Immigration Outside The Law by Hiroshi Motomura. New York, NY: Oxford University Press, 2014. 360 pp. ISBN-13 978-0199768431.

During the 1970's, Texas legislators, mayors, and school superintendents were asking themselves what to do about the increasing flow of undocumented immigrants from Mexico. They were specifically concerned with the influx of undocumented children into public schools. They created Education Code section 21.031, a law that denied local school districts any state money for children not "legally admitted" to the United States (Motomura, 2014, p. 1). As a result, schools charged undocumented students and their families' tuition, or barred them altogether from matriculating. For example, the Tyler school district chose to charge a $1,000 admittance fee to students without lawful immigration status. A lawsuit on behalf of these children was filed against the Tyler school district and superintendent James Plyer. The suit argued that the statute violated the U.S. constitution. This U.S. Supreme Court case became known as *Plyer v. Doe (1982).* The Supreme Court agreed with the plaintiffs and held that undocumented children should not be denied access to K-12 education. However, similar arguments to those presented in *Plyer v. Doe* are still heard today.

In *Immigration Outside the Law,* Hiroshi Motomura uses *Plyer v. Doe* as a framework to explain current immigration debates. He demonstrates the difference between how a law is written "on the books" and how it is implemented "on the ground" (Motomura, 2014, p. 4). The discrepancy between formal law and the law in practice creates drastically different outcomes for undocumented immigrants. Motomura argues that current immigration reform proposals suggested by politicians and the media – for stricter border enforcement or some form of amnesty - will continue to create an undocumented immigration population. Instead, he proposes a temporary worker program that lawfully admits unauthorized immigrants and provides them with a path towards legalization. Temporary worker programs have been present for various years, but the majority of them are not applicable to undocumented immigrants. Motomura argues for the implementation of a worker program where all undocumented immigrants can qualify. *Immigration Outside the Law* is a timely contribution to interdisciplinary research involving immigration, law, race, and education. The book provides an in-depth understanding of the complex U.S. immigration legal system and how law is historically interpreted and implemented on the ground.

Motomura structures the book on three themes argued in the *Plyer* case: What does it mean to be in the United States unlawfully/without permission? Do state and local authorities have the same power as the federal government to decide how to treat unauthorized immigrants? And are immigrants, what Motomura terms, "Americans in Waiting?" (Motomura, 2014, p. 11). This term argues that the history of the United States and immigration law has perceived

current and future immigrants- no matter their legal status- as future citizens of the United States. The author provides an in-depth historical understanding on each theme through an analysis of Supreme Court cases, along with local, state, and federal laws. This historical-legal analysis allows the reader to comprehend the dynamic, shifting stances, and interpretations of these important questions. Motomura helps the reader grasp current immigration debates that dominate our media and political decision-making.

The gap between theoretical law and its actual enforcement is filled by countless government decisions that reflect the exercise of discretion of various actors, who "respond to political and economic pressures that fluctuate over time and locales" (Motomura, 2014, p. 4). Motomura provides a clear picture of what it means, in the eyes of the law, for a person to be in the United States without legal permission. The reader is taken through a myriad of venues where an individual's legal status can change. For example, an individual who lives in the United States unlawfully has a deportation hearing in front of an immigration judge. The person can state their case against their removal from the country, arguing the risk of severed community and family ties. A final court decision is based on an immigration judge's discretion on a case-by-case basis. As a result, Motomura concludes that unlawful presence is inconclusive by design (Motomura, 2014, p. 52). The vagueness of unlawful status is supported by a highly restrictive immigration admission system that produces a large undocumented population. Enforcement is selective, and government law enforcers act on a discretionary basis that can be inconsistent, unreliable, and in some instances contradictory. Due to the level of subjectivity involved in interpreting the law, this book clarifies long-standing judicial frameworks in which immigration law has been construed by immigration judges and the Supreme Court. In doing so, it provides the reader with a concise understanding of how immigration law is applied at the local, state, and federal level over time.

States and local actors have attempted to tackle this inconsistent and contradictory quality of Federal immigration law by creating their own laws or statutes. We have seen a rise in the creation of state laws that racially profile with the intention of making life unbearable for undocumented immigrants. Two of the most prominent examples are Arizona's Senate Bill (SB) 1070 and California Proposition 187[1] where the states attempted to discriminate against undocumented

[1] Proposition 187 (1994), known as Save Our State initiative, was geared towards denying undocumented women access to health care, barring undocumented students from attending public schools, and denying other social services to individuals unable to provide citizenship or legal permanent residence. The spirit of 187 has been introduced in other states, with AZ SB1070 (2010) being one of the most recent states attempting to regulate immigration within their state borders. For other similar state or federal bills see: HR4437 (2005) Border Protection: Anti-Terrorism and Illegal Immigration Control Act "Sensenbrenner Bill." Alabama HB 56 (2011) Beason-Hammon Alabama Citizen and Citizen Protection Act. Utah HB 497

immigrants. Why were these state bills unconstitutional? Why are state or cities not allowed to implement bills that are stricter than federal immigration law? Motomura answers this question by delineating state and local activity into two camps: laws aimed at shielding and protecting immigrants, and laws that attempt to enforce or resist federal immigration law. In short, state or local actors that implement laws attempting to regulate immigration, as in the case with SB 1070 or Proposition 187, conflict with federal law. In immigration law this is called "preemption." This idea is based on the Supremacy clause of the U.S. constitution that provides supremacy of federal immigration law over any inconsistent and/or conflicting state law. Moreover, preemption limits states from discriminatory laws and practices.

Motomura's discussion considers whether undocumented immigrants should be considered future members of U.S. society. U.S. law has historically treated those of European descent as Americans in waiting, while others from other parts of the world have been exclude (Motomura, 2014, p. 89). The *Plyer* decision viewed undocumented children as future members of society, again, as "Americans in Waiting" (Motomura, 2014, p. 11). Motomura argues that *Plyer's* argument, which viewed children as future citizens should be applied to all immigrants. He provides two arguments on how to view unauthorized immigrants as future citizens: "immigration as a contract" or as "immigration as affiliation" (Motomura, 2014, p. 106). U.S. immigration law has tolerated undocumented migration to meet the capitalist economic reliance on cheap and flexible labor that is subject to discretionary enforcement. Immigration as a contract refers to expectations from both the state and the immigrant, of fairness and justice. As he states, "this arrangement amounts to an invitation extended by the combination of willing employers, limited enforcement, and legal mechanisms that allow unauthorized migrants stay as a matter of government discretion" (Motomura, 2014, p. 107). Immigration by affiliation recognizes undocumented immigrants' ties, contributions to, and involvement with their communities. This term is important because federal guidelines that inform prosecutorial discretion on the removal of a noncitizen are often based on community ties.

Motomura's book successfully highlights the limitations of current arguments for stricter immigration law enforcement. The author also highlights how amnesty programs are not a comprehensive solution to the current immigration challenges. Instead, he suggests temporary worker programs to get undocumented immigrants "out of the shadows," providing them with some rights according to the demands of the U.S. economy. Some of these programs would provide a path for permanent legal status and eventual citizenship. The possibility of implementing a pragmatic and humanistic reform is another question.

(2011), South Carolina SB 20 (2011), Georgia HB 87 (2011) "Illegal Immigration and Enforcement Act of 2011," Indianan SB 590.

However, Motomura's proposal is based on the strengths of the *Plyer* decision. Notably, the court's decision that undocumented children should be seen as future members of American society, and Motomura's interpretation of these children as "Americans in Waiting" can be expanded to apply the larger undocumented population (Motomura, 2014, p. 208).

Immigration Outside the Law is a timely and important contribution to various disciplines, research clusters and policy makers interested in education, immigration, or labor. The manner in which law is created, interpreted, and implemented is crucial in understanding how it impacts immigrants in the various communities they occupy in American society. This book helps us to better understand the importance immigration law has in the incorporation and chances of upward mobility of undocumented immigrants. It provides the reader with invaluable Supreme Court cases that acknowledges some constitutional rights of undocumented immigrants through various institutions. This book allows readers to grasp how undocumented immigrants are protected, discriminated, and integrated through the numerous institutions they interact with. *Immigration Outside the Law's* strength and contribution to immigration law centers on its ability to present a clear understanding of a complex, inconsistent, and sometimes contradictory immigration law. It is accessible to immigrant organizations involved in protecting the rights of undocumented immigrants, offering them up-to-date cases and decisions on the rights this population has.

Immigration is one of the most important areas of public policy that defines who can or cannot be an American. The increase of noncitizens without lawful status and solutions to ameliorate this issue has been fiercely debated from all sides. Unfortunately, these debates have not helped in solving the problems associated with immigration. As a prominent legal scholar on immigration law, Motomura provides a clear understanding on the different themes that are argued by political figures, the media, and the judiciary, and how immigration law is practiced outside of the books. In doing so, he enables readers to grasp how policy makers, politicians, and the media perceive and frame immigration.

Ultimately, this is an interdisciplinary book that informs immigration scholars on how law is interpreted and implemented, how law impacts integration and upward mobility in the United States, and provides a clear picture on the complexity of immigration law. In addition, it is vital and instructive for policymakers at various levels that aspire to implement sound policy that improve people's lives. Although Motomura recognizes the influence of external forces (interest groups, globalization) on immigration law, he does not take the time to explain how these forces shape and impact immigration law at local, state, or federal level. Lastly, this book is recommended to anyone interested in understanding the history of immigration law, as well as how these laws are interpreted.

Reviewer

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