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Meanings of migrant illegality: Folk Durkheimian beliefs and relational morality of legal categories

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(Received 26 March 2025; revised 20 March 2026; accepted 2 April 2026)

Abstract

While immigration status is often arbitrarily ascribed, the moral meanings of undocumented status are central in the growing polarization and punitiveness of immigration politics in the United States. How do political actors construct the moral meanings of undocumented status and reason their preferred redresses? Existing substantialist approach's search for a coherent list of moral traits is unable to locate the basis of such construction. Through interviews with a multiracial group of 65 Democratic and Republican activists, this paper identifies the relational meaning-making process underlying the construction of migrant morality, which I label as “Folk Durkheimian.” I find that, like Durkheim, activists believe that law exists to uphold social solidarities and therefore legal categories mark people as belonging or threatening to the social body. I further find that activists construct belonging and threat along two axes: similarity and division of labor. As both Democratic and Republican activists construct migrants as simultaneously belonging and threatening on different axes, both prefer the ambivalent redress of pathways to citizenship for a limited subset of migrants. This Folk Durkheimian understanding advances a relational and integrated framework for understanding morality, group politics, and punitive attitudes.

Keywords: immigration attitudes; migrant illegality; Durkheim; punitive attitudes; morality

Existing research illustrates how legal categories establish, draw upon, and challenge moral meanings – that is, the shared understandings of “good” and “bad” – in determining what people deserve (Chiarello 2019; Enriquez and Saguy 2016; Levitsky 2014; Shiff 2020, 2024). This is particularly so for deciding why and to what degree people should be punished (Silver 2017; Thompson and Bobo 2011; Tyler and Boeckmann 1997; Wozniak et al. 2022). Much of this research on law and morality explicitly references Durkheim's (2014) formulation that legal sanctions serve as expressions and reassertions of shared moral values (Garland 1991; Hitlin and Vaisey 2013; Sunstein 1996; Wozniak et al. 2022; Yeh 2024). Yet, the “substantialist” approach (Emirbayer 1997) common in existing law and morality research – conceptualizing “moral” as

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a specifiable list of traits inherent to the individual or the act – often struggles to discern a consistent basis of what makes certain legal categories morally deserving and others undeserving, especially in cases where the moral basis of the law is unclear, ambivalent, or contested.

One example is the moral meanings of the legal category “undocumented migrants” in the United States. Since the 1980s, political contentions over the morality of often-racialized undocumented migrants – variously constructed as criminals, public burdens, essential workers, innocent victims, and more (Brown 2013; Chavez 2025; Elcioglu 2020; Longazel 2016; Menjívar and Abrego 2012) – are central in the growing partisan polarization of immigration politics (Collitt and Highton 2021; Skocpol et al. 2021; Walters and Skocpol 2024), as well as the escalating punitiveness of immigration policies (Dreby and Macias 2023; Lopez 2021; Menjívar and Abrego 2012; Moynester 2024; Ryo 2019; Stumpf 2006). Scholars, however, have long demonstrated that the legal status of a migrant is mostly arbitrary and legally constructed, rather than based upon any characteristics of the individual migrant or their actions (Coutin 2003; De Genova 2002; Menjívar 2006). How, then, do political actors construct these moral meanings of the undocumented legal category and reason their preferred policy redresses, when the legal distinction does not itself reflect differences in migrant characteristics and behaviors?

As existing research increasingly recognizes state- and local-party activists as among the first movers in the growing polarization and punitiveness in U.S. immigration politics (Collitt and Highton 2021; Cooperman et al. 2022; Longazel 2016; Skocpol et al. 2021; Walters and Skocpol 2024), this paper draws upon interviews with a multiracial group of 65 local Democratic and Republican activists. I give special attention to the understudied but growingly consequential Latine and Asian American Republicans (Galbraith and Callister 2020; Kim 2021), some of whom are themselves immigrants. To understand how these party activists construct the morality and deservingness of undocumented migrants, I attend specifically to how they characterize the distinctions between authorized and unauthorized migrants and how they reason their preferred policy redresses for undocumented migration.

I find that, rather than focusing on the act of unauthorized presence or any specific individual characteristics of the migrant, one way that activists of both parties construct the moral meanings of migrant illegality is through imagining undocumented migrants’ relationships to the social body – a subjective and relational (Emirbayer 1997) meaning-making process I abductively (Tavory and Timmermans 2014) label as *Folk Durkheimian*. In particular, activists utilize two main axes to imagine migrants’ relationship to the social body: similarity and division of labor, or *mechanical* and *organic* in Durkheimian (2014) terms. In turn, I find that how people imagine migrants’ relationships to the social body shapes their preferences for policy redress. Even as Democratic and Republican activists hold polarized views on migrant illegality, many activists arrive at the same preference for pathways to citizenship for a limited subset of migrants, as they view undocumented migrants as belonging on one axis but threatening on the other. The Folk Durkheimian belief identified by this study provides not only an integrated and more holistic framework for understanding attitudes toward immigrants, but also testable hypotheses about the relationships between beliefs about migrant legality and immigration policy preferences. A focus on Folk Durkheimian beliefs may further provide a relational approach (Abrego 2019;

Emirbayer 1997; Nielsen 2024; Tenorio 2024; Young 2014; Young and Chimowitz 2022) to understand the moral contentions underlying other legal categories.

Moral meanings of the law: toward a relational approach

Existing scholarship on the moral meanings of the law often invokes a Durkheimian understanding of legal sanctions. Durkheim (2014) posits that penal laws exist because violations of shared sentiments – or “collective consciousness” – risk unraveling the bonds that hold the collective together; as such, violators must suffer to reassure members of the collective the continued operation of the collective consciousness. Subsequent sociolegal scholars and criminologists often abbreviate this formulation as the “expressive” function of the law, or the belief that laws express the shared moral values of society (Garland 1991; Sunstein 1996). Empirical research verifies that perceptions of morality indeed shape how policymakers, bureaucrats, and voters decide how the law ought to distribute punishments, as well as benefits (Chiarello 2019; Farrell-Bryan 2022; Levitsky 2014; Shiff 2024; Silver 2017; Tyler and Boeckmann 1997; Wozniak et al. 2022; Young and Chimowitz 2022). In turn, the moral meanings of legal categories – such as “criminals,” “people with disability,” or “Medicare recipients” – have radiating effects in shaping how people view themselves (Abrego 2011; Engel and Munger 2003), how people perform their other social roles (Albiston 2010; Ruszczak 2021), what kinds of claims people make upon their governments (Chua 2020; Levitsky 2014), and how those with institutional power ought to treat them (Asad and Clair 2018; Chiarello 2019; Flores and Schachter 2018; Ocobock 2020; Pager 2003).

Existing law and morality research often conceptualizes morality through what Emirbayer (1997) describes as a “substantialist” approach, or the tendency to treat abstract constructs (e.g., “rights”) as actual substances that can be acted upon (e.g., to “have” rights). This conceptualization contrasts with the emergent “relational” (Abrego 2019; Emirbayer 1997; Nielsen 2024; Tenorio 2024; Young 2014; Young and Chimowitz 2022) approach in sociolegal research, which views these constructs as characteristics of the *relationships* between social actors (e.g., “rights” describe a type of relationship between two social entities). Under a substantialist approach, scholars conceptualize morality as a finite and specifiable list of traits that make an individual a “good” person. The task for the law and morality researcher, then, is to identify which traits are valued by the law.

Two problems arise with a substantialist approach to the moral meanings of legal categories. First, despite the universality often connoted by the term, “moral” describes a culturally contingent set of ever-changing and even conflicting characteristics (Gastón 2022; Hitlin and Vaisey 2013; Lamont 2000). When following their subjects’ use of the term, qualitative and historical studies often note the multiple and at times self-contradictory traits their subjects describe as moral (e.g., Chiarello 2019; Farrell-Bryan 2022; Gastón 2022). Yet, even when analysts impose their own definitions of “moral” – as many quantitative studies do – the operationalizations are numerous and often incommensurate: some focus on specific traits such as “self-responsible” or “hardworking” (e.g., Thompson and Bobo 2011; Wozniak et al. 2022), while others attempt to construct a comprehensive typology of moral concerns (e.g., Silver 2017). As a result, while existing scholarship can conclude that the moral meanings of legal

categories are consequential, the content of the moral meanings continues to be a moving target.

Second, perceptions of morality are often refracted by the evaluated person's social group memberships (Chiarello 2019; Kinder and Sears 1981; Lamont 2000; Lynch and Haney 2011). In fact, while existing research finds that perceptions of the morality of the offenders, the acts, or the victims do predict an individual's desire to punish (Silver 2017; Thompson and Bobo 2011; Tyler and Boeckmann 1997; Wozniak et al. 2022), moral perceptions are consistently outperformed by the individual's attitudes toward social out-groups, such as Black Americans, immigrants, or the poor (Brown and Socia 2017; Chiricos et al. 2014; Unnever and Cullen 2010). The entanglements between moral evaluations and out-group perceptions, however, complicate these findings. Even methodologically, quantitative studies of punitive attitudes often operationalize attitudes toward racial out-group as racial resentment (e.g., Brown and Socia 2017; Unnever and Cullen 2010), which is rooted in the symbolic racism tradition of understanding contemporary group-based animus as expressed through the belief that the out-group fails to adhere to societal standards of morality (Kinder and Sears 1981; Lamont 2000). Conversely, for studies emphasizing the role of anxiety over moral decay, such as Tyler and Boeckmann's (1997) study on the support for California's 1994 punitive "three-strikes" referendum, it is difficult to separate the expressed moral concerns over, say, the disintegration of traditional family from the long-standing racialized and gendered tropes of the so-called pathological Black family, including the myth of the poorly parented "superpredator" central during the 1994 referendum. This line of scholarship raises the question of the extent to which the moral meanings assigned to a legal category are merely expressions of people's feelings toward a social out-group.

I propose that the emergent "relational" turn in sociolegal scholarship (Abrego 2019; Emirbayer 1997; Nielsen 2024; Tenorio 2024; Young 2014; Young and Chimowitz 2022) provides an alternative approach to understand the moral meanings of legal categories. The substantialist approach interprets Durkheim's (2014) formulation as that laws exist to foster prosocial behaviors and traits and to deter the injurious ones. Yet, Durkheim (2014: 58) himself highlights that

there are a whole host of acts which have been, and still are, regarded as criminal, without in themselves being harmful to society. The act of touching an object that is taboo or an animal or man who is impure ... how have any of these ever constituted a danger to society?

Rather, Durkheim (2014: 55) asserts that "law ... regulates the relationships of the individual with the state...[and] with one another." In other words, Durkheim (2014) stresses that laws uphold the *sharedness* that undergirds social solidarity, with the actual content of the shared traits being secondary. Paralleling Nielsen's (2024) formulation of "relational rights," I suggest that the moral meanings of legal categories are first and foremost about how the law indexes people's relationships to the social body – whether people *belong* or *threaten* social solidarities and, as a result, whether they deserve the continued inclusion in or exclusion from society, as enforced by law (see also Asad 2024; Carlson 2024; Miller 2024; Porter 2024).

I further argue that, consistent with the emergent relational sociolegal scholarship (Young 2014; Young and Chimowitz 2022), such belonging and threat are subjective characterizations of social relations, rather than objective descriptions of the qualities of the individuals or their actions. Even Durkheim's (2014: 101) original formulation acknowledges that "there are in the consciousness of each one of us two consciousness: one that we share in common with our group ... [and] the other that ... represents us alone in what is personal and distinctive about us"; in turn, social relations stemming from similarities and those from differentiated functions in division of labor "are really one. They are two facets of one and the same reality." In other words, all human beings possess similarities and differences with one another. Perceptions of belonging and threat then result from people's subjective interpretations of various social relations, rather than emerging inevitably from empirical assessments of traits inherent to the people or the act (Brubaker 2006; Jones 2022; Schachter 2016). That is to say, people do not inherently belong (or threaten) due to some individual essence, but their relation to the social body is collectively constructed as one of belonging (or threat). Political contestations of the moral meanings of legal categories, as such, are always contentions about whether categories of people belong. This relational approach accommodates the multiplicity of traits constructed as moral, as the actual contents of the traits themselves are secondary to the social relations they are subjectively interpreted to signal. In turn, the fact that intergroup politics is imbued with moral meanings is central to the relational approach, rather than an inconvenient confounder.

Legality, morality, and undocumented migrants

The relational approach's attention to belonging and threat is particularly useful to understand the moral meanings of migrant illegality. As scholars have long illustrated, immigrant legal status is an arbitrary administrative construct that often does not refer to any substantive differences in the behaviors and personal characteristics of migrants (De Genova 2002). Often, even the very same migrants, having committed the very same set of acts, can be categorized and recategorized as legal, illegal, or semilegal. For many undocumented migrants – such as those awaiting asylum decisions and those with citizen spouses or children – undocumented status may be temporary, pending bureaucratic processing (Asad 2023; Enriquez 2020; Farrell-Bryan 2022; Tenorio 2024). Furthermore, examples abound where large swaths of migrants have their legal statuses recategorized simply due to changes in immigration laws (Ackerman 2014; Calavita 1992; Massey and Pren 2012), lapses and renewals of existing policies (Coutin 2003; Menjívar 2006), shifts in enforcement priorities (Enriquez 2020; Gonzales et al. 2014), and bureaucratic discretions (Asad 2023; Farrell-Bryan 2022).

Yet, while nothing necessarily distinguishes undocumented migrants substantively from their legalized peers – or even themselves after they are legalized – contentions over the morality of undocumented migrants are central in the widening polarization and intensifying punitiveness of immigration politics in the United States since the 1980s. Sharply accelerating especially after the early 2000s, immigration joins previous contentions over race and over gender and sexuality as a social issue that definitively and durably divides Republicans and Democrats (Ceobanu and Escandell 2010; Collitt and Highton 2021; Fussell 2014; Walters and Skocpol 2024). This breaks

from the long history of U.S. immigration as an issue with “strange bedfellow” cross-party coalitions (Tichenor 2002). During this same period – regardless of presidential administration or levels of public support – immigration enforcement, detention, and deportation have escalated exponentially (Asad 2023; Moinester 2024; Ryo 2019), causing well-documented physical and mental sufferings, hardships, and exclusions (Asad 2023; Dreby and Macias 2023; Lopez 2021) that scholars characterize as violently punitive (Menjívar and Abrego 2012; Stumpf 2006). Existing research finds that support for migrant inclusion and exclusion hinges upon whether political actors construct the imaginary “third-world migrant” as moral and sympathetic, or as immoral and criminal (Chavez 2025; Elcioglu 2020; Longazel 2016). In turn, portrayals of Latine and Middle Eastern migrants as faceless hordes of drug-traffickers and terrorists have accompanied and legitimated the ever-expanding “crimmigration” system (Chavez 2025; Elcioglu 2020; Flores and Schachter 2018; Longazel 2016; Menjívar and Abrego 2012).

How, then, do some construct undocumented migrants as moral and worthy of legal status, while others immoral and deserving of punishment? The substantialist approach’s search for a coherent set of moral traits struggles to answer this question. Scholars document the multitude of conflicting moral traits that migrants are required to demonstrate to be considered deserving of legal status. For instance, Farrell-Bryan (2022) finds that, in deportation hearings, immigration officials judge undocumented men’s “moral character” by expecting them to simultaneously perform traditional hegemonic masculinity as the primary breadwinners (see also Enriquez 2020; Tenorio 2024), but also a hybrid masculinity as caring and emotionally involved fathers. Following long-standing anti-immigrant campaigns on welfare programs (Brown 2013; Van Natta 2023), migrants avoid utilizing public benefits lest being labeled a “public charge” and jeopardizing the slim possibility of future legalization (Asad 2023; Van Natta 2023); yet, engaging with social service institutions to care for citizen children often substantiate the “extraordinary hardship” that merits cancellation of removal (Asad 2023). For migrants, these competing moral demands create great uncertainty about what doing the “right” thing under the law entails. For analysts, the multitude of moral meanings makes it difficult to theorize what distinguishes migrants who are perceived as morally deserving.

One cynical answer is that concerns over the legality and morality of undocumented migrants are merely “color-blind” (Bonilla-Silva 2018; Chavez 2025; Longazel 2016; Menjívar and Abrego 2012) covers for out-group animus. Indeed, perceptions of immigrants as an out-group threat – particularly as an economic threat to jobs and benefits and as a cultural threat to the dominant values, languages, and religions – consistently predict support for more restrictive and punitive immigration policies and enforcements (Blumer 1958; Ceobanu and Escandell 2010; Chandler and Tsai 2001; Chavez 2025; Chiricos et al. 2014; Citrin et al. 1997; Fussell 2014; Hainmueller and Hopkins 2014). Racialization further amplifies perceptions of out-group threat and shapes perceptions of migrant morality (Calavita 2007; FitzGerald and Cook-Martín 2014). For instance, even though mass unauthorized migration had been possible since the 1924 quotas for Southern and Eastern Europeans, moral panic surrounding migrant illegality did not arise until the end of the Bracero Program in 1964 and the imposition of a western hemisphere migration cap in 1965, which together created a large population of formerly-legal Mexican migrant workers (Ackerman 2014; Massey and Pren

2012; Ngai 2014). Racialized perceptions also shape which migrants are likely to be perceived as undocumented and criminal, even when it is legally and logistically unlikely, such as Syrian refugees in the mid-2010s (Flores and Schachter 2018). In many contexts, migrant illegality and race have been so conflated that many institutional actors extend “courtesy stigma” to all members of a racial group and deem them all morally suspect, regardless of actual immigration status (Asad and Clair 2018).

A relational approach, however, suggests that the moral meanings of migrant illegality are in and of themselves *about* undocumented migrants’ perceived belonging and threat to the social body, rather than a cover for it. The substantialist search for the criteria of “good immigrants” finds contradictory qualities, refracted by out-group perceptions, because the morality of undocumented migrants is not about whether migrants are objectively individually good people, but about how migrants’ relationships to the receiving society are subjectively and politically constructed (Abrego 2019; Farrell-Bryan 2022; Longazel 2016; Tenorio 2024). Existing immigrant threat literature suggests that two axes of constructing migrants’ relationships to the social body are perceived cultural similarity and deservingness to partake in the national economy (Ceobanu and Escandell 2010; Chandler and Tsai 2001; Citrin et al. 1997; Fussell 2014; Hainmueller and Hopkins 2014). In the following sections, I utilize this relational approach to the moral meanings of legal categories to explain how a multiracial group of Republican and Democratic activists construct their polarized perceptions of migrant illegality, while agreeing on the ambivalent policy solution of pathways to citizenship for a limited subset of migrants.

Methods

This study draws upon interviews with a multiracial group of 65 Republican and Democratic activists from Southern California between 2020 and 2021. Local party activists – those who volunteer for and donate to political candidates, craft party platforms, shape endorsements and nominations, and pipeline into local offices – are an understudied but crucial actor in the growing polarization of immigration politics. Preceding shifts on the federal level, state and local Republican and Democratic parties have become increasingly far apart on their immigration platforms since the early 2000s (Walters and Skocpol 2024). This may have resulted from high-profile local and state anti-immigrant contentions, while federal immigration reform stalls (Brown 2013; Flores 2017; Longazel 2016; Walters and Skocpol 2024). Hardline party activists likely play an especially pivotal role in propelling and reinforcing such polarization since the 2010s, as many on the right express strong and explicit anti-immigrant concerns, while many on the left name Trump’s 2016 Muslim Ban as reasons of their initial involvement (Skocpol et al. 2021). These party activists have far more extreme positions on immigration than general voters (Collitt and Highton 2021), who until the first Trump administration have an amorphous but moderate consensus on preferred immigration level and enforcement priorities (Krogstad and Mukherjee 2024; Oliphant et al. 2025). In turn, these party activists are also less likely to compromise with more moderate factions within their own party, likely contributing to further polarization (Cooperman et al. 2022). Since these party activists precipitate the growing polarization in immigration politics, how they construct the morality

Table 1. Interviewees demographic

	Republican		Democratic	
	Men	Women	Men	Women
Asian American and Pacific Islander	4	2	1	2
Black	1	0	2	2
Latine	3	4	3	3
White	4	3	5	22
Two or more races	1	1	0	2

of undocumented migrants and reason their preferred policy redresses are of both practical and theoretical interest.

Geographically, this study samples from two suburban counties in Southern California: Orange and the adjacent San Bernardino. Despite California’s reputation as liberal and pro-immigrant in 2020, suburban Southern California was the birthplace of the New Right, providing the political start for Nixon and Reagan (McGirr 2015). In particular, Orange County was the epicenter of the 1994 Proposition 187, a ballot initiative that prohibited unauthorized migrants from accessing public services, which inspired a wave of anti-migrant state legislations across the country (Brown 2013). When I conducted my fieldwork in 2020, the longtime conservative and anti-immigrant politics of suburban Southern California were in the process of unsettling. In 2016, Hillary Clinton became the first Democratic presidential candidate to win Orange County since the 1930s, and, in 2019, registered Democrats first outnumbered Republicans in the county (Staggs 2019). Similarly, non-Hispanic Whites first became the numeric minority in Orange County in the 2010 census (U.S. Census Bureau 2021a). These political and demographic shifts make for a particularly rich context to study party activists’ attitudes toward migrant lawbreaking.

In practice, I recruited interviewees from local chapters of 52 Democratic and 54 Republican clubs, as well as among the 222 named officers of the county parties and listed candidates of national convention delegates. Table 1 provides the partisan, racial, and gender breakdown of my interviewees. Given that emerging research hints at immigration as a growing partisan fault line within Latine and Asian American communities (Galbraith and Callister 2020; Kim 2021), I took advantage of Southern California’s racial composition and made a special effort to recruit Latine and Asian American Republicans. It is important to note that the sample skews older: the median age is 56, and one-third of the interviewees are 65 or above. This is likely because retirees are overrepresented in these organizations, as corroborated by interviewees.

I conducted the interviews between November 2020 and November 2021. The interviews range from 45 to 168 minutes, with the median interview being 110 minutes. As the fieldwork was during the early heights of the COVID-19 pandemic, I conducted all interviews over phone or web conference software. I asked about activism experiences, overarching political views, views and involvement in the 2016 and 2020 presidential elections, views on immigration, and views on miscellaneous other types of law-breaking. I took an abductive (Tavory and Timmermans 2014) approach to qualitative

analysis. I first performed inductive open coding on my interviewees' discussions of migrant legality and their preferred policy redress, resulting in 66 codes on characterizations of migrant legality and 37 codes on policy preferences. I then iteratively moved between inductive axial coding to group the open codes and deductive testing for the fit of theoretically informed categories. I was sensitized by my interviewees' frequent mentions of empathy for migrants and migrants' place in the national economy, which led to my theoretical focus on how my interviewees subjectively and relationally construct migrants.

With the highly racialized topic of undocumented migration, the races of the interviewer and the interviewees influence how research interviews unfold (Krysan and Couper 2003). All recruitment and interviews were conducted by the author, who presents as an East Asian American man. It is difficult to estimate the direction of social desirability bias for a multiracial group of interviewees with an East Asian interviewer due to the ambivalent position East Asians occupy in American racial politics (Kim 1999). In fact, just months after my fieldwork had ended, the 2022 Congressional primary in Orange County's 45th District had only Asian American candidates across both parties. As such, in order to facilitate readers in assessing alternative interpretations of the interviews, this paper refers to interviewees by pseudonyms and redacts identifiable personal details, but attempts to present as much interactional and demographic information as possible and does not alter any interviewee information (Jerolmack and Murphy 2019).

Findings

Through my interviews with a multiracial group of 65 Republican and Democratic activists, I find that party activists – likely not consciously and often not explicitly – articulate a folk version of a Durkheimian theory of the law: that is, activists hold an underlying subjective belief that law exists to uphold social solidarity. When activists construct migrants as a *threat* to this social solidarity, they imagine undocumented migrants as morally wrong for breaking the law and deserving of punishment. In contrast, when activists construct migrants as *belonging* to the social body, undocumented migrants are then morally right despite lawbreaking, and it is the law that needs changing. In turn, I find that activists construct migrant belonging and threat along two axes, which parallel what Durkheim (2014) characterizes as *mechanical* – that is, social bond through similarity, named after the mechanical bonds holding identical molecules together in a substance – and *organic* – that is, social bond through division of labor, named after the interdependent operations of organs in a body. Table 2 depicts the two-by-two that results from the combinations of mechanical and organic belonging and threat, as well as the corresponding moral meanings they express in relation to the law. In the sections that follow, I will first illustrate how Republican and Democratic activists hold polarized views on undocumented migration, yet concur on their preferred policy redresses. I will then demonstrate how this concurrence results from the similar ways activists across both parties construct migrant's relationship to the social body, expressed in the language of morality.

Table 2. Folk Durkheimian beliefs

	Mechanical	Organic
Belonging	The lawbreaking other is imagined to be <u>similar</u> to the self or society. The lawbreaker is <u>moral</u> , and the law-breaking is <u>excusable</u> because it's what everyone would have done.	The lawbreaking other is imagined to be an <u>integral</u> part of the societal division of labor. The lawbreaker is <u>moral</u> , and the lawbreaking is <u>excusable</u> because the lawbreaker is indispensable.
Threat	The lawbreaking other is imagined to be <u>different</u> from the self or society. The lawbreaker is <u>immoral</u> , and law-breaking must be <u>punished</u> because it would undermine societal cohesion.	The lawbreaking other is imagined to be <u>external</u> to the societal division of labor. The lawbreaker is <u>immoral</u> , and the lawbreaking must be <u>punished</u> because the lawbreaker is usurping entitlements.

Table 3. Cross-tabulation of views on immigrant illegality and policy preference

View on illegality	Deportation	Pathways for some	Full amnesty	Total
Democratic				
Important	0	3	2	5
Not important	0	24	11	35
Subtotal	0	27	13	40
Republican				
Important	7	12	0	19
Not important	0	2	0	2
Subtotal	7	14	0	21
Total	7	41	13	61

Polarized views, concurring preferences

Through my interviews with a multiracial group of party activists, I find that Republican and Democratic activists indeed express polarized views about migrant illegality. I ask my interviewees: “some people say that they are not opposed to immigration, as long as it is legal. How important is this distinction of legality to you?” Table 3 tabulates the interviewees’ responses.

Of the 40 Democratic interviewees, 35 do not find migrants breaking immigration law to be important. Virginia, a White retired principal in her late 70s, answers, “not at all, because everybody’s human experience from where they’re coming from is what you have to look at.” Karina, a Latina community organizer in her early 20s, further argues that the focus on illegality is a color-blind alibi for anti-immigrant sentiments: “I don’t know how to say it – the most safe way to combat immigration and just not deem yourself as an immediate racist would be saying things like that.”

Conversely, 19 out of 21 Republican interviewees assert that it does matter that undocumented migrants have violated immigration laws. Audrey, a clerical worker in her early 50s who identifies as “White and Hispanic,” states that “absolutely I’m for immigration, as long as it’s legal.” Patty, a Pacific Islander attorney in her early 50s,

draws from her own experience: “personally for me, it’s very important because my family, we legally immigrated to the United States and we waited 12 years to come to America.” Koa, a Native Hawaiian college student in his early 20s, expresses that any lawbreaking is unacceptable and insists that “if you violated the law, you have to be held to it, good, bad, right wrong, just or not.... The law cannot stammer.”

As Table 3 demonstrates, despite these polarized views, two-thirds of both Democratic and Republican interviewees ultimately reach a similar policy preference when asked what ought to be done with the undocumented population living in the United States: pathways to citizenship for a limited subset of migrants. For instance, John, a Republican Southeast Asian businessman in his mid-40s, emphasizes that legality is “very important” to him, as even his 70-year-old grandmother “came over legally [and]...took up the steps to become a citizen.” Yet, when I ask John about his preferred policy redress, John replies “We need to get them becoming citizens.... And if they’re here illegally causing crime, they need to be gone.” On the other hand, Danielle, a Democratic White retired attorney in her late 60s, responds that the distinction of legality is “not important, because ... for people to come here, a lot of them are desperate people”; however, when asked her preferred policy redress, her response is nearly identical to John’s: “there should be a path to citizenship for people who are here for whatever reason, and are good people, who are working, who are not breaking the law. They should be able to become citizens.”

Granted, there are reasons to see this concurrence as inevitable. On the one hand, one may argue that Republican activists may find the deportation of millions to be simply impractical, if not impossible, and therefore concede to pathways to citizenship for some. Nonetheless, some Republicans do acknowledge zero-tolerance deportation’s impracticality, but still believe that it is the only solution. For instance, Koa, the native Hawaiian college student in his 20s, defends his belief that the government should not deprioritize deporting certain types of migrants, but should strive to apprehend and deport all migrants: “if anything, if we withhold deporting those people and incentivizes more of them to come over ... that just makes it worse.”

On the other hand, it may also be unsurprising that there are certain migrants that even the most pro-immigrant Democrat may want to deport. Some may insist that “criminals” should not have access to citizenship or residency. Yet, despite the apparent naturalness of this crimmigration logic (Stumpf 2006), a handful of Democratic interviewees do explicitly resist it and advocate for unrestricted amnesty. An example is Jasmine, a Southeast Asian therapist in her mid-40s, who asserts that “for whatever reason they got in here, they’re here. They are part of our problem and they are our solution.” Jasmine emphasizes that, even when the undocumented migrant is a “problem,” they are still an American; they should be able to stay and be dealt with in the United States.

This concurrence in preferred policy redress, despite polarized views on undocumented migration, mirrors survey research of the voting public at large. While gaps between Democratic and Republican voters on immigration attitudes have consistently been large (Ceobanu and Escandell 2010; Fussell 2014; Hainmueller and Hopkins 2014), a majority of even Republicans had supported pathways to citizenship up until 2021; in 2025, 89% of Democrats and a strong plurality of 41% of Republicans continued to support pathways to citizenship (Oliphant et al. 2025). This concurrence raises

the question: if not resulting from the importance activists ascribe to the lawbreaking act of unauthorized presence, what then explains Republicans' and Democrats' expressed preference for pathways to citizenship. In the following sections, I illustrate how people construct the underlying moral meanings of illegality through imagining undocumented migrants' relationship to the social body. As many activists – regardless of party or views on the importance of migrant legality – construct migrants as belonging along one axis but threatening on the other, they reach the same ambivalent preference of pathways to citizenship for some.

Mechanical belonging and empathy for migrants

When activists construct the imagined migrant as belonging to the society mechanically – that is, through being similar to oneself or the society at large – they tend to construct migrants as moral despite lawbreaking and tend to prefer clement redresses. If activists imagine the purpose of law as upholding the shared values and characteristics that bind society together, it makes little sense to desire suffering for undocumented migrants who are constructed as sharing these societal values and characteristics, regardless of whether activists believe the lawbreaking act to be harmful. Importantly, I find that while being in their in-group does help activists construct the mechanical belonging of migrants, examples abound where activists construct undocumented migrants as an out-group that is nevertheless similar and belonging. This construction reflects the frequent instances in which moral assessments are based upon subjective characterization of social relations, rather than objective evaluation of individual similarities.

As the study takes place in Southern California, where up to 30% of the population is foreign-born (U.S. Census Bureau 2021a; U.S. Census Bureau 2021b), it is unsurprising that two-thirds of interviewees mention without prompting their personal connections to an immigrant; in fact, 14 out of 65 interviewees even explicitly identify their connections to someone who they believe to be undocumented, as reflected in Table 4. For example, Carmen, a Republican Latina former elected official first ran for office because she believes that “undocumented students ... didn't have a voice.” I ask Carmen how she first started to care about undocumented students, and Carmen responds: “I was undocumented at one time.... I would see a lot of these kids ... it broke my heart because ... they didn't have a choice to come here. Because that's what happened to me. My mom brought us when we were younger.” While it is true that Carmen considers herself to previously belong to the same social group as undocumented students, Carmen justifies her support for these students not because she favors her in-group, but because, having similar personal experiences, she constructs these students' actions as morally blameless, as they are consistent with what she did or would have done. This shared experience makes unauthorized presence no longer a moral violation in Carmen's mind. Similarly, activists draw from family and acquaintances' experiences to construct the mechanical belonging of migrants. For instance, Tom, a white Democratic attorney in his mid-50s, expresses that “people who flee abject poverty for the awesome dream that they can have a better life in America. To me, that's so beautiful. My grandfather had that dream as a child. How could you hate somebody just because they want a better life?” Here, Tom constructs migration as moral and “beautiful” – regardless of legality – by

Table 4. Tabulation of interviewees' immigrant connections

Immigrant connection mentioned	Count
Self	10
Immediate family	17
Spouses and in-laws	7
Friends and acquaintances	24
Undocumented	14
No immigrant connection mentioned	24

drawing upon his grandfather's migration and underscoring the similarities and shared motivations.

While having personal experiences or connections may facilitate viewing undocumented migrants as mechanically belong, those who do not have such experiences can still find other ways to construct migrant's mechanical belonging. Some refer to an abstract shared humanity. For instance, Rick is a Democratic Latino and a retired political staffer in his early 80s. When I ask him about the seriousness of unauthorized migration, Rick responds simply that migrants "are not illegal. We're all children of God." Similarly, Crystal, a Democratic White retired communication worker in her mid-70s, answers, "whether we like it or not, [migrants] need to be heard.... They're human beings. They bleed like you and I." Both Rick and Crystal point to being human – the broadest possible way to construct how "they" can share commonality with "you and I" – as the basis of migrants' mechanical belonging. It is particularly telling that Rick contrasts the shared characteristic of everyone being "children of God" with the status of "illegal," reflecting how mechanical belonging negates the perceived immorality of illegality. This construction results in beliefs like Crystal's that, being mechanically belonging members of society, undocumented migrants deserve basic rights like being heard, even if "we" may prefer otherwise.

Many interviewees also recognize that, while undocumented migrants are not their in-group, migrants are similar to them because migrants are acting in ways that are understandable to the interviewees, if not consistent with how the interviewees would have acted. In other words, if one believes that oneself or any person within the collective might sensibly behave in a similar way, then the behavior is no longer a moral violation. This is consistent with sociolegal research that illustrates that empathy – or the capacity to understand and vicariously experience the motivations and circumstances of others – leads to less punitive preferences (Lynch and Haney 2011). For instance, Carrie, a White Democratic retired health care analyst in her early 60s, emphasizes that the distinction of legality "is not important to me because I know some of them are fleeing for their lives. What would I do in that situation?" Similarly, Edison, a White Republican accountant in his early 50s, also expresses that "I get why they do it and ... if I was in their place, I'd do the same damn thing." Unlike Carmen, the formerly undocumented Republican elected official previously described, Carrie and Edison neither share the migrants' experiences nor consider migrants to be in their in-group ("some of *them* are fleeing for *their* lives"; "I get why *they* do it"). Yet, both are able to take the perspectives of undocumented migrants and highlight their

similarities with migrants by insisting that they would've acted similarly, which makes the lawbreaking act no longer immoral.

Resulting from not viewing migrant illegality as a moral violation, those who make sense of undocumented migration exclusively through mechanical belonging tend to prefer full amnesty for all undocumented migrants, with no restriction or penalty. For instance, Lilian, a self-employed Democratic white woman in her early 50s, asserts:

we have undocumented people who are here because they have family here, because they're working here, they've made their life here. I believe that they should be given a solid pathway to citizenship. Ok, there are people who ... are criminals ... and what we tend to do is we tend to deport them.... They have already made their circles ... just like you have your network, I have my network.... We should just put them in prison here.

Without prompting, Lilian directly confronts the logic of crimmigration (Stumpf 2006). Here, Lilian approaches migrants assuming similarities between the migrants and herself and concludes that, while migrants who break laws beyond unauthorized presence should be punished, it should not preclude migrants from being able to stay in the United States. If we view migrants as people like you and I who have "family," life," and "network" in the United States, Lilian reasons, it is far too draconian to remove them. As a result of viewing migrants as unequivocally belonging mechanically, Lilian supports a "solid pathway to citizenship," even for "criminals."

Mechanical belonging, but organic threat: limits of empathy

For others, while they may empathize with the plights of migrants, they nevertheless believe that migrants are noncontributing burdens on the societal division of labor, usurping beyond their entitlements, which makes migrants an organic threat. This finding parallels existing research on migrants as perceived drains to the national economy (Hainmueller and Hopkins 2014) but underscores that these perceptions center on the moral deservingness of migrants to partake in the national economy, rather than on self-interested calculation. This emphasis on moral deservingness is particularly clear as people often contrast their restrictiveness toward migrants with their generosity to "our own." Resulting from this ambivalent construction of migrant morality, activists tend to prefer pathways to citizenship only for a limited subset of migrants.

For instance, Brad, a Republican East Asian veteran in his late 40s, first describes his relationship with 1.5-generation undocumented migrants – often nicknamed DREAMers as the intended beneficiary of the failed 2001 Development, Relief, and Education for Alien Minors (DREAM) act. "I'm very sympathetic to a lot of folks, especially DREAMers, because a lot of folks grew up with me today are possibly DREAMers. They are American and some more American than me." But then, Brad continues to assert that:

we have veterans sleeping on the street. We have people lost their jobs and homes who need to be taken care of. We have our own share of problem.... We as a country and a country of law, we have certain things we need to follow to

take care of our own citizens, especially those who contribute to the society.... Sounds very cold or uncaring, [but] we just have the priority here and we need to set our priorities straight.

Like others who have personal connections with undocumented migrants, Brad foregrounds the mechanical belonging of undocumented migrant youths: not only does he stress his sympathy for DREAMers, but he further proclaims that DREAMers are “American and some more American” than he is, unequivocally underscoring migrants’ mechanical belonging. At the same time, however, Brad also articulates a Folk Durkheimian relational understanding about the purpose of law as “things we need to follow to take care of our own citizens ... who contribute to the society.” For Brad, law exists to define the proper entitlements and obligations under the societal division of labor, such as the moral obligations owed to “veterans” and “our own citizen.” In Brad’s mind, undocumented migrants fall outside of this division of labor and therefore cannot be morally exculpated, despite him recognizing their mechanical belonging. This ambivalent construction results in Brad supporting “a path to become...legal” for DREAMers, who he sympathizes with, but a “totally different treatment” for “older people who came here illegally.”

This construction of migrants as sympathetic, but infringing upon societal obligations to “our own” is shared by Democrats. Janet, a Democratic white retired civil engineer in her late 70s, similarly expresses, “I totally understand. The stories they have are horrendous” when asked about migrants who migrated outside the law. At the same time, however, Janet also stresses that, “you have to take no more than you can deal with. And we have the homeless crisis in California ... and it’s just going to continue to be a crisis forever I think, because even my own grandchildren can’t afford to get an apartment.” Here, Janet constructs migrants as morally blameless through mechanically belonging, since their lawbreaking is “understandable” to her given the “horrendous” circumstances. Yet, Janet also expresses the countervailing concern that accepting undocumented migrants may impinge upon what citizens, such as her “own grandchildren,” are entitled to, such as affordable housing. By imagining migrants as simultaneously mechanically belong but organically threatening, Janet arrives at a position like Brad’s, where she “fully support(s) DACA (Deferred Action for Childhood Arrival)” – which suspends deportation for some 1.5-generation undocumented migrants – but for undocumented adults, Janet believes that they understand that deportation is just “the cost of doing business.”

Many, if not all, undocumented migrants have struggles that one can empathize with and construct as a basis of moral blamelessness; yet, if one believes that undocumented migrants are taking more than they morally deserve (if they deserve anything) in society’s division of labor, then one must also draw a line as to how much empathy the society can afford to have. Preferring pathways to citizenship only for a limited subset of migrants allows the flexibility to express empathy to the more sympathetic undocumented youths and other “good immigrants,” while excluding migrants if their inclusion comes into conflict with the distributive obligations to “our own.”

Organic belonging, but mechanical threat: quietly productive

Another subset of activists constructs the morality of undocumented migrants in the inverse of the above-described combination of belonging and threat. Here, activists

instead imagine undocumented migrants as organically belonging members who are integral to the societal division of labor, yet simultaneously construct migrants as potentially mechanically threatening to social cohesion. This combination of belonging and threat similarly results in a preference for pathways to citizenship for a limited subset of migrants.

Undocumented migrants have stably made up roughly 5% of the U.S. workforce (Passel and Cohn 2016); undocumented migrants of Mexican origin alone contributed \$92 billion to the U.S. economy and \$9.8 billion in taxes in 2019 (New American Economy Research Fund 2021). Many interviewees note migrants' integral roles in the U.S. economy when making sense of migrants' moral worth. For example, Mark, a Democratic White attorney in his late 30s, remarks upon the contribution of immigrants: "one of my best friends is married to...a scientist. He's brilliant. He's doing good work.... His green card renewal paperwork...is so complicated and difficult.... It needs to be a lot easier. You shouldn't become undocumented because the paperwork was too hard." Here, Mark identifies the indispensable and unique contribution that talented migrants provide to the United States. In Mark's construction, due to their contribution to society, migrants' presences are not only not moral violations, but their ability to stay should be further facilitated by the law.

Yet, none of the interviewees notes the organic belonging of undocumented migrants without also mentioning the potential mechanical threat migrants pose to social cohesion. Under the norms of color-blindness (Bonilla-Silva 2018; Yeh 2024), however, party activists do not explicitly proclaim that they reject migrants for being different, at least not to an interviewer. Furthermore, I find that activists mostly do not enumerate concrete criteria for similarity (English-speaking and Christian in the U.S. context, for example), but instead point only to an abstracted sense of similarity and differences (Schachter 2016). I find that the figure of the "criminal alien" often stands in for this unspecified but threatening difference. It is particularly clear that the "criminal alien" is more a subjective characterization of the migrants' relation to the social body, rather than anything the migrants are imagined to have done, as many are unable to proffer any concrete harm to persons and property by the so-called criminal alien.

Dan, a Democratic White retired writer in his early 70s, stresses the U.S.'s economic dependence upon undocumented migrants and asserts that migrants "may do a lot of the work that people don't want – that hard, physical work, especially agricultural work." Yet, when I ask Dan about his preferred policy redress, Dan speaks hesitantly: "if they break laws, they should be deported. But if they can be quietly productive, they could have temporary visas. Maybe if you have the temporary visa for some period of time and no problem, then there could be some other path to citizenship." Dan first asserts migrants' organic belonging in the division of labor, as migrants perform essential roles in the U.S. economy that only they are willing and able to fill. Due to migrants' integral nature to the societal division of labor, Dan does not consider unauthorized presence itself a moral violation. Yet, this belonging is conditional. Here, although Dan explicitly identifies undocumented migrants who "break laws" beyond unauthorized presence as the ones that should be deported, Dan's juxtaposition of lawbreaking with "quietly productive" is revealing. It is neither outlawed nor poses actual harm for migrants to be not "quiet"; rather, Dan's moral concern is much more centered around migrant's disruption of social order rather than around personal safety.

Pathways to citizenship for a limited subset of migrants provide the mechanism to keep migrants who are deemed belonging due to their contribution, while excluding those who are threateningly dissimilar. For instance, Elena, a Republican Latina former elected official in her early 50s, outlines,

You got a group of DACA students. They work, they pay their taxes ... being an exceptional student and giving back, we should make path to be in front of the line or the side line.... But if you are one of the DACAs and you've been hanging out with some seedy fellows or gals? No! Bad actions cause consequences. Unfortunately, it cost you from staying.

Elena similarly points to the contribution of exceptional undocumented youths to the societal division of labor as the reason that they should be in the “front of the line” for becoming a citizen. At the same time, those who are “hanging out with some seedy fellows or gals” should be punished by deportation. Here, again, “hanging out with seedy fellows or gals” is in itself not a criminal behavior and causes no real harm. Instead, the underlying understanding is that migrants who are in the company of “seedy” people are presumed to also be seedy and against the societal mainstream, which precludes migrants from mechanical belonging. Elena’s articulation can further be read as a coded expression of a racialized fear of gangs. This simultaneous recognition of migrants’ organic belonging and the potential mechanical threat posed by migrants results in Elena’s preference to put the contributing undocumented youths at the “front of the line,” but a desire for punishment by deportation as “consequences” for migrants who aren’t breaking any actual law *per se*, but are perceived as threatening to mainstream values.

Organic threat and citizenship as property

While some underscore the morality of undocumented migrants through their contributions to the societal division of labor, others exclusively construct undocumented migrants as immorally usurping the entitlements of U.S. citizens and authorized immigrants. They often express an understanding of the benefits of citizenship as a property where its holders are entitled to exclude others from access, in ways parallel to Harris’s (1993) description of “Whiteness as property.” Those who construct migrants exclusively as an organic threat often express support for mass deportation.

An illustration of citizenship as property can be seen with Cameron, a Democratic White nonprofit worker in his early 20s. Cameron offers an analogy for why people may be against amnesty for migrants:

I had to take the writing portion of the SAT to get my college acceptance ... and the writing portion is the most subjective. It’s the most bullshit, right? And then it was like the year after I got accepted to [college] they got rid of that requirement ... and I was like, yeah, what the fuck? You guys got it easy now.

Gene, a Republican Black minister in his mid-50s, similarly analogizes about undocumented migration,

in high school, me and my neighbor ... didn't have the money to get into Disneyland, so we just said one day "oh, let's see if we could sneak into Disneyland." The last day we noticed, uh-oh, we noticed people watching, we couldn't sneak in that last day, right? But my question is this, if we would've snuck in and got caught, are we wrong for sneaking in, or are they right or wrong for catching us?

Here, both Cameron and Gene use analogies to describe how law proscribes the entitlements and obligations of citizens. In their analogies, citizens have fulfilled their moral obligations – just as a college applicant takes the SAT writing test and an amusement park patron pays for admission – and, as such, enjoy the entitlements that come from citizenship and legal status. Therefore, it violates their sense of moral fairness for unauthorized migrants to usurp these entitlements. It is incumbent upon the law to protect people's property interest in citizenship and exclude migrants from infringement. Where Cameron's and Gene's analogies break down, however, is that often the only obligation that U.S.-born citizens fulfilled is being born to the right parents.

This belief of immoral usurpation is also present among immigrants. Patty, a Republican Pacific Islander attorney in her early 50s, responds that,

my family, we legally immigrated to the United States and we waited 12 years to come to America. And when you go through the legal immigration route, you have to show proof of ... financial capabilities.... So when you see immigration of people without documentation coming here, essentially cutting the line, and when they do come they're on public assistance, it kind of have this sense of unfairness, because we did not come here to be a burden to American society.

Gabriela, a Republican Latina insurance broker in her late 40s who was formerly undocumented, expresses a similar sentiment and stated,

if people have been here and are working and an active part of society and contributing to society ... they should be given an opportunity.... If they are just living on welfare ... why do we want people like that here? Why did they leave their country just to come here and live off the system here, where taxpayers that are working hard every day have to support them for the rest of their life?

Unlike U.S.-born citizens, immigrants have bureaucratic obligations to fulfill before being able to enjoy the entitlements of residing in the United States. Yet, it is critical to note Patty's conflation between fulfilling the bureaucratic procedure for immigrating to the United States and fulfilling the moral obligation of not living "on public assistance" and being a "burden to American society." In other words, the perception of "unfairness" comes not from unauthorized migrants "cutting the line" *per se*, but that migrant illegality is taken to mean that migrants are not contributing to the interdependent social relationship that law is imagined to uphold. This sentiment is even sharper with Gabriela's articulation: even though she and her family were formerly undocumented, the distinction between her and unauthorized migrants who she believes shouldn't be here lies not in the legal status itself, but in whether people are "living off the system" without "contributing to society." It is also important to

read Patty's and Gabriela's responses within the racialized discursive context of U.S. welfare politics (Brown 2013).

Those who construct migrants as exclusively an organic threat to the societal division of labor tend to prefer mass deportation and other punitive measures. Koa, the Republican Native Hawaiian college student in his early 20s, prefers halting all migration "just because we want to increase wages again in America." Subsequently, when asked what the government should do with unauthorized migrants who are already here, Koa responds simply "deport them." In Koa's construction, law exists to safeguard higher wages, an entitlement to U.S. citizens in the global division of labor. Anyone who usurps that entitlement should be unsentimentally removed. Similarly, Joanna, a white entrepreneur who declines to share her age, asserts that

you and I? We're citizens here. We come first. It's seniority, nothing personal.... You want to stay, fine ... you need to pay. Anything you make from here on out ... you'll also pay a fee ... maybe 15 years of duration. Why? Because they're making money here and sending it back to their country. And the American citizens are not benefitting from it. And they're benefitting from it through fraudulent means.

Joanna's concern centers on the organic threat of undocumented migrants usurping jobs and wages intended for American citizens. Yet, her concern is not about economic competition, as she is fine with migrants staying; rather, her concern is about moral deservingness and entitlement, in the form of "seniority." Here, while Joanna does not advocate for mass deportation as Koa, Joanna suggests that migrants owe U.S. society upwards of 15 years of wage garnishment.

Discussion

While no empirical traits and behaviors categorically distinguish undocumented migrants from their legalized counterparts, party activists overlay moral meanings upon migrant illegality, resulting in concurring preferences for pathways to citizenship for a limited subset of migrants, despite polarized views on undocumented migration. I find that underlying party activists' constructions of migrant morality is the subjective belief that the law exists to protect social solidarity and therefore legal categories signify whether someone belongs or threatens the social body, a belief I describe as "Folk Durkheimian." I further find that activists construct belonging and threat along two axes: whether someone is similar to the social body and whether if someone is a deserving member in the societal division of labor – or mechanical and organic in Durkheimian terms, respectively. As Table 5 demonstrates, activists who construct migrants as unambiguously belonging prefer full amnesty, whereas those who construct migrants as only threatening prefer mass deportation. Yet, as most Republican and Democratic activists construct migrants as simultaneously belonging along one axis and threatening on the other, pathways to citizenship for a limited subset of migrants becomes the consensus preference across parties, despite polarized views about undocumented migration.

It is equally important to notice here the possible constructions of migrant morality not undertaken by the activists. No activist constructs migrants only through

Table 5. Description and tabulation of interviewees' understandings of undocumented migrants

	Belonging	Threat	Typical preference	No. of interviewees
Empathy	Mechanical	–	Full amnesty	8
Limits of empathy	Mechanical	Organic	Pathways for some	28
Quietly productive	Organic	Mechanical	Pathways for some	19
Citizenship as property	–	Organic	Deportation	6

mechanical threat – that is, arguing undocumented migrants should be excluded only because they are too different. This may be because, under the norms of color-blindness (Bonilla-Silva 2018; Yeh 2024), it is socially unacceptable to articulate a desire to exclude solely on the basis of ethnoracial and other social differences. This results not only in coded references to criminality, but possibly also an avoidance to mentioning differences altogether. Another construction not undertaken is to argue for migrant’s unconditional inclusion through only organic belonging – that is, only through migrants’ contribution to the social division of labor. The present study is unable to discern if this is because organic belonging alone is insufficient for migrants to be perceived as belonging, or perhaps it is because it is less socially acceptable to express that migrants are only valued through their contribution to the national economy. Furthermore, as this study draws upon a nonrandom sample of party activists, I am unable to estimate if this is an artifact of this particular sample or if these two constructions are infrequent more generally. If the finding does apply to the larger population of party activists, however, the fact that organic belonging is insufficient for inclusion casts doubt on the political viability of regularization through guest worker programs.

It is also worth noting that the most punitive preferences among my interviewees result from those who construct migrants as an organic threat. In contrast, Durkheim (2014) posits that laws that uphold organic solidarity are usually nonpunitive restitutive laws, with the focus being repairing the damage without incapacitating parties indispensable to the social division of labor. In certain ways, this parallels how U.S. jurisprudence portrays immigration enforcement: immigration law is not criminal law, and migrant detention and expulsion are not intended to be punishments, which justifies the lower level of due process protection against immigration enforcement (Hernandez 2008). Similarly, those who view undocumented migrants as an organic threat similarly frame deportation not as punitive, but as simply “the cost of doing business” – as articulated by Janet, the Democratic White retired civil engineer in her 70s. This legal construction, however, belies the reality of not only well-documented mental and physical sufferings inflicted upon migrants and their families during apprehension, detention, and expulsion, but also the financial and emotional hardships deportation causes, especially for the large portion of migrants who are long-term residents with citizen family members (Dreby and Macias 2023; Lopez 2021; Menjívar and Abrego 2012; Moinester 2024; Ryo 2019; Stumpf 2006). Given

the limitation of an interview study, however, it is difficult to assess if this finding contradicts Durkheim's (2014) prediction about organic solidarity and restitutive laws, or perhaps it is due to people not knowing – willfully or not – the realities of migrant deportation.

Theoretical implication

This paper proposes a relational approach to understanding the moral meanings of legal categories, such as “undocumented migrants.” This endeavor builds upon the lineage of interpretive “legal consciousness” (Chua and Engel 2019; Ewick and Silbey 1998) scholarship, which recognizes that the operation of the law lies not solely in what's formally “on the book” but also in how lay actors' put their folk understandings of the law “in action.” One core insight of this interpretive approach highlights how people draw from multiple schemas of right and wrong – some “legal” and some not – to sort people into different categories and determine what they deserve. Applying the emergent relational turn in sociolegal scholarship (Abrego 2019; Emirbayer 1997; Nielsen 2024; Tenorio 2024; Young 2014; Young and Chimowitz 2022), this paper further suggests that one such understanding that links legal categories to moral deservingness is the belief that law exists to uphold social solidarity. This moves beyond the substantialist search for universal standards that deem certain people moral and deserving under the law and instead examines how legal deservingness is structured by perceived belonging and threat to the social body.

While it is certainly the case that belonging and threat are especially salient for immigration laws, this insight is likely applicable in other legal contexts. For instance, in other parts of the interview fieldwork, I ask interviewees their views on racialized police violence. Greg, a White Republican small business owner in his 60s who has had many negative experiences with the police, insists that he doesn't “want to give [police officers] hero status ... but they are incredibly needed to keep the society sane.” Despite his personal distaste for the police, Greg nevertheless constructs police as organically belonging through performing indispensable tasks in the societal division of labor. This belief leads to many – such as Gayle, a Democratic Black retired educator in her 60s – to prefer “not taking any funding [away] from the police,” but to “reallocate ... the funding to go to certain sources if there's a domestic challenge or a mental illness challenge ... that [police officers] can't really handle because they don't have the expertise.” Here, Gayle reframes police misconduct from individual wrongdoing or systemic failure to a problem of misallocation of tasks in the societal division of labor, which can be rectified not through individual accountability or reexamination of policing practices, but by respecifying the division of labor. The relational Folk Durkheimian approach linking law, belonging, and redress is likely to be useful in other political contentions about legal categories, ranging from framing students accused of sexual misconduct as “our sons” (Levitsky et al. 2024) to the continuing exculpation of the “too-big-to-fail” financial sector (Krippner 2012).

The Folk Durkheimian belief identified through this study further provides a more comprehensive framework for understanding law and group politics through two interrelated theoretical advancements. First, consistent with existing scholarship, this study finds that perceptions of lawbreakers – such as undocumented migrants – as an out-group threat lead to more punitive preferences for policy redresses (Blumer 1958;

Brown and Socia 2017; Ceobanu and Escandell 2010; Chandler and Tsai 2001; Chavez 2025; Chiricos et al. 2014; Citrin et al. 1997; Fussell 2014; Hainmueller and Hopkins 2014; Unnever and Cullen 2010). Yet, as intergroup relations research increasingly demonstrates (Jones 2022), perceptions of threat and competition are far from the only possible outcomes in group politics. The Folk Durkheimian belief not only highlights belonging as the theoretical counterpart to threat, but also accommodates how an out-group can be constructed as simultaneously belonging and threatening on different axes. Both constructions, in turn, result in more clement or ambivalent policy preferences (Lynch and Haney 2011). Future theorization on intergroup relations and the law must account for the full spectrum of possible attitudes and preferences, beyond the narrow focus on antipathy and punitive preferences.

Second, through foregrounding the moral valence of belonging and threat, the identification of Folk Durkheimian belief places different types of group threat into a commensurate framework. Here, economic threat is less about rational self-interested calculation under the competition for scarce resources, but about the contention over the obligations and entitlements of different social groups within the moral economy (Fourcade and Healy 2007; Gastón 2022). This is consistent with the findings that individuals are no more likely to desire restriction for migrants who are their direct labor market competition (Hainmueller and Hiscox 2010); instead, attitude toward immigration is more predicted by “sociotropic” concerns about the national economy at large (Citrin et al. 1997; Hainmueller and Hopkin 2014). Similarly, cultural threat is already an awkward fit within the group threat framework, as people need not perceive cultures as engaged in zero-sum competition, especially in contexts where multiculturalism has long been hegemonic (Alba and Nee 2009; Longazel 2016). Furthermore, people often point to an abstracted sense of similarity and difference, rather than any particular traits, that makes someone an American (Bonikowski et al. 2021; Schachter 2016). Examining the Folk Durkheimian belief illuminates an alternative way to think about cultural threat as how people subjectively label an out-group’s relation to the cohesion of the social body, not necessarily based upon any objective cultural traits. Together, the identified Folk Durkheimian belief bridges disparate strands of research on group threat and punitive attitudes through moral meanings.

In closing, it is useful to consider the political implications of Folk Durkheimian beliefs through engaging with the long-standing critique of the functionalism and essentialism of Durkheim’s (2014) formulation (Greenhouse 2011). In particular, the Durkheimian presumption that law exists to uphold social solidarity is in tension with the liberal democratic principle that legal sanction should be proportional to the act and without regard to who the lawbreaker is. The emphasis on solidarity is further in tension with the need for counter-majoritarian protections for marginalized groups. It is beyond the scope of this paper to speculate whether the Folk Durkheimian impulse I identified has always been present, or if it reflects a “double movement” (Polanyi 2010) seeking to reassert communitarian values in 2020, after decades of neoliberalization. Paralleling the reactions to Nielsen’s (2024) suggestion for a normative framework of relational rights, I suggest that the Durkheimian emphasis on social bonds holds the potential to be emancipatory (Miller 2024; Porter 2024) – such as the many instances where activists are able to empathize with undocumented migrants as fellow human beings that deserve clemency and legal protections – but also the potential to be exclusionary (Asad 2024; Carlson 2024) – such as the willingness to inflict suffering

on migrants for not being “our own.” Future scholarship should continue to grapple with the consonance of a Durkheimian politics within the global right-wing populist turn (Brubaker 2017).

Acknowledgements. I thank Ann Lin, Alford Young, Sandra Levitsky, David Thacher, Jeffrey Lockhart, Mira Vale, Ariela Schachter, Ramón Garibaldo Valdéz, as well as participants of the University of Michigan Social Movements workshop, University of Michigan Race and Racial Ideology workshop, University of Chicago Immigration Workshop, and the previous and current LSR editors and anonymous reviewers for their comments.

Funding Statement. University of Michigan Rackham Graduate School and University of Michigan Department of Sociology provided funding for this research.

Conflicts of Interest. The author declares no conflicts of interest.

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Cite this article: Yeh, Jesse. 2026. "Meanings of migrant illegality: Folk Durkheimian beliefs and relational morality of legal categories." *Law & Society Review*, 1–28. <https://doi.org/10.1017/lsr.2026.10105>