



Symposium Introduction

Immigration and Civil Rights After September 11: The Impact on California – An Introduction

*Kevin R. Johnson**

The *U.C. Davis Law Review* is proud to publish this symposium on "Immigration and Civil Rights After September 11: The Impact on California." The articles come from a distinguished group of scholars, attorneys, and activists and will unquestionably contribute significantly to the ongoing national dialogue about the treatment of noncitizens in U.S. society. Immigration frequently has been a controversial topic in this country, especially when national security fears, such as those presented by the tragic events of September 11, 2001, are at issue.

* Associate Dean for Academic Affairs, School of Law, and Mabie/Apallas Professor of Public Interest Law and Chicana/o Studies, University of California at Davis; A.B., University of California, Berkeley; J.D., Harvard University. Thanks to the symposium editors, Elizabeth Chic, Rebecca Jackson, and Elizabeth Myers, who organized the live event, and Victoria Choy, Eric Hing, and Natalie Ikhlassi, the editors responsible for publishing the symposium issue. Patrick Wong and Allison Cammack, successive editors-in-chief, worked diligently and professionally on the entire project. Karen Beverlin made publication of this symposium issue possible. Faculty sponsors Bill Hing and Jim Smith graciously provided invaluable guidance in organizing the conference. I join the Law Review in expressing appreciation and gratitude to Dean Rex Perschbacher for his financial support and intellectual leadership. Last but not least, thanks to all of the conference participants, who together made the symposium a success.

Unfortunately, some of this nation's most shameful moments have come at such times, with the internment of persons of Japanese ancestry perhaps the most famous example.¹

The papers in this symposium issue were presented at the U.C. Davis School of Law in April 2004.² The panels focused on "The War on Terror, Racial Profiling, and Immigrants," "Detention of Immigrants: Recent Developments and the Future," "Guest Workers," and "Activism in Immigrant Communities." As the panel titles suggest, the papers offer observations and insights about a full range of interrelated immigration developments, with a particular emphasis on the civil rights implications of the heightened immigration enforcement measures put into place after September 11.

Immigration law has been a focal point of the "war on terror" since the tragic events of September 11, 2001. The law affords government considerable latitude in dealing with immigration and immigrants.³ Not surprisingly, the federal government, in many instances with the assistance of state and local governments, directed law enforcement attention after September 11 at Arab and Muslim noncitizens.⁴ The use of racial, national origin, and religious profiles in the "war on terror" provoked considerable controversy as a possible violation of the civil

¹ See *Korematsu v. United States*, 323 U.S. 214 (1944).

² See Conference Brochure, U.C. Davis Law Review Symposium 2004, Immigration and Civil Rights After September 11: The Impact on California (Apr. 2, 2004) (unpublished document on file with author).

³ See, e.g., *Demore v. Kim*, 538 U.S. 510, 521-22 (2003); *Fiallo v. Bell*, 430 U.S. 787, 792 (1977); *Mathews v. Diaz*, 426 U.S. 67, 81-82 (1976). In 2003, the Court reiterated what is known as the "plenary power" doctrine. The doctrine dictates that Congress has "plenary power" over immigration and immigrants with little, if any, room for judicial oversight:

In the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens. . . . The Court in *Mathews [v. Diaz]* reli[ed] on clear precedent establishing that any policy toward aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations, the war power, and the maintenance of a republican form of government. . . . *And, since Mathews this Court has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.*

Demore, 538 U.S. at 521-22 (emphasis added) (internal quotations deleted) (citations omitted).

⁴ See, e.g., CIVIL RIGHTS IN PERIL: THE TARGETING OF ARABS AND MUSLIMS (Elaine C. Hagopian ed., 2004); Susan M. Akram & Kevin R. Johnson, *Race, Civil Rights, and Immigration Law After September 11, 2001: The Targeting of Arabs and Muslims*, 58 ANN. SURV. AM. L. 295, 351-55 (2002); David Cole, *Enemy Aliens*, 54 STAN. L. REV. 953 (2002); Thomas W. Joo, *Presumed Disloyal: Executive Power, Judicial Deference, and the Construction of Race Before and After September 11*, 34 COLUM. HUM. RTS. L. REV. 1575 (2002); Leti Volpp, *The Citizen and the Terrorist*, 49 UCLA L. REV. 1575 (2002).

rights of Arabs and Muslims.⁵

Fear about immigration and immigrants sparked a public debate about national identity, terrorism, and restricting immigration.⁶ As new enforcement measures were implemented, it became clear that all immigrant groups, not just Arabs and Muslims, ultimately were affected by increased immigration enforcement after September 11.⁷ Many rather mundane exercises of the police power by state and local governments, such as driver's license eligibility, were transformed into national security issues. For example, in a swirl of controversy surrounding a new law that would have permitted undocumented immigrants to secure a license to drive a motor vehicle, Governor Arnold Schwarzenegger became governor of California in a special recall election. Upon his election, Governor Schwarzenegger immediately pushed for repeal of the new driver's license law. He used national security to justify the veto of another bill passed by the California legislature that would have allowed undocumented immigrants to be eligible to obtain licenses.⁸

California, a polyglot state with large immigrant communities and unparalleled racial diversity, is an appropriate place to center the study of modern developments in immigration law and enforcement. Home to a large percentage of the total number of lawful and undocumented immigrants to the United States,⁹ California has been a trendsetter, with

⁵ See Samuel R. Gross & Debra Livingston, *Racial Profiling Under Attack*, 102 COLUM. L. REV. 1413 (2002).

⁶ See, e.g., PATRICK J. BUCHANAN, *DEATH OF THE WEST: HOW DYING POPULATIONS AND IMMIGRANT INVASIONS IMPERIL OUR COUNTRY AND CIVILIZATION* (2002); VICTOR DAVIS HANSON, *MEXIFORNIA: A STATE OF BECOMING* (2003); SAMUEL P. HUNTINGTON, *WHO ARE WE? THE CHALLENGES TO AMERICA'S NATIONAL IDENTITY* (2004); MICHELLE MALKIN, *IN DEFENSE OF INTERNMENT: THE CASE FOR RACIAL PROFILING IN WORLD WAR II AND THE WAR ON TERROR* (2004); MICHELLE MALKIN, *INVASION: HOW AMERICA STILL WELCOMES TERRORISTS, CRIMINALS, AND OTHER FOREIGN MENACES TO OUR SHORES* (2002).

⁷ See Steven W. Bender, *Sight, Sound, and Stereotype: The War on Terrorism and Its Consequences for Latinas/os*, 81 OR. L. REV. 1153 (2002); Kevin R. Johnson, *September 11 and Mexican Immigrants: Collateral Damage Comes Home*, 52 DEPAUL L. REV. 849 (2003); Michael A. Olivas, *The War on Terrorism Touches the Ivory Tower — Colleges and Universities After September 11: An Introduction*, 30 J.C. & U.L. 233 (2004).

⁸ See Jordan Rau & Nancy Vogel, *Gov. Vetoes Immigrant License Bill*, L.A. TIMES, Sept. 23, 2004, at B1. For an analysis of the controversy in many states, including California, surrounding driver's license eligibility for undocumented immigrants, see Kevin R. Johnson, *Driver's Licenses and Undocumented Immigrants: The Future of Civil Rights Law?*, 5 NEV. L.J. 213 (2004).

⁹ See U.S. Dep't of Homeland Security, 2002 Y.B. OF IMMIGR. STAT. 9 tbl.C, 214 tbl.Q (2003) (presenting data showing that California was state of intended residence of more than twenty-seven percent of all immigrants arriving in fiscal year 2002 and home of more than thirty percent of estimated total of undocumented immigrants in United States in

the experiences of immigrants in that state often replicating themselves in other states. Large scale Mexican migration, once limited to California and the Southwest, has now expanded nationally to the Midwest, South, and East.¹⁰ The political movement culminating in the federal Chinese exclusion laws in the late 1800s came from the Golden State,¹¹ as did Proposition 187,¹² the state initiative that voters passed in 1994 that triggered a set of national reforms that dramatically affected the immigrant community.¹³ Although often chided for its liberal politics (and derided as the "Left Coast"), California has been the home of some distinctly anti-immigrant movements.

The setting of the live symposium in the great Central Valley of California also is most appropriate. Although perhaps best known for its rich agriculture, the Valley is home to a wide variety of immigrant communities, including Sikh Indians, Hmong, Chinese, Russian, Mexican, Cambodian, and many others.¹⁴ Indeed, to the surprise of some, *Time* magazine labeled Sacramento as the most racially diverse city in the United States,¹⁵ in no small part a result of the fact that many of today's immigrants are people of color.¹⁶

The organizers of the conference sought to bring together a variety of perspectives on immigration. Consequently, the articles do not merely reflect the work of academics, but also include the contributions of activists and attorneys who regularly confront the issues facing

2000).

¹⁰ See Kevin R. Johnson, *The End of "Civil Rights" as We Know It?: Immigration and Civil Rights in the New Millennium*, 49 UCLA L. REV. 1481, 1492-96 (2002); Sylvia R. Lazos Vargas, *"Latino/o-ization" of the Midwest: Cambio de Colores (Change of Colors) as Agromaquilas Expand into the Heartland*, 13 BERKELEY LA RAZA L.J. 343 (2002).

¹¹ See ALEXANDER SAXTON, *THE INDISPENSABLE ENEMY: LABOR AND THE ANTI-CHINESE MOVEMENT ON CALIFORNIA* 258-84 (2d ed. 1995); John Hayakawa Torok, *Reconstruction and Racial Nativism: Chinese Immigrants and the Debates on the Thirteenth, Fourteenth, and Fifteenth Amendments and Civil Rights Laws*, 3 ASIAN L.J. 55, 63-66 (1996).

¹² See Ruben J. García, *Critical Race Theory and Proposition 187: The Racial Politics of Immigration Law*, 17 CHICANO-LATINO L. REV. 118 (1995); Kevin R. Johnson, *An Essay on Immigration Politics, Popular Democracy, and California's Proposition 187: The Political Relevance and Legal Irrelevance of Race*, 70 WASH. L. REV. 629 (1995).

¹³ See Antiterrorism and Effective Death Penalty Act, Pub. L. No. 104-132, 110 Stat. 1214 (1996); Illegal Immigration Reform and Immigrant Responsibility Act, Pub. L. No. 104-208, 110 Stat. 3009 (1996); Personal Responsibility and Work Opportunity Act, Pub. L. No. 104-193, 110 Stat. 2105 (1996).

¹⁴ See Kevin R. Johnson & Amagda Pérez, *Clinical Legal Education and the U.C. Davis Immigration Law Clinic: Putting Theory Into Practice and Practice Into Theory*, 51 SMU L. REV. 1423, 1426-30 (1998).

¹⁵ See Ron Stodghill & Amanda Bower, *Where Everyone's a Minority*, TIME, Sept. 2, 2002, at 26.

¹⁶ See Johnson, *supra* note 10, at 1505-08.

immigrants on the front lines. Thus, the commentary is based in the community, which helps to ensure that scholarly analysis is tied to developments on the ground. The ultimate hope is to provide insights that might assist policy analysis, as well as to promote scholarly understanding.

The panels demonstrate how immigration law and civil rights matters are inextricably linked.¹⁷ The papers on the “war on terror” panel offer sobering analyses of the devastating impacts of the domestic fight against terrorism on communities across the United States. Professor Susan Akram, an influential scholar-activist who has represented Arab and Muslim noncitizens in “terrorism” cases and is an expert on secret evidence proceedings used in these cases,¹⁸ along with Maritza Karmely, provides evidence that the “war on terror” has not only been waged on Arab and Muslim noncitizens, but on citizens as well.¹⁹ The article also provides evidence that the “war on terror” is part of a history of targeting Arabs and Muslims that began long before September 11, 2001. The article challenges the conventional wisdom that alienage, as a practical matter, constitutes a meaningful constitutional line for the allocation of rights, with noncitizens lacking basic constitutional rights theoretically held by citizens. The article further outlines some of the civil rights dangers for *all* Americans as a result of the targeting of Arabs and Muslims in the war on terror.²⁰

An expert on gender issues in immigration and nationality law,²¹ Professor Kif Augustine-Adams criticizes the plenary power doctrine based on post-September 11 experience.²² After carefully reviewing the specific constitutional provisions at issue, she argues that there is no constitutional justification for the racial, national origin, and religious profiling pursued by the federal government after September 11.²³ This

¹⁷ For an analysis of how this historically has been the case, see KEVIN R. JOHNSON, *THE “HUDDLED MASSES” MYTH: IMMIGRATION AND CIVIL RIGHTS* (2004).

¹⁸ See, e.g., Susan M. Akram, *Orientalism Revisited in Asylum and Refugee Claims*, 12 INT’L J. REFUGEE L. 7 (2000); Susan M. Akram, *Scheherazade Meets Kafka: Two Dozen Sordid Tales of Ideological Exclusion*, 14 GEO. IMMIGR. L.J. 51 (1999); Susan M. Akram & Terry Rempel, *Temporary Protection as an Instrument for Implementing the Right of Return for Palestinian Refugees*, 22 B.U. INT’L L.J. 1 (2004).

¹⁹ See Susan M. Akram & Maritza Karmely, *Immigration and Constitutional Consequences of Post 9-11 Policies Involving Arabs and Muslims in the United States: Is Alienage a Distinction Without a Difference?*, 38 U.C. DAVIS L. REV. 609 (2005).

²⁰ See *id.* at 658.

²¹ See Kif Augustine-Adams, *Gendered States: A Comparative Construction of Citizenship and Nation*, 41 VA. J. INT’L L. 93 (2000).

²² See *supra* note 3 and accompanying text.

²³ See Kif Augustine-Adams, *The Plenary Power Doctrine After September 11*, 38 U.C.

latest critique of the plenary power doctrine is much needed and timely. Not long before September 11, Professor Jack Chin contended that the doctrine was no more and that its time had come and gone.²⁴ After September 11, however, the federal government enthusiastically relied on its “plenary power” over immigration to make immigration law and its enforcement the centerpiece of the “war on terror.”²⁵ Although the United States Supreme Court rejected the Bush Administration’s claims that the doctrine barred any judicial review of its decisions in the “war on terror,” the Court, in 2003, relied on the doctrine to justify the detention of certain immigrants pending removal hearings.²⁶ Muslims and Arabs held in Guantánamo Bay, Cuba, were denied basic rights accorded to prisoners of war, and the Executive Branch resisted any judicial review of the federal government’s actions.²⁷ The Bush Administration even claimed that it could indefinitely detain U.S. citizens — even one arrested on U.S. soil — as “enemy combatants,” without access to an attorney, without charging them with a crime, and without any judicial review.²⁸

Also rich with the work of scholar-activists, the articles on detention offer critical commentary on the U.S. practice of mass detention of immigrants, which has expanded dramatically since immigration reforms in 1996. In recent years, the federal government has increasingly relied on detention of noncitizens in enforcing the immigration laws, particularly immigrants convicted of crimes and awaiting deportation.²⁹

DAVIS L. REV. 701 (2005).

²⁴ See Gabriel J. Chin, *Is There a Plenary Power Doctrine? A Tentative Apology and Prediction for Our Strange but Unexceptional Constitutional Immigration Law*, 14 GEO. IMMIGR. L.J. 257 (2000).

²⁵ See Karen Engle, *Constructing Good Aliens and Good Citizens: Legitimizing the War on Terror(ism)*, 75 U. COLO. L. REV. 59 (2004) (analyzing “war on terrorism” within history of immigration law and policy); Donald Kerwin, *Counterterrorism and Immigrant Rights Two Years Later*, 80 INTERPRETER RELEASES 1401, 1401 (2003) (“Immigration policy rapidly became the most visible domestic tool in the war on terror.”); see also Karen C. Tumlin, Comment, *Suspect First: How Terrorism Policy is Reshaping Immigration Policy*, 92 CAL. L. REV. 1173 (2004) (contending that various enforcement measures taken by Executive Branch in “war on terror” are transforming immigration law and policy).

²⁶ See *Demore v. Kim*, 538 U.S. 510, 521-23 (2003).

²⁷ See *Rasul v. Bush*, 124 S. Ct. 2686, 2693-99 (2004); Diane M. Amann, *Guantánamo*, 42 COLUM. J. TRANSNAT’L L. 263, 267-74 (2004).

²⁸ See *Rumsfeld v. Padilla*, 124 S. Ct. 2711 (2004); *Hamdi v. Padilla*, 124 S. Ct. 2633 (2004).

²⁹ See, e.g., *Demore*, 538 U.S. 510; *Zadvydas v. Davis*, 533 U.S. 678 (2001). For an overview and analysis of the detention provisions of the immigration laws after Congress passed reform legislation in 1996, see Stephen H. Legomsky, *The Detention of Aliens: Theories, Rules, and Discretion*, 30 U. MIAMI INTER-AM. L. REV. 531 (1999); Maria Isabel Medina, *The Criminalization of Immigration Law: Employer Sanctions and Marriage Fraud*, 5

The founder of the U.C. Davis Immigration Law Clinic,³⁰ Professor James Smith, considers the ramifications of the criminalization of immigrant workers and their detention.³¹

Professor Charles Weisselberg, a leading immigration and criminal law scholar,³² analyzes the proliferation of the practice of detaining immigrants and the government's efforts to expand its powers — and shield its actions from judicial scrutiny — before and after September 11.³³ His article offers insights about the aggressive positions taken by the Bush Administration in Iraq, including the attempts to justify the torture of Iraqis in the Abu Ghraib prison and to evade judicial review in two “war on terror” detention cases decided by the Supreme Court.³⁴

Larry Kupers, an experienced federal public defender, criticizes the harsh and inequitable treatment of noncitizens convicted of unlawful re-entry into the country after deportation.³⁵ Unlawful re-entry cases have

GEO. MASON L. REV. 669 (1997); Teresa A. Miller, *Citizenship & Severity: Recent Immigration Reforms and the New Penology*, 17 GEO. IMMIGR. L.J. 611 (2003); Margaret H. Taylor, *Dangerous by Decree: Detention Without Bond in Immigration Proceedings*, 50 LOY. L. REV. 149 (2004); Margaret H. Taylor, *The 1996 Immigration Act: Detention and Related Issues*, 74 INTERPRETER RELEASES 209 (1997). See generally MARK DOW, *AMERICAN GULAG: INSIDE U.S. IMMIGRATION PRISONS* (2004) (documenting federal government's abusive detention of immigrants).

³⁰ See, e.g., JAMES F. SMITH & AMAGDA PÉREZ, *PRACTICE GUIDE FOR PLEAS FOR NONCITIZENS AND INS DETENTION: CALIFORNIA AND FEDERAL* (forthcoming 2005); James F. Smith, *A Nation that Welcomes Immigrants? A Historical Examination of United States Immigration Policy*, 1 U.C. DAVIS J. INT'L L. & POL'Y 227 (1995); James F. Smith, *NAFTA and Human Rights: A Necessary Linkage*, 27 U.C. DAVIS L. REV. 793 (1994). This was one of the first immigration law clinics in the United States. See Johnson & Pérez, *supra* note 14, at 1430-31. In response to the federal government's mass detention of immigrants, Professor Smith later helped to create the King Hall Immigrant Detention Project at U.C. Davis School of Law, which serves immigrants detained in the Central Valley. See Trisha Jade Hirashima, *King Hall Immigration Detention Project*, KING HALL COUNS., Winter 2004, at 6.

³¹ See James F. Smith, *United States Immigration Law as We Know It: El Clandestino, the American Gulag, Rounding Up the Usual Suspects*, 38 U.C. DAVIS L. REV. 747 (2005).

³² See Charles D. Weisselberg, *In the Stationhouse After Dickerson*, 99 MICH. L. REV. 1121 (2001); Charles D. Weisselberg, *Prisoners of the INS*, 28 HUM. RTS. Q. 6 (2001); Charles D. Weisselberg, *Saving Miranda*, 84 CORNELL L. REV. 109 (1998); Charles D. Weisselberg, *The Exclusion and Detention of Aliens: Lessons From the Lives of Ellen Knauff and Ignatz Mezei*, 143 U. PA. L. REV. 933 (1995).

³³ See Charles D. Weisselberg, *The Detention and Treatment of Aliens Three Years After September 11: A New New World?*, 38 U.C. DAVIS L. REV. 815 (2005).

³⁴ See *id.* at 847; *Rasul v. Bush*, 124 S. Ct. 2686 (2004) (holding that federal courts have jurisdiction to review detention of alleged enemy combatants at Guantánamo Bay, Cuba); *Hamdi v. Rumsfeld*, 124 S. Ct. 2633 (2004) (rejecting Bush Administration's claim that there could be no judicial review of detention of U.S. citizen combatants).

³⁵ See Larry Kupers, *Aliens Charged with Illegal Re-entry Are Denied Due Process and, Thereby, Equal Treatment Under the Law*, 38 U.C. DAVIS L. REV. 861 (2005); see also 8 U.S.C. § 1326 (2000) (criminalizing unlawful re-entry into country by previously deported noncitizen).

become the bane of federal court dockets, particularly in the border region, and have had devastating impacts on immigrant communities.³⁶ Leading immigration and civil rights scholar Bill Ong Hing³⁷ considers similar issues in looking at the detention and deportation of Cambodian refugees, an oft-ignored and invisible group of immigrants who came to the United States in large numbers after the war in Viet Nam ended in 1975 and continue to resettle in this country today.³⁸ Professor Hing reminds us of the great diversity of immigrants in the United States and how different communities are affected in different ways by immigration law and policy.

In January 2004, President Bush renewed his call for a new guest worker program, which provoked controversy.³⁹ Previously, the largest temporary worker program in United States history was known as the "Bracero Program."⁴⁰ This program allowed for the importation and

³⁶ See, e.g., *Almendarez-Torres v. United States*, 523 U.S. 224 (1995); see Nora V. Demleitner & Jon M. Sands, *Non-Citizen Offenders and Immigration Crimes: New Challenges in the Federal System*, 14 FED. SENTENCING REP. 247 (2002).

³⁷ See, e.g., BILL ONG HING, *DEFINING AMERICA THROUGH IMMIGRATION POLICY* (2004); BILL ONG HING, *MAKING AND REMAKING ASIAN AMERICA THROUGH IMMIGRATION POLICY 1850-1990* (1993); BILL ONG HING, *TO BE AN AMERICAN: CULTURAL DIVERSITY AND THE RHETORIC OF ASSIMILATION* (1997); Bill Ong Hing, *Beyond the Rhetoric of Assimilation and Cultural Pluralism: Addressing the Tension of Separatism and Conflict in an Immigration-Driven Multiracial Society*, 81 CAL. L. REV. 863 (1993); Bill Ong Hing, *Vigilante Racism: The De-Americanization of Immigrant America*, 7 MICH. J. RACE & L. 441 (2002).

³⁸ See Bill Ong Hing, *Detention to Deportation — Rethinking the Removal of Cambodian Refugees*, 38 U.C. DAVIS L. REV. 891 (2005).

³⁹ See Harold Meyerson, *Bush's Retreat on Immigration Reform*, WASH. POST, July 21, 2004, at A19. For an analysis of these issues from different perspectives, see Howard F. Chang, *Liberal Ideals and Political Feasibility: Guest-Worker Programs as Second-Best Policies*, 27 N.C. J. INT'L L. & COM. REG. 465 (2002); Johnson, *supra* note 10, at 1496-99; Maria E. Bickerton, Note, *Prospects for a Bilateral Immigration Agreement with Mexico: Lessons from the Bracero Program*, 79 TEX. L. REV. 895 (2001).

⁴⁰ See KITTY CALAVITA, *INSIDE THE STATE: THE BRACERO PROGRAM, IMMIGRATION AND THE I.N.S.* (1992); ERNEST GALARZA, *MERCHANTS OF LABOR: THE MEXICAN BRACERO STORY* (1964). Litigation over treatment of workers in the Bracero Program continues to this day. See, e.g., *De la Torre v. United States*, 2004 U.S. Dist. LEXIS 18500 (N.D. Cal. Sept. 10, 2004); *Cruz v. United States*, 219 F. Supp. 2d 1027 (N.D. Cal. 2002); see Kevin R. Johnson, *International Human Rights Class Actions: New Frontiers for Group Litigation*, 2004 MICH. ST. L. REV. 643 (2004). Some contend that the current population of undocumented workers in the United States, who lack wage and condition protections, is an informal guest worker program. See Christopher David Ruiz Cameron, *Borderline Decisions: Hoffman Plastic Compounds, the New Bracero Program, and the Supreme Court's Role in Making Federal Labor Policy*, 51 UCLA L. REV. 1 (2003); Robert I. Corrales, *Did Hoffman Plastic Compounds, Inc. Produce Disposable Workers?*, 14 LA RAZA L.J. 103 (2003). Rather than seek to ensure compliance with the labor laws, the federal government has opted to increase border enforcement over the last decade, resulting in thousands of deaths along the U.S.-Mexico border. See Wayne A. Cornelius, *Death at the Border: Efficacy and Unintended Consequences of U.S. Immigration Control Policy, 1993-2000*, 27 POPULATION & DEV. REV. 661 (2001); Karl

exploitation of “temporary” Mexican workers, did not receive the wage and labor protections guaranteed under the applicable treaties between the United States and Mexico.⁴¹ Economist Philip Martin, an influential immigration scholar,⁴² raises important questions about the potential benefits of one of the latest legislative proposals, the Agricultural Job Opportunity, Benefits, and Security Act of 2003 (“AgJOBS”), which would allow some undocumented immigrants to regularize their immigration status and expand an existing guest worker program.⁴³ Republicans blocked passage of the bill in Congress in 2004,⁴⁴ but similar proposals are likely to be reintroduced in the future.

Professor Adela de la Torre, an influential Chicana/o Studies scholar whose work focuses on public policy issues affecting Latina/os,⁴⁵ and Rowena Seto consider the larger issue of incorporating immigrants into U.S. society through evaluating affirmative action in professional schools.⁴⁶ Immigrant access to higher education⁴⁷ and affirmative action,⁴⁸ including immigrant eligibility for affirmative action,⁴⁹ all have caused heated controversy. Professor de la Torre and Seto offer an innovative race-neutral alternative for consideration in admissions processes — the acculturation scale developed by behavioral scientists to

Eschbach et al., *Death at the Border*, 33 INT’L MIGRATION REV. 430 (1999); Bill Ong Hing, *The Dark Side of Operation Gatekeeper*, 7 U.C. DAVIS J. INT’L L. & POL’Y 121 (2001).

⁴¹ See CALAVITA *supra* note 40; GALARZA *supra* note 40.

⁴² See, e.g., CONTROLLING IMMIGRATION: A GLOBAL PERSPECTIVE (Wayne A. Cornelius et al., eds., 2004); PHILIP L. MARTIN, HARVEST OF CONFUSION: MIGRANT WORKERS IN U.S. AGRICULTURE (1985); PHILIP L. MARTIN & DAVID A. MARTIN, THE ENDLESS QUEST: HELPING AMERICA’S FARM WORKERS (1994); Philip L. Martin, *Does the U.S. Need a New Bracero Program?*, 9 U.C. DAVIS J. INT’L L. & POL’Y 127 (2003).

⁴³ See Philip Martin, *AgJOBS: New Solution or New Problem?*, 38 U.C. DAVIS L. REV. 973 (2005).

⁴⁴ See *A Stonewalled Migrant Bill*, L.A. TIMES, July 26, 2004, at B8.

⁴⁵ See BUILDING WITH OUR HANDS: NEW DIRECTIONS IN CHICANA STUDIES (Adela de la Torre & Beatriz M. Pesquera eds., 1993); ADELA DE LA TORRE, MOVING FROM THE MARGINS: A CHICANA VOICE ON PUBLIC POLICY (2002); Adela de la Torre, *Arizona Redistricting: Issues Surrounding Hispanic Voter Representation*, 6 TEX. HISP. J.L. & POL’Y 163 (2001).

⁴⁶ See Adela de la Torre & Rowena Seto, *Can Culture Replace Race? Cultural Skills and Race Neutrality in Professional School Admissions*, 38 U.C. DAVIS L. REV. 993 (2005).

⁴⁷ See Michael A. Olivas, *IIRIRA, The Dream Act, and Undocumented College Student Residency*, 30 J.C. & U.L. 435 (2004); Michael A. Olivas, *Storytelling Out of School: Undocumented College Residency, Race, and Reaction*, 22 HASTINGS CONST. L.Q. 1019 (1995); Victor C. Romero, *Postsecondary School Education Benefits for Undocumented Immigrants: Promises and Pitfalls*, 27 N.C. J. INT’L L. & COM. REG. 393 (2002); Jessica Salsbury, Comment, *Evading “Residence”: Undocumented Students, Higher Education, and the States*, 53 AM. U. L. REV. 459 (2003).

⁴⁸ See *Grutter v. Bollinger*, 539 U.S. 396 (2003); *Gratz v. Bollinger*, 539 U.S. 244 (2003).

⁴⁹ See Kevin R. Johnson, *Immigration and Latino Identity*, 19 UCLA CHICANO-LATINO L. REV. 197, 207-08 (1998).

measure cultural affinity — with the hopes that it will increase the racial diversity of professional schools.⁵⁰

Finally, not sitting idly as their rights have been taken away, immigrants have responded to the changes wrought by the war on terror. Communities have politically resisted various immigration enforcement measures.⁵¹ Asian American scholar and activist Isao Fujimoto and Gerardo Sandoval consider the activism of immigrants in the Central Valley of California, with a study of the Central Valley Partnership for Citizenship, a multiracial approach to community organizing of immigrants.⁵² Such organizing efforts hold the promise of bringing about positive social change.⁵³

In conclusion, the symposium papers offer insights about some of the most significant immigration problems of our times. Immigration likely will remain a pressing public policy issue in the United States for the foreseeable future. The articles help us frame, understand, analyze, and hopefully address these issues in a constructive manner. If nothing else, the symposium makes it clear that quick fixes will not solve the various problems associated with immigration. Importantly, the treatment of immigrants has increasingly been seen as a civil rights concern to minority communities. Consequently, immigration, and all it represents, promises to have racial implications and overtones and will likely be the civil rights issue of the twenty-first century.

⁵⁰ See de la Torre & Seto, *supra* note 45, at 1013.

⁵¹ See Kevin R. Johnson, *The Struggle for Civil Rights: The Need for, and Impediments to, Political Coalitions Among and Within Minority Groups*, 63 LA. L. REV. 759, 762-63 (2003).

⁵² See Isao Fujimoto & Gerardo Sandoval, *Central Valley Partnership: A Collaborative Multiethnic Approach to Organizing Immigrant Communities*, 38 U.C. DAVIS L. REV. 1021 (2005).

⁵³ See Ruben J. García, *Transnationalism as a Social Movement Strategy: Institutions, Actors and International Labor Standards*, 10 U.C. DAVIS J. INT'L L. & POL'Y 1 (2003); Kevin R. Johnson, *Immigration, Civil Rights, and Coalitions for Social Justice*, 1 HASTINGS RACE & POVERTY L.J. 181 (2003); Adrien Katherine Wing, *Civil Rights in the Post 911 World: Critical Race Praxis, Coalition Building, and the War on Terrorism*, 63 LA. L. REV. 717 (2003).