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## 1. Introduction

- 1 Immigration reform, political analysts agree, is definitely on the agenda of the Obama administration and could seemingly be introduced into the U.S. Congress in 2010. Directives have already been given by Department of Homeland Security Secretary Janet Napolitano that signal a will to tackle immigration issues. Given the complexity of the task due to a high number of intertwined and sometimes contradictory economic, social and political factors, it is difficult to anticipate what the outcome will be. Without a doubt, the issue is highly fraught: from the failure of the 2007 congressional reform that followed the inflamed debates over immigration legislation in the two years preceding the demise of the bill, to the high expectations of Latino voters who massively supported the candidacy of President Obama, any initiative is likely to be risky and have consequences for the administration that proposes it. Yet, the present status quo is no option.
- 2 While federal legislation is pending, the way immigration matters are dealt with on a daily basis is a major concern to many, ranging from immigrant/human rights advocates and union activists to political analysts and theorists as well as local and state policy makers. United States immigrants have been under growing scrutiny and stress in recent years, especially those without proper immigration papers. Following the massive mobilizations of 2006, the Bush administration considerably increased its enforcement approach to immigration. In addition to a much tougher policy at the U.S.-Mexico border, workplace raids, home arrests, deportation orders, and placements in detention centers have multiplied alarmingly, constituting the most repressive practices immigrant workers who reside on U.S. soil have had to face. Notable abuses

against them have been reported, such as the non-payment by employers of hours (if not days) of work, dire working conditions, harassment and exclusion by communities who refuse to provide housing to day laborers or explicit racial profiling by local police officers.

- 3 As the possibility of immigration legislation reform is drawing near, it seems appropriate to examine the major stakes pertaining to immigration issues. In a 'state-of-the-art' overview of the situation, this article examines what has been referred to as a 'national security regime' by a significant number of scholars in the post-9/11 period, highlighting its rationale and its casualties. While there is no indication that President Obama intends to keep up with the enforcement-only approach, politics may dictate otherwise. He has made statements acknowledging a broken system and shown concern over the problematic recourse to the "employer sanctions" provision of the 1986 law which, in addition to instilling fear among immigrant communities, dramatically puts at risk the employment of migrant workers and increasingly leads to arrests and deportation orders (employers, who should legally be sanctioned for employing an unauthorized labor force, are rarely fined for violations). Yet, the recent directives do not reflect signs of significant change.
- 4 Secondly, I will address the crucial yet little debated issue of immigration power. So far few scholars have theorized this question. In an essay entitled *Who Controls Immigration: Congress or the States?*, law expert Victor Romero reviews constitutional immigration law in an attempt to discern the powers of the federal and state government over noncitizens.<sup>1</sup> His insightful study brings to light the history and evolution of immigration control and helps to understand the root causes of the consistent contradictions existing between current federal government policies and local/state initiatives.
- 5 Given the proliferation of state and local regulation, the subsequent conflict with federal policies and the problems that it generates, a strong need for theoretical insight is felt. Legal scholar Christina Rodriguez convincingly addresses this issue in a brilliant demonstration of how immigration management should be dealt with. The federal-state divide is obsolete, she says. While Romero leaves us with an unsolved question, Rodriguez offers a standpoint, urging not to focus on federalism and arguing for an integrated system that would combine federal and local/states policies as an appropriate tool for the day-to-day management of immigration matters. Her argument will be carefully discussed as it offers alternative ways of thinking and acting.
- 6 To conclude, the article reviews the standpoints of leading political theorists Seyla Benhabib and Saskia Sassen on a question they have long examined, providing us with tools for a broader vision of the issues at stake. While Benhabib addresses political membership by looking at the boundaries of political community - she advocates the incorporation of aliens (as defined by *alienage* laws), immigrants and refugees into existing polities, arguing for a notion of just membership,)<sup>2</sup> sociologist Sassen focuses on the blurring of the citizen subject and the alien subject as a result of the changes taking place in the current period. She identifies immigrants as emerging political actors in globalized cities. Neither "politics" nor "subjects" are yet formalized, she states, but the occurring changes have brought about what she calls "emergent possibilities."<sup>3</sup>

## 2. The Criminalization of Unauthorized Immigrants

- 7 *In the name of September 11* is the title of a book French political scientist Didier Bigo has recently edited<sup>4</sup> and in which he and his co-authors widely document anti-terrorist practices and correlated anti-immigrant policies conducted against noncitizens throughout the European Union and North America since the 9/11 terrorist attacks. *In the name of September 11* stands for the rationale behind - hence the justification for - the various restrictive laws and policies that have been enacted to fight against terrorism and potential terrorists over the recent years. The logic which developed under the Bush administration, based on the "worst case scenario", has increasingly prevailed among governments and media, he contends. It clearly is a war logic in which danger is always presented as immediate, hence creating a system of "generalized surveillance" and a subsequent form of radicalization, bearing dramatic consequences for the targeted groups.<sup>5</sup> Bigo challenges the numerous practices developed in the name of the fight against terrorism - practices he calls "illiberal"<sup>6</sup> - and argues that, in addition to being anti-democratic, they have proved counterproductive. Most interesting for this study is his insight into the political play on the criminalization of migrants and more generally on the connection being made between terrorism, foreigners, Muslims and migrants,<sup>7</sup> now traditional figures to be blamed for the current state of "insecurity": a rhetoric, it is interesting to note, now common to many countries.
- 8 The scholarship dealing with counter-terrorism and immigration is not new, but comparative studies are increasing as a result of the many parallels to be drawn between the ways in which both issues are managed, indeed interconnected, in western liberal democracies. As early as 2002, Bigo identified the historical moment as a new process of state formation in the United States "with regard to only one of its crucial and distinguishing features..., the securitization of immigration."<sup>8</sup> According to political scientist Nicholas de Genova, the phenomenon stemmed from an ideological operation: the refashioning of the national security state into a "Homeland Security State". Within the national security framework, he states, there was "a tenacious blurriness sustained between national 'defense' and imperialist aggrandizement. This strategic reorientation palpably implied and often ... avowed the militarization of every dimension of the United States' relation to the rest of the world."<sup>9</sup> The reorganization of the U.S. federal government in 2003 - the inclusion of the former Immigration and Naturalization Services (INS) into the Department of Homeland Security (DHS) - was designed, in the words of *The National Strategy for Homeland Security*, "to secure the American Homeland ... from terrorist attacks."<sup>10</sup> While the emphasis on a specific and uniquely challenging threat, to Genova, was meant to turn the new mandate into a permanent mission,<sup>11</sup> it also invoked the distinction between *foreign* and *domestic*. The extensive reconfiguration, Amy Kaplan forcefully explains, was actually "about breaking down the boundaries between inside and outside, about seeing the homeland in a state of constant emergency from threats within and without... to generate forms of radical insecurity."<sup>12</sup> In this globalized era, the Cold War ideology has given way to a different rhetoric, and the "enemies within" are no longer supposed (or real) communists but potential terrorists. Predicated upon a logic of permanent threat, and in a context of growing nativism, the fight against terrorism the United States government has engaged in has wide ramifications. It has extended its berth to migrant groups - in particular the undocumented, making this already vulnerable and easily exploitable category a privileged target.

- 9 Such is the political context in which the criminalization of migrants has taken shape. In the early 1980s, raids were already conducted by the INS, only they were "unlawful". They became more frequent when the employer sanctions provision of the 1986 *Immigration Reform and Control Act* made them legal. The trend intensified with the restrictive immigration and anti-terrorism laws of 1996 and the anti-immigrant provisions contained in the USA Patriot Act of 2001. The next major piece of immigration legislation would have been the Border Protection, Anti-terrorism and Illegal Immigration Act (H.R. 4437), introduced by Representative James Sensenbrenner (R-WI), which passed the House of Representatives in December 2005 (a similarly controversial but more limited law was approved in 2006, *The Secure Fence Act*, providing for further militarization of the US-Mexico border).

### 3. H.R.4437

- 10 The Sensenbrenner bill is the piece of legislation that raised the most controversy and initiated the mass mobilizations during the spring of 2006. Many aspects of H.R. 4437 continued a long-term policy of controlling immigrant labor through intensified militarization of the US-Mexico border, new penalties for immigration violations, stringent detention and deportation policies, as well as increased authority of local police to enforce immigration law. However, the bill went further. Its most punitive part lies in the provision that would have literally criminalized the estimated 12 million undocumented migrants residing in the United States by making it a federal crime, an "aggravated felony" (whereas it used to be a non violent civil offense), to be without documents in the United States. By converting their "unlawful presence" into a felony, H.R.4437 would have rendered unauthorized migrants subject to mandatory detention upon apprehension. Also, it would have been a felony for anyone to provide services and assist them, whether legally, socially or medically (which would have made it very problematic even for immigration lawyers to provide counsel). Furthermore, it turned any violations, no matter how minor, into felonies punishable with imprisonment, thus rendering any migrants, even previously legal residents, as "illegal aliens" for any sort of incidental infractions.<sup>13</sup>
- 11 Though initially seen as more "immigrant-friendly", the Senate bill passed in May 2006 (S.B.2611) turned out to be a failure when Democrats and Republicans reached a compromise by integrating parts of the SOLVE Act<sup>14</sup> with more regressive legislation (combining security and deportation measures). One month later, the House and Senate bills moved to Conference Committee where they were supposed to be reconciled but the possibility was torpedoed by the House Republican leadership who listened to the voices of immigration restrictionists. The final version strengthened anti-immigrant law-enforcement, provided labor protections to only some categories of workers, and defined a tortuous path to legalization for a limited number of undocumented immigrants, establishing a very controversial multi-tiered system. As the AFL-CIO<sup>15</sup> concluded in a press statement:

Instead of raising working standards for all workers....the Senate adopted the framework of the fatally flawed Martinez-Hagel compromise, which creates an undemocratic, unjust and unworkable three-tiered society that denigrates and marginalizes millions of immigrant families. That three-tiered approach creates a caste society in which millions of hard-working immigrants are driven further into the shadows of American society, leaving them vulnerable to exploitation. We are also disappointed that the Senate adopted the greedy corporate model of addressing our nation's future needs for workers – guest-worker programs –

instead of crafting a mechanism to ensure that foreign workers come into the U.S. with full rights and as full social partners.<sup>16</sup>

- 12 In the Spring of 2007, attempts were made to revive the reform but the debate was conducted in an atmosphere poisoned by the followers of conservative talk radio and anti-immigration reform groups. These groups promoted xenophobic sentiments that stated any practical immigration proposal was an "amnesty" (a reference to the provision of the 1986 Immigration Act which enabled three million undocumented workers to be legalized). Using the argument that it was a form of "amnesty for lawbreakers", they succeeded in intimidating Congress into a stalemate. While estimates consistently showed that the general public continued to express support for reform (including "earned" legalization for "illegal" immigrants with a path to citizenship), the possibility of an alternative solution was gone. The 109<sup>th</sup> congressional session ended without a compromise, stalling immigration reform.

#### 4. Raids, Detention, Deportation

- 13 Federal funding for raids, detention and deportation has come to replace a democratically debated immigration policy. In the absence of federal legislation, a vast array of initiatives have been set up with a view to deterring "illegal" residents from remaining in the United States and, at the same time, discouraging potential candidates from entering the territory. Developed more intensely since 2006, the measures consist of immigration raids, massive arrests, detention and deportation against the unauthorized immigrant workers living in the country – a vast majority of whom are Latinos.<sup>17</sup> Used to maintain "a permanent state of terror" and made possible by the employer sanction provision, federal workplace raids hold the most contentious position and often appear as punitive expeditions. Launched by the Bureau of Immigration and Customs Enforcement (ICE), one such raid came as a reply to a New Haven, Connecticut city council vote, in 2007, which refused to comply with the federal Real ID Act of 2005 (the council issued drivers' licenses that would allow undocumented workers to access city services). Among the numerous raids that have been carried out, one series also came as a direct response to the resistance immigrant workers formed in Iowa meatpacking plants during the May 1st mobilizations of 2006. Reflecting on the changes after May 1st, the American Friends Service Committee noted: "the raids were seen as a retaliation by the government."<sup>18</sup>
- 14 The raids deserve attention on human, ethical and legal grounds, particularly so since they have come to symbolize the "criminalizing tactics" of the Bush administration under which the recourse to such deterrent tools became, de facto, an immigration policy. Of course, such use of immigration enforcement was not unprecedented. As David Bacon documents in his powerful *Illegal People*, "prying loose people ... from their meatpacking jobs became the focal point of the Clinton administration's effort to end undocumented immigration."<sup>19</sup> In the early 1980s, before the Immigration Reform and Control Act was passed, the INS conducted a series of raids called Operation Jobs which already led to deportation proceedings. According to Bacon, however, the biggest operation began in December 1998 in Nebraska when the INS looked into the personnel records of every meatpacking plant in the state, comparing the employment information (including Social Security numbers) with the national Social Security database. With Operation Vanguard, the INS agents concentrated on 40 plants, sifting out 4,762 names and sending the corresponding persons (what is now commonly called) "no-match letters". Requiring undocumented workers to come for an interview at

work, the INS hoped to and actually did terminate the jobs of a significant number of them, leading to their arrest and subsequent deportation.<sup>20</sup>

- 15 In the Bush years, Michael Chertoff, then Homeland Security Secretary, launched similar enforcement initiatives: DHS agents raided six Swift & Co meat-packing plants in December 2006, arresting 1,300 workers. Again raids and deportation were highly publicized, this time by Chertoff, in an attempt to show Congress the need for "stronger border security, effective interior enforcement, and a temporary-worker program."<sup>21</sup> A more recent example of immigration enforcement came at the Smithfield Foods pork slaughterhouse, North Carolina, in January 2007. The ICE raid, in the words of a union organizer, was like a nuclear bomb.<sup>22</sup> According to many workers, the plant management saw union organization taking place at Smithfield as a major problem. Workers started to organize as soon as 1994, and their efforts were beginning to show. So union organizing, and not the twenty-one detained immigrants, seemed to be the raid's real target.<sup>23</sup> The "success" of the operation can be explained by the employer's position. Alarmed by the tide of protest that rose in the spring of 2006 and panicked by the collective union activity that was developing, Smithfield managers enrolled in the IMAGE program (ICE Mutual Agreement between Government and Employers).<sup>24</sup>
- 16 The federal program, designed to enforce employer sanctions, was publicized in 2006 by Michael Chertoff who stated that the government "must partner with employers, educate them, and provide them with the tools they need to develop a stable, legal labor force."<sup>25</sup> The agreement requires that employers verify the immigration status of their employees, checking their documents against the ICE database. In the event of mismatches, employers must set up protocols for responding to no-match letters from the Social Security Administration and "establish a tip-line for employees to report violations and mechanisms for companies to self-report violations to ICE." As David Bacon underscores, Smithfield managers probably saw an opportunity to get rid of union organizing at their plant, but they may not have expected the huge loss in labor force in the days following the raid.<sup>26</sup>
- 17 Advocacy groups such as immigrant rights, labor and human rights organizations consistently denounce the use of raids as intimidation tactics to discourage workers from organizing (in an attempt to fight exploitation at work and to protect themselves from employer harassment), and increasingly document abusive immigration policy to alert public conscience. In 2008 the National Network for Immigrant and Refugee Rights (NNIRR), a nationwide network with a solid reputation of independent analysis, reported the Postville raid, in Iowa, with alarm. The personal account one NNIRR member gave of the treatment reserved to undocumented workers caught by ICE agents during the operation is more evocative of a spectacular arrest of criminals than a regular inspection / procedure of status checking:

On May 12, 2008, at 10 a.m., in an operation involving some 900 agents, ICE executed a raid of Agriprocessors Inc., the nation's largest kosher meatpacking plant, located in Postville, Iowa. The raid –officials said– was "the largest single-site operation of its kind in American history." At that same hour, 26 federally certified interpreters from all over the country went to the neighboring city of Waterloo, having no idea what their mission was about. Echoing (...) the general feeling, my fellow interpreter would later exclaim: "When I saw what it was really about, my heart sank..." Then began the saddest procession I have ever witnessed, which the public would never see, because cameras were not allowed past the perimeter of the compound.... Driven single-file in groups of 10, shackled at the wrists, waist and ankles, chains dragging as they shuffled through, the slaughterhouse workers were

brought in for arraignment, sat and listened through headsets to the interpreted initial appearance, before marching out again to be bused to different county jails, only to make room for the next row of 10.”<sup>27</sup>

- 18 No less preoccupying is the increase in detention – often subsequent to raids – and deportation proceedings targeting noncitizens. The Patriot Act of 2001, which expanded the government’s authority to detain immigrants, contained several exclusionary measures. It gave the attorney general “unprecedented power to detain foreign nationals indefinitely without a hearing and without showing that they pose a threat to national security or a flight risk,”<sup>28</sup> as legal expert David Cole reminds us. A more extreme provision of the act made it possible for noncitizens to be deported “for wholly innocent associational support of a ‘terrorist organization’, whether or not there is any connection between the individual’s conduct and any act of violence, much less terrorism.”
- 19 Alongside legislation that facilitates detention proceedings, additional funding has been made available to provide for the creation of new detention facilities “in the event of an emergency influx of immigrants into the U.S.”<sup>29</sup> That detention and deportation devices should have come to constitute the new U.S. immigration policy raises major concerns. In an essay entitled “The Deportation Terror”, Rachel Ida Buff analyzes the recent wave of deportation raids carried out by ICE since 2005, placing them in their historical context as a racialized system of social control.<sup>30</sup> Using the work of legal scholar Daniel Kanstroom, who traces the antecedents of the deportation of the foreign-born, Buff draws a link between the Cold War period and the current moment, looking at how immigrants have become the central focus of deportation. The terror imposed on immigrant communities is not new, she says. Acknowledging Kanstroom’s argument that “deportation law has always had two facets: control of the borders, and ‘post-entry social control’”, she contends that terror is now almost entirely defined by the Homeland Security State, making raids and the threat of deportation “a crucial technology of the state.”<sup>31</sup>
- 20 The attempt at making unauthorized migrants legally vulnerable (in the sense of a putative “illegality”<sup>32</sup>), facilitating their subordination, was confirmed with the advent of the Department of Homeland Security (DHS). In 2003, immigration authorities in the DHS’s Office of Detention and Removal announced a 10-year “strategic enforcement plan” called *Endgame* with the mission to promote “national security by ensuring the departure from the United States of all removable aliens.”<sup>33</sup> The scholarship correlating immigration and detention/deportation consistently insists on how racialized immigration policies have been created in order to turn certain undesirable immigrants (Chinese in the 19<sup>th</sup> century, Japanese and Mexicans in the first half of the 20<sup>th</sup> century) into “removable aliens”. The figure of the “illegal alien” has long been racialized as Mae Ngai argues in her book, *Impossible Subjects*. The category itself was created in 1924 with the numerical restriction implemented by the *Johnson-Reid Act*. The ensuing quota laws combined with the creation of the Border Patrol in 1924 and the subsequent criminalization of undocumented crossings in 1929 came to constitute a “racialized Mexican Identity.”<sup>34</sup> In turn, the “illegal alien” emerged as a racialized category, hence transforming already deportable categories (including anarchists and other groups appearing as politically subversive.)<sup>35</sup> Scott Michaelsen, who has probed the continuities between the jurisprudence justifying the internment of Japanese Americans in the 1940s and the USA Patriot Act of 2001, shows how the recurrent attempts at militarizing the border between Mexico and the U.S. has enabled what he

calls "the permanent state of racial emergency."<sup>36</sup> Today, the migrants from Mexico, Central and Latin America are the targeted populations: they constitute the majority of "illegal aliens" the government can legally deport.

- 21 Legal analyst Natsu Taylor Saito has long investigated the impact of counterterrorism in the emergent Homeland Security State and the rationale of political subversion used to turn them into "deportable aliens."<sup>37</sup> In an essay published in 2006, she reflects on what the US-Mexico Border (an increasingly militarized zone) has produced: "the border now also connotes the imaginary line between safe and unsafe associated with the prevention of terrorism," she writes and, as a result, "has moved onto the bodies not only of persons presumed to be undocumented but also those who look like potential terrorists, regardless of their legal status."<sup>38</sup>
- 22 Inter-disciplinary scholarship has widely documented the construction of the figure of the "enemy alien" in history. In comparison, the literature dealing with the impact of the current Homeland Security State is only emerging. Yet, it is already providing us with an insightful understanding of the situation. While legal experts and policy organizations have explored the legal and constitutional ramifications of the "war on terror", others have used different approaches to scrutinize the increasing criminalization of the foreign-born. In *We are All Suspects Now*, Tram NGuyen documents the human drama behind policies implemented in the name of national security. Her book is a perfect illustration of the literature examining the racial impact of post 9/11 policies on immigrants. Her documentarist approach reveals what, according to her, is hidden for many Americans: "the real effects of such policies on their neighbours."<sup>39</sup> Likewise Lisa Flores examines the way in which racialized portrayals of immigrants have fed anti-immigrant sentiment over time, leading to federal deportation programs. She looks at the rhetoric used to target certain populations at specific moments in history, tracing "a uniformity in the public vocabulary surrounding immigration and criminality"<sup>40</sup>. Flores's argument is crucial: the deportation terror is not *just* a technology of the state; it is also "an ongoing rhetorical practice". The combination of act and speech (policies and rhetoric) makes the device a masterful instrument of power.

#### 5. Who Controls and Manages Immigration, Anyway?

- 23 As the possibility of immigration reform resurfaces, and given the remarkably high number of bills introduced in state and local legislatures since 2006, the fundamental question of who controls U.S. immigration and who manages it on a daily basis should be tackled. The sometimes contradictory initiatives taken at different levels of government raise serious problems pertaining to immigration management, highlighting the existing tension between federal and state/local policies and the subsequent conflicts the lack of consensus brings about.
- 24 Just in March 2008 a package of bills were presented in Congress (fifteen of them in the Senate), including measures to make English the nation's official language and to withhold federal money from cities with sanctuary policies.<sup>41</sup> Among the bills introduced in the house was H.R. 4088, known as the Save Act (Secure America through Verification and Enforcement), sponsored by Heath Schuler, a democrat from North Carolina, and the fierce anti-immigrant Republican Tom Tancredo from Colorado. Among other things, it called for additional Border Patrol agents with technological support, increased investigation activities and more immigration detention centers at

the Border, and it mandated the use of an existing government worker verification database (SAVE/E-Verify worker verification system).

- 25 The E-Verify system exemplifies the attempt by the Bush administration to impose its control over the employment of unauthorized workers. Already in August 2007 it was announced that it would address "immigration challenges", starting with "a rule-making process to require all federal contractors and vendors to use E-Verify."<sup>42</sup> In June 2008, President Bush issued Executive Order 13465 requiring (not just recommending this time) that executive departments and agencies include a provision in contracts mandating use of "an electronic employment eligibility verification system to verify the employment of all new hires."<sup>43</sup> The rule was scheduled to take effect in January 2009 but business groups who strongly opposed the measure filed a lawsuit in the U.S. district court of Maryland, asking for relief.<sup>44</sup> If implemented, they argued, the Federal Acquisition Program (FAR) would have a devastating impact on the economy. The rule was postponed a number of times but, in August 2009, the court decided in favor of the government and dismissed the case, making the final (amended) rule effective on September 8, 2009.<sup>45</sup> Workers will pay a high price, the National Immigration Law Center (NILC) reports: the Social Security Administration (SSA) has estimated that if the program were to become mandatory and the databases were not improved, "SSA database errors alone could result in 3.6 million workers a year being misidentified as not authorized for employment."<sup>46</sup> The verification component of the Save Act is the one that has drawn the most controversy as it would not only force employers to rely on an admittedly inaccurate verification system for all employees, but it would do so "without any safeguards against racial profiling, misuse, privacy, or error."<sup>47</sup>
- 26 Republican congressmen have made other proposals. One in particular (H.R.4056, the Border Enforcement, Employment Verification, and Illegal Immigration Control Act) is effectively the revived December 2005 bill (re-introduced by representative Sensenbrenner) which would have made the mere fact of working in the U.S. without documents a felony offense. A correlated bill has been introduced in the Senate (S.B. 2294, the Immigration Enforcement and Border Security Act) which would expand the so called "aggravated felony" definition. By withholding up to 50 percent of the DHS funds from the cities, the proposed legislation was evidently targeting sanctuary cities whose policies are seen as protecting immigrant rights. Despite the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 that requires local governments to cooperate with DHS's Immigration and Customs Enforcement, many cities have adopted formal or informal sanctuary policies which, as stated earlier, instruct city employees not to notify the federal Government of the presence of undocumented immigrants (*de facto* blurring the distinction between legality and illegality).
- 27 Sanctuary policies are an interesting example of what legal scholar Cristina Rodriguez refers to as an *accommodationist* posture (in contrast, Romero speaks of an *assimilationist* approach). Depending heavily on low-skilled immigrant labor in key sectors of their economy, whether hotel/restaurant industries or construction, global cities such as New York, Los Angeles or Chicago have a keen interest in recruiting and incorporating immigrants "at both the high end and the low end of the labor market", she says.<sup>48</sup> Consequently, policymakers in urban settings tend to take stronger pro-immigrant positions than do lawmakers at the national level."<sup>49</sup> In her work, Rodriguez refers to New York City mayor Michael Bloomberg as a strong proponent of legalization

programs, and recalls how, following the 2006 mobilizations, he emphasized in testimony before the Senate Judiciary Committee that immigration was inevitable and produced economic dynamism.”<sup>50</sup> Accommodationist impulse, though, is not limited to large cities. Cambridge, Massachusetts, and New Haven, Connecticut, to mention only a few, are prime examples of how some small towns have adopted sanctuary policies. By granting all residents municipal identification cards, thus helping the unauthorized to access public (and even some private) sector services, New Haven encourages all immigrants to trust public officials and helps them and the new Haven community at large to live safely.<sup>51</sup> Cambridge, as Rodriguez points out, has gone even further by filing petitions with the state on immigrant rights issues, “including seeking voting rights for non-citizens in local elections.”<sup>52</sup>

- 28 Another bill, introduced in Congress by Republican senators Saxby Chambliss and Johnny Isakson from Georgia, raises the recurrent and contentious issue of immigration enforcement power as it would authorize state and local police to enforce immigration law. Should the bill become law, immigration enforcement would not be under the sole control of the federal government any longer, undermining a principle (known as the ‘exclusivity principle’) entrenched in constitutional and political rhetoric, according to Rodriguez: in other words, the constitution assigns “exclusive and nondevolvable power over immigration to the federal government.”<sup>53</sup>
- 29 In fact, the line of separation of powers between federal and state/local authorities has long been blurred. It started with the passing of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996 which addressed the relationship between the federal government and local governments (also attacking sanctuary policies by outlawing cities’ bans against municipal agents who would report persons’ immigration status to federal authorities). Section 287g of the Act made it possible for state and local law-enforcement persons, such as police officers, to enter into agreements with the federal government to be trained in immigration enforcement, and, subsequent to the training, to enforce immigration law. However, it provided no general power for immigration enforcement by state and local authorities. Several local and state officials have accepted to enroll into the program and are, as a result, authorized to arrest and detain individuals for immigration violations and to investigate immigration cases.
- 30 Since its implementation, the program has drawn sharp criticism, not only from immigrant rights advocates and local community groups but also from federal officials. A February 2009 report by Justice Strategies, a non-partisan research firm, found “widespread use of pretextual traffic stops, racially motivated questioning, and unconstitutional searches and seizures by local law enforcement agencies granted 287(g) powers.”<sup>54</sup> Abuses have been widely reported: in Davidson County, Tennessee, the Sheriff’s Office has notoriously used its granted power to intensify the apprehensions of undocumented immigrants on their way to work or at day labor sites. The case of Maricopa County, Arizona, is even clearer: in March 2009, the U.S. Department of Justice launched an investigation into County Sheriff Joe Arpaio to determine whether he was using his power to target Latino immigrants<sup>55</sup>: Arpaio, who is known for working hand in hand with ‘minutemen’, entered the program under the Bush administration (he has since been able to build the highest number of officers trained to enforce federal immigration laws - 3000 people.)<sup>56</sup>

- 31 At the other end of the chain of discontent, injured migrants and Arizona community-based organizations, represented by the Center for Human Rights and Constitutional Law, have brought a lawsuit against Maricopa County's policy of arresting and prosecuting non-smuggler migrants for "felony conspiracy" to transport themselves through the County.<sup>57</sup> As the federal district court refused to hear the case (on the grounds that migrants should raise their claims before the Arizona state courts), the Center appealed to the Ninth Circuit Court of Appeals, interestingly arguing that "the federal courts are best-suited to deciding whether the County's policy amounts to an unconstitutional state program to regulate international migration."<sup>58</sup>
- 32 It is now common knowledge that the program encourages civil rights abuses and has resulted in the wrongful detention of lawful permanent residents and even U.S. citizens.<sup>59</sup> Yet in July 2009, despite numerous abuses and in the absence of oversight, DHS secretary Janet Napolitano announced her plan to expand the 287(g) program to eleven new jurisdictions around the country, raising general concern - even among police and police chiefs associations - that "deputizing local law enforcement officers to enforce civil federal immigration law undermine the trust and cooperation of immigrant communities."<sup>60</sup> It is quite instructive to highlight what Napolitano said of the program just over a year ago, at a time when she was governor of Arizona. In July 2007 she signed a law in favor of employer sanctions, threatening to suspend their activity. Under surrounding pressure, she later took a step back by vetoing a bill requiring all police and sheriffs' departments in the state to join the federal immigration posse. She dismissed the bill as impractical and expensive: "the cost of training officers under the 287(g) program", she said then, "could total 100 million dollars with no guarantee that the government would pay."<sup>61</sup>
- 33 The NILC has strongly reacted to the DHS Secretary's announcement of the extension of the 287(g) provisions: "the White House has responded to documented violations within the program by expanding it", the executive director laments. By embracing this notoriously problematic experiment, the new administration is not in line, to say the least, with the reform it has promised, and is already facing serious protest.
- 34 The existence of the 287g program (and the willingness of some police departments to enter into it) is particularly interesting when it is understood in contrast to the sanctuary phenomenon. It underscores the wide range of views held by public officials and local communities on the subject of immigration management and the way they interact with unauthorized populations in particular.<sup>62</sup> Views and initiatives are not always in accordance with one another, they may even be contradictory. Yet, the very fact they co-exist is indeed the living proof of a *de facto* "integrated policy."

#### 6. The State/Federal Divide Over Immigration Power

- 35 It is appropriate, at this stage, to tackle the issue of "who" is legally in charge of immigration matters. With a view to discerning the powers of the federal and state governments over noncitizens, Victor Romero examines what constitutional lawyers consider as the two sources that give authority to the federal government: the text of the Constitution and the decisions of the U.S. Supreme Court interpreting that text.<sup>63</sup> He acknowledges the fact that the Constitution has something to say about immigration (in terms of who may enter/must leave the country) and about citizenship (who gets to be a U.S. citizen). Only, he admits, "what it says is not entirely clear nor does it specify how national laws regarding migrants coexist with local laws affecting the same."<sup>64</sup> Article I of the Constitution establishes that both houses in Congress are

responsible for drafting laws that allow "qualified" noncitizens to attain full U.S. citizenship (thus seemingly giving the legislative branch authority), Romero highlights. As for the Fourteenth Amendment, it guarantees citizenship to "all born within U.S. territory" but stipulates nothing about congressional power to regulate the movement of noncitizens into and out of the country. The Constitution says even less about the power of the states over noncitizens.<sup>65</sup>

- 36 With such "textual ambiguity", Romero explains, it has been useful to turn to the Supreme Court as the interpreter of the Constitution for guidance: in most cases, the Court has deferred to Congress and the President in the development of federal immigration policy, creating what has been called the "plenary power doctrine."<sup>66</sup> In the 19<sup>th</sup> century, it consistently held that the federal government had exclusive power over immigration.<sup>67</sup> Over time, it has placed limits on congressional power "by interpreting immigration statutes in ways favorable to the noncitizen, and by requiring that other federal laws outside the immigration rules (the so-called alienage laws affecting benefits) make reasonable sense."<sup>68</sup>
- 37 Despite a few exceptions, the Court still tends to defer to the federal government. In contrast, it strictly reviews state and local laws on the (theoretical) basis that noncitizens do not migrate to an individual state, but to the United States as a country. Such contrast in the deference granted to the federal government over noncitizens and the systematic review states have been subjected to, Romero contends, is likely to be scrutinized in the coming years as more and more states and localities try to extend their immigration power. Considering the difficulties the federal government encounters to "physically" control the flow of noncitizens into the country, and the fact that states are the first to be affected by - hence to adapt to - the realities of such flows, a shift from the national to the local has occurred. It is thus likely, indeed, that state and local governments will only legislate more.
- 38 States have long been active in immigration policy but, as stated earlier, efforts designed to control immigration movement (the movement of unauthorized immigrants in particular) have intensified in recent years. The numerous measures do not speak with one voice, accounting for the diversity of (sometimes conflicting) positions: on the one hand, they may express growing nativist sentiments of local communities with a large influx of immigrants or the uneasiness of local/state governments in regions which have had little or no experience of managing new immigrants; at the other end of the spectrum, they tend to reflect immigrant-friendly positions held for practical reasons and/or political convictions. State laws evidence such diverging views. A significant number of them tend to reduce "illegal" immigrants' access to employment (Mississippi has made it a felony for workers without proper documents to hold a job,) and deny them identification (Oklahoma laws have been enacted to force undocumented immigrants further underground by denying them driver's licences, and sheltering or transporting them has become a felony.)<sup>69</sup> Yet, not all states penalize employees, and several lawmakers have legislated in ways to support and integrate unauthorized immigrant communities. These states have probably decided "to learn to live with the new demography," as Cristina Rodriguez puts it.
- 39 Such a wide range of views coupled with Congress' inability to pass comprehensive reform seemingly reflects the "unsuitability of a strictly federal response to immigration."<sup>70</sup> Given the combined activity of local/state governments and

legislatures, Rodriguez argues for a compromise which would reconcile the contradiction between rhetoric and reality, "calling for a *modus vivendi* regarding immigration regulations by all levels of government."<sup>71</sup> What is essential about her argument is the information she provides to back this up. Her ensuing proposition draws on her understanding of the intricacy of the situation:

40 "The federal government, the states, and localities form part of an integrated regulatory structure that helps the country as a whole to absorb immigration flows and manage the social and cultural change that immigration inevitably engenders. The primary function states and localities play in this structure is to integrate immigrants, legal and illegal alike, into the body politic. By demonstrating how states play this role, I establish the proposition that immigration regulation should be included in the list of ... state interests, such as education, crime control and the regulation of safety and welfare, not just because immigration affects each of those interests, but also because managing immigrant movement is itself a state interest."

41 Rodriguez does not see that the federal exclusivity principle could be inconsistent with her proposition (that states help immigrants integrate), but she demonstrates that the integration challenge sometimes requires states/localities to take decisions that resemble immigration controls.<sup>72</sup> While admitting that state and local regulation may be seen as intrusive from a pro-federalist perspective, and that it may produce tension and contradictory results, she insists that it provides local communities with advantages that federal authorities are not in a position to offer. "The uniformity called for by actors on both sides of the debate", she concludes, "is not only difficult to achieve, it is also often counter-productive."<sup>73</sup> Taking into account what today's realities suggest (namely different imperatives), she advocates the need for "subfederal regulation."

42 As she traces the history of the concept of exclusive federal control over immigration through Supreme Court decisions, Rodriguez contends that the principle has developed into "a formal doctrine for functional reasons, without strong constitutional justification." While there is no reason for abandoning the exclusivity principle, she reckons, it should not necessarily apply to all immigration matters. Surely, strong federal leadership is needed (for coherent admission and removal processes, and to prevent states from imposing "externalities" on their neighbors,<sup>74</sup>) but state and federal governments should cooperate, in particular in law-making processes. For the system to be functional, new lawmaking norms should be defined, giving lawmakers incentives to engage in possible federal-state-local cooperation, and Congress should be restrained as much from "explicitly preempting" state and local legislation as from "over-regulating with respect to integration issues, such as the rights and benefits states can accord immigrants within their jurisdictions."<sup>75</sup>

#### 7. Conclusion: Immigrants as Emergent Political Subjects

43 Immigration regulation cannot be thought of in the sole context of the nation-state. The control of immigration may remain a federal issue (nation-states decide who to admit) but "questions of who should belong to a political community, and who should be allowed to cross borders, are also both global and local in scope."<sup>76</sup> As she moves the debate to the question of how to integrate immigrants into the body politic, Rodriguez suggests that conceptions of popular sovereignty should now be injected into the discourse on immigration regulation (the rise of local/state initiatives signaling a change in that direction). Those most affected by immigration controls should have a

say in the design and implementation of those controls, she contends, "which will require including not only the residents of states and localities but also the voices of immigrants themselves."<sup>77</sup> Such a contention (re)places immigrants at the center of both action and thought, as much from a political as a philosophical point of view.

44 In *The Rights of Others*, political scientist Seyla Benhabib focuses on 'political membership' which she considers, unlike most theorists, as an aspect of domestic or international justice (by political membership she means the "principles and practices for incorporating aliens and strangers, immigrants and newcomers, refugees and asylum seekers into existing polities."<sup>78</sup>) Contrary to political boundaries which include some while excluding others, membership is meaningful under certain conditions. Benhabib challenges membership as defined by the doctrine of state sovereignty: in other words, when regulated in terms of national citizenship only. To her, such modalities are no longer adequate. She argues that transnational migrations (and the policies suggested by peoples' movement across boundaries) are "central to interstate relations and therefore to a normative theory of global justice." Aware of the philosophical dilemma liberal democracies are faced with (maintain their sovereignty through the control of migration on the one hand, adhere to universal human rights principles on the other), Benhabib does not call for the demise of the state system nor for world citizenship. Rather, she stresses the significance of political membership "within bounded communities" (not within nationally bounded spaces), defending the need for "democratic attachments" that need not be directed toward existing nation-state structures alone.<sup>79</sup> Subnational and supra-national spaces for such democratic attachments are emerging in today's world, she asserts, and they should be advanced along with existing political entities.<sup>80</sup> Interestingly, Monisha Das Gupta, who writes of the conceptions of rights in a transnational era, recently discussed what the immigrant rights marches of 2006 have revealed. Focusing on emerging rights claims (whether migrant, civil or indigenous), she makes a similar stand: the need for rights, she says, should be thought outside of citizenship, "within transnational flows and not within nationally bounded spaces."<sup>81</sup>

45 In a similar vein, Saskia Sassen's essay entitled "The Repositioning of Citizenship and Alienage"<sup>82</sup> in global cities discusses the crucial changes the *alien* and the *citizen* - whom she identifies as the foundational subjects for membership - are undergoing in the modern nation-state. The changes which she sees as primarily taking place in large cities are not formalized yet, she states, but they have definitely led to "a partial blurring of each the citizen subject and the alien subject."<sup>83</sup> The changes, which range from economic deregulation to the growing prominence of an "international rights regime," have resulted in globalization-linked policies. Consequently, urban settings - global cities in particular - have become spaces where political practices have actively developed. Among the multiple actors who have emerged in such productive spaces are the unauthorized migrants. Though unauthorized, she says, they have become "recognized." Engaged in numerous informal practices at both local and transnational levels (United States immigrants are a good illustration of such activism), they constitute new types of political actors, actors she refers to as "*emergent subjects*." Crucial to Sassen's argument is that such dynamics "signal the possibilities for a politics of membership that is simultaneously localized and transnational," a contention strongly supported by Seyla Benhabib.<sup>84</sup> In the current period, political membership increasingly exists at both levels, local and transnational, and immigrants have been leading agents of the occurring transformation. It will be interesting to observe how,

through daily practices such as strong community ties and participation in civic activities, these emerging "subjects" - many of which being "impossible subjects" by law - get recognition as full social beings.

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## NOTES

1. Victor Romero, "Who Should Manage Immigration –Congress or the States?," Rachel Ida Buff, ed., *Immigrant Rights in the Shadows of Citizenship* (New York: New York University Press, 2008).
2. Seyla Benhabib, *The Rights of Others: Aliens, Residents and Citizens* (Cambridge University Press, 2004).
3. Saskia Sassen, "The Repositioning of Citizenship and Alienage: Emergent Subjects and Spaces for Politics," *Globalizations* 2.1 (2005): 79-94.
4. Didier Bigo, Laurent Bonelli, Thomas Deltombe, eds., *Au nom du 11 septembre... Les démocraties à l'épreuve de l'antiterrorisme* (Editions La Découverte, 2008).
5. Ibid., 7.
6. Ibid., 17. The term "illiberal" means that it threatens fundamental liberties.
7. Ibid., 33.
8. Nicholas de Genova, "The Production of Culprits: Deportability and Detainability in the Aftermath of Homeland Security," *Citizenship Studies* 11.5 (2007): 423.
9. Ibid., 422.
10. *The National Strategy for Homeland Security* (USOHS, 2002) quoted by De Genova in "The Production of Culprits," 423.
11. Ibid.
12. Ibid., 423. De Genova quotes Amy Kaplan in "Homeland Insecurities: Reflections on Language and Space," *Radical History Review* 85 (2003): 90.
13. Ibid., 424.
14. Enforcement measures in the Solve Act allowed the U.S. government to expand its use of secret evidence to deny citizenship based on a vague definition of "terrorist activity and security related grounds." Eunice Hyunhye Cho, "Beyond the Day Without an Immigrant," in Buff, *Immigrant Rights*, 103.
15. David Bacon, *Illegal People: How Globalization Creates Migration and Criminalizes Immigrants* (Boston: Beacon Press, 2008), 153-155. It is interesting to see how the AFL-CIO which, until the late 1990s, showed little concern for foreign-origin workers, is now at the forefront of the defense of immigrant rights. The organization has seemingly overcome its anti-immigrant sentiments, now acknowledging the presence of immigrant workers – even the undocumented ones - in major sectors of the American economy, and the necessity to address their needs.

16. AFL-CIO, Statement by AFL-CIO President John Sweeney on the Senate's Immigration Bill (Washington, D.C.: AFL-CIO, 2006), quoted by E.H. Cho in "Beyond the Day Without an Immigrant," 103.
17. The most recent estimate, 11.9 million, indicates that unauthorized immigrants make up 4 percent of the U.S. population. Jeffrey Passel, "Trends in Unauthorized Immigration," *Pew Hispanic Center*, October 2, 2008.
18. Sandra Sanchez, director of the *American Friends Service Committee's* Project Voice, quoted by Buff in *Immigrant Rights*, 106.
19. David Bacon, *Illegal People*, 150.
20. *Ibid.*, 147.
21. *Ibid.*, 153.
22. *Ibid.*, 12.
23. *Ibid.*, 14.
24. *Ibid.*, 16.
25. Homeland Security Secretary Michael Chertoff's statement quoted by Bacon, 16.
26. *Ibid.*, 16.
27. Erik Camay-Freixas, *National Network for Immigrant and Refugee Rights*, July 11, 2008 (accessed August 23, 2009). Posted by Arnaldo Garcia.
28. David Cole, "Their liberties, Our security," *Immigrant Rights*, 353-54.
29. KBR, a company now famous for its war profits in Iraq, and a subsidiary of Halliburton, the corporation once directed by former U.S. Vice President Dick Cheney, was awarded a \$385 million contingency contract in January 2006. De Genova, "The Production of Culprits," 425..
30. Rachel Ida Buff, "The Deportation Terror," *American Quarterly* 60.3 (September 2008): 525.
31. *Ibid.*, 545. Here, Buff quotes Kanstroom.
32. De Genova, "The Production of Culprits," 426.
33. USDHS-ICE, 2003, 2 quoted by De Genova, 426. For an overview of the scholarship dealing with the formation of racialized identities, see both De Genova's and Buff's essays, as well as the magisterial work done by historian Mae Ngai in *Impossible Subjects*.
34. Rachel Ida Buff, "The Deportation Terror," 528.
35. *Ibid.*
36. Scott Michaelsen, "Between Japanese Internment and the USA Patriot Act: the Borderlands and the Permanent State of Racial Exception," *Aztlan* 30.2 (Fall 2005). Michaelsen is quoted by Rachel I. Buff in "The Deportation Terror", 38.
37. Natsu Taylor Saito, "Whose Liberty? Whose Security? The USA Patriot Act in the Context of COINTELPRO and the Unlawful Repression of Political Dissent," *Oregon Law Review* 81 (2002).
38. Natsu Taylor Saito, "Reflections on Homeland and Security," *CR: The New Centennial Review* 6.2 (2006): 246-47.
39. Tram Nguyen, *We Are All Suspects Now* (Boston: Beacon Press, 2005): xxiii.
40. Lisa Flores, "Constructing Rhetorical Borders," *Critical Studies in Media Communication* 20.4 (December 2003). Quoted by Buff, "The Deportation Terror," 528.

41. Sanctuary cities have a tradition to direct local officials - whether city employees or police agents - not to check the immigration status of residents using city services, and not to report undocumented immigrants (when aware of their presence) to federal authorities. Proponents of such policies argue that they promote efforts of police and health departments to cooperate with immigrant communities in order to reduce crime and improve public health in those communities. A *New York Times* article dated November 29, 2007 listed 32 cities or counties with such policies. Some cities implemented sanctuary as early as the 1970s, others more recently. Sanctuary policies may be formal and written (in the form of a local ordinance) or informal. When mayors-elect inherit them, they may retreat or decide to reaffirm their support of unauthorized immigrants - such is the case of Gavin Newsome in San Francisco. They may also continue adopting them - this was the case of former New York City mayor Rudolf Giuliani who inherited Executive Order 41 from the previous mayoral administration.

42. *The National Immigration Law Center*, (hereafter quoted as NILC) "Summary of Final Rule," Federal Acquisition Regulation: Employment Eligibility Verification," August 2009, 1. Accessed September 1, 2009.

43. *Ibid.*, 2.

44. NILC, July 2009, 1.

45. *Ibid.*

46. *Ibid.*

47. Luis Rumbaut, "Wave of Immigration Bills Hits Congress," *The Washington Independent*, March 14, 2008.

48. Cristina Rodriguez, "The Significance of the Local in Immigration Regulation," *Michigan Law Review*, vol. 106 (February 2008): 577.

49. *Ibid.*

50. Michael Bloomberg did not initially embrace his predecessor's position, as Rodriguez points out (a position inherited by mayor Rudolph Giuliani from former mayor Ed Koch in 1989). In 2003, under pressure from interest groups, Bloomberg repealed the City's policy on the grounds that it conflicted with the 1996 federal immigration laws. Instead, he issued Executive Order 34 which instructed city employers not to ask about an individual's status "but permitting employers to transmit status information to federal authorities." The ensuing opposition of immigrant advocates led him to issue a more "immigrant-friendly" order (E.O.41) which sets out a general city privacy policy, limiting the extent to which city officials can collect and report information regarding immigration status. For a more detailed account of New York City's sanctuary policy history, see Cristina Rodriguez's essay, 602-603.

51. *Ibid.*, 579.

52. *Ibid.*

53. *Ibid.*, 570.

54. "Advocates issue statement condemning Obama's Administration's expansion of DHS's failed 287(g) program," NILC, July 17, 2009 (accessed August 23, 2009).

55. *Ibid.*

56. "Immigration, Outsourced," *New York Times*, April 9, 2008.

57. "Detained Migrants and CBOs continue to press challenge Maricopa County criminal 'conspiracy' policy", *Center for Human Rights and Constitutional Law*, accessed August 28, 2009.
58. Ibid.
59. "Letter to the White House," NILC, August 27, 2009 (accessed September 2, 2009)
60. NILC, July 17, 2009.
61. "Pulling Back the Immigration Posse," *New York Times*, April 30, 2008.
62. Rodriguez, "The Significance of the Local In Immigration Regulation," 603.
63. Romero, "Who Should Manage Immigration –Congress or the States?," in Buff, *Immigrant Rights*, 287.
64. Ibid., 287.
65. For a more detailed examination of the so-called post-civil war amendments, see Romero's essay, 288.
66. Ibid.
67. Three decisions formed the basis for constitutional immigration law: *Chae Chan Ping v. United States*, *Fong Yue Ting v. United States* and *Yick Wo v. Hopkins*.
68. Romero, "Who Should Manage Immigration," 291.
69. "The Road to Dystopia," *New York Times*, March 13, 2008
70. Rodriguez, "The Significance of the Local in Immigration Regulation," 580.
71. Ibid., 570.
72. Ibid., 571.
73. Ibid.
74. Ibid., 573.
75. Ibid.
76. Ibid., 641.
77. Ibid.
78. Benhabib, *The Rights of Others*, 1.
79. Ibid., 2-3.
80. Ibid., 3.
81. Monisha Das Gupta, "Rights in A Transnational Era," in Buff, *Immigrant Rights*, 406-7.
82. Saskia Sassen, "The Repositioning of Citizenship and Alienage."
83. Ibid., 79.
84. Ibid.

## ABSTRACTS

In the likely event that immigration reform will be discussed again in the U.S. Congress in the year 2010, the circumstances and events that have led to the current state of affairs will here be analysed: firstly, the immigration policies implemented from 9/11 until the failed attempt at reforming immigration legislation; secondly, the complex array of recent local and state

initiatives which have increasingly served as a substitute for federal immigration control and management. As I examine this evolution and the conflict it has generated, I will devote special attention to undocumented immigrants: from the harsh treatment to which they were subjected during the Bush presidency to the conditions in which they have come to mobilize and have emerged as political actors, even to the point of transforming ideas of citizenship and related rights.

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