

John S.W. Park
Professor of Asian American Studies
June 2018; and last updated on
October 23, 2018

*Notes and Suggestions from Chapter 7, Out of Status,
Immigration Law and Society (Polity, 2018)*

One of my teenage daughters still has her original beloved Strawberry Shortcake doll, because Isabel loved Strawberry Shortcake most of all, and she also loved her Strawberry Friends, including Orange Blossom, Lemon Meringue, and Huckleberry Pie. She once made me pretend that I was Huckleberry Pie, and so as I was sitting there, talking like Huckleberry Pie, it did occur to me that he was a reference to Huckleberry Finn, one of the most famous protagonists in American literature. For us, it was all light and fun, but I remembered reading *Adventures of Huckleberry Finn* when I was in high school, and I remembered Jim, the slave who was one of the central (maybe *the* central) characters in that story. The novel, the world of slavery—none of it was appropriate for children, and my little daughter was blissfully unaware as we were playing. She just liked being Strawberry Shortcake.

I couldn't stop thinking about the novel, though, and it dawned on me that the most important dilemma in that story was still something deeply relevant to my own work. Huckleberry Finn is a runaway child—he's running away from his abusive alcoholic father—but when he discovers that Jim himself is also a runaway, a runaway slave, escaped from Miss Watson's plantation, Huck can not decide whether to turn Jim in, or to help Jim escape, and then maybe help him also "steal" Jim's family out of slavery, too. Jim has a wife and children; Miss Watson meant to sell Jim anyway, because she cannot resist the money that she would get from selling him. At the beginning of the novel, Huck believes that Miss Watson rightfully owns Jim, that she has the right to do as she pleases with him, and that Jim is "bad" and ungrateful for running away. And yet Huck cannot bring himself, over most of the novel, from reporting Jim to the proper (white) authorities. The dilemma tortures Huck, more so when Jim tells Huck that he is the only white person he's ever loved and trusted.

In the end, Huck decides that he will help Jim escape from slavery, even if Huck believes that he will "go to hell" for helping this slave. It's one of the most striking moments in American literary history, when Huck decides to damn himself instead of witnessing Jim turned back into a piece of property.

* * * * *

Around the same time that I was playing Huckleberry Pie and re-thinking Huckleberry Finn, I was teaching this class—American Migrations Since 1965—and during office hours, some of my students had revealed to me that they were “out of status.” One young man had known that he and his family had migrated unlawfully when he was about twelve, but another young woman didn’t discover this fact about herself and her family until she was applying to college. Still another young man was born in the United States, and he was thus an American citizen by birth, but his parents were from Mexico, and they had “fallen out of status” after entering lawfully as “tourists” some twenty years ago. They’d visited Disneyland and never left. Their son was not subject to deportation, but his parents were.¹

Yet another student came to office hours badly shaken: she had gone home to Santa Monica a few weeks after the Fall term had started, and she had asked the Guatemalan woman who had helped to raise her when she had last been to Guatemala. The woman had burst into tears: she had lived in Los Angeles for about ten years, “without papers,” she had not seen her own two children since they were three and five. She was not sure whether and when she would see them again. My student—the beneficiary of this woman’s maternal care and concern for a decade—was unaware of these details until that weekend. My student was profoundly sad for her caretaker, and she asked me if I could recommend a good attorney who might help her.

In many ways, my third academic book, *Illegal Migrations and the Huckleberry Finn Problem*, was about how American citizens have responded to people who were “out of status,” about how this predicament and their dilemmas were not “new” in American law and society, but rather like a recurring set of problems throughout our history, even into our present moment. People who were “out of place” were common in the world of slavery; they appeared to American citizens in the form of runaway slaves. In the late 19th century, when Asians were barred from immigration, a great many Chinese and Asian migrants were “illegal people,” also “out of place,” and the white folks who discovered this about them had to decide, like Huckleberry Finn, whether they would report or not report such persons. Reporting such persons could lead to their deportations; reporting, though, was the legal thing to do, as all such persons without lawful status should have been removed under the terms of our public law.²

For people on the harsh end of American law, unlawful arrangements were common. In 1913 and 1920, for example, state rules in California forbade Asian immigrants from owning land—many Asian immigrants held land anyway, illegally, against such state rules, and their neighbors sometimes discovered these unlawful arrangements. The state rule in 1920 allowed white citizens to keep some portion of this land if they reported these attempts to evade the law; if the attorney general prosecuted an “unlawful” property arrangement, the state could seize the entire estate. Some white folks couldn’t resist: they reported on their Japanese immigrant neighbors, and then they received cash or property for doing so. And yet many more knew and never reported. Who was the more moral? What would you have done?

In our own time, it’s hard for anyone in California to go one year, one month, one week, or one day without encountering someone who was “out of status.” Should citizens and institutions report such persons? Would it be immoral to do so? Would it be immoral not to?

These were all variants of Huckleberry Finn’s problem. Because there are so many “undocumented” people in the United States, many who came without inspection, others who “fell out of status,” it’s going to be hard for any of us to escape these moral and legal dilemmas.

* * * * *

If it’s true that American citizens have not known what to do when they’ve encountered people who were “out of status,” “illegal,” or otherwise “out of place,” it’s also true that people who discover their precarious status have not known how best to respond to their circumstances. Many children of slaves were traumatized when they learned just exactly what that meant: their parents could be sold off; *they* could be sold off; and the family, in a very short time, could be dismembered. And there was nothing that they could do legally about this. Because African American folks were property, not persons, from the perspective of white majorities who’d passed rules, for decades, to reinforce slavery, African American children were made aware of their precarious position long before they came into adulthood.³

American historians of slavery tell us that this was, though, one of the primary motives for people to run away—it’s not hard to imagine, is it? If some white master was going to sell your mother, wouldn’t you consider running away together? In *Huckleberry Finn*, Jim ran away first, but he plans to reunite with his family, and to be together once again in a place far away from slavery. In the first half of the 19th century, these were difficult dreams: as the cotton economy grew, as the demand for slaves increased and as prices went up, white masters dismembered hundreds of thousands of African American families. Miss Watson was not the only person who couldn’t resist the money in her slaves. Many thousands of African American families were terrified to discover their sales before they could do anything about them. Older slave mothers cautioned younger slave mothers not to grow too attached to their children—try to imagine, for a moment, the sorrow and tragedy underneath that kind of advice.⁴

But there was, though, no single response to these realities. Not everyone ran. Indeed, most did not. Some slaves acquired poison to commit murder, others to commit suicide. Some used tools and weapons to attack and to murder the masters and over-seers, others behaved violently toward fellow slaves. Some grew stoic and inward; mental illnesses were common among people whose families had been separated, especially among parents who’d lost their children. Even among those who did run, the strategies varied: some ran away into Canada, as far away from American law as possible, while many slaves who were lighter-skinned simply passed as white. On the frontier, many mixed-race people changed their identities and said nothing about their African ancestors. Many “white “Americans right now have African ancestors about whom they know absolutely nothing.

Consider this portrait of Bishop James Augustine Healy, the second bishop of Portland, Maine:



Bishop Healy's family was at once uncommon and quite common: sexual relationships between white masters and their female slaves were very common, and mixed-race children were also very common. However, long-term monogamous relationships between people like Bishop Healy's father, Michael Healy, an Irish immigrant and a wealthy planter in Georgia, and his mother, Eliza, his slave, were much less common; and still even less common was for such white fathers to arrange for their children to live as free people in the North before the Civil War. Michael Healy sent away his sons, he enrolled them into Catholic schools in the North, and in time, these children passed as white.

In 1839, James Healy had been born into slavery, even though he and his siblings often downplayed or hid this aspect of themselves for many years, for obvious reasons, before the Civil War. Sometimes, when they were among young white men who did not know that their mother was an African slave, Healy and his brothers joined their white peers when they spoke in disparaging terms about African people, using derogatory terms that I will not repeat here. Like all young men, they sought to fit in, to be accepted, and they denied aspects of themselves and their identities to be among white people. James Healy's benefactors included powerful figures in the Roman Catholic Church in Boston—they knew of Healy's ancestry, but they helped him cover those aspects that might impede Healy's own rise as a Catholic priest and then a senior member of the church. In 1875, when Pope Pius made James Healy the Bishop of Portland, his African slave ancestry was not commonly known throughout New England, and he himself was not public about it at all. It's not clear that Pope Pius even knew about James Healy's parents, about how they were never legally married, and about how his mother had been his father's slave.⁵

The scholars call it “passing,” when people of a certain ancestry “passed” as though they were members of another racial or ethnic group. Legal scholars have also described “covering,” when people hide one or more aspects of their identity so that others will not know and may never know who they truly are. In the United States, racial identity was based on hypodescent—anyone who showed even a fraction of African ancestry was regarded as “African” or “black.” One could have seven white ancestors, but if the eighth was African, a person could still be regarded as somehow “tainted,” and thus not white. In such a legal regime, where non-white persons faced segregation and other cruel forms of exclusion, many thousands of people who were legally “black” “passed” and “covered” as white.⁶

* * * * *

Asian immigrants also hid who they were, and after the Chinese Exclusion Act of 1882, they were among the largest groups of “illegal immigrants” on the West Coast prior to World War II. Consider this photograph:



This is the Wong family: William Wong is the boy, standing; his parents are on either side, and his baby cousin is sitting on William’s mother’s lap. The photograph was taken in Oakland. William learned that his father’s real surname, though, was Gee: Mr. Gee/Mr. Wong had paid another man named Wong to pretend to be his father, because this Mr. Wong was already a Chinese resident in California; for a price, Mr. Wong pretended to be Mr. Gee’s/Mr. Wong’s “father,” while Mr. Gee/Mr. Wong pretended to be his “son.” They created this relationship solely for immigration purposes—Mr. Gee/Mr. Wong was a “paper son.” Once Mr. Gee/Mr. Wong had paid Mr. Wong, and after he was settled in the Bay Area, Mr. Gee/Mr. Wong just became Mr. Wong, and he had no long-term relationship with his paper father.

When he had earned enough money, Mr. Wong told his wife in China to pretend to be his sister for immigration purposes. She entered the United States as the sibling of Mr. Wong, thus sponsored by her “brother.” After a number of years, and with no further contact from federal immigration authorities, Mr. and Mrs. Wong married (again) under California state law, and they had William. State officials had not checked their immigration histories, nor were state officials very careful about birth certificates or other pieces of identity.

If this story is confusing for you, imagine how it might have felt to be William, learning about all this when he was a little older than he was in that photograph. Imagine also coming to grips with the fact that although he was a native-born American citizen, William knew that his parents were illegal immigrants—if their “true” identities were ever revealed, they would be subject to deportation, a condition that they would have to endure because, as Asian immigrants, they themselves could never become American citizens. In fact, petitioning for American citizenship would have entailed producing documents that would have rendered them ineligible for citizenship and subject to deportation. That is, public officials would have discovered that Mr. and Ms. Wong were not, in fact, “siblings,” and that this misrepresentation could become the grounds for both of them to be deported.

Like William, many Chinese American children faced similar uncomfortable truths about their families, and their responses ranged widely. Some distanced themselves from their parents and families—they were embarrassed that their own relatives had lied themselves into the United States, and they felt that these Chinese migrants were, indeed, the horrible, mendacious people that some white people had accused them of being. Other children were sympathetic to what their parents had done—how else could they have made it into the United States, escaping the chaos engulfing China in the first half of the 20th century, and how else could they have given birth to American citizens? Was this not an act of desperation, perhaps also an act of love for the children not yet conceived? Between intense shame and loving acceptance, there was no “standard” response to discovering that your parents were illegal immigrants, at least not among second generation Chinese Americans.⁷

In the course of a single lifetime, William Wong felt the full range of emotions and reactions: he recalled feeling shocked and confused that he was not, in fact, a Wong after all, that his parents had engaged in blatant, unlawful misrepresentations to settle in the United States. He recalled wanting to distance himself from his parents, especially when he was of an age when these feelings might be common among all adolescents. In time, though, as he himself became a father, William Wong made peace with his parents, and he came to feel that they had chosen to live precariously for his sake, for a life that they’d wanted for him most of all. He and his own children were American citizens because of the decisions that his parents had made, and all of them were now deeply a part of this country, which was, after all, the only home the Wong descendants had ever known.

* * * * *

Many of our contemporary “unlawful people” came alone, without parents. In 1993, Jose Antonio Vargas’s mother sent her son to live with her parents in Mountain View, California. Jose was twelve years old. He remembers the flight from the Philippines, his adjustment to a new school and a new family in California, and his longing for his mother. In most respects, he experienced many things that other young immigrants had experienced; he struggled to adjust, he did okay in school, and then he did well. In time, though, when he was about sixteen and he applied for a driver’s license, the clerk at the DMV told him that his identity documents were all “fake,” and that he should never come back to the DMV ever again. This response hit him like a ton of bricks. His grandparents subsequently confirmed that his documents were indeed fake, that Jose had entered on a temporary visa in 1993, and then he had fallen out of status. This was how Jose learned that he was an “illegal immigrant.”

Because of his immigration status, Jose was ineligible for state or federal forms of financial aid for college. His teachers helped him get a private scholarship, however, and so this was how he attended San Francisco State University. Yet because a valid ID is required for a great many things, Jose paid for “better” fake documents, like a (false) alien registration card, so that he could board planes and travel, although he never dared to use these to go abroad. His contacts with his mother were always by phone. During college, he pursued internships in journalism, first at the *Philadelphia Daily News* and then *The Washington Post*, where he started working full time in 2004.

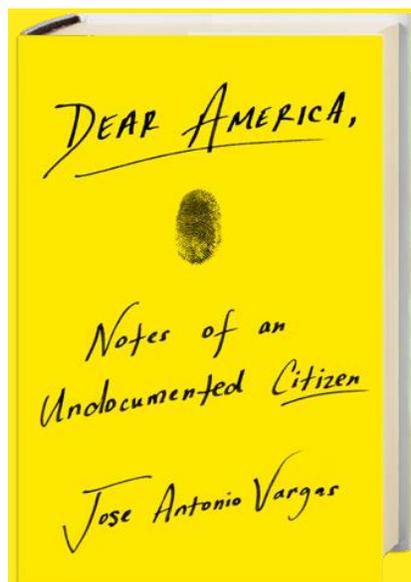
In April 2007, Seung-Hui Cho was a senior at Virginia Tech University in Blacksburg, and he was a lawful permanent resident of the United States whose family had migrated from South Korea. Armed with automatic weapons, Cho murdered forty-nine people on his campus. *The Washington Post* sent several staff members to cover one of the worst mass shootings in American history—Jose Antonio Vargas was one of the first reporters to document how students trapped inside the buildings were communicating with one another on Facebook and through text messages, while others were using their phones to record video of what was happening to them. In his reporting, Vargas described how technology was changing and shaping how young Americans were experiencing a horrifying tragedy; he explained how a reporter like him could “discover” more about this event by going online and onto social media. He had contacted many of his courses through Facebook, and by piecing together hundreds of messages and posts, he could describe to the rest of us how the victims had experienced an “active shooter.”

Seung-Hui Cho shot himself in the head as he heard and saw the police closing in on him—his last fatal shot was recorded on several devices. A few days after the shooting, authorities received many recordings that Cho had made himself, all indicating that he was clearly insane, criminally insane. Vargas described how the authorities chose to release only a small sample of these recordings, because they would surely make their way online, perhaps serving as perverse inspirations for other unstable people. For his set of stories about the Virginia Tech shootings, and for his insights about these new technologies were now ingrained among younger Americans, Vargas and other staff members at *The Washington Post* received the Pulitzer Prize, one of the most prestigious awards in American journalism.

At the height of his career, and yet still in his late twenties, Vargas was overwhelmed by this great honor. He was becoming a semi-public figure, recruited to join the best news organizations and to continue his work with greater freedom and more resources. He had to acknowledge to himself, though, that he was “passing” as an American permanent resident, and that he was also “covering” his unlawful status. The irony of his condition did not escape him: an “illegal immigrant,” he had made his reputation by reporting on the aberrant behavior of a legal immigrant. Many of his closest colleagues and friends had no idea that Vargas was “out of status,” a person subject to deportation.

Like many people in this condition, Vargas had hoped for a solution. From 2006 through 2010, he had followed closely how members of Congress and two American Presidents, including Senator Obama and then President Obama, tried and failed to pass comprehensive immigration reforms, these new rules that would have allowed him to adjust into legal status, permanent residency, and then American citizenship. As their political solutions failed, and as no legislative bargain seemed possible, Vargas felt bereft and powerless over his fate. He was moved, however, by the thousands of young people who were out of status, just like him, who had demanded political action to resolve a legal status over which they themselves had had little control. The “Dreamers” inspired Vargas to go public: in 2011, in an extended essay for *The New York Times*, Vargas “came out” as an undocumented immigrant, if just to show many other Americans that he was also, at heart, an American, even though he had never had the proper papers to be legally in the United States for over fifteen years.⁸

Reactions to his autobiographical essay were mixed: many, many people said that he was the exact kind of person for whom immigration reform had to succeed; others wondered why immigration authorities didn’t find and deport him immediately. Here he was, confessing his violation of federal immigration law. As of this writing, Vargas has not been deported, and even under the current administration, which has been no friend of anyone out of status, Vargas has remained undetained and undeported. Just this year, he published this book:



An “undocumented citizen” is, of course, an oxymoron, an impossibility. Vargas, though, was not alone: after 2000, many people who were out of status “came out,” to borrow a phrase from the LGBTQ community, of which Vargas was also a member. Like gay and lesbian people who were tired of passing as heterosexual, and of covering their homosexuality and queer identity, they found that nothing was as liberating as simply declaring who you really were. Not everyone who was out of status and “out” remained unbothered—many were in fact deported or “removed” from the United States. Yet in many instances, when the persons who were “out of status” were completing college degrees, or holding down jobs and supporting families, or they were prominent for one reason or another, they were less likely to be detained and to be removed.

Still, this strange condition is not quite the same as being fully free of this never-ending unlawful condition: Mr. Vargas, for example, has still not been able to see his mother. Like William Wong, his feelings towards his parents are ambivalent and confusing. They’ve not seen one another in person for over two and a half decades. In other ways, he writes of how he’s developed a knack for a “distant intimacy,” never getting too close to anyone here in the United States, in the (likely?) event that he faces a sudden, jarring removal. The threat of removal is a background condition that has shaped nearly all aspects of his life: “Romantic entanglements are out of the question. I’ve never had a long-term boyfriend.” This over-riding fear of a sudden separation—and this tendency to love and care cautiously, never too deeply—this appears as a recurring adaptation to a precarious life, a life lived in the shadows of American law and power. This was a familiar sense of unease, this feeling, and thousands of Americans across the entire expanse of its history could empathize, I think, with Vargas’s condition.

When Donald Trump became President, Vargas felt a despair common among people in these circumstances, even as many Americans grew more hopeful that all persons like Vargas would finally be removed. We lived in polarizing times—some of his friends advised him to be cautious, to avoid attracting too much attention to himself. Yet instead of hiding and laying low, Vargas published his book. We do not know what will happen to Mr. Vargas in the near or distant future, but then, neither does he. We wonder, in light of his condition, as well as the circumstances of other “unlawful people” in American history, what a more permanent “solution” might be. For instance, the solution to slavery, to Jim’s problem in *Huckleberry Finn*, was emancipation, and the solution for the Wong family and for other Chinese Americans might have been the end of Chinese Exclusion. African Americans and Asian Americans could be American citizens. For Jose Vargas and for others like him, though, there might be the Dream Act, and it would be a solution for them. But then, what of the thousands or millions of people who will come after them? If we do not address the underlying circumstances of international migration, and if we adjust only those who are here right now, it’s very likely that we will have to do another amnesty in ten or twenty years, if only because we will have yet another population of “unlawful migrants.” An amnesty is simply not a permanent solution, and so I would ask you to consider what a more *permanent* solution might look like.

Endnotes

¹ I've published a separate essay about some of my undocumented students here: John S.W. Park, "'It's a Strange Condition': Being in College Under a Cloud of Uncertainty," in *Forced Out and Fenced In: Immigration Tales from the Field* (Tanya Golash-Boza, ed., 2018).

² John S.W. Park, *Illegal Migrations and the Huckleberry Finn Problem* (2013).

³ For an excellent account of children born into slavery, see Marie Jenkins, *Born in Bondage* (2001), and Wilma King, *Stolen Childhood* (2011).

⁴ For an historical account of slavery and its impact on African American families in light of the internal migration and slaves, see Steven Deyle, *Carry Me Back* (2005).

⁵ For an excellent account of the Healy family, see James O'Toole, *Passing for White* (2003).

⁶ See, for example, Kenji Yoshino, *Covering* (2007), and Allyson Hobbs, *A Chosen Exile* (2016).

⁷ For this and similar accounts of Chinese American families during the Exclusion Era, see: Erika Lee, *At America's Gates* (2003); Wayne Wong, *American Paper Son* (2005); and Estelle Lau, *Paper Families* (2007).

⁸ The essay appeared here: Jose Antonio Vargas, "My Life as an Undocumented Immigrant," *N.Y. Times* (June 22, 2011).