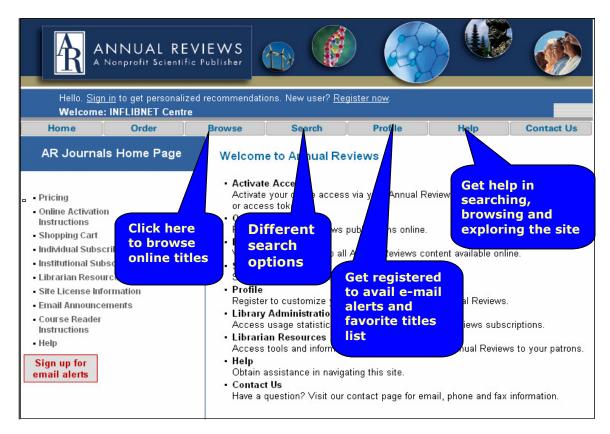


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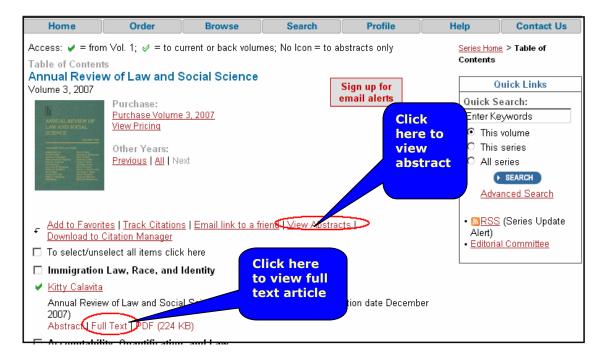
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IMMIGRATION LAW, RACIAL CONSTRUCTION, AND THE CHALLENGE OF BOUNDARY MAINTENANCE

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A long tradition of social science scholarship highlights the role that U.S. immigration and naturalization laws historically have played in the development of racial categories and, conversely, the role of racism in shaping these laws over time. Most notably, scholars often point out that one of the young nation's first decrees and its first statute regulating citizenship declared in 1790 that naturalization was to be limited to "free white persons" (1 *Stat.* 103) (Omi & Winant 1994, p. 81; Haney López 1996; Minow 1997, p. 59; Delgado & Stefancic 2001, p. 77; Goldberg 2001). The statute aimed to bar the naturalization of both immigrants deemed nonwhite and the Africans who had been subject to forced migration. The limiting of eligibility for naturalization to those who qualified as white was lifted only on an ad hoc basis until the midtwentieth century. The Naturalization Act of 1870 (16 *Stat.* 254) extended the possibility of naturalization to persons of "African nativity and African descent" following the Civil War and enactment of the Fourteenth Amendment; the bar against Chinese naturalization was lifted in 1943; Filipino and Indian naturalization was permitted in 1946, despite the fact that all these groups had been declared nonwhite by the courts. But the racial basis for naturalization was not formally removed until the McCarran-Walter Act of 1952 (66 *Stat.* 239).

Race and the Shaping of U.S. Immigration and Naturalization Law

Beyond this foundational element of racism in U.S. naturalization law, numerous scholars have documented its role in excluding particular nationalities from immigration to the United States and in so doing elaborating racial theories and shoring up racial boundaries. The Quota Laws of 1921 and 1924, the first time that U.S. immigration lawmakers set out to restrict significantly the

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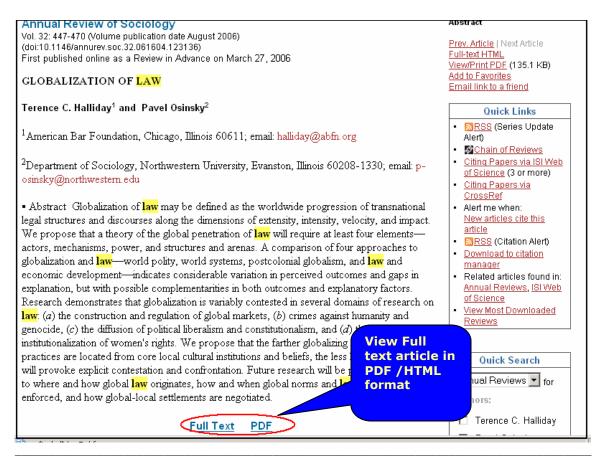
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