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978-1-107-08411-7 - The Immigration and Nationality Act of 1965: Legislating a New America

Edited by Gabriel J. Chin and Rose Cuison Villazor

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THE IMMIGRATION AND NATIONALITY ACT OF 1965

Along with the civil rights and voting rights acts, the Immigration and Nationality Act of 1965 is one of the most important bills of the civil rights era. The Act's political, legal, and demographic impact continues to be felt, yet its legacy is controversial. The 1965 Act was groundbreaking in eliminating of the white America immigration policy in place since 1790, ending Asian exclusion, and limiting discrimination against Eastern European Catholics and Jews. At the same time, the Act discriminated against gay men and lesbians, tied refugee status to Cold War political interests, and shattered traditional patterns of Mexican migration, setting the stage for current immigration politics.

Drawing from studies in law, political science, anthropology, and economics, this book will be an essential tool for any scholar or student interested in immigration law.

Gabriel J. Chin, a professor at the University of California, Davis School of Law, is a “paper grandson,” descendant of an unauthorized migrant during Chinese Exclusion. Author of many articles on Asian American legal history, he is the coeditor with Carissa Hessick of *Strange Neighbors: The Role of States in Immigration Policy*, addressing recent state immigration restrictions. He has worked with students to lobby for the repeal of Jim Crow laws still on the books, including anti-Asian land laws in Kansas, New Mexico, and Wyoming, and for the posthumous admission to the California bar of Hong Yen Chang, excluded because of his race in 1890.

Rose Cuison Villazor is a professor at the University of California, Davis School of Law. She is the author of numerous articles on immigration and citizenship law, equal protection law, and critical race theory, and coeditor of two books: *Loving v. Virginia in a Post-Racial World* and *Asian Americans, Pacific Islanders, and the Law*. She has served as an Equal Justice Works Fellow in New York City representing immigrants in civil rights cases. In 2011, she received the Derrick A. Bell Award from the Association of American Law Schools Minority Section.

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President Lyndon B. Johnson signs the Immigration Act as Vice President Hubert Humphrey, Lady Bird Johnson, Muriel Humphrey, Sen. Edward (Ted) Kennedy, Sen. Robert F. Kennedy, and others look on. LBJ Library photo by Yoichi Okamoto.

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The Immigration and Nationality Act of 1965

LEGISLATING A NEW AMERICA

Edited By

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news media outlets including NPR's *The World*, *Bloomberg News*, the *New York Times*, *Wall Street Journal*, *de Volkskrant*, and *American Prospect*. Her dissertation was made into a documentary, *The Chain of Love* (2000), by the public broadcasting station VPRO-TV in the Netherlands. Professor Parreñas has coedited three anthologies and has written four monographs as well as numerous peer-reviewed articles. Her latest book, *Illicit Flirtations: Labor, Migration and Sex Trafficking in Tokyo* (Stanford University Press, 2011), won the Distinguished Book Award in the Labor and Labor Movements Section of the American Sociological Association.

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citizenship law, Asian Americans and the law, equal protection law, critical race theory, and property law. Her published law review articles include: “The Undocumented Closet” (*North Carolina Law Review*, 2013); “The Other Loving: Uncovering the Federal Regulation of Interracial Marriages” (*New York University Law Review*, 2011); “Rediscovering *Oyama v. California*: At the Intersection of Property, Race and Citizenship” (*Washington University Law Review*, 2010); and “Blood Quantum Land Laws: The Race versus Political Identity Dilemma” (*California Law Review*, 2008). She is coeditor, with Neil Gotanda and Robert Chang, of a forthcoming book, *Asian Americans and Pacific Islanders and the Law*, which will be published by New York University Press in 2016. Professor Villazor obtained an LL.M from Columbia Law School in 2006 and a J.D. from the American University Washington College of Law in 2000.

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Foreword

As a son of parents who immigrated from Mexico in the 1920s, my interest in immigration comes naturally. And as an attorney who lived and practiced law by the Mexican border in Imperial County, I have witnessed the changes since 1965. My practice included clients who immigrated from Mexico. My appointment in 1979 by President Jimmy Carter to the Select Commission on Immigration and Refugee Policy provided me with a precursor to today's controversial issue of undocumented immigration.

The essays in this book underscore the historic changes the Immigration and Nationality Act of 1965 has brought. These changes were groundbreaking in abolishing racial and national origin discrimination in the admission of immigrants. Prior immigration laws had favored Western and Northern European countries, which contributed predominantly white, Protestant immigrants. After 1965, the majority of immigrants have been people of color, bringing ethnic and linguistic changes to the nation as a whole.

Not surprisingly, in the half-century since 1965, the United States has evolved into a very different country. Never before have I studied a collection of essays that so convincingly explain the effect of the 1965 Act and subsequent changes in the law. In my own state of California, the presence of Asians and Latinos, and particularly their children and grandchildren, have made minorities of color a majority of our residents. According to the 2010 Census, approximately 38.4 percent and 14.1 percent of the population in California are Latinos and Asians, respectively. Citizenship by birth and change of legal status has brought Asian Americans and Latinos into political prominence in state legislative and constitutional statewide offices, as well as in the U.S. Congress. National political observers credit their vote in the results of recent presidential races. And a majority of public school children are of color. Nor have the changes been limited to California; they are nationwide. I was recently invited to Knoxville, Tennessee, which is a community I have

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known for more than fifty years. Back then, there were no Latinos in Knoxville, or if they lived there, they were socially invisible. Today, there are tens of thousands of Latinos who have established at least three nonprofit organizations including a Latino Chamber of Commerce and a socially active organization that has recruited seventy-five volunteers to teach English, citizenship classes, computer skills courses, and similar practical courses. I was told that there are more than 80,000 Latinos in East Tennessee alone. Similar growth has been seen in many states that a few years ago had few Latinos. Nationwide, the number exceeds 10 million.

The changes the 1965 Immigration Act has caused were not always positive, however. In particular, the Act imposed restrictions on immigration from anywhere in the Western Hemisphere. The limitations might seem fair because the same restrictions are applied to other nations outside the Western Hemisphere. However, due to proximity, economics, and safety realities, immigration from Mexico and Central America has not subsided. They still come, but many without documents, to the point that we have millions who reside in the shadows. In 2014, Senate proposed a “comprehensive” immigration bill; unfortunately, the House of Representative has not acted. Thus, Congress has been unable to respond to the push/pull reality as represented by the Mexican and Central American immigrant situation. The political pressure to curtail the numbers has caused the federal government to deport hundreds of thousands of undocumented immigrants, often dividing families that include both citizen and noncitizen members.

The arrival of young children from Central America has brought forth some public protests seeking their immediate deportation. These are children who risked their lives by leaving their Central American neighborhoods, villages, and cities endangered by criminal gangs, poverty, war, and corruption. That some Americans have no heart to help those young children puzzles me.

The aim of family reunification and nondiscrimination (in the spirit of the Civil Rights Movement) in the 1965 Act is laudatory. But even that aim has been partially frustrated by per-country restrictions. Despite gains, gay couples and others similarly situated continue to experience discrimination. And potential immigrants from Africa, for example, have not profited from family reunification as have others.

On a personal basis, the work that has yet to be done takes me back to my youth and the Imperial Valley. I recall the calendars we had at home when I was a child during the Second World War. On display were the Mexican and American flags and photographs of President Roosevelt and President Camacho. There was a sense of brotherhood. In 1959, when I arrived in Imperial Valley, the border to Mexico seemed open. Workers from Mexicali crossed the border daily to work or shop. Residents of Imperial Valley, too, crossed daily to visit relatives, to shop, or to patronize an excellent Chinese restaurant. Others, like a fellow attorney and I,

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crossed to take lessons on how to write a more effective business letter in Spanish. There was a sense of community between the Imperial and Mexicali valleys.

How strange was my feeling when I recently visited Imperial Valley and came upon a high darkened fence separating the two countries, as the Berlin Wall had once divided that city. Unlike Berlin, commerce makes Mexico one of America's top three trading partners. But the wall is too tall for people. The Act of 1965 was a gigantic step forward, but since then our immigration policies have not kept up with today's reality. As the essays in this volume suggest, there is much work to be done.

Cruz Reynoso
 Former California Supreme Court Justice and
 University of California, Davis Professor of Law Emeritus