even the most ambitious and largest federal work relief program, the Works Progress Administration (after 1929, renamed Work Projects Administration), did not restrict access based on citizenship or legal status.<sup>64</sup> From the 1930s and through the civil rights era, federal labor rights were granted to citizens, legal immigrant, and undocumented immigrants, including the Fair Labor Standards Act of 1938 (FLSA), Title VII of the Civil Rights Act of 1964, Occupational Safety and Health Act of 1970, and Migrant and Seasonal Workers protection Act of 1983.<sup>65</sup>

At the same time as immigrants were being included in the New Deal's federal work relief and labor law framework, California led a coalition of Southern and Southwestern Congressmen to push for federal restrictions. This effort led to the addition of industry-specific restrictions to who had access to FLSA labor rights and protections, excluding mostly black and immigrant workers in agriculture, domestic service, retail, and restaurants. The anti-immigrant coalition also changed federal New Deal policy by adding restrictions on employing "unauthorized" immigrants for WPA projects in 1936, and later, all immigrants for WPA projects in 1939.<sup>66</sup>

Within a restrictive state, California's push for immigrant labor rights grew in 1965 from César Chávez's United Farm Workers (UFW) movement, a grassroots resistance movement engaged

in recognition walkouts, consumer boycotts, hunger strikes, long distance marches, vigils, and disruptions. They won collective bargaining rights and contracts for farm workers, who previously had no legal recourse when fired for union activity, and forged new ties between immigrant labor and California's political leadership. UFW-backed Democrat Jerry Brown became governor in 1974 and created the Agricultural Labor Relations Board (ALRB) to oversee farm labor disputes. Despite UFW's success, it split in the mid-1970s over internal issues of rank-and-file, membership control, migrant worker rights, and its relation to the Democratic Party.<sup>67</sup> Small gains in California's immigrant rights faded, as a result, and its new generations of farm workers were legally unprotected and had few political allies in state and local government.<sup>68</sup>

As UFW fought for immigrant rights, in 1970-71, California's economy faced a recession and anti-immigrant political leaders began their push for the first employer sanctions law, AB 528, banning the hiring of undocumented immigrant labor.<sup>69</sup> California Assemblyman Pete Chacon, a prominent member of the Assembly Committee on Labor Relations, attacked the issue of employment, arguing, "for too many years the illegal entrant has been the tool of unscrupulous employers who capitalize on his willingness to work long hours for minimum wages. The widespread use of illegal entrant workers . . . deprives unskilled and semi-skilled Mexican-Americans, citizens and aliens alike, black and white workers, of decent employment."<sup>70</sup> State leaders attacked illegal immigration as the primary cause of California's economic problems, and reason for regulating who can be employed in the state.<sup>71</sup> Sectors of the labor movement also supported restricting the hiring of undocumented workers, including the California Teamsters, California's Federation of Labor (AFL-CIO), UFWOC and the California Rural Legal Assistance, Inc (CRLA).<sup>72</sup>

On November 8, 1971, California Governor Ronald Reagan signed AB 528 into law, stating: "No employer shall knowingly employ an alien who

is not entitled to lawful residence in the United States if such employment would have an adverse effect on lawful resident workers.”<sup>73</sup> The irony of AB 528 is that it did not prevent employers from hiring undocumented labor, and instead, increased employer’s control over immigrant labor. It empowered employers and growers with the option of threatening to report employees’ immigration status to officials for possible deportation.<sup>74</sup> A decade later, in 1986, Congress looked to California’s employment verification law as a model for the Immigration Reform and Control Act (IRCA), which established the first federal employer sanction law and made it unlawful for undocumented immigrants to work inside the United States.

Federal officials sought to avoid the problems of California’s law, which empowered rather than regulated employers and made immigrant labor vulnerable to employer abuse.<sup>75</sup> The bi-partisan Congressional coalition that passed IRCA in 1986, created the Office of Special Counsel for Immigration-Related Unfair Employment Practices at the U.S. Department of Justice, with the hope of ensuring that employer sanctions did not unfairly impact immigrant-origin workers and did not accelerate the exploitation of undocumented workers.<sup>76</sup> Ample research documents, however, that undocumented low-wage workers remain vulnerable because labor law is not fully separated from immigration law.<sup>77</sup>

Despite existing federal labor law, undocumented immigrants face the risk of deportation any time they exercise their rights.<sup>78</sup> Research shows that undocumented immigrants do not make workplace claims, despite having federal rights to do so.<sup>79</sup> Employers prefer hiring immigrant workers because they are exploitable, and have no incentive to ensure safe working conditions.<sup>80</sup> Recently, the Supreme Court ruled in *Hoffman Plastic Compounds, Inc. v. National Labor Relations Board* (2002) that undocumented workers are not entitled to back pay, making them more vulnerable to employer abuse, and severing immigrants from access to rights established under the National Labor Relations

Act of 1935. Lacking federal or state solutions to ensure labor rights are protected, worker centers and other organizations have become important intermediaries for enforcing immigrant workers’ rights, particularly for undocumented communities.<sup>81</sup> They provide information to workers about their rights, encourage them to report violations, help them navigate the process of submitting a claim, and serve as a firewall to having their legal status and identities revealed to employers during this process.

### IMMIGRATION ENFORCEMENT

Federal immigration law makes unauthorized entry and reentry (after being previously formally removed from the country) a misdemeanor and possible felony crime, with up to two years imprisonment. Contrary to popular belief, however, undocumented presence in the United States is not a crime. The proposed Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437), known as the Sensenbrenner bill, sought to criminalize unlawful presence, but failed to pass.<sup>82</sup> Moreover, not all undocumented immigrants are alike. A large number of immigrants enter the country lawfully, but then overstay their work or school visa, or work without authorization. Federal immigration law treats unlawful presence as a civil violation subject to removal from the country, but not as a criminal offense.

The federal government enforces immigration law through partnering with states and localities, including detainer requests to hold people – a formal notice by U.S. Immigration and Customs Enforcement (ICE) to state or local law enforcement agencies that it intends to take custody of detainees believed to be unauthorized. While the federal government can incentivize and encourage state and local compliance, they cannot force local officials to use their own resources and personnel to keep noncitizens in their custody.<sup>83</sup> Under the 10<sup>th</sup> Amendment’s anti-commandeering principle, the federal government cannot mandate or require states and localities to become immigration enforcers.



During the 1980s, hundreds of thousands of Salvadorans, Guatemalans, and Nicaraguans fled their countries to escape civil wars, and by the mid-1980s, individuals and churches formed a sanctuary movement to protect these individuals from deportation.<sup>84</sup> The movement to harbor and aid refugees and asylum seekers emerged as a reaction to U.S. geopolitical goals against communist regimes and governments viewed as hostile to U.S. interests. This caused President Reagan and GOP allies in Congress to consider Central Americans in the 1980s, specifically those fleeing Nicaragua, El Salvador, Guatemala, and Honduras, not as refugees welcomed under the Refugee Act of 1980, but rather, as economic migrants who unlawfully entered the U.S. and were subject to removal.

On March 24, 1982, Southside Presbyterian in Tucson and five churches in Berkeley, California, led the country by publicly declaring themselves as sanctuaries for Central American “refugees,” and soon developed into a national network of churches and synagogues that harbored and transported Central Americans, protecting them from being deported.<sup>85</sup> California was home to the largest number of church-declared sanctuaries (over one hundred), forty of which were in the San Francisco Bay area. Three years following the first church declaration, cities and states began to enact their own sanctuary policies. By 1987, the total number of sanctuaries in the country had reached 450, including two states and twenty-eight cities (including Los Angeles, Berkeley and San Francisco in California).<sup>86</sup> Research shows that the church sanctuary movement grew from religious connections to international activists in Central America, and then grew into state and local sanctuary policies from activism related to reforming federal immigration law (including IRCA in 1986) and refugee policy.<sup>87</sup> The 1980s sanctuary movement succeeded in changing federal refugee policy and legalizing many Central American immigrants.<sup>88</sup>

Outside of the refugee sanctuary movement, few jurisdictions actively protected undocumented immigrants from federal immigration enforcement.

In California, the Los Angeles police department issued Special Order 40 in 1979, preventing local police officers from reporting undocumented immigrants to federal immigration authorities, unless they committed serious crimes. This Special Order was issued in order to establish community policing practices in the city, not as a local form of resistance to federal immigration law. However, it is referenced as a model policy by leaders in the 1980s sanctuary movement and by pro-immigrant activists today. California and many of its local jurisdictions remained anti-immigrant and strong partners in enforcing federal immigration law through 1970 to the mid-1990s.

This dramatically changed after 2000. California is now leading the country on sanctuary policies state-wide and across law enforcement agencies, colleges, churches, cities, and counties, that limit or prevent the enforcement of federal immigration law.<sup>89</sup>

### **CALIFORNIA'S INTEGRATIONIST TRANSFORMATION**

California has historically led the nation's anti-immigrant legislation, and immigrant rights have been confined to grassroots efforts, non-governmental organizations, the UFW movement, worker centers, and other advocacy organizations in the state. California shifted towards passing integration policies only after anti-immigrant leaders in the state passed one of the country's most restrictive policies on immigration enforcement and exclusion, Proposition 187 in 1994 (followed by Proposition 227 in 1998).<sup>90</sup> Latino voters responded by greatly increasing their participation in state elections, which led to a new era of Democratic Party dominance in the state and set the conditions for California to become a pro-immigrant state.<sup>91</sup> Particularly important were a new generation of Latino leaders, who secured staff positions and legislative offices, creating for the first time in California's history a deeply connected advocacy network between grassroots activists, allies, and policymakers in state and local government.<sup>92</sup>

Proposition 187 led to long-term investments in organizing that made it possible for California to shift from restriction to integration.<sup>93</sup> Moreover,

across all 50 states, a larger national shift has emerged, from states passing mostly restrictive policies between 2000 and 2010, to states passing mostly integration policies between 2011 and 2016.<sup>94</sup> California has since passed the most far-reaching laws facilitating immigrant integration, some of which include in-state tuition for undocumented immigrants (passed in 2001), a statewide ban on restrictive local landlord ordinances (2007), access to post-secondary financial aid for unauthorized students (2011), and access to driver licenses and professional licenses for unauthorized immigrants (2014).

In response to IRCA's employment restrictions on undocumented immigrants, California has recently banned local government mandates on E-Verify (2011) – a federal database that uses both Department of Homeland Security and Social Security Administration databases to electronically verify the identity and work authorization of employees. It also enacted laws (2015) limiting all employers in the state from using of E-Verify on existing employees or those who have not yet received a conditional job offer.<sup>95</sup> It has similarly passed a non-cooperation law (2013) called the Transparency and Responsibility Using State Tools (TRUST) Act, which stipulates that officers can only enforce immigration detainers issued by ICE for persons convicted of serious crimes.<sup>96</sup> On healthcare, California made national headlines by providing all immigrant children access to full-scope Medicaid (2015), and is now looking to expand coverage even further, by passing a law that would allow all undocumented immigrants, including adults, to buy Qualified Health Plans through Covered California.<sup>97</sup>

As the report highlights, while federal labor laws protect undocumented immigrants, these protections and rights are ineffective. The primary enforcers of labor rights have historically been non-governmental agencies able to mediate on behalf undocumented immigrants, protecting them from having their federal legal status revealed. California recently passed three laws expressly protecting undocumented immigrant workers

(2013) by expanding the definition for extortion to include a threat to report the immigration status, empowering the California Labor Commission and courts to suspend business licenses for employers who retaliate against workers exercising their rights by threatening to report their immigration status, and making it a “cause for suspension, disbarment, or other discipline” for lawyers to report suspected immigration status. It also passed two laws (2015) giving the California Labor Commissioner tough new enforcement rights against employers who steal employees' wages, and ensuring that all injured workers, regardless of legal status, receive workers compensation benefits from the Uninsured Employers Benefits Trust Fund or from the Subsequent Injuries Benefits Trust Fund.<sup>98</sup>

In 2016, California passed the Truth Act, providing additional due process protections to detained immigrants: it requires local jails to provide advanced written notice to the immigrant and their legal representative of ICE hold requests before transferring them to federal custody, allowing for proper legal defense, and it adds new accountability and review processes of local detainer practices. The next step underway in 2017 pushes California even further, to becoming a state sanctuary for undocumented immigrants, largely in response to President Trump's immigration enforcement platform. The proposed SB 54, California Values Act, would end the use of state and local resources and officials from “performing the functions of a federal immigration officer” and require that ICE obtain a court warrant to transfer violent offenders to their custody for deportation. It would also create “safe zones” that prohibit immigration enforcement on public school, hospital, and courthouse premises, and require state agencies to review and update confidentiality policies. Alongside SB 54, California is considering SB 6 and AB 3, which would commit state resources to the legal representation of those facing deportation in the state.

The contrast between past and present is stark. Scholars examining California's integrationist policies today claim that they establish a robust

regime of rights that closely resembles state citizenship.<sup>99</sup> It is clear that California has altered its historical trajectory on many, if not all, areas of its immigrant policy, and has led in innovating new policy areas to further integrate immigrants. Advocates in California initially pushed for pro-integration legislation in 2001 as a “stopgap measure” in anticipation of federal comprehensive immigration reform. However, with recurring delays in federal legislation and a decade of investment and organizing at the state level, California has gained momentum to pass far-reaching immigrant integration policies today.

**ENDNOTES**

- 1 Anna O. Law, "Lunatics, Idiots, Paupers, and Negro Seamen—Immigration Federalism and the Early American State," *Studies in American Political Development* 28, no. 02 (October 2014): 107–128; Anna O. Law, "The Historical Amnesia of Contemporary Immigration Federalism Debates," *Polity* 47, no. 3 (July 2015): 302–19.
- 2 "The Lost Century of American Immigration Law (1776-1875)," *Columbia Law Review* 93, no. 8 (December 1, 1993): 1833–1901; Gerald L. Neuman, *Strangers to the Constitution: Immigrants, Borders, and Fundamental Law* (Princeton, New Jersey: Princeton University Press, 2010).
- 3 Allan Colbern, "The House Is Picking a Fight with 'Sanctuary City' Ordinances. How Is This like the Fugitive Slave Laws?," *The Monkey Cage*, August 13, 2015, <http://www.washingtonpost.com/blogs/monkey-cage/wp/2015/08/13/the-house-is-picking-a-fight-with-sanctuary-city-ordinances-how-is-this-like-the-fugitive-slave-laws/>; Allan Colbern, "Regulating Movement in a Federalist System: Slavery's Connection to Immigration Law in the United States," Working Paper (Under Review), 2016; Allan Colbern, "Runaway Slaves and the Federalism Conflict: A Reappraisal, 1780-1860," Working Paper (Under Review), 2016. While many northern states, Ohio, Illinois and Indiana in particular, passed many state level restrictions on runaway slaves and cooperated in the enforcement of federal fugitive slave law, Allan Colbern documents and explains how Pennsylvania, Massachusetts and New York passed inclusionary laws uniformly protecting all blacks within the state regardless of their status under federal law. "This included due process protection rights granted to all blacks, including: habeas corpus (ensuring that a judge investigated recaption claims and afforded them a full hearing), writs of repliven (ensuring that all detained blacks were brought to court), trial by jury, and black testimony. These two states also passed anti-kidnapping laws that made it a punishable crime to remove any black person from their jurisdictions without court approval. Both states passed a range of laws, that I call "non-enforcement laws," banning state and local officials from participating in recaption, and denying the federal government the right to use state and local courts and resources to hear cases." Colbern, "Regulating Movement in a Federalist System: Slavery's Connection to Immigration Law in the United States," 21.
- 4 Kunal M. Parker, "State, Citizenship, and Territory: The Legal Construction of Immigrants in Antebellum Massachusetts," *Law and History Review* 19, no. 03 (September 2001): 583–643.
- 5 Kunal M. Parker, *Making Foreigners: Immigration and Citizenship Law in America, 1600-2000*, 1 edition (New York, NY: Cambridge University Press, 2015).
- 6 Michael B. Katz, *In the Shadow Of the Poorhouse: A Social History Of Welfare In America*, Tenth Anniversary Edition, Second Edition (New York: Basic Books, 1996); Michael B. Katz, *The Price of Citizenship: Redefining the American Welfare State*, First Edition (New York: Holt Paperbacks, 2002); Michael B. Katz, *The Undeserving Poor: America's Enduring Confrontation with Poverty: Fully Updated and Revised*, Second Edition (Oxford: Oxford University Press, 2013).
- 7 Hidetaka Hirota, "The Moment of Transition: State Officials, the Federal Government, and the Formation of American Immigration Policy," *Journal of American History* 99, no. 4 (March 1, 2013): 1107; Hidetaka Hirota, *Expelling the Poor: Atlantic Seaboard States and the Origins of American Immigration Policy* (Working Book Project); Hidetaka Hirota, "'The Great Entrepot for Mendicants': Foreign Poverty and Immigration Control in New York State to 1882," *Journal of American Ethnic History* 33, no. 2 (2014): 5–32.

8 Kerry Abrams, "Polygamy, Prostitution, and the Federalization of Immigration Law," *Columbia Law Review* 105, no. 3 (April 1, 2005): 641–716. Daniel J. Tichenor and Alexandra Filindra, "Raising Arizona v. United States: Historical Patterns of American Immigration Federalism," *Lewis & Clark L. Rev.* 16 (2012): 1219.

9 For a good review of this transition to federal plenary powers, see Pratheepan Gulasekaram and S. Karthick Ramakrishnan, *The New Immigration Federalism* (New York: Cambridge University Press, 2015), 1–56. Gulasekaram and Ramakrishnan summarize the mechanism highlighted in the scholarship to explain why the federal government took over immigration law, stating: "The combination of crucial factors – the end of slavery and southern political resistance, the striking down of taxation schemes that funded state and local migration control, and the increased political pressure and financial need for federal intervention – finally galvanized the federal government to assume primary responsibility over immigration" *Ibid.*, 19.

10 Gulasekaram and Ramakrishnan, *The New Immigration Federalism*, 19–20.

11 For legal scholarship, see Pratheepan Gulasekaram and S. Karthick Ramakrishnan, *The New Immigration Federalism* (Cambridge 2015); Hiroshi Motomura, *Immigration Outside the Law* (Oxford 2014); *Strange Neighbors: The Role of States in Immigration Policy* (Carissa Byrne Hessick and Gabriel J. Chin, eds.) (NYU Press 2014); Ming Hsu Chen, *Immigration and Cooperative Federalism: Toward a Doctrinal Framework*, 85 *University of Colorado Law Review* 1087 (2014); Stella Elias Burch, *The New Immigration Federalism*, 74 *Ohio St. L. J.* 703 (2013); Rick Su, *The States of Immigration*, 54 *William & Mary L. Rev.* 1339 (2013); Cristina Rodriguez, *The Significance of the Local in Immigration Regulation*, 106 *Mich. L. Rev.* 567 (2008); Jennifer M. Chacon, *The Transformation of Immigration Federalism*, 21 *William & Mary Bill of Rights J.* 577 (2012); Clare Huntington, *The Constitutional Dimensions of Immigration Federalism*, 61 *Vanderbilt L. Rev.* 787 (2008); and Juliet P. Stumpf, *States of Confusion: The Rise of State and Local Power over Immigration*, 86 *North Carolina L. Rev.* 1557 (2008). For social science scholarship, see Paul G. Lewis and S. Karthick Ramakrishnan, *Police Practices in Immigrant-Destination Cities Political Control or Bureaucratic Professionalism?* *Urban Affairs Review* 42, no. 6 (2007): 874-900; Daniel J. Hopkins, *Politicized places: Explaining where and when immigrants provoke local opposition*, *American Political Science Review* 104, no. 01 (2010): 40-60; Monica Varsanyi, ed., *Taking Local Control: Immigration Policy Activism in US Cities and States*, Stanford, CA: Stanford University Press, 2010; Tom K. Wong, 287 (g) and the politics of interior immigration control in the United States: Explaining local cooperation with federal immigration authorities, *Journal of Ethnic and Migration Studies* 38, no. 5 (2012): 737-756; Michael Jones-Correa and Els de Graauw, *The Illegality Trap: The Politics of Immigration & the Lens of Illegality*, *Daedalus* 142, no. 3 (2013): 185-198.

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14 Elizabeth F. Cohen, *Semi-Citizenship in Democratic Politics* (Cambridge University Press, 2009).

15 Linda Bosniak, *The Citizen and the Alien: Dilemmas of Contemporary Membership* (Princeton University Press, 2008), 13.

16 Hiroshi Motomura, "The Curious Evolution of Immigration Law: Procedural Surrogates for

Substantive Constitutional Rights,” *Columbia Law Review* 92, no. 7 (1992): 1625–1704; Hiroshi Motomura, *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States* (Oxford ; New York: Oxford University Press, 2006). Motomura states, “While it is a widely accepted idea that procedural rules often reflect substantive values, the anomalous structure that the plenary power doctrine imposes on constitutional immigration law means that procedural decisions are often the only vehicle for taking substantive rights seriously.” Motomura, “The Curious Evolution of Immigration Law,” 1656.

17 Hiroshi Motomura, *Immigration Outside the Law* (Oxford ; New York: Oxford University Press, 2014).

18 Bosniak, *The Citizen and the Alien*, 4–5.

19 Peter H. Schuck, “Citizenship in Federal Systems,” *The American Journal of Comparative Law* 48, no. 2 (April 1, 2000): 195; Peter Schuck, *Citizens, Strangers, and In-Betweens: Essays on Immigration and Citizenship* (Boulder, CO: Westview Press, 1998), 163–206. “Citizenship’s most consequential dimension, of course, is the value that accrues to the state granting it and to the individual receiving it, above and beyond the value that they may gain from an individual’s mere legal residence without citizenship” Schuck, “Citizenship in Federal Systems,” 210.

20 Rainer Bauböck, “Studying Citizenship Constellations,” *Journal of Ethnic and Migration Studies* 36, no. 5 (May 1, 2010): 852–53, doi:10.1080/13691831003764375. (“[N]either sending nor receiving country fully controls the opportunity structure and value that their respective citizenships represent for migrants, they jointly produce a set of legal statuses and bundle of rights that are still immensely valuable, especially for mobile individuals, and that do mark important inequalities between different groups of human populations.” *Ibid.*, 853.) Joseph H. Carens, *The Ethics of Immigration* (Oxford: Oxford University Press, 2013).

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29 Tichenor and Filindra, “Raising Arizona v. United States,” 1217.

30 *Ibid.*, 1226.

31 *Ibid.*, 1226 n85; Daniel Tichenor, *Dividing Lines: The Politics of Immigration Control in America*, Princeton Studies in American Politics (Princeton, N.J: Princeton University Press, 2002), 89–92; Roger Daniels, *Asian America: Chinese and Japanese in the United States since 1850*, Reprint edition (University of Washington Press, 1990).

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33 Natalia Molina, *How Race Is Made in America: Immigration, Citizenship, and the Historical Power of Racial Scripts* (Berkeley: University of California Press, 2014), 2.

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41 Deverell, *Whitewashed Adobe*, Chapter 1.

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that eliminated interpreters at the voting booth and stipulated “that no naturalized citizens could receive assistance from the election judge unless they had been citizens for twenty-one years.” *Ibid.*

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47 Tara Kini, “Sharing the Vote: Noncitizen Voting Rights in Local School Board Elections,” *California Law Review* 93, no. 1 (January 1, 2005): 197–98.

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50 Similar challenges are faced by other states. See Kathleen Coll, “Citizenship Acts and Immigrant Voting Rights Movements in the US,” *Citizenship Studies* 15, no. 8 (December 1, 2011): 993–1009, doi:10.1080/13621025.2011.627766.

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52 Diana Walsh, “Bold Plan to Let Noncitizens Vote on School Items,” *SFGate.Com*, February 6, 1996, <http://www.sfgate.com/news/article/Bold-plan-to-let-noncitizens-vote-on-school-items-3159327.php>.

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the War on Poverty (Oxford: Oxford University Press, 1996); Thomas Byrne Edsall and Mary D. Edsall, *Chain Reaction: The Impact of Race, Rights, and Taxes on American Politics* (New York: W. W. Norton & Company, 1992); Jonathan Rieder, *Canarsie: The Jews and Italians of Brooklyn Against Liberalism* (Harvard University Press, 2009); Michael Katz, *Undeserving Poor* (Knopf Doubleday Publishing Group, 2011); Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America* (New York: W. W. Norton & Company, 2006); Mary Poole, *The Segregated Origins of Social Security: African Americans and the Welfare State* (University of North Carolina Press, 2006).

55 Fox, *Three Worlds of Relief*, 190.

56 *Ibid.*, 195.

57 “FERA regulations prohibited discrimination on the basis of citizenship status. And while southern and southwestern officials defied federal orders against discrimination on the basis of race and color, northeastern and midwestern officials did not discriminate on the basis of citizenship. As a result, European aliens generally had the same sort of access to relief as naturalized European immigrants or even native-born whites. Where the promise of equal treatment on the basis of race or color was radical in the context of the times, FERA’s promise of equal treatment regardless of citizenship status was not. In fact, it was more or less in line with how aliens had always been treated by relief officials.” *Ibid.*, 201.

58 *Ibid.*, 197.

59 “Where European immigrants were more numerous, social workers and relief administrators often had local and state policies prohibiting discrimination, and they were more likely to follow up on cases of discrimination when they did occur. In Chicago, this official local-level policy of non-discrimination even extended to blacks and Mexicans. The director of the Cook County Bureau of Public Welfare maintained that “the relief given to all applicants, whether white or colored, native born or foreign born, aliens or citizens, is on the identical basis.” The state’s attorney of Cook County noted in 1934 that “no discrimination on account of race or color can exist in the public institutions of this state with legal justification or excuse.” The state even passed a law in 1935 that made discrimination in the hiring of individuals for work relief on the basis of race, color, or creed a misdemeanor, with a possible jail term of thirty days to six months for public officials (or their agents) who violated it.” *Ibid.*, 199–200.

60 *Ibid.*, 214–49.

61 Cybelle Fox, “Unauthorized Welfare: The Origins of Immigrant Status Restrictions in American Social Policy,” *Journal of American History* 102, no. 4 (2016): 1051–74. On immigrants’ access to relief and health services during the Progressive Era and the Great Depression, also see Molina, *Fit to Be Citizens? Public Health and Race in Los Angeles, 1879–1939*; Gwendolyn Mink, *The Wages of Motherhood: Inequality in the Welfare State, 1917–1942: Inequality in the Welfare State, 1917–42*, 1st New Edition (Ithaca, NY: Cornell University Press, 1996); Linda Gordon, *Pitied but Not Entitled: Single Mothers and the History of Welfare 1890–1935*, Reprint Edition (Cambridge, MA: Harvard University Press, 1998); Abraham Hoffman, *Unwanted Mexican Americans in the Great Depression: Repatriation Pressures, 1929–1939* (Tucson: University of Arizona Press, 1974).

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Proposition 187 and the Debate over Immigration (Minneapolis: University of Minnesota Press, 2008); Lynn Fujiwara, *Mothers Without Citizenship: Asian Immigrant Families and the Consequences of Welfare Reform* (Minneapolis: University of Minnesota Press, 2008); Fox, “Unauthorized Welfare: The Origins of Immigrant Status Restrictions in American Social Policy,” 1052–53.

63 “When the law was first passed by the House, it included a preference for U.S. citizens only. Immigrant advocates in the FLIS lobbied individual senators, however, to remove all distinctions based on citizenship: “The Senate, acting on a motion by Senator Costigan (D-CO), who characterized the arguments presented by the F.L.I.S. as ‘convincing and indeed over-whelming’, voted to eliminate this discrimination” against non-citizens. The House was eager to maintain some distinction, however, and so the House and Senate compromised by including declarants among those with preferences. In the end, preference was given first to “ex-service men with dependents,” second to “citizens and declarants who are bona- de residents of the locality or subdivision where the work is being done,” and third to “citizens and declarants who are bona- de residents of the State, provided, of course, they are qualified to perform the work.” Fox, *Three Worlds of Relief*, 2010.

64 *Ibid.*, 215.

65 David Weil, “‘Broken Windows,’ Vulnerable Workers, and the Future of Worker Representation,” *The Forum* 10, no. 1 (2012): 12, doi:10.1515/1540-8884.1493. In fact, in 2010, the Labor Department stated in its “We Can Help” campaign that it “consistently has held that the country’s minimum wage and overtime law protects all workers, regardless of immigration status.” See Doline Hatchett. 2010. “US Department of Labor Statement on ‘We Can Help’ Campaign.” June 24 (<http://www.dol.gov/opa/media/press/whd/WHD20100890.htm>). The National Labor Relations Board (NLRB) has taken the position, since at least the late 1970’s, that undocumented immigrants are considered “employees” covered by the National Labor Relations Act (1935). See Catherine Fisk, Laura Cooper, and Michael Wishnie, “The Story of Hoffman Plastic Compounds v. NLRB: Labor Rights without Remedies for Undocumented Immigrants, Chapter 10 of Labor Law Stories and Chapter 12 of Immigration Stories,” *Duke Law School Faculty Scholarship Series*, October 1, 2005, 356, [http://lsr.nellco.org/duke\\_fs/20](http://lsr.nellco.org/duke_fs/20). Fisk et. al cite multiple cases where the NLRB make the point that undocumented workers are considered covered: *Duke City Lumber Co.*, 251 NLRB 53 (1980); *Apollo Tire Co.*, 236 NLRB 1627 (1978), enf’d, 604 F.2d 1180 (9th Cir. 1979); *Amay’s Bakery & Noodle Co.*, 227 NLRB 214 (1976); *Hasa Chemical, Inc.*, 235 NLRB 903 (1978). (*Ibid.*, 356, n.19.). Furthermore, in *Sure-Tan, Inc. v. NLRB* (1984), the Supreme Court endorsed the view that undocumented workers are “employees” within the meaning of the NLRA. See *Ibid.*, 357.

66 Fox, *Three Worlds of Relief*, 215.

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68 Miriam Pawel, *The Union of Their Dreams: Power, Hope, and Struggle in Cesar Chavez’s Farm Worker Movement* (New York: Bloomsbury Press, 2010); Miriam Pawel, *The Crusades of Cesar Chavez: A Biography*, Reprint edition (Bloomsbury Press, 2015).

69 Kitty Calavita, “California’s ‘Employer Sanctions’ Legislation: Now You See It, Now You Don’t,” *Politics & Society* 12, no. 2 (June 1, 1983): 209, doi:10.1177/003232928301200204.

70 *Ibid.*, 211.

- 71 Alejandro Portes, "Labor Functions of Illegal Aliens," *Society* 14, no. 6 (1977): 36, doi:10.1007/BF02712515.
- 72 Calavita, "California's 'Employer Sanctions' Legislation," 213.
- 73 Calavita, "California's 'Employer Sanctions' Legislation." According to Calavita, eleven states and one city followed California's lead in adopting employer sanctions, including: Connecticut, Delaware, Florida, Kansas, Maine, Massachusetts, Montana, New Hampshire, New Jersey, Vermont, Virginia, and the city of Las Vegas, Nevada. (Ibid., 226, n.3.)
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