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The Legal Construction of "Dangerous Others": Immigration Law and Racial Profiling

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This article explores how immigration laws and enforcement practices contribute to racial profiling and the legal construction of certain immigrant groups as "dangerous others." Using a descriptive analysis method, this narrative review synthesizes scholarly literature, legal case studies, and institutional reports published between 2021 and 2025. Sources were selected based on their relevance to racial profiling, immigration enforcement, and the legal framing of immigrants as threats. The analysis focused on identifying key historical patterns, contemporary enforcement mechanisms, and the discursive strategies used by institutions and political actors to justify racialized immigration control. A thematic framework guided the synthesis of findings, emphasizing how law, policy, media, and institutional practices intersect to construct and perpetuate the image of the "dangerous other." The review reveals that immigration law has historically operated as a tool for racial exclusion, from early race-based exclusions to contemporary national security policies. Institutional actors such as ICE, police, and border authorities use surveillance technologies, discretionary enforcement, and legal categorization to disproportionately target racial and ethnic minorities. Media and political discourse further reinforce these constructions through language that dehumanizes immigrants and frames them as threats to public safety. Despite the persistence of these patterns, the article also identifies significant forms of resistance, including litigation, grassroots advocacy, and reform initiatives aimed at dismantling racialized enforcement structures and promoting immigrant justice. The construction of the "dangerous other" in immigration law is deeply embedded in legal, institutional, and discursive systems. Addressing this issue requires comprehensive legal reform, a reimagining of enforcement priorities, and continued efforts by advocates and scholars to expose and challenge racialized practices within immigration regimes.

Keywords: Immigration law, racial profiling, dangerous others, legal construction, surveillance, enforcement, critical legal advocacy, institutional racism, policy reform, media discourse.

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1. Introduction

The notion of "dangerous others" occupies a central role in the legal and political construction of national identity, particularly within the context of immigration law. This term refers to the categorization of certain immigrant groups as inherent threats to national security, cultural cohesion, or public safety. The construction is not arbitrary but emerges through a historically and socially embedded process in which race, legal status, and national identity intersect to mark individuals as outsiders. These processes do not merely reflect pre-existing fears but actively produce and reinforce societal boundaries by codifying them into law.

Immigration law, in particular, has played a pivotal role in formalizing these boundaries, often embedding racialized assumptions into its enforcement mechanisms and administrative structures.

In contemporary socio-political discourse, the figure of the "dangerous immigrant" has been repeatedly invoked to justify increasingly restrictive and punitive immigration policies. From border militarization to interior immigration raids and visa bans, legal and administrative strategies have been implemented under the guise of national security, often targeting racial and ethnic minorities. These practices are not limited to a single political administration or jurisdiction but are seen across a range of democratic societies, including the United States and Europe, where immigration enforcement has become a proxy for broader racial anxieties. The framing of migrants as threats has permeated political rhetoric and legal interpretation, thereby normalizing the marginalization and criminalization of racialized immigrant communities. Scholars have documented how immigration enforcement disproportionately targets Latino and Black communities in the United States, contributing to a continuum of racial surveillance historically rooted in colonial and carceral logics (Browne et al., 2023; Portillos, 2025).

Recent events have intensified public debate on immigration and race, particularly in the wake of police violence, the COVID-19 pandemic, and the global rise in far-right populism. These developments have further entrenched the image of certain immigrants—especially undocumented migrants, asylum seekers, and individuals from Muslim-majority or Global South countries—as potential threats. The invocation of these groups in political and media narratives not only shapes public opinion but also influences the application of immigration laws, which often operate under discretionary or opaque enforcement frameworks. Such systems enable officials to rely on visual markers, presumed cultural behaviors, or national origin as grounds for suspicion and enforcement actions (Martínez, 2022; Wong & Shklyan, 2024). The resulting practices contribute to a racialized legal regime where the line between "illegal" and "dangerous" becomes blurred.

This article seeks to examine how immigration laws and enforcement practices contribute to the racial profiling and social construction of "dangerous others." Using a descriptive analysis method, this narrative review synthesizes existing scholarly literature and legal case studies published between 2021 and 2025. The scope of the review includes a critical evaluation of historical and contemporary immigration policies, enforcement strategies, and institutional discourses that sustain racialized surveillance and control. Special attention is given to the ways in which race and legal status intersect in shaping immigrant identities within the legal system.

The structure of the article is designed to guide the reader through a layered understanding of how the "dangerous other" is legally constructed. Following this introduction, the theoretical framework section provides an overview of key concepts, including othering, racialization, and moral panic, while drawing from critical race theory, post-colonial thought, and legal sociology. The next section discusses the historical context of immigration law and its racial foundations. This is followed by an exploration of contemporary legal mechanisms and institutional practices that enforce racial profiling. The role of media and political discourse in sustaining these constructions is also examined. Finally, the article highlights legal resistance and reform efforts aimed at dismantling these narratives and structures. By the end of the review, readers will gain a comprehensive understanding of the legal construction of "dangerous others" and its implications for racial justice and immigration policy reform.

2. Methodology

The research design for this narrative review is based on a descriptive analysis method, aiming to provide an in-depth and systematic examination of the legal construction of "dangerous others" through immigration law and racial profiling. This method involves synthesizing existing scholarly literature and legal case studies to explore how laws have shaped racialized identities within immigration policies. Given the nature of the topic, this review draws primarily on scholarly articles, books, and legal cases published between 2021 and 2025. These sources provide a contemporary perspective on the evolving relationship between immigration law and racial profiling. The articles selected for this review focus on the intersection of law, race, and immigration, specifically highlighting how these legal structures create and reinforce perceptions of

certain immigrant groups as threats to national security. The review includes both qualitative and quantitative studies to offer a balanced understanding of the legal, political, and social dimensions of this issue.

The primary data collection tool used in this study is a comprehensive literature review. A systematic search was conducted across a range of academic databases, including JSTOR, HeinOnline, Google Scholar, and Scopus, to identify relevant studies published between 2021 and 2025. Keywords used in the search included terms such as "immigration law," "racial profiling," "dangerous others," "racialized citizenship," and "border control." The search criteria were designed to capture articles that discuss immigration policies, racial profiling, and the legal framing of immigrants as security threats. Additionally, relevant legal cases were reviewed to identify how courts have interpreted and applied immigration laws in ways that perpetuate racial stereotypes and discriminatory practices. Articles were selected based on their relevance to the research aim, their methodological rigor, and their contribution to understanding the complex relationship between immigration law and racial profiling.

The data analysis for this narrative review followed a thematic analysis approach. After collecting the relevant articles and legal cases, each source was analyzed to identify recurring themes related to the legal construction of "dangerous others" in immigration law. These themes were then categorized into subgroups such as historical context, legal mechanisms, institutional practices, media influence, and resistance movements. The analysis focused on how immigration laws have systematically created categories of people perceived as dangerous or threatening, particularly those from racial or ethnic minorities. By examining these themes, the review aims to identify patterns in the legal construction of immigrant identities and to explore how these constructions contribute to racial profiling practices. This thematic analysis also includes a critical examination of how legal language and enforcement practices serve to legitimize these constructions within both the legal system and broader societal discourse. The findings from this analysis are synthesized to offer a comprehensive understanding of the interplay between immigration law and racial profiling, highlighting the implications for racial justice and policy reform.

3. Theoretical Framework

Understanding the legal construction of "dangerous others" within immigration law requires engaging with a set of interrelated theoretical concepts, particularly othering, racialization, and moral panic. These concepts are instrumental in revealing how legal systems codify societal fears and cultural prejudices, transforming them into concrete mechanisms of exclusion. Othering refers to the process by which dominant groups define themselves in opposition to a marginalized "other," often constructed as deviant, inferior, or threatening. Within the realm of immigration, othering is not only cultural or symbolic but deeply institutionalized, manifesting in detention centers, surveillance technologies, and legal exclusion criteria (Misra et al., 2021).

Racialization further deepens this analysis by highlighting how immigrant populations are not merely "foreign" but are often marked by racial identifiers that align with pre-existing hierarchies of whiteness and belonging. This process involves attributing racial meanings to bodies, behaviors, and legal statuses, such that certain immigrant groups—such as Latinx, Black, or Muslim communities—are systematically associated with criminality or extremism (Aliverti, 2021; Martínez, 2022). These associations are not based on empirical risk assessments but are rather produced through legal discourse, political rhetoric, and policy frameworks that perpetuate racial myths. For instance, visa restrictions and deportation policies may appear facially neutral but disproportionately impact communities of color, reinforcing a racialized understanding of threat.

The concept of moral panic adds another layer by describing the social conditions under which such racialized fears are amplified and institutionalized. A moral panic occurs when a group is portrayed as a threat to societal values and interests, often in exaggerated or symbolic terms. In the context of immigration, moral panics have historically followed economic downturns, political upheavals, or national security crises, providing a rationale for stricter immigration controls. These panics are facilitated by political leaders and media outlets who frame immigrants as invaders, criminals, or disease carriers, thereby legitimizing extraordinary legal responses (Montange, 2022; Vo, 2023). These responses include accelerated deportation proceedings, indefinite detention, and heightened surveillance, all of which

contribute to the legal branding of immigrants as "dangerous."

The legal construction of identity and citizenship is also central to this framework. Citizenship is not merely a legal status but a mechanism for distributing rights, recognition, and protection. Legal scholars argue that immigration law acts as a gatekeeping function, defining who belongs and who does not based on racialized criteria (Butera, 2024; Waters & Kasinitz, 2021). The denial of citizenship or legal status becomes a tool for exclusion that is deeply intertwined with notions of racial and national identity. In this sense, immigration law serves as a form of statecraft that organizes the social body along lines of race and belonging. It delineates insiders from outsiders, often using race as a proxy for threat assessment.

This theoretical orientation is grounded in critical race theory (CRT), which interrogates how legal systems perpetuate racial inequality through ostensibly neutral mechanisms. CRT scholars emphasize that racism is not merely a product of individual bias but is embedded in the structure of legal and political institutions (Berks, 2024; Kirksey, 2021). By applying CRT, this review exposes how immigration law, through its procedures, language, and enforcement strategies, upholds white normativity while marginalizing racialized immigrants. Similarly, post-colonial theory contributes to this analysis by illuminating how contemporary immigration regimes echo colonial dynamics of control, surveillance, and exploitation. The colonial logic of managing "unruly" populations has evolved into modern practices of border policing and deportation, reinforcing global racial hierarchies (Portillos, 2025).

Legal sociology further enhances this framework by focusing on the role of institutions and legal actors in the reproduction of racialized legal orders. This perspective draws attention to how judges, law enforcement officials, and administrative agencies exercise discretion in ways that reflect broader societal biases. For instance, discretionary decisions in immigration courts—such as who is deemed credible, who poses a flight risk, or who qualifies for asylum—are often influenced by racialized assumptions about behavior, appearance, and national origin (Rojak, 2022; Ugwuoke, 2024). These micro-level decisions accumulate to form a legal environment in which racial profiling is not an anomaly but a structural feature.

By synthesizing these theoretical perspectives, this review builds a comprehensive lens through which to analyze the racialized construction of "dangerous others" in immigration law. The framework not only contextualizes the legal texts and practices under review but also challenges the idea that immigration law operates in a vacuum, separate from racial and social dynamics. Instead, it emphasizes that law is both a reflection and producer of social meaning, particularly when it comes to defining who is worthy of protection and who is marked as a threat. This understanding forms the foundation for the subsequent analysis of historical and contemporary legal practices that contribute to the profiling, marginalization, and criminalization of immigrant populations.

4. Historical Context of Immigration and Racialized Legal Narratives

The historical relationship between immigration law and race reveals a long-standing pattern of exclusion and control justified through legal rationales and cultural narratives. Immigration policy in the United States, and in other settler-colonial and imperial contexts, has consistently functioned as a tool for racial boundary maintenance. The construction of the immigrant as a racialized threat has deep roots in legal history, dating back to the 19th century. One of the earliest and most explicit examples is the Chinese Exclusion Act of 1882, which was the first significant federal law to restrict immigration based on race and nationality. This law not only barred Chinese laborers from entering the country but also reinforced the idea that certain racial groups were inherently unassimilable and dangerous to national cohesion. The legal language of the time described Chinese immigrants as alien and morally suspect, establishing a precedent for the racialization of legal exclusion.

These early laws paved the way for broader legal efforts to engineer the racial composition of the nation. Immigration policy was soon extended to target other non-European groups, with quotas favoring Northern and Western Europeans while restricting immigration from Southern and Eastern Europe, Asia, and Africa. The Naturalization Act of 1790 had already limited citizenship to "free white persons," and subsequent laws solidified whiteness as the normative standard for inclusion (Butera, 2024). By codifying racial preferences

and exclusions into law, the state actively constructed racial hierarchies that were both ideological and institutional.

In more recent history, the events of September 11, 2001 marked a pivotal moment in the intensification of racialized immigration control. In the aftermath of the attacks, Muslim, Arab, and South Asian communities were subjected to heightened surveillance, immigration raids, and detentions under programs such as the National Security Entry-Exit Registration System (NSEERS). Although this system was officially discontinued, it left behind a legacy of suspicion and hyper-policing of these communities. Legal instruments like the USA PATRIOT Act expanded the state's surveillance powers and blurred the lines between immigration enforcement and national security, creating a fertile ground for institutionalized racial profiling (Montange, 2022).

The Trump administration further institutionalized the racialization of immigration through policies such as the travel ban targeting predominantly Muslim countries. This ban was initially justified on national security grounds but was widely interpreted as a continuation of racialized exclusion under a legal veneer. The Supreme Court's eventual upholding of the ban in *Trump v. Hawaii* reinforced the state's ability to enact discriminatory immigration policies under the guise of executive discretion and national interest. Although not directly cited in legislation, racialized assumptions about threat and criminality were central to the justification and implementation of this policy (Martínez, 2022).

Throughout these historical shifts, legal language has played a key role in shaping public perceptions of immigrants. Terms like "illegal alien," "anchor baby," and "criminal alien" have circulated through legal texts and bureaucratic discourse, contributing to a moral panic that casts racialized immigrants as inherently lawless or parasitic. These narratives are not neutral descriptors but function as ideological tools that shape legal reasoning and enforcement practices. The continuity of these racialized legal narratives from the 19th century to the present underscores the centrality of race in the development of immigration law as a system of social control and exclusion (Aliverti, 2021; Berks, 2024).

Moreover, historical immigration policies have consistently leveraged fear and suspicion to legitimize harsh enforcement practices. During economic downturns and public health crises, immigrants have often been scapegoated as sources of disease, crime, or cultural decline. These representations, embedded in legal decisions and enforcement policies, have persisted through different eras, shaping the broader architecture of immigration law as one that polices not just borders, but racialized identities. By embedding these narratives into legal structures, states have effectively transformed race into a legal marker of belonging or exclusion, a legacy that continues to influence contemporary enforcement practices.

5. Legal Mechanisms of Racial Profiling in Immigration Enforcement

Modern immigration enforcement regimes operate through a range of legal instruments and practices that, while facially neutral, function in ways that disproportionately target racial and ethnic minorities. These mechanisms include border control infrastructure, interior enforcement policies, visa vetting processes, and detention protocols. While these measures are often justified through national security or rule-of-law frameworks, their implementation reveals deep racial disparities and discretionary practices that enable profiling and exclusion.

At the heart of racialized enforcement is border control, which has been militarized in both rhetoric and practice. Physical structures such as walls, surveillance technologies, and biometric systems are disproportionately deployed along the U.S.-Mexico border, where Latinx migrants are most heavily targeted. Although these measures are framed as necessary for border security, they are rarely applied with equal force along the northern U.S.-Canada border or in the regulation of overstayed visas, which are more common among non-Latinx immigrants (Wong & Shklyan, 2024). The choice of where and how to enforce the border reveals the racial logic underlying the enforcement regime.

Interior enforcement policies have also played a significant role in racial profiling. Programs like 287(g), which deputize local law enforcement to carry out immigration duties, have led to increased racial targeting in traffic stops, workplace raids, and community policing. These programs allow for the exercise of discretionary power by officers who often rely on perceived ethnicity or language as indicators of legal status. In such settings,

racial profiling becomes institutionalized, leading to the detention and deportation of individuals based on appearance rather than legal violations (Browne et al., 2023; Portillos, 2025). Moreover, the intersection of immigration and criminal law—often referred to as "crimmigration"—has intensified the targeting of racialized communities by fusing immigration enforcement with policing strategies historically rooted in racial surveillance.

Detention practices further illustrate the legal institutionalization of racial profiling. Immigrant detention facilities disproportionately house individuals from Latin America, Africa, and Asia, often under harsh and punitive conditions. Despite claims of administrative necessity, many of these detentions involve individuals with no criminal history or those seeking asylum. Detention decisions are frequently based on risk assessments that incorporate racially coded variables such as nationality, language, and country of origin (Sudhinaraset et al., 2022; Young et al., 2023). These assessments are often opaque and unregulated, allowing systemic bias to influence who is detained and for how long.

Visa restrictions and vetting processes also contribute to racialized exclusion. In recent years, the use of social media surveillance, algorithmic risk scoring, and country-based bans have disproportionately affected applicants from Muslim-majority countries and the Global South. These policies claim to assess individual risk but are often guided by geopolitical considerations and cultural stereotypes. For instance, the imposition of "extreme vetting" requirements on individuals from specific countries has led to high rates of denial, often without clear legal justification (Misra et al., 2021; Rojak, 2022). The cumulative effect of these measures is the construction of a global hierarchy of mobility, where whiteness and Western origin afford greater freedom and legal legitimacy.

Legal precedents further reinforce racial profiling in immigration. One of the most emblematic cases is *Arizona v. United States*, in which the Supreme Court struck down several provisions of Arizona's restrictive immigration law but upheld the controversial "show me your papers" clause. This clause allows police to check the immigration status of individuals during lawful stops, effectively legitimizing racial profiling under the guise of public safety. Although framed as a neutral

enforcement tool, the clause has been shown to disproportionately target Latinx individuals and has led to numerous civil rights violations (Vo, 2023). This case illustrates how legal systems can endorse racial profiling when it is embedded within broader enforcement objectives.

The discretionary power of immigration judges and officers also plays a crucial role. Decisions regarding asylum, detention, and deportation often rely on subjective interpretations of credibility, risk, or intent. These interpretations are shaped by racialized assumptions about demeanor, speech, and cultural background. For instance, studies have shown that Black and Indigenous migrants are more likely to be denied asylum due to perceived aggression or nonconformity with Western legal norms (Bucheli et al., 2021; Ugwuoke, 2024). Such discretionary decisions, while legally permissible, reveal the extent to which profiling is embedded in the day-to-day operations of immigration law.

Collectively, these legal mechanisms constitute an enforcement regime that systematically targets racial and ethnic minorities. While each policy or practice may appear neutral in isolation, their cumulative impact reveals a deeply racialized structure that frames certain immigrants as inherently suspicious or unworthy of legal protection. These mechanisms are not only reactive but also productive—they help shape the social meaning of race, legality, and threat. By legally codifying suspicion and embedding racial indicators into enforcement procedures, immigration law operates as a central tool in the reproduction of racial hierarchies. This systemic profiling undermines the principles of equal protection and due process and demands urgent scrutiny through both legal critique and policy reform.

6. Institutional and State Practices Reinforcing the "Dangerous Other"

The construction of the "dangerous other" in immigration law is not merely a product of legislation or political discourse—it is enacted and sustained by institutions whose power lies in everyday implementation and enforcement. Among the most visible of these are policing agencies, immigration authorities such as ICE in the United States and Frontex in the European Union, and judicial systems that adjudicate immigration and asylum claims. These

institutions operate at the nexus of administrative discretion and racialized perception, translating broad national security or public order objectives into specific, often racialized, legal outcomes. Through a combination of surveillance, enforcement, and adjudication, they embed suspicion and danger into the legal treatment of immigrants.

Local and national police forces play a pivotal role in initiating immigration enforcement by acting as gatekeepers to the deportation pipeline. Programs such as Secure Communities and 287(g) agreements in the U.S. have allowed local police departments to check the immigration status of individuals during routine stops, traffic violations, or even as part of general patrols. This integration of policing and immigration enforcement has resulted in increased arrests and deportations of immigrants, particularly those from Latinx and Black communities (Browne et al., 2023; Portillos, 2025). Racialized assumptions about who "looks illegal" often guide these stops, turning law enforcement into a mechanism for racial profiling. These practices amplify community mistrust, disproportionately criminalize immigrants of color, and reinforce the legal construction of these groups as threats.

Immigration and Customs Enforcement (ICE) in the United States exemplifies how bureaucratic institutions use discretion to produce racialized outcomes. ICE's methods of surveillance and apprehension often operate under a framework of "risk" assessment that lacks transparency and is susceptible to bias. Raids on workplaces, homes, and public spaces are typically conducted based on vague suspicions or anonymous tips, which may reflect underlying racial prejudices rather than actionable intelligence (Wong & Shklyan, 2024). Furthermore, ICE's extensive use of detention centers disproportionately affects nonwhite immigrants, reinforcing the image of these populations as needing containment or correction. The conditions within these centers, often criticized for their lack of transparency and due process protections, reflect the punitive orientation of the immigration enforcement system (Young et al., 2023).

In the European context, Frontex—the EU's border and coast guard agency—operates as a transnational force tasked with monitoring and securing the external borders of the Union. Though ostensibly a tool for managing migration, Frontex has been implicated in numerous cases of racialized enforcement and pushbacks, especially targeting refugees and migrants from the Middle East, Africa, and South Asia. The agency utilizes high-tech surveillance tools such as drones, biometric tracking, and predictive algorithms to identify perceived "threats" at the border, often flagging individuals based on racial, ethnic, or national markers (Rojak, 2022). This technology, while framed as objective, is often trained on datasets reflecting existing biases, thereby embedding racial profiling into automated systems.

Courts also play a critical role in sustaining the image of the "dangerous other," particularly through their interpretation of credibility, risk, and belonging. Immigration judges exercise wide discretion in granting or denying asylum, bond, or relief from removal. Studies have shown that judgments can be influenced by race, accent, and perceived demeanor, with Black, Indigenous, and non-European applicants often receiving harsher outcomes (Ugwuoke, 2024). Moreover, appellate courts have at times upheld discretionary enforcement practices, reinforcing the legal legitimacy of racial profiling under the guise of national interest. In doing so, courts help inscribe fear-based and racialized assumptions into jurisprudence, further entrenching the immigrant-threat narrative.

Surveillance technologies represent another institutional domain where racialization is deeply embedded. Immigration authorities increasingly rely on algorithms and data-driven tools to monitor, predict, and control migrant populations. Predictive analytics are used to assess visa applicants' risk of overstaying, while facial recognition and social media monitoring target specific communities, often flagged through racialized markers or country of origin (Misra et al., 2021). These technologies claim to offer objectivity, but their design and deployment are shaped by social and institutional biases that amplify existing patterns of discrimination.

All of these institutional practices are justified and sustained by national security rhetoric. The state's framing of immigration as a matter of public safety and national defense allows for exceptional legal responses that suspend or override normal procedural protections. Immigrants are often described as vectors of crime, terrorism, or disease, invoking a logic of emergency that legitimizes preemptive and punitive action (Martínez, 2022). This securitization discourse reinforces the

notion that racialized immigrants are existential threats rather than individuals with legal rights and human dignity. As these narratives circulate through institutional channels, they reinforce each other, embedding the image of the "dangerous other" into the legal and administrative fabric of the state.

7. Media and Political Discourses Supporting Legal Constructions

Media and political discourse are powerful agents in the construction of the "dangerous other," shaping public opinion and legitimizing restrictive legal responses. Through repetition and emotional appeal, these narratives construct immigrants—especially those who are undocumented, racially marked, or from Muslim-majority countries—as threats to national identity, economic stability, and public safety. The language used in political speeches, media headlines, and popular culture carries legal consequences, as it influences how lawmakers draft policies and how institutions apply them in practice.

Political rhetoric, particularly in moments of crisis, has repeatedly invoked the image of the dangerous immigrant. Phrases such as "rapists and criminals," "invasions," and "terrorist sympathizers" have been used by elected officials to describe immigrants and asylum seekers, reinforcing public fear and mobilizing support for harsher policies. This rhetoric does not exist in a vacuum; it is often accompanied by legislative proposals that mirror the framing of immigrants as threats. The conflation of immigration with terrorism or crime, particularly after 9/11, gave rise to a wave of securitized immigration policies and a general decline in public empathy for migrant populations (Montange, 2022). Even in the absence of empirical evidence linking immigration to increased crime, such narratives persist due to their emotional resonance and political utility.

Media outlets, especially those aligned with conservative or nationalist ideologies, have played a central role in amplifying these discourses. News coverage frequently focuses on isolated incidents of immigrant-related crime, presenting them as representative of broader patterns. The use of terms such as "illegal alien" or "criminal alien" is particularly significant, as these phrases frame immigrants not only as lawbreakers but as inherently deviant or unfit for inclusion (Aliverti, 2021). These labels erase the social, economic, and political conditions that shape migration, reducing complex human experiences to caricatures of danger. The constant repetition of these terms in headlines, political debates, and talk shows contributes to a moral panic that demands legal resolution through stricter enforcement and exclusionary policies.

The term "illegal alien" is especially problematic. It dehumanizes migrants by reducing them to their legal status and associates them with criminality, even when no crime has been committed beyond a civil infraction. This term is not a neutral descriptor; it carries ideological weight and has been used in legal texts and policy documents to justify exclusion and detention. Similarly, the label "criminal alien" creates a double burden for non-citizen residents, who are often criminalized for minor infractions and then punished further through deportation or detention. These terms shape the public imagination and frame the legal narrative in ways that normalize racial profiling and mass exclusion (Butera, 2024; Waters & Kasinitz, 2021). The interplay between legal narratives and media discourse creates a feedback loop in which each reinforces the other. Legal terms introduced in policy documents are picked up by the media, which then popularizes and politicizes them, leading to broader public acceptance and the passage of even more restrictive laws. Politicians use these media-fueled anxieties to justify their platforms, while legal institutions cite public sentiment as a rationale for enforcement priorities. In this cycle, language becomes law, and law becomes a tool of racialized governance (Berks, 2024; Vo, 2023).

In sum, the legal construction of the "dangerous other" cannot be understood without examining the discursive environment in which it takes shape. Political and media narratives not only reflect societal biases but actively shape legal responses by defining which bodies are seen as threats and which are deserving of protection. Through language, repetition, and emotional framing, media and political discourse make the racialized exclusion of immigrants seem not only acceptable but necessary, thereby reinforcing the legal and institutional mechanisms of profiling and punishment.

8. Resistance, Reform, and the Role of Critical Legal Advocacy

Despite the deep entrenchment of racial profiling and the construction of "dangerous others" within immigration law, numerous forms of resistance have emerged to challenge these systems of exclusion. Legal advocacy, grassroots mobilization, public interest litigation, and targeted policy reform efforts have all played vital roles in pushing back against racialized immigration regimes. These efforts are grounded in the recognition that legal systems, while often complicit in the reproduction of racial hierarchies, also hold the potential to be sites of contestation and transformation. Critical legal advocacy in particular has focused on dismantling the discretionary powers and enforcement practices that permit racial profiling to flourish.

Public interest litigation has served as a powerful tool in challenging both the substance and application of immigration law. Lawsuits brought against programs like 287(g), family separation policies, and indefinite immigrant detention have exposed the human rights violations inherent in enforcement practices. These legal challenges often invoke constitutional protections such as due process, equal protection, and the right to be free from arbitrary detention. In *Flores v. Sessions*, for example, attorneys succeeded in drawing attention to the government's failure to provide humane conditions for detained immigrant children. While not always resulting in broad policy changes, such cases highlight the legal contradictions and racial biases that underpin enforcement regimes (Young et al., 2023). Additionally, litigation has been used to force transparency around surveillance programs and racialized algorithms used in immigration decision-making (Misra et al., 2021).

Grassroots organizations have also been at the forefront of challenging racial profiling in immigration. These movements often originate within the communities most affected by immigration enforcement, such as Latinx, Black immigrant, Muslim, and undocumented populations. Organizations like Mijente, Black Alliance for Just Immigration (BAJI), and Detention Watch Network have mobilized to expose the human cost of deportation, detention, and surveillance. These groups employ community education, protest, and policy advocacy to challenge the criminalization of immigrants and to advance demands for sanctuary policies, ICE abolition, and immigrant inclusion. Such grassroots advocacy has been particularly effective in reframing immigration as a racial justice issue, pushing beyond the narrow frameworks of legality to address broader questions of dignity, safety, and belonging (Portillos, 2025).

Human rights advocacy at both the domestic and international levels has sought to hold governments accountable for racial discrimination embedded in immigration law. Organizations such as the ACLU, Human Rights Watch, and the Center for Constitutional Rights have filed reports and complaints with United Nations bodies and regional human rights courts, arguing that state practices such as racialized deportations, child separations, and indefinite detention violate international norms. These efforts have elevated the visibility of abuses and placed external pressure on states to reform their policies (Montange, 2022). In some cases, human rights arguments have influenced the outcome of domestic litigation, helping to align immigration law with broader commitments to equality and non-discrimination.

Policy reform, while often incremental, has also shown promise in disrupting racialized enforcement practices. Efforts to repeal or limit the use of discriminatory programs like Secure Communities or the Muslim Ban demonstrate the power of sustained advocacy. At the local and state levels, jurisdictions have implemented sanctuary policies that limit cooperation between local police and federal immigration authorities, reducing the racial targeting of immigrant communities (Vo, 2023). Some municipalities have created legal defense funds for immigrants facing deportation, ensuring access to counsel and increasing the likelihood of fair hearings (Ugwuoke, 2024). These reforms are rooted in the belief that immigration law must be reoriented away from punishment and toward principles of equity and protection.

Critical legal scholarship continues to play a crucial role in exposing how immigration law serves as a mechanism of racial control. By challenging the neutrality of legal doctrines and uncovering the racialized assumptions embedded within them, scholars and practitioners contribute to a growing movement for transformative change. This movement seeks not merely to reform immigration law but to reimagine it in ways that dismantle the logic of the "dangerous other." Through collaboration between legal actors, scholars, and community organizers, the potential for lasting change

becomes more tangible, even in the face of deeply embedded systems of racial exclusion (Berks, 2024).

9.   Conclusion

This review has examined the ways in which immigration law constructs and sustains the figure of the "dangerous other" through a combination of legal texts, institutional practices, and discursive strategies. The analysis demonstrates that this construction is not incidental but systemic, rooted in historical and contemporary efforts to police the boundaries of belonging through race, nationality, and perceived threat. From the early days of the Chinese Exclusion Act to the implementation of algorithm-driven surveillance and border militarization, immigration law has consistently functioned as a mechanism of racial sorting and social control.

Institutions such as ICE, local law enforcement, and border agencies translate racialized legal language into practice, using discretionary power, predictive technologies, and national security rhetoric to target and detain racialized immigrants. These practices are further reinforced by political and media narratives that depict immigrants as criminals, invaders, or existential threats. Terms like "illegal alien" and "criminal alien" circulate not only in headlines and speeches but also in legal documents, shaping public perceptions and justifying punitive responses. The legal system's reliance on such framing perpetuates a cycle in which race becomes a proxy for danger, and exclusion becomes a matter of administrative routine.

At the same time, the review has highlighted significant efforts to resist and reform this racialized legal landscape. Through public interest litigation, grassroots mobilization, human rights advocacy, and policy interventions, communities and legal practitioners are challenging the legitimacy of racial profiling and the broader legal architecture that enables it. These acts of resistance underscore the potential for immigration law to be reimagined—not as a tool for division and surveillance, but as a domain of inclusion and justice.

The implications of this review are far-reaching. For immigration policy to align with principles of racial justice and human rights, it must confront the historical and ongoing role of law in constructing racialized threats. Reform must go beyond surface-level changes to address the foundational logics that define immigrants as dangerous and undeserving. Future research should continue to investigate the intersections of race, technology, and enforcement in immigration law, paying close attention to how legal norms evolve in response to both crisis and resistance. Most importantly, scholarship and advocacy must remain attuned to the lived experiences of those most affected, ensuring that the pursuit of justice is grounded in dignity, equity, and accountability.

Authors' Contributions

Authors contributed equally to this article.

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Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

References

Aliverti, A. (2021). The Power of the Gaze: Suspicion, Race and Migration Policing. 102-126. https://doi.org/10.1093/oso/9780198868828.003.0005

Berks, E. A. (2024). The Relationship Between Education, Racial Identity, and Immigrant Perceptions of Immigration and Law Enforcement in the United States. https://doi.org/10.31219/osf.io/7t2vk

Browne, I., An, W., Auguste, D., & Delia-Deckard, N. (2023). Race, State Surveillance, and Policy Spillover: Do Restrictive Immigration Policies Affect Citizen Earnings? *Social Forces*, *102*(2), 681-705. https://doi.org/10.1093/sf/soad039

Bucheli, J. R., Rubalcaba, J. A., & Vargas, E. D. (2021). Out of the Class and Into the Shadows: Immigration Enforcement and Education Among U.S.-Citizen and Foreign-Born Hispanics. *AERA Open*, *7*. https://doi.org/10.1177/23328584211056349

Butera, A. C. (2024). Race, Labour, Law, and Capitalism: The Case of US Naturalization and Immigration Law From 1790 to 1965. *Genealogy*, *8*(4), 150. https://doi.org/10.3390/genealogy8040150

Kirksey, J. J. (2021). Preparedness and Experiences of Novice Teachers in the Sociopolitical Context of Heightened Immigration Enforcement: Evidence From a Survey of California Teachers. *Journal of Teacher Education*, *73*(1), 37-51. https://doi.org/10.1177/00224871211045980

Martínez, D. E. (2022). The Racialized Dimensions of Contemporary Immigration and Border Enforcement Policies and Practices. *Public Administration Review*, *82*(3), 598-603. https://doi.org/10.1111/puar.13496

Misra, S., Kwon, S. C., Abraído-Lanza, A. F., Chebli, P., Trinh-Shevrin, C., & Yi, S. S. (2021). Structural Racism and Immigrant Health in the United States. *Health Education & Behavior*, *48*(3), 332-341. https://doi.org/10.1177/10901981211010676

Montange, L. (2022). Political Detentions, Political Deportations: Repressive Immigration Enforcement in Times of Trump. *Environment and Planning D Society and Space*, *40*(2), 332-350. https://doi.org/10.1177/02637758211056342

Portillos, A. B. (2025). Breaking the ICE: Immigration and Migration Enforcement, Latinx Testimonios, and Abolition. *Journal of Latino/Latin American Studies*. https://doi.org/10.18085/1549-9502.2024.11.or.008

Rojak, J. A. (2022). Measures to Enforce Law Regarding Stay Permit Violation Against Immigration Law Policy. *Al-Daulah Jurnal Hukum Dan Perundangan Islam*, *12*(2), 326-344. https://doi.org/10.15642/ad.2022.12.2.326-344

Sudhinaraset, M., Choi, H. Y., Nwankwo, E., & Young, M. E. D. T. (2022). Association Between Immigration Enforcement Encounters and COVID-19 Testing and Delays in Care: A Cross-Sectional Study of Undocumented Young Adult Immigrants in California. *BMC public health*, *22*(1). https://doi.org/10.1186/s12889-022-13994-0

Ugwuoke, J. C. (2024). Education, Racial Identity, and Perceptions of Immigration and Law Enforcement in the United States. *International Journal of Multidisciplinary Research and Growth Evaluation*, *5*(4), 778-791. https://doi.org/10.54660/.ijmrge.2024.5.4.778-791

Vo, A. H. (2023). Contexts of Contestation: How Competing Logics of the State Enable and Constrain Immigrant Civic and Political Participation. *Social Forces*, *102*(4), 1505-1534. https://doi.org/10.1093/sf/soad146

Waters, M. C., & Kasinitz, P. (2021). Race, Legal Status &Amp; Social Mobility. *Daedalus*, *150*(2), 120-134. https://doi.org/10.1162/daed_a_01850

Wong, T. K., & Shklyan, K. (2024). The Impact of Interior Immigration Enforcement on the Lives of Undocumented Immigrants. *The Journal of Race Ethnicity and Politics*, *9*(3), 668-688. https://doi.org/10.1017/rep.2024.19

Young, M. E. D. T., Tafolla, S., Saadi, A., Sudhinaraset, M., Chen, L., & Pourat, N. (2023). Beyond "Chilling Effects". *Medical care*, *61*(5), 306-313. https://doi.org/10.1097/mlr.0000000000001839