

American Immigration
PSC 367
TuTh 11:20 –12:50
Location: Arts & Letters 202
Office Hours: tbd + by app't

Prof. K. Arnold, Political Science
Office: 990 W. Fullerton, 2111
Office phone: 5-
Email: KARNOL14@DEPAUL.EDU
(please don't email me on D2L)

Today it is often argued that there is an “immigration problem” and that the United States must solve this problem through stricter enforcement of immigration laws. However, mainstream academic studies and the media often make these claims with little evidence and by ignoring broader structural issues. These claims also overlook how immigration pathways are shaped by regional processes that can involve military conflict, drug cartel activity, and/or economic considerations, given a more global and increasingly neoliberal orientation of the United States since the 1980s. Despite the recent focus on immigrant “illegality,” immigration can involve a number of different statuses: from guest-workers to resident legal foreigners to undocumented individuals. We will explore how these statuses are shaped by the law and its enforcement, critically analyzing the interaction of these dynamics. Given that immigration represents so much in the U.S. imaginary, policies and case law have demonstrated ambivalence about the value of foreigners living and working in this country. This ambivalence was exacerbated after September 11 when concerns of national security were at a peak and yet the need for cheap, low-skilled labor remained a consideration. The United States has considered itself a country of immigration and yet has increasingly tried to reduce the number of working-class immigrants and individuals from countries viewed as harboring terrorists.

More specifically, we will consider case law and federal policy regarding immigration from roughly the 1880s on. At the beginning of the course, we will study key Constitutional terms such as personhood, due process, and equal protection. We will move on to consider the significance of the plenary power doctrine and how it undermines most rights for foreigners at the federal level, but required state and local authorities to adhere to constitutional norms up to 1996. After this, we will begin to study the effects of two 1996 provisions that partly devolved federal plenary power to the states and local authorities. The sum total of these provisions leads to the increasing rightlessness of immigrants *de jure* (by law) and yet a lack of enforcement *de facto* (e.g. in practice), in everyday reality. No background in constitutional law or civil liberties is expected but you do need a willingness to learn these terms and to gain knowledge about the key institutions that enforce immigration law. A 300-level course is considered junior or senior level, with an expectation that students can and will write about these ideas, having written about 30 pages total by the end of the course. Written summaries are assigned below and are a significant component of developing the capabilities mentioned above. They comprise 20 points of each student's grade.

More broadly, this course will allow you to familiarize yourself with the problems of immigration in a democracy, the role of human rights, globalization of the economy and the plight of immigrants and the stateless in modernity. It should be emphasized that the main focus of this course will be a critical analysis of American immigration policy and case law.

Learning objectives:

- 1 To understand key terms like: personhood, equal protection, due process, habeas corpus, plenary power (the key term), federal pre-emption, federal devolution, facial neutrality, selective enforcement, eugenics

2 To be able to critically analyze ideas—this entails an understanding of the key terms, arguments in the case law and public policy, and using constitutional measures to assess the fairness of immigration decisions and policy

3 To be able to assess the United States' immigration policies and Supreme Court cases in terms of democracy (not the economy, e.g. or purported threats to national security)

4 To be able to clearly discuss the political terms and arguments we study verbally and in writing

~a note: there are course notes on D2L for every major assignment below; checking D2L is very important for this class

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Required texts to purchase: *no ebooks allowed

~Daniel Kanstroom, *Deportation Nation* (Cambridge: Harvard University Press, 2007), ISBN: 0674046226; ISBN-13: 978-0674046221

~Saskia Sassen, *Globalization and Its Discontents: Essays on the New Mobility of People and Money* (New York: New Press, 1998). ISBN-10: 1565845188; ISBN-13: 978-1565845183

These books are available at the bookstore for purchase and are also on reserve at the library. If you use the reserve books, please do your best to read or copy the texts quickly and be aware that others might be waiting for them.

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CSD:

Students seeking disability-related accommodations are required to register with DePaul's Center for Students with Disabilities (CSD) enabling you to access accommodations and support services to assist your success. There are two office locations:

Loop Campus - Lewis Center #1420 - (312) 362-8002

Lincoln Park Campus - Student Center #370 - (773) 325-1677

Students are also invited to contact me privately to discuss your challenges and how I may assist in facilitating the accommodations you will use in this course. This is best done early in the term and our conversation will remain confidential.

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A note regarding the syllabus:

This syllabus is provided for informational purposes regarding the anticipated course content and schedule of this course. It is based upon the most recent information available on the date of its issuance and is as accurate and complete as possible. I reserve the right to make any changes I deem necessary and/or appropriate. I will make my best efforts to communicate any changes in the syllabus in a timely manner. Students are responsible for being aware of these changes. **Please check D2L as frequently as you can for any changes, new articles, and discussions.**

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Course Requirements:

~you will be graded on the following:

a) **Two take home exam papers**—the exams will be distributed roughly ten days before they are due; they will be 6—8 pages typed, double spaced—**35% each** (total: **70% of grade**); endnotes and bibliography should be **added** to the page count (that is, you are expected to write 6—8 pages of pure text, no footnotes, and the endnotes and biblio will be additional; endnotes with complete bibliographic citations)—first due date: Tues, 10/15 at beginning of class
~second one due: Tues, 11/26, 1:30—my office, hard copy

b) **9 written summaries of reading plus one individual office visit between weeks 4 & 8:**
~9 one to two page summaries of the reading, assigned below—Times New Roman, 12 point, margins unaltered, double spaced (no extra spaces between paragraphs); no cover pages allowed—(2 pts each)

~each student must visit me during office hours at some point between week 4 and week 8—This will help me get to know more about you and to find out how to best direct the course. Walk-in office meetings are always welcome but it's best to set up appointments via Bluestar, via e-mail, or in person.

20 points total (20%) (9 analyses plus one office visit = 20 points)

c) **Class participation and attendance—10% of the grade**

~All participation should be directly related to assigned texts for that day (thoughtful questions count as participation) and/or pertain to material in the class; if you arrive late to class more than twice (16 minutes +), you will be marked absent; documentation for excused absence should be submitted to the Dean of Students office.

~failure to meet any of these deadlines can lead to an administrative drop; all students are expected to work in this class; in particular, you must hand in the Varsanyi assignment on time

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written reactions:

~in this class, you are required to write nine (9) one to two-page summaries total; they must be turned in at the beginning of class time for the specific texts assigned below; no late assignments will be accepted and absolutely no reactions will be accepted after the last day of class. (No email submissions allowed—please print ahead of time to ensure there are no printer issues)

~in these reactions, you should identify and analyze the main themes of the readings (What are the main concepts? The most important questions authors raise? What are solutions proposed?)

~make sure you write the reaction after you have read the entire reading

~this reaction should not be a list but written in prose and it should focus on specific ideas of the author assigned; in this particular class, the legal vocabulary is very important as well immigration consequences

~the reaction should not be considered a journal (or a rant) and you do not need to agree (or disagree) with the author's ideas; nor do you need to "outsmart" the author; instead, **you want to show that you know how to identify the main themes of the assigned reading and can explain how these concepts are linked**; ideally you can suspend your own beliefs and emotions and simply enter into the text; the goal is to show you can "speak the author's language"

~make sure the reaction is readable—if you have trouble writing your reactions, DePaul has a writing center that will proofread drafts (by appointment)

~all reactions should be double spaced, Times New Roman, with normal margins

~I expect there to be a learning curve—for example, I expect that if an author is difficult to understand that by the second reading, you understand the text more (because we have gone over it in class and you are now used to the author's language); second, I expect you to respond to feedback on the reaction; revisions are allowed during the first 3 weeks of classes (with my permission) but not after week 3

~make sure you discuss ideas only—please do not evaluate the emotional state of the author, "read between the lines" or discuss his or her writing style (unless it is relevant to this class);

~using quotes—this is fine, although they should be minimized in a reaction—you should use quotation marks around the word, phrase or sentence of the author and then give the page number in parentheses; explain all quotes and introduce them in your own words; all terms, special words (concepts), specific facts and direct quotes should be cited with a page number in parentheses

~plagiarism: any specific words, phrases or sentences from text must have quotation marks around them and the page number should be given; merely changing a letter (for example, Hobbes' "trayne" is changed to "train") or simply changing a few words but retaining the syntax or diction of the author is still plagiarism—you must rephrase the idea entirely and in contemporary language (which includes contemporary spelling and avoiding Old English) to avoid plagiarism; so, for example, using parts of an author's sentence and filling in some of your words is called "mosaic plagiarism"; using a specific word that the author uses but not using quotation marks is plagiarism; or writing as if the idea were your own....

~a note on grading: you will receive a mark of SAT (good job/satisfactory), SAT+ (exceeds expectations—excellent), or SAT- (below course requirements)—2 or more SAT-s will result in no credit for those and any future reactions receiving a SAT-. If you do not discuss all authors assigned, you will automatically receive a SAT- or NC (no credit) depending on the quality of what you did write. **The goal with this grading rubric is to allow students to develop writing and critical skills in a new area without the pressure of traditional grades. Nevertheless, these assignments should be taken seriously. I will provide written feedback on all assignments—if you are asked to go to the Writing Center to work on grammar, please take this seriously (it is not punishment or a criticism but a constructive use of resources).**

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more specifically: ~**attendance**: more than two absences will affect your grade negatively—your average attendance will be factored in to the above percentage in addition to participation and written work; only documented absences will be excused at the discretion of the professor

~**reading**: please do not fall behind on the readings—all are complex and cannot simply be read the night before an exam; please bring all readings to class (unless on-line); readings listed on the syllabus should be read by the beginning of that class; please read and interpret these texts yourself and do not rely on information from the internet—much of this information is incorrect

~**participation**: it is essential that participation is related to the topic at hand; digressions or personal stories do not count towards a grade; second, there must be respect for all opinions in order to have a good class discussion and all discussion must be kept confidential; civility in the classroom is expected at all times

~**use of technology during class time is *not allowed*** except with permission by the professor each time and if/when there are electronic assignments—if a student is surfing the web or using his/her cell phone (including texting), s/he will be marked absent for that day; if this happens a second time, the student will be required to meet with the professor to discuss disciplinary measures; cell phones may be put on vibrate as long as they do not distract the class

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Schedule and Readings:

~week 1 Immigration Today: Crisis?

1a introduction/context

Tues, 9/12

1b~introduction/context

Tues, 9/17

~Kathleen Arnold, introduction, *Anti-Immigration in the United States*

~available on D2L (content page)

(or available as an e-book on the DePaul Library website—you must sign in)

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~Saskia Sassen, *Globalization and Its Discontents*, introduction (pp xix—xxxiv)

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~ Samuel Huntington, “The Hispanic Challenge,” Foreign Policy,
<http://cyber.law.harvard.edu/blogs/gems/culturalagency1/SamuelHuntingtonTheHispanicC.pdf>

--reaction assignment 1 due: please write one (or 1 ½) page (directions above) regarding all of the readings above, Arnold and Sassen texts are most important and less space devoted to Huntington

1c~context and crisis

Tues, 9/19

~Saskia Sassen, *Globalization and Its Discontents*, ch. 3 (pp 31—50)

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~Kanstroom, *Deportation Nation* — introduction (pp 1—20)

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~Amy Davidson Sorkin, "Countering Trump at the Border," *New Yorker*, 12/10/18 (please find through internet search—the URL is ridiculously long)

~film: *Farmingville POV* (in class)

~week 2 Context and Crisis + the Plenary Power Doctrine

2a~plenary power and its antecedents

Tues, 9/24

~Kanstroom, *Deportation Nation*, ch. 1 (pp 21—55)

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~César Cuauhtémoc García Hernández, "Plenary Power," in *Anti-Immigration in the United States*, encyclopedia, 393—394 (scan is on D2L under course content)

~film: *Farmingville POV* (in class)

2b~plenary power

Thurs, 9/26

~Kevin R. Johnson, "Race and Immigration Law and Enforcement: A Response to Is There a Plenary Power Doctrine?," *Georgetown Immigration Law Journal* 14 no. 2 (Winter 2000): 289—305. (scan is on D2L under course content)

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~Kanstroom, *Deportation Nation*—ch 1 (important part of chapter: pp 60—90)

~film: *Farmingville POV* (in class)

--reaction assignment 2: please write one page (directions above) regarding the Johnson article (but do all reading assigned above)

~week 3 the plenary power doctrine: why immigration law is unique + racist history

3a~historical context and the new federalism

Tues, 10/1

~Monica Varsanyi, "Rescaling the 'Alien,' Rescaling Personhood: Neoliberalism, Immigration and the State," *Annals of the Association of American Geographers* 98, no. 4 (December 2008): 877—896. (available through DePaul Library, on-line)

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~Ernesto Verdeja, "Law, Terrorism, and the Plenary Power Doctrine: Limiting Alien Rights," *Constellations*, 9, no. 1 (2002): 89—97. (available through DePaul Library, on-line)

~film: *Farmingville POV* (in class)

--reaction assignment 3: please write one page (directions above) regarding the Varsanyi article with at least two sentences summarizing the Verdeja article; this is the most important assignment of this quarter and is required for continued enrollment*

3b~plenary power and race: social control

Thurs, 10/3

~from *Anti-Immigration in the United States*, encyclopedia (one scan on D2L):

—Tamara K. Nopper, "Chinese Exclusion," —pp 105—109

—Nancy Ordover, "Johnson Reed Act" pp 301—302

—Christina Ziegler-McPherson, "The Dillingham Commission" pp 159—160

—Tamara K. Nopper, "Eugenics," pp 189—193

- Elizabeth Bryant Morgenstern, “Ellis Island” pp 174—175
- Frederick I. Lee, “Japanese Internment,” pp 291—294
- J.C. Salyer, “Human Rights,” pp 254—256

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~Kanstroom, *Deportation Nation* —ch 3 (pp 91—130)

~film: *Farmingville POV* (in class)

~midterm paper assignment will be passed out and will be posted on D2L after this class

~week 4 racism + post entry social control + midterm

4a~**1965 Hart-Celler**

Tues, 10/8

~Cheryl Shanks, *Immigration and the Politics of Sovereignty*, ch. 6, pp 144—186 (on 1965 Act)—this book has been scanned by the library and is available on the course reserves website for this class (password is the class letters and numbers)

--reaction assignment 4: please write one page (directions above) regarding the Shanks chapter

~policy history, the 1989 IRCA

Tues, 10/10

4b~Cheryl Shanks, *Immigration and the Politics of Sovereignty*, ch. 7 (pp 187—229)—this chapter is available on D2L

~week 5 midterm due and policy history

5a~**midterm due** and watch movie (no reading)

Tues, 10/15

~film: *abUSed* (please note that this movie supplements the Camayd-Freixas testimony assigned below—I recommend that you take notes on this film and consider going to the director’s website)

5b~detention and deportation

Tues, 10/17

~Kanstroom, *Deportation Nation*, pp 161—186

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~Kevin R. Johnson, “The Forgotten ‘Repatriation’ of Persons of Mexican Ancestry and Lessons for the ‘War on Terror,’” Fifteenth Annual Dyson Distinguished Lecture, *Pace Law Review* 26, no. 1 (Fall 2005): 1—25. (available on DePaul library website—please do search)

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~Ian Gordon, “70,000 Kids Will Show up Alone at Our Border This Year. What Happens to Them?” *Mother Jones* July/August 2014, article on unaccompanied minors:

<http://www.motherjones.com/politics/2014/06/child-migrants-surge-unaccompanied-central-america>

~film: *abUSed*

~week 6 detention and deportation: criminalizing foreigners

6a~**Ningún Ser Humano Es Illegal**

Tues, 10/22

~ from *Anti-Immigration in the United States*, encyclopedia (scan on D2L):

—Julian Jefferies, “Illegal Aliens,” pp 262—266

—Deborah A. Boehm, “Mixed Status Families,” pp 342—344

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~Mae M. Ngai, "No Human Being is Illegal," *Women's Studies Quarterly* 34, no 3/4, Envy (Fall-Winter, 2006): 291—295. (available through DePaul Library electronic articles—Jstor or Lexis-Nexis)

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~Leo Chavez, *The Latino Threat*, ch. 1 (21—43) –scan on library course reserves for this class, password is course letters and numbers

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~U.S. Detention of Aliens in Aftermath of September 11 Attacks, *The American Journal of International Law*, Vol. 96, No. 2 (Apr., 2002), pp. 470-475 (available through DePaul Library electronic article portal—Jstor)

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~case brief—Mezei (*Shaghnessy v United States ex rel. Mezei*)

<http://uscivilliberties.org/cases/4477-shaughnessey-v-united-states-ex-rel-mezei-345-us-206-1953.html>

~film: *abUSed*

6b~detention and deportation

Thurs, 10/24

~Kitty Calavita, "U.S. Immigration Policy: Contradictions and Projections for the Future," *Indiana Journal of Global Legal Studies* 2, no. 1, Symposium: Global Migration and the future of the Nation-State (Fall 1994): 143—152. (available through DePaul library, on-line, JStor)

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~Kanstroom, *Deportation Nation*, pp 186—224

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~article on family detention:

http://www.npr.org/blogs/thetwo-way/2014/06/20/323980057/u-s-will-open-immigrant-family-detention-centers-target-rumors-of-laxity?sc=17&f=1001&utm_source=iosnewsapp&utm_medium=Email&utm_campaign=app

~film: *abUSed*

--reaction assignment 5: please write one-two pages (directions above) regarding the Calavita article

~week 7 detention and deportation + refugees

7a~the status of non-status

Tues, 10/29

~amici brief (required reading) on *Benitez v Mata*:

<https://www.aclu.org/FilesPDFs/profs.pdf> (available on internet)—this is amici curiae to Supreme Court by most important law professors (actual text is: pp 13—41)

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~Supreme Court's decision on *Benitez v Mata* and indefinite detention of Mariel refugees—see: <http://www.aclu.org/content/high-court-affirms-government-cannot-indefinitely-detain-mariel-cubans> (this is a brief summary of the case—please read the entire page)

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Sarah Town, "Seventeen Years and Counting: A History of the Indefinite Detention of Cuban Immigrants," *In Motion Magazine*, December 7, 1997,
<http://www.inmotionmagazine.com/mariel.html>.

~film: *abUSed*

--reaction assignment 6: please write one page regarding the Benitez v Mata case mostly based on the amici brief (but drawing on context from Town article)

7b~**refugees**: why Arendt argued that the stateless have no “right to rights” Thurs, 10/31
~Kanstroomb, *Deportation Nation*, pp 225—246

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~Pierre Hassner, “Refugees: a Special Case for Cosmopolitan Citizenship?” (Ch. 13) in *Re-imagining Political Community*, ed.s Daniele Archibugi, David Held, and Martin Köhler (Stanford: Stanford University Press, 1998). [pp 271—286] scan—available on the library e-reserves (course letters and number is password)

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~plus **brief on unaccompanied minors**—read the following executive summary of a **brief on refugee children/unaccompanied minors**: “A Treacherous Journey,” <https://cgrs.uchastings.edu/sites/default/files/Treacherous%20Journey%20Executive%20Summary.pdf>

--reaction assignment 7: please write one page (directions above) regarding the Hassner chapter plus please write three sentences discussing the main points of the unaccompanied minors legal brief—with regard to Hassner, please discuss his analysis of the definition of a refugee and why this definition is contradictory—please examine the contradictions in depth and *leave out* the discussion of cosmopolitan political theory

~film: *abUSed*

~week 8 refugees and “economic” immigrants

8a~refugees

Tues, 11/5

~Andrew I. Schoenholtz, "Refugee Protection in the United States Post-September 11," *Columbia Human Rights Law Review* 36, no. 2 (2005): 323—364. Available through the DePaul Library (on-line)

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[~]Harvard Law School, Harvard Immigration and Refugee Clinical Program, “The Impact of President Trump’s Executive Orders on Asylum Seekers,” 2017, available at: (12 pp) <https://today.law.harvard.edu/wp-content/uploads/2017/02/Report-Impact-of-Trump-Executive-Orders-on-Asylum-Seekers.pdf>

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[~]American Immigration Council, Fact Sheet: Asylum in the United States, August 22, 2016, <https://www.americanimmigrationcouncil.org/research/asylum-united-states>.

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~one page article on VOA, “UN Urges US to End Detention of Immigrants, Asylum-seekers,” August 14, 2017, <https://www.voanews.com/a/un-us-detention-of-immigrants-asylum-seekers/3985987.html>

--reaction assignment 8: please write one page (directions above) regarding the Schoenholtz article

film: *abUSed*

8b~Postville + Sassen

Thurs, 11/7

~Erik Camayd-Freixas, Statement of Dr. Erik Camayd-Freixas,

Available at: <http://graphics8.nytimes.com/packages/pdf/national/20080711IMMIG.pdf>

(this testimony will be the basis of one final question and you will be expected to discuss it in class today in-depth)

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~Sassen, *Globalization and Its Discontents* chapter 7

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~optional: Magen Tzedek article—Michale A. Haedicke, “From Collective Bargaining to Social Justice Certification: Workers’ Rights in the American Meatpacking Industry,” *Sociological Focus* 46 no. 2: 119—137.

~no analysis due but you must be prepared to discuss the Postville case in-depth; please also look up the Magen Tzedek program to find out what it is and why it is supposed to remedy the Postville abuses

~week 9 are immigrants “economic”?

9a~ are immigrants economic?

Tues, 11/12

~Saskia Sassen, *Globalization and Its Discontents*, ch. 8

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~Portes and Rumbaut, Ch. 4 “Making it in America; Occupational and Educational Adaptation” *Immigrant America*, 4th ed., pp 175—200, 208—214 (plus take a glance at the pictures, particularly p 235)

--available as e-book through the DePaul library on-line—please consider downloading rather than reading on-line so that others can access the book quickly

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~Alvaro Bedoya, “Captive Labor,” *Dollars ‘n Sense*,

<http://www.dollarsandsense.org/archives/2003/0903bedoya.html>

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~Please browse through this website, particularly the healthcare section:

http://www.umich.edu/~ac213/student_projects05/mfw/index.html

~final assignment passed out; **please be prepared to discuss Sassen and Bedoya in-depth**

9b~guest-workers

Thurs, 11/14

~Kitty Calavita, *Inside the State: the Bracero Program, Immigration and the INS*, ch. 4 (79—123) –scan (on library reserves website)

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~Susan Sterett, “In an Indeterminate State: Calavita on the Bracero Program,” *Law & Social Inquiry* 20, no. 2 (Spring, 1995): 655—673. (on jstor—via DePaul Library onsite catalogue)

--reaction assignment 9: please write one page (directions above) regarding both readings; read Calavita first, then Sterett

~week 10 intersectionality

10b~intersectionality: race, gender and more

Tues, 11/19

~feminization of labor—Sassen—ch 5, (81—95) AND ch 6—(pp 111—131)

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~Kimberlé Crenshaw, “Mapping the Margins: Intersectionality, Identity, Politics, and Violence Against Women of Color,” Stanford Law Review—read up to p. 1266 (available through DePaul library website— find on Jstor)

~be prepared to discuss these ideas in-depth, even though a reaction is not due