

Race, Legal Status & Social Mobility

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In this essay, we review what is known about the role of race and legal status in the incorporation of immigrants in twenty-first-century America. While race and ethnicity matter in the social mobility of immigrants, racialization is not the impassable stumbling block critical race theory predicts. The research paints a remarkably consistent picture of intergenerational socioeconomic progress, one that is very similar to what happened with immigrants from Europe a century ago. This mobility is accelerated for Asians and Blacks, but slower among Latinxs. Legal status is increasingly a block to integration and affects both undocumented immigrants and their citizen children. While race and legal status intersect, we conclude that legal status is now playing a relatively autonomous role in limiting the life chances of many immigrants. We raise the alarm about not only the direct effects of legal status, but its increasing role in racializing and excluding Latinx Americans.

How much will their non-White status limit the full integration of the current wave of immigrants and their descendants? This is a question that, ironically, seems to unite the left and the right in American politics today. The Trump presidency made racial exclusion and denigration of immigrants a cornerstone of its ideology and policy. At the same time, many progressive academics and legal theorists have critiqued the very idea of assimilation or integration of immigrants and their children, arguing that “people of color” would never experience the eventual mobility and acceptance that European immigrants of the past did. Meanwhile, immigrants from all over the globe – most of them people of color – continue to be drawn to what they still perceive as a land of opportunity and a place to make a better life for their children.

The question of the role of race in the acceptance and absorption of non-White immigrants is of course not an “either-or.” No honest observer could argue that race does not matter enormously in American society. The question is how it matters and for whom.

In recent decades, this question has been complicated by another factor: legal status. Starting in the late 1980s, the militarization of the Southern border created a large and more or less permanent unauthorized population.¹ Today there are an estimated 10.5 million undocumented immigrants in the United States (down from a peak of 12.2 million in 2007).² Unlike many unauthorized immigrants

during the twentieth century, these people are not transient or circular migrants. By 2017, two-thirds of America's undocumented had lived in the United States more than ten years. Only 14 percent have been here less than five.³ They and their relatives (who include approximately 5.9 million U.S. citizen children) are clearly part of American society economically and socially. Yet they remain politically excluded and vulnerable.

The label "illegal" brands otherwise law-abiding migrants with the stigma of criminality, especially Latinx and Caribbean people who account for more than three-quarters of the undocumented. This is clear in the rhetoric of the Trump administration: "They're bringing drugs. They're bringing crime. They're rapists." This mischaracterization is attached to old and ugly racial stereotypes. Once applied to unauthorized immigrants, it then stigmatizes their co-ethnics, including those whose ancestors have been in the United States for generations.

The current wave of anti-immigrant rhetoric coexists with considerable evidence of relatively successful social and economic integration into U.S. society by many, although not all, immigrants of color and their descendants. In light of the striking contrast in life outcomes between those with and without legal status, we argue that although legal status and the stereotypes deriving from it are clearly related to race, legal status is now playing a relatively autonomous role in limiting the life chances of many immigrants.⁴

In this essay, we survey what is known about the role of race and legal status in the incorporation of immigrants in twenty-first-century America. The story is both cautiously optimistic and alarming. While we recognize the continued work that needs to be done to eradicate systemic and interpersonal racism, we summarize decades of research that finds considerable progress in the incorporation of new, non-White immigrants and their descendants. Yet we raise the alarm about not only the direct effects of legal status, but its increasing role in racializing and excluding Latinx Americans.

There is no magic pill to address America's deeply rooted racial inequities. By contrast, however, the existence of a large population of permanently settled American residents who lack legal status was not an inevitable outcome of America's racial DNA. It is relatively new and the result of bad public policy. As such, it can be fixed by better policy, such as by a legalization program similar to that enacted in 1986, or merely by applying the statute of limitations to the misdemeanor of illegal entry. With these legal actions, the fortunes of millions of Americans could be improved, and the conflation of Latinx identity with illegality could begin to be severed.

American sociology has taken immigration and the process of assimilation as one of its core concerns since the 1920s. But this early research concentrated on European immigrants and their children and had a blind spot when it came to

race. A largely separate stream of research reaching back to the pioneering work of W. E. B. Du Bois dealt with the experience of African Americans. The experiences of Asians and Latinx were either ignored or shoehorned into these separate theories and literatures. Even into the 1970s and 1980s, research on race and on immigration continued on parallel tracks. Scholars of race such as William Julius Wilson described the hollowing out of American cities, the lack of jobs for those with low skills, failing inner city schools, and rising racial segregation.⁵ Scholars of immigration described the growth of low-skilled jobs in central cities, the invigoration of central city neighborhoods, and the use of public schools in America's cities for social mobility. It was as if they were describing two different nations.

During these decades, the racial demography of the United States was transformed from a society primarily composed of Whites and Blacks – as late as 1970, Asians and American Indians each constituted less than 1 percent of the U.S. population, while Hispanics made up only 4 percent – into the racially diverse nation we see today. There was no precedent to evaluate whether the increasingly diverse post-1965 immigrants would assimilate in the same ways as earlier European immigrants, or whether they would be racially excluded.

In the early 1990s, sociologists such as Herbert Gans, Alejandro Portes, and Min Zhou asked whether it was possible that the children of current immigrants would find their social mobility and acceptance blocked by racial discrimination. Gans described his worries in an article entitled “Second Generation Decline?” and Portes and Zhou developed the theory of segmented assimilation.⁶ These theories raised the question of whether race would be a barrier to the fortunes of the second generation and gave rise to many empirical studies (including one of our own) designed to address this question. Overall, these studies found little evidence of second-generation decline or downward assimilation.⁷

Soon, however, the very idea of assimilation or integration came under fire in the academy. Critical race theorists generally reject the idea of assimilation altogether, or even associate it with White supremacy, colonialism, and imperialism. Critical race theory originated in legal scholarship and stresses the permanence of racism as a feature of American society and the ubiquity of White supremacy.⁸ In this tradition, sociologist Mary Romero has criticized scholars studying immigrant assimilation for perpetuating the myth of meritocracy for immigrants and natives alike. She criticizes the focus on assimilation for accepting White middle-class standards as the norm. Instead of comparing immigrants with U.S.-born people of color, she advocates approaches that emphasize the “connections in the treatment of all racialized groups and recognize citizenship status as a social construct.”⁹ Other scholars adopting critical race theory have criticized the study of assimilation for not critiquing White supremacy.¹⁰ Tanya Golash-Boza, Maria Duenas, and Chia Xiong have argued (somewhat unfairly in our view) that assim-

ilation is a zero-sum game, that “people of color who are socialized into Anglo-American culture lose valuable skills, networks, and knowledge.”¹¹

Sociologist Moon-Kie Jung has criticized scholars who “engage in suspect comparisons to past migration from Europe; [and] read out or misread the qualitatively different historical trajectories of European and non-European migrants.”¹² Instead, he advocates a study of immigration that shifts the focus of study from “difference” to “domination.” He concludes that scholars operating in a paradigm that measures assimilation “reinforce hope about the possibilities of inclusion by continuing to laud Anglo/White-centric models of incorporation that are largely mythological.”¹³

Today, with the Obama-era hopes for a “postracial” society dashed with the return of blatant racism and nativism promoted by Donald Trump, it is easy to understand the appeal of critical race approaches. However, this theory runs the risk of being overly determined. There is, as historian Barbara Fields notes, a danger in according race “a trans historical, almost metaphysical status that removes it from all possibility of analysis and understanding.”¹⁴ Or as historian Eric Foner argues, there is a danger of employing race and racism “as a *deus ex machina* – something that exists outside of history but can be invoked as the ultimate explanation for historical events.” Of course, Foner is not denying the centrality of race in American life. Neither are we. Foner argues that “it is better to see racism as a part of history. . . . like anything else (it) rises and falls over time.”¹⁵

One can recognize the centrality of race in American society and history while also recognizing that it is contingent. Racial hierarchies shift. Racial boundaries blur. Thus, it is most useful to see race and racism as variables. In order to understand race and racism, we need to understand how they interact with other variables, including legal status.

In this vein, neo-assimilation theory, developed by sociologists Richard Alba and Victor Nee, takes note of substantial progressive change in U.S. institutions since the civil rights movement, opening up what they call the “mainstream” to individuals and groups that had previously been excluded.¹⁶ Expanding on this theory, Alba has pointed to the importance of the changing boundaries around ethnoracial groups, allowing for changes not only in the hierarchy of groups but in how permeable groups are, and even how they are defined.¹⁷ Thus, Alba describes how, in the mid-twentieth century, an Anglo-Saxon Protestant mainstream evolved to absorb White ethnics, as boundaries that had once seemed impermeable were eroded by intermarriage and mixed ancestry. In his recent book *The Great Demographic Illusion*, he notes that this is happening today for the descendants of non-White immigrants through high intermarriage and an expanding definition of “Whiteness.”

One point on which neo-assimilation, segmented assimilation, and critical race theory are actually in agreement is the recognition (largely missing in the pre-1960s accounts of assimilation) that incorporation into mainstream society

is a two-way process. It is not enough for a group to come to share the beliefs or behaviors of the dominant society. That society must also be willing to accept the former outsiders. Attention to race casts this point in sharp relief. Many groups of European immigrants were initially seen as racially inferior. Their status, like that of other racialized groups, was associated with selected physical attributes, as a look at the caricatures of Irish, Jewish, or Italian immigrants in nineteenth-century political cartoons attests. Their Whiteness was an achievement, the end of a political project, not the starting point. As such, the assertion that assimilation into the mainstream was for Whites only may actually be telling the story backwards. It is not that being White allowed admission to the mainstream. It is that the groups who joined the mainstream came to be considered “White.”

However, it is also true that even the most despised and racialized Europeans were always “potentially” White. The difference lies to a considerable degree in legal status. The Europeans were free. They had the right (albeit often ignored in practice) to seek redress of grievances in the courts. They were able to naturalize (far faster than immigrants can today) and, having done so, to vote. None of this, as Alba shows, was sufficient to guarantee admission to mainstream institutions. That had to await changes in demography and economics as well as culture, and it took longer than is often remembered.¹⁸ But it did make such acceptance possible. By contrast, African Americans were excluded from all of the basic rights of societal membership, both under the “social death” of slavery and the social exclusion of segregation.¹⁹ Adopting “mainstream” behaviors or outlooks made no difference: the mainstream had no intention of accepting them. Similarly, after 1882, Asians were barred in most cases from immigration and, perhaps more important, perennially barred from naturalization. They could never be full members of society, their behavior notwithstanding. Indigenous Americans similarly were restricted to a special noncitizen status. The story of Latinx people is more mixed and varied. But it is fair to say that a considerable number of these people were also in semipermanently excluded statuses.

The question is not whether legal and structural barriers have historically prevented the full incorporation of non-Whites into American society. Clearly, they have. The question is whether this remains true for contemporary immigrants and their children who arrived in the United States in a post-civil rights context. Here the data tell a more mixed and less over-determined story.

Richard Alba and Victor Nee’s new assimilation theory directs our attention to the laws and norms that determine how open and accepting the institutions of society – the workplaces, universities, political parties, and government bureaucracies – are to people of different ethnoracial origins.²⁰ The legal and social changes of the civil rights movement, including programs such as affirmative action, opened up some institutions to a diversity that had never been achieved before. In many

institutions, the value of diversity has become powerful as an ideal, even if actual practice often falls short.

Yet a focus on changes in law and norms returns our attention to an important but, in the present climate, virtually impermeable barrier: legal status. Since 1986, the last time an amnesty was granted to undocumented American residents, the number of undocumented people in the United States has grown dramatically. Since then, Congress has passed laws making immigration enforcement progressively more punitive and targeted at both legal permanent residents and the undocumented.

Laws passed in 1996 and 2001 seeded the current “cimmigration” regime. The 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and the 1996 Anti-Terrorism and Effective Death Penalty Act laid the legal groundwork for mass deportations of undocumented immigrants, as well as requiring that legal noncitizen immigrants be deported if convicted of an aggravated felony. The Patriot Act of 2001 further increased the power of the federal government to apprehend, detain, and deport legal immigrants who are deemed a threat to national security.

The 1996 IIRIRA provided local and state police the authority to stop and detain people for suspected immigration violations, with subsequent turnovers to federal authorities resulting in deportations. While the 1996 authorization has been replaced, the principle of integration of local and state police records with Immigration and Customs Enforcement (ICE) immigration records is now entrenched.

The net effect of these changes has been a growth in the intersection of the criminal justice system with the immigration enforcement system, a massive rise in the numbers of documented and undocumented immigrants deported each year, and an increase in the numbers of undocumented immigrants in mandatory detention throughout the country.

In fact, since 1985, detention capacity has increased nearly 1,500 percent.²¹ There are an average of thirty-four thousand people in detention each day and more than four hundred thousand a year.²² Immigration enforcement now constitutes more than half of the federal criminal workload. Immigration laws allow prosecutions without criminal constitutional protections, detention without bond, interrogation without Miranda rights, arrest without probable cause of crime, and no right to an attorney in deportation proceedings.²³

Since the 1980s, we have created a class of long-term residents without the rights of Americans and put legal immigrants at risk of losing their rights at any time. Immigrant enforcement has expanded to areas far from the border, with new effects on legal immigrants as well as on U.S. citizens who live in mixed-status families, including U.S. citizen children.²⁴ Legal scholar Daniel Kanstroom has described these developments as placing all immigrants, including those who entered legally, on an “eternal probation” model. All noncitizens are thus subject to a “flexible, ever-shifting – even retroactive – regime of deportation.”²⁵

A growing body of literature describes the ways in which lack of legal status decreases wages, depresses educational attainment of the second generation, and even affects the cognitive development of young children.²⁶ Undocumented immigrants make up the largest group of disenfranchised Americans since the end of Jim Crow. But civil rights–era tactics to fight these injustices often prove inadequate because the undocumented, by definition, do not have civil rights in the United States. This blocked mobility and social exclusion is all the more regrettable and frustrating given the trends outlined below that show the real progress, economic mobility, and social acceptance made by legal immigrants and their children, despite their non-White status.

As sociologist Herbert Gans pointed out, many people think of assimilation and social, or socioeconomic, mobility as the same thing.²⁷ This has its roots, he argued, in the assimilation of European immigrants in the last century, when almost all immigrants were low skilled and poor, and they entered a society that was experiencing widespread social mobility for natives and immigrants alike. Thus, becoming American by assimilating also meant access to higher wages for the immigrant and better education, income, and occupations for their children. But Gans also reminds us that assimilation and social mobility are not the same thing: assimilation is the decline of ethnic distinctiveness and the convergence between immigrants and the U.S. born. Whether this was always linked to upward mobility among early twentieth-century immigrants is debatable. However, in contemporary American society, the erasure of ethnic distinctiveness is not a precondition for upward mobility. Further, mobility, whether within one lifetime or intergenerationally, can be upward or downward. Indeed, as economist Raj Chetty and colleagues have demonstrated, social mobility has been declining in the United States, particularly for those at the bottom of the income distribution.²⁸

The National Academy of Sciences (NAS) issued a report on immigrant integration in 2015. (We follow their definitions in using the terms *assimilation* and *integration* interchangeably).²⁹ The NAS report defines integration as a two-way process by which “members of immigrant groups and host societies come to resemble one another.” Their conclusion was that, across all measurable outcomes, including educational attainment, income, occupational distribution, poverty status, residential integration, language ability, health, crime, and family status, immigrants and their descendants were becoming more like the U.S. born. In most cases, this convergence made immigrants better off in terms of their well-being. Yet in three important areas, immigrants and their children were less well-off as they became more like other Americans: their health declined, their crime rates rose, and the proportions of single-parent families increased.

Some immigrants welcome assimilation. Others actively resist it. Many do both, seeking to prevent the assimilation of their children in some arenas while taking actions that make it more likely in others. However, almost all immigrants

desire social mobility: making a better life for themselves, and especially for their children. Does the move pay off? The empirical research shows that social mobility happens at a different pace for different ethnoracial groups and, looking at outcomes, there is a racialized pattern of convergence between immigrants and natives of the same ethnoracial group, although the second generation generally does better than natives of the same ethnoracial background. Nevertheless, there is a great deal of mobility, and none of the immigrant groups experience complete racial exclusion and blocked mobility. It is possible to argue whether the glass is half empty or half full, but there is no empirical support for an empty glass.

Progress is evident over time for the immigrant generation. Sociologists Andrés Villarreal and Christopher Tamborini examined first-generation wage trajectories over twenty years in a long-running longitudinal survey matched to their income records from their individual tax returns. They compared the wage trajectories of immigrants to natives of the same ethnoracial group, and to U.S.-born Whites. All four major ethnoracial groups start out behind U.S.-born Whites, but Asian and White immigrants substantially reduce the gap over time, while Latinxs and Blacks do not, although Black immigrants have the second highest wage growth after Asians. Hispanics start out with low incomes and have the slowest rate of growth. Yet compared with U.S.-born members of the same ethnoracial group, all four groups come within 10 percent of native wages after twenty years, and Black immigrants exceed the wages of U.S.-born Blacks. Black immigrants with a college degree have completely closed the gap with their U.S.-born White counterparts.³⁰

Researchers Julie Park and Dowell Myers found evidence of generational assimilation when they compared immigrant parents in 1980 with second-generation adults in 2005. They found that all ethnoracial groups show a great deal of social mobility across generations. All of the groups except Latinxs match the level of U.S.-born White high school completion. Black and White immigrant parents and the second generation exceed U.S.-born White social mobility with respect to college completion and upper white-collar occupational attainment. The Black second generation also closes the gap with U.S.-born Whites in terms of high school completion. Not surprisingly, given what is known about racial discrimination in housing and mortgage lending, the one area that Black immigrants and their children lag behind Whites is homeownership. Second-generation Blacks have the lowest homeownership of any second-generation group.³¹

While Latinxs make progress by generation, with the children doing much better than the parents, they do not close the gap with U.S.-born Whites on college attainment or upper white-collar occupational attainment. However, they do close the gap in terms of homeownership and percentage in poverty. First-gener-

ation Asians are a highly selected group and have a college completion level that is almost double that of U.S.-born Whites. Second-generation Asians cannot improve much on their parents' level of educational attainment, but they do have better occupational mobility. These children of Asian immigrants, controlling for education, have eliminated the gap in occupations with U.S.-born Whites. While Asian Americans still face discrimination at the highest levels of American corporate and professional life,³² this "bamboo ceiling" is so high that it is not visible in Park and Myers's statistical analysis.

Immigration scholar Van Tran also finds a great deal of social mobility across generations in his examination of specific national origin groups, instead of the broad ethnoracial categories. Tran finds that all of the second-generation groups show a great deal of mobility compared with their parents in terms of educational and occupational attainment. For example, while 67 percent of Mexican and 59 percent of Salvadoran immigrants lack a high school degree, these figures drop to 17 percent and 12 percent among their second-generation children. In multivariate models, Tran finds that second-generation Haitians and Jamaicans catch up to U.S.-born Whites in college completion. Colombians and Cubans surpass them. Mexican and Dominican second-generation adults do not catch up to Whites in terms of educational attainment, but they do outperform their parents by a wide margin. All of the other Latinx national origin groups achieve parity with U.S.-born Whites in educational outcomes.³³

Finally, economist Ran Abramitzky and colleagues have examined income mobility in first- and second-generation father-son pairs.³⁴ Using census data, they compared income mobility for first- and second-generation father-son combinations for fathers in 1880 and adult sons in 1910, fathers in 1910 and adult sons in 1940, and fathers in 1980 with federal income tax records for their adult sons in 2010. These three immigrant cohorts represent different sending regions in the history of U.S. immigration: the 1880 cohort came primarily from Northern and Western Europe, the 1910 cohort from Southern and Eastern Europe, and the 1980 cohort from Asia, Latin America, and the Caribbean.

Contrary to the assumption that today's non-White immigrants have a completely different experience than the White immigrants of the past, they found remarkably similar social mobility for the second generation in each immigration era. Among immigrants from countries where immigrants earned much less than U.S.-born natives, "second generation immigrants catch up or even overtake the earnings of the U.S. born."³⁵ Abramitzky and colleagues found highly similar advantages for second-generation immigrants compared with the U.S. born in all three cohorts, where the children of immigrants whose parents are at the twenty-fifth percentile in income distribution in the United States rank five to eight percentile points higher than the children of U.S.-born individuals whose parents were also at the twenty-fifth percentile.³⁶

All of these empirical studies find that while race and ethnicity matter in the social mobility of immigrants, racialization is not the impassable stumbling block critical race theory predicts. A remarkably consistent story of intergenerational socioeconomic progress is painted, one that is very similar to what happened with immigrants from Europe a century ago. This mobility is accelerated for Asians and Blacks, but slower among Latinxs. Dominicans and Mexicans do not eliminate the gap with U.S.-born Whites, although they show progress vis-à-vis their parents.

The slower mobility of Latinxs, and particularly Mexicans, has been a subject of much debate. Sociologists Edward Telles and Vilma Ortiz have pointed to exclusion based on systemic and interpersonal racism directed toward Mexicans in particular, but extending to all Latinxs.³⁷ President Trump rallied supporters using animus toward Mexicans and calls for exclusion, and the history of Mexican Americans includes legal segregation, substandard education, and forced deportations. This form of racialization has, no doubt, helped to produce the “generations of exclusion” that Telles and Ortiz documented.³⁸

There are, however, other factors that may be playing a role in the slower measured rate of Mexican American upward mobility. Assimilation of Mexican Americans may, paradoxically, be responsible for the mismeasurement of their situation. Unlike African Americans, the quintessential racialized minority, Mexican Americans have long had a high intermarriage rate.³⁹ There is evidence that a significant proportion of the children of couples where one spouse is Mexican and the other is a non-Hispanic White do not identify as Mexican American. Economists Brian Duncan and Stephen Trejo found that 30 percent of these mixed ancestry people do not identify as Mexican on government surveys such as the Current Population Survey. This attrition is highly selective because the people who no longer identify as Mexican have greater educational attainment and overall higher social mobility.⁴⁰ Therefore, estimates of Mexican American social mobility that rely on this subjective identification underestimate group mobility.

The other possible explanation for slower mobility is the deleterious effect of lack of legal status.⁴¹ The paradox here is that being undocumented in the United States does not stop assimilation in the cultural sense or integration in the social sense. The undocumented have been putting down roots: working, forming families, buying houses, attending church, and sending their children to school. They, and particularly their children, have been learning English, absorbing American culture and values, and converging with the U.S. born on many measurable attributes. However, despite their assimilation, their legal status blocks their economic mobility.

A showcase of the positive effect of adding social mobility to an assimilated population previously without socioeconomic mobility was provided by the passage of Deferred Action for Childhood Arrivals (DACA) in 2012. Undocumented

immigrant children, as immigration scholars Roberto Gonzalez and Leo Chavez have put it, “awakened to a nightmare” when they discovered, often in their teens, that they were barred from many colleges, financial aid, almost all jobs, and even a drivers’ license.⁴² DACA unblocked their path and, in just eight years, the mobility of many of these young people blossomed as they made higher wages, moved into better jobs, and reported better life satisfaction. Political scientist Tom Wong and colleagues surveyed DACA recipients every year for the last five years and found that, since receiving DACA, respondents’ average annual earnings increased by 86 percent. Some 58 percent reported moving to a job with better pay and, among those over age twenty-five, 9 percent started a business and 20 percent received a professional license.⁴³ If ever there were a natural experiment to prove the societal benefits of legal status, DACA was surely it. This made former President Trump’s cruel determination to end it particularly disturbing and President Biden’s support for DACA and legalization understandable and hopeful.

Race matters. It structures everyday life in America in a host of ways. It can be seen in racial differences in the economy, social life, and culture. It can be seen in large statistical differences and in microlevel encounters between Americans. It matters, too often with deadly consequences, in encounters between people of color and the police.

However, when considering blocked mobility among immigrants and their descendants, race, while heavily correlated to legal status in the largest current immigrant groups, does not appear to be the most important factor. Indeed, on almost every measure, documented immigrants of color, including Black immigrants, are doing better than African Americans. This is even more true for their second-generation children. If anything, the inclusion of Black immigrants and their children, now close to 20 percent of the Black population, in the African American category in most statistical analyses may be obscuring how badly off some segments of the African American community actually are.

The ever-present well of racism directed at newcomers is spilling hatred again. Yet the upward mobility of most immigrants of color with legal status and their children is clear. It does not do immigrants or their supporters any good to deny the empirical evidence of successful integration and social mobility of non-White immigrants and their children. At the same time, we need to focus attention on the counterproductive social policy that has created a new category of people who are Americans in every meaningful sense but who cannot enjoy the benefits of their investment in our society due to their lack of legal status.

What, then, is to be done? The clearest and most obvious answer would be amnesty and a path to citizenship. Extending the full rights of societal membership and citizenship to people who have long proved themselves an important part of our economy and society is consistent with the best of American values.

With nonrefugee migration across the Southern border at historic lows, the present moment would seem an ideal time to do it.

If full-scale amnesty is politically impossible, a more modest proposal would be simply to apply a statute of limitations to illegal entry. The statute of limitations for federal crimes is five years, except for those in four categories: murder, terrorism, some sex offenses, and illegally crossing the border or overstaying a visa.⁴⁴ Most Americans would weigh the crimes in the first three categories very differently from those in the fourth.

These are modest reforms. They would not eliminate racial bias or cleanse the original sin of racism from American society. They would, however, greatly improve the lives of millions of people and help create a more diverse, more fair, and more democratic society for all of us. And this makes them well worth pursuing.

AUTHORS' NOTE

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