

## Northwestern Journal of Law & Social Policy

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Volume 3 | Issue 2

Article 4

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Spring 2008

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### Recommended Citation

Roberto G. Gonzales, *Left Out But Not Shut Down: Political Activism and the Undocumented Student Movement*, 3 Nw. J. L. & Soc. POL'Y. 219 (2008).  
<http://scholarlycommons.law.northwestern.edu/njlsp/vol3/iss2/4>

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# Left Out But Not Shut Down: Political Activism and the Undocumented Student Movement

Roberto G. Gonzales, Ph.D.\*

## I. INTRODUCTION

¶1 Adorned in her cap and gown, Andrea Gómez<sup>1</sup> sat quietly as hundreds watched. In a few short months she would be entering a Master's program in Applied Social Research at the California State University at Fullerton, but this day was one she had been looking forward to for over four years. All of the hours spent in preparation had paid off. There she sat with several others wearing their own caps and gowns, but there was something different about this day. This was no graduation ceremony, and Andrea and the others were not in line to receive their diplomas. Instead of wearing smiles and anxious expressions, these students were bound at their hands with tape covering their mouths. This spectacle was a planned action organized by high school, college, and university students throughout Orange County in an attempt to draw public attention to the ways in which current immigration laws restrict and silence some of the nation's brightest and most talented students.

¶2 These efforts were part of a larger series of actions that took place May 1, 2006, in Santa Ana, California, and in scores of cities across the country. At twenty-two years old, Andrea was not only one of the youngest of the day's organizers, but also one of the central leaders of the coalition of immigrant rights and advocacy groups that set the stage for the Orange County May Day protests. When reflecting back on that day, she proudly exclaims, "It was awesome! Even though many of the organizers involved had forgotten about students, we were able to become an important part of that day. We were able to truly represent students."<sup>2</sup>

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\* Author's Note: This research is supported by the Chief Justice Earl Warren Institute on Race, Ethnicity, and Diversity at the University of California, Berkeley Law School; the National Academy of Sciences, Ford Foundation Diversity Dissertation Fellowship Program; the Public Policy Institute of California; and a generous grant from UC MEXUS. The author would also like to thank Armando Ibarra for his generous assistance. All errors in fact or interpretation are my own. Address Correspondence to Roberto G. Gonzales, University of Washington – SSW, 4101 15th Ave., NE, Seattle, WA 98105-6299, or [rggonzal@u.washington.edu](mailto:rggonzal@u.washington.edu).

<sup>1</sup> To protect confidentiality, all names of individuals and organizations have been replaced with pseudonyms.

<sup>2</sup> Interview with Andrea Gómez in Orange County, Cal. (Feb. 4, 2007).

## II. YOUTH, AGENCY, AND THE MARCHES IN AN ERA OF UNAUTHORIZED SETTLEMENT

¶3 This inclusion of youth as both subjects and active participants in political organizing is something that young people like Andrea have worked tirelessly at achieving. After spending days in strategy meetings with more than forty other student leaders, on May 1, 2006, Andrea and two hundred other students stood on stage making their concerns heard. While this day was an important one for Andrea and countless others, this was not her introduction to political participation. Long before this spring afternoon, the circumstances of Andrea's life shaped both her political and educational trajectories.

¶4 In the spring of 2006, cities across the United States witnessed unprecedented numbers of people taking to the streets in protest.<sup>3</sup> Sparked by the passage in the House of an anti-immigrant Congressional bill,<sup>4</sup> supported by powerful allies,<sup>5</sup> and alerted by effective communication networks,<sup>6</sup> millions of people in big cities and small towns took to the streets and used their feet to express their disapproval. From traditional immigrant metropolises like New York, Los Angeles, and Chicago, to newer immigrant destination cities like Milwaukee, Denver, and Atlanta, these political demonstrations grew into a national effort to mobilize against punitive immigration laws.<sup>7</sup> In Los Angeles alone, more than 500,000 people crowded the streets and parks in peaceful protest on March 25, 2006.<sup>8</sup> Across the nation, hundreds of thousands of people, young and old, and along a wide spectrum of ethnic communities, walked out of school, gave up their wages for a day, and marched in the streets of U.S. cities. Until then quiet and largely out of public sight, these protestors loudly and visibly carried flags, banners, and placards to show their willingness to stand up for the rights of immigrant workers and students.

¶5 Among these demonstrators were large groups of young immigrants and children of immigrants who marched side-by-side with their parents and community members. The efforts of Andrea's group were met by those of other youth groups across the country. About 700 high school students in El Paso, Texas, walked out of their schools in late March, while an estimated 70,000 walked out in San Diego County; 35,000 in Los Angeles County and about 3,500 students in Dallas demonstrated in the streets.<sup>9</sup> These are only a few examples of countless political actions by youth and adults alike that took place across the United States.

<sup>3</sup> Randal C. Archibold, *Immigrants Take to the Streets in Show of Strength*, N.Y. TIMES, May 2, 2006, at A1; Teresa Watanabe & Hector Becerra, *500,000 Pack Streets to Protest Immigration Bills*, L.A. TIMES, Mar. 26, 2006, at A1.

<sup>4</sup> In particular, people responded to HR 4437, the bill sponsored by Representative James Sensenbrenner, Jr. (R-Wis.), which would criminalize entire immigrant communities and those who would aid them. See H.R. 4437, 109th Cong. (2005) (including provisions for tightening border security, heightening penalties for abetting border crossings, and comprehensively increasing the role of employers in learning the legal status of workers).

<sup>5</sup> This was reflected in the Ash Wednesday call by Cardinal Roger Mahony, head of the Los Angeles Roman Catholic Archdiocese, the nation's largest, when he urged his parishioners to defy such a law. Roger Mahony, Op-Ed, *Called by God to Help*, N.Y. TIMES, Mar. 22, 2006, at A25; Rachel L. Swarns, *Rift on Immigration Widens for Conservatives and Cardinals*, N.Y. TIMES, Mar. 19, 2006, at WK4.

<sup>6</sup> These included Spanish radio and other ethnic media.

<sup>7</sup> John M. Broder, *Immigration, from a Simmer to a Scream*, N.Y. TIMES, May 21, 2006, at WK1.

<sup>8</sup> Watanabe & Becerra, *supra* note 3.

<sup>9</sup> Gary Younge, *Ignore Youth at Your Peril*, GUARDIAN WKLY., June 16-22, 2006, at 5.

¶6 In the aftermath of these large demonstrations, scholars, politicians, and pundits have tried to make sense of how they happened and what they would mean for the future. Many asked if this was the beginning of a new civil rights movement, if it was a rebirth of the Chicano movement, and if these protests were a flash in the pan or part of a larger political agenda. While the first two questions are provocative, it is the final question that has perhaps the greatest relevance and importance to scholars, policy makers, and elected officials: would such participation translate into broader political participation by immigrant communities?

¶7 Indeed, as they walked out of schools and marched in the streets, these young protestors participated in large numbers, and significant portions of them have continued to engage in civic and political action.<sup>10</sup> Long after the marches, student groups continue to work tirelessly to educate community members and school officials, assist students, and organize for policy change.

¶8 Nevertheless, the legality of their situation remains salient. As undocumented *residents*, many of the young students are without full political rights, cannot naturalize, and cannot vote. This complex reality calls into question the political currency of an informal existence. However, unauthorized students are not without the ability to take willing and purposive action in the face of social restraints. Student involvement in the immigrant rights marches of the spring of 2006 brings to mind the relationship between structure and human agency that occupied the minds of social theorists more than twenty years ago.<sup>11</sup> In the face of an impending tightening of rights and a hostile populace, students like Andrea stood up to take independent action that would move them from the status of unwilling victims to active participants.

¶9 In part, Andrea's story is not unique. She is part of the growing number of "1.5"<sup>12</sup> and second-generation children born to unauthorized parents and raised in the United States. Along with the native-born and the immigrant children under the age of eighteen, they number five million.<sup>13</sup> Of these, approximately 1.8 million are unauthorized<sup>14</sup> with

<sup>10</sup> As evidenced in my ongoing research with immigrant student groups in California, February 2006 to January 2008. Roberto G. Gonzales, *Born in the Shadows: The Uncertain Futures of the Children of Undocumented Migrants* (2008) (unpublished dissertation, University of California – Irvine) (on file with author).

<sup>11</sup> See generally ANTHONY GIDDENS, *THE CONSTITUTION OF SOCIETY: OUTLINE OF THE THEORY OF STRUCTURATION* (1984) (arguing that social structure and human agency cannot be discussed without reference to the other); MICHEL DE CERTEAU, *THE PRACTICE OF EVERYDAY LIFE* (Steven Rendall trans., Univ. of Cal. Press 1984) (1974) (analyzing how people relate to and individualize social institutions in their daily lives); PIERRE BOURDIEU, *OUTLINE OF A THEORY OF PRACTICE* (Richard Nice trans., Cambridge Univ. Press 1977) (attempting to reconcile the role of agency in social structures); MARSHALL SAHLINS, *CULTURE AND PRACTICAL REASON* (1976) (rejecting historical materialism and presenting culture and social structures as having independent meaning).

<sup>12</sup> Sociologist Rubén G. Rumbaut employed the concept of the 1.5 generation to distinguish immigrant children from first and second generations; immigrants who arrive in the United States in their late teens or as adults are generally designated as first generation, those who come as children are considered to be 1.5 generation, and those born in the United States to at least one immigrant parent are second-generation. See generally Rubén G. Rumbaut, *Ages, Life Stages, and Generational Cohorts: Decomposing the Immigrant First and Second Generations in the United States*, 38 INT'L MIGRATION REV. 1160 (2004) [hereinafter *Generational Cohorts*]; Rubén D. Rumbaut & Rubén G. Rumbaut, *Self and Circumstance: Journeys and Visions of Exile*, in *THE DISPOSSESSED: AN ANATOMY OF EXILE* 331 (Peter Rose ed., 2005) [hereinafter *Self and Circumstance*].

<sup>13</sup> Jeffrey S. Passel, *Size and Characteristics of the Unauthorized Migrant Population in the U.S.*, Pew Hispanic Center, Mar. 7, 2006, available at <http://pewhispanic.org/reports/report.php?ReportID=61> (last visited Aug. 6, 2008).

few chances to regularize their status. Each year, an estimated 65,000 unauthorized students graduate from high school without the benefits of full societal participation.<sup>15</sup> Another 15,000 (nearly one-fifth) fail to graduate.<sup>16</sup>

¶10 Since the changes brought about in the 1960s, there has been a transformation in the general landscape of the United States. In particular, stepped-up border enforcement and the passage of free-trade agreements have transformed once-circular migration patterns into permanent and unauthorized migrant settlement.<sup>17</sup> Although Mexican migration has constituted a steady stream, contemporary migration is characterized by greater numbers and a large unauthorized population with a larger presence in urban areas.<sup>18</sup> Over the last two decades, the number of unauthorized families has grown to 6.6 million as increased labor migration and a corresponding increase in settlement have dramatically altered the complexity of the Latino migrant family.<sup>19</sup> As a result, an increasing number of children are being raised in the United States without the protections and privileges of citizenship.

¶11 Once Andrea's family crossed the border into the United States, they began their new lives as unauthorized migrants ("illegal aliens" in the common pejorative), and as a result are confronted with major challenges. Today, an estimated 11.5 to 12 million unauthorized immigrants reside in the United States.<sup>20</sup> Living in the shadows, these adults and their children struggle to balance the contradictory and conflicting meanings inscribed by immigration laws and economic practices. Indeed, over the last one hundred years, a series of adjustments and transformations in immigration laws and labor recruitment have shaped the nature of communities and social and economic mobility for Mexican immigrants in the United States.<sup>21</sup>

¶12 Meanwhile, local and national policies have oscillated to satisfy competing views, resulting in changing and arbitrary definitions of legality and mixed messages for

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<sup>14</sup> *Id.*

<sup>15</sup> Unauthorized immigrants by law cannot legally work, vote, serve on juries, or, in most states, drive.

<sup>16</sup> Passel, *supra* note 13.

<sup>17</sup> See generally DOUGLAS S. MASSEY, JORGE DURAND & NOLAN J. MALONE, BEYOND SMOKE AND MIRRORS: MEXICAN IMMIGRATION IN THE ERA OF ECONOMIC INTEGRATION (2002) (detailing immigration patterns from the early 1900s to the present and arguing that current laws and trade agreements have fundamentally changed immigration patterns).

<sup>18</sup> See ROGER D. WALDINGER, STRANGERS AT THE GATES: NEW IMMIGRANTS IN URBAN AMERICA (2001) (presenting a picture of the new immigrant America with a focus on the immigrant presence in the five U.S. cities that attract the most immigrants).

<sup>19</sup> *Id.*

<sup>20</sup> Passel, *supra* note 13.

<sup>21</sup> See generally GILBERT G. GONZALEZ & RAUL A. FERNANDEZ, A CENTURY OF CHICANO HISTORY: EMPIRE, NATIONS AND MIGRATION (2003) (linking history to contemporary Mexican immigration and settlement, as well as emphasizing the significance of late nineteenth and twentieth century U.S. economic expansion); LEO R. CHAVEZ, SHADOWED LIVES: UNDOCUMENTED IMMIGRANTS IN AMERICAN SOCIETY (1992) (presenting a case study of undocumented Mexican immigrants and raising questions about undocumented immigrant settlement and incorporation); VICKI L. RUIZ, FROM OUT OF THE SHADOWS: MEXICAN WOMEN IN TWENTIETH-CENTURY AMERICA (1998) (highlighting the overlooked, marginal history of Mexican women in the United States); MARIO BARRERA, RACE AND CLASS IN THE SOUTHWEST (1979) (focusing on the economic foundations of inequality that have affected Mexicans in the Southwest); ALBERT CAMARILLO, CHICANOS IN A CHANGING SOCIETY: FROM MEXICAN PUEBLOS TO AMERICAN BARRIOS IN SANTA BARBARA AND SOUTHERN CALIFORNIA, 1848-1930 (1979) (analyzing the forces that pushed Mexicans in Southern California into low-wage work and segregated neighborhoods); RICARDO ROMO, EAST LOS ANGELES: HISTORY OF A BARRIO (1983) (tracing the recruitment of Mexicans to Los Angeles and the growth of the largest Mexican community in the United States); ERNESTO GALARZA, FARM WORKERS AND AGRI-BUSINESS IN CALIFORNIA, 1947-1960 (1977) (providing an account of union organizing in California in the 1950s).

migrants. Moreover, contradictions between the United States's economic and immigration policies have created a steady and growing number of largely Latino low-wage laborers to meet the needs of the economy, a large number of whom work without the protections and privileges of legal status. In addition, unauthorized migrant settlement has contributed to larger numbers of unauthorized children growing into adulthood, for which legal status, poor schools, and poverty conspire to make political, social, and economic incorporation extremely complicated.

### III. UNAUTHORIZED STUDENTS AND UNCERTAIN FUTURES

¶13 The spring demonstrations provided the impetus for voter drives and grassroots immigrant rights activism throughout the country.<sup>22</sup> They also attracted workers and students who had never been involved in any sort of a political movement up until then.<sup>23</sup> However, the image of the “awakened giant” that has been used quite frequently since then<sup>24</sup> does little more than reify simplistic and misleading notions that immigrants and immigrant communities had been theretofore powerless and paralyzed. To be sure, the immigrant rights marches mobilized more people than any other time in the history of the United States.<sup>25</sup> However, to imagine that these actions were merely spontaneous eruptions of pent-up feelings without acknowledging underlying community organizing processes and the historic antecedents of previous community efforts misses the manner in which the mobilizations were organized. Moreover, such assumptions also obscure the ways in which political participation takes root in immigrant communities.

¶14 The spring marches demonstrated that despite legal and social marginalization, immigrants activated alternate forms of participation as a common reaction to impending legislation and a shared experience. The growth of the unauthorized population over the last two decades coincided with the accumulative growth of 1.5 and second-generation children in large proportions. Because these children's fates are largely interlinked with their unauthorized parents, their stake in what happens in the larger immigration debates is indisputable.

¶15 While unauthorized children and adolescents are confronted with numerous barriers and exclusions, they are entitled by law to an education. In 1982, the Supreme Court of the United States ruled in *Plyler v. Doe* that undocumented children are “persons” under the Fourteenth Amendment of the Constitution and thus can assert claims under the Equal Protection Clause.<sup>26</sup> The Court further held that children cannot be denied access to public elementary and secondary education on the basis of their legal status.<sup>27</sup>

<sup>22</sup> Daniel González, *Migrant Rights Groups Seek 1 Million Voters*, ARIZ. REPUBLIC, Aug. 3, 2006, at A1, available at [http://www.hispanic7.com/migrant\\_rights\\_groups\\_seek\\_1\\_million\\_voters.htm](http://www.hispanic7.com/migrant_rights_groups_seek_1_million_voters.htm) (last visited Aug. 6, 2008).

<sup>23</sup> Michelle Mittlestadt, *Rousing a Sleeping Giant*, DALLAS MORNING NEWS, June 25, 2006, at A1.

<sup>24</sup> Watanabe & Becerra, *supra* note 3.

<sup>25</sup> *Id.*

<sup>26</sup> 457 U.S. 202, 215 (1982). This ruling has since been challenged, but remains law, thus enabling thousands of undocumented students to graduate from high school each year. See California Constitution Proposition 187 (1994 ballot initiative designed to deny undocumented immigrants social services, health care, and public education). (It should be noted, however, that major portions of Proposition 187 were found to constitute an impermissible regulation under the preemption doctrine just over a year after being passed. See *League of United Latin Am. Citizens v. Wilson*, 908 F. Supp. 755 (C.D. Cal. 1995)). See also the proposed Gallegly Amendment to the Illegal Immigration and Immigrant Responsibility Act of 1996, which included a statement arguing that providing a free public education to undocumented immigrants “creates a significant burden on States’ economies and depletes States’ limited educational resources.”

¶16 This case has had profound implications for children, families, and school districts throughout the country for the last twenty-five years. The *Plyler* ruling also has important implications for school-based leadership and civic engagement opportunities. Thanks to *Plyler*, hundreds of thousands of children have gone on to receive their education.<sup>28</sup> As a result of their participation in school, many of these youngsters develop ties to teachers, counselors, and peers. Through these networks, some of these students also join school-based clubs and organizations, where they begin to gain experience in community service and develop leadership skills.

¶17 Some states have granted unauthorized students in-state tuition to public colleges and universities,<sup>29</sup> enabling a small but significant minority of unauthorized students the opportunity to pursue post-secondary education.<sup>30</sup> It is not a coincidence that many groups, like Andrea's, are forming on college and university campuses. Encouraged by in-state tuition policies, like California's AB 540,<sup>31</sup> undocumented students now feel some measure of inclusion. Beyond the instrumental functions of the law, they also provide a less stigmatizing label that signals students' legal permission on one hand, and gives them a legitimized identity on the other. Undocumented students in California, for example, can call themselves AB 540 students, a name they can more safely use in public—as few people know the meaning—and one around which they can rally.<sup>32</sup>

¶18 However, these state laws, which provide in-state tuition and allow more students educational and civic opportunities, are only applicable in the classroom and do not provide any means for changing one's immigration status. As a result, when finished with their post-secondary education, these highly educated student leaders have as few options as their parents. They are left with few choices other than to advocate for their rights to become full citizens.

¶19 What are the consequences of growing up “American,” yet living with only partial access to the mechanisms that promote social mobility, and what, in particular, about

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H.R. 2202, 104th Cong. (1996) (sponsored by California Congressman Elton Gallegly).

<sup>27</sup> *Plyler*, 457 U.S. at 230.

<sup>28</sup> For more on *Plyler v. Doe*, see Michael A. Olivas, *The Story of Plyler v. Doe, The Education of Undocumented Children, and The Polity, in* IMMIGRATION STORIES 197-220 (D. Martin & P. Schuck, eds.) (2005); Michael A. Olivas, *Plyler v. Doe, Toll v. Moreno and Postsecondary Admissions: Undocumented Adults and “Enduring Disability,”* 15 J.L. & EDUC. 19 (1986). Professor Olivas has written extensively about the *Plyler* decision in particular, and issues of residency broadly.

<sup>29</sup> Since 2001, ten states have passed laws permitting certain undocumented students who have attended and graduated from their primary and secondary schools to pay the same tuition as their in-state classmates at public institutions of higher education. The states are California, CAL. EDUC. CODE § 68130.5 (West 2007); Illinois, ILL. COMP. STAT. 305/7e-5 (2003); Kansas, KAN. STAT. ANN. § 76-731a (2004); Nebraska, NEB. ADMIN. CODE § 85-502 (2006); New Mexico, N.M. STAT. § 5-18-7.10 (2005); New York, N.Y. EDUC. LAW § 6301 (McKinney 2002); Oklahoma, OKLA. STAT. tit. 70, § 3242 (2007); Texas, TEX. EDUC. CODE ANN. § 54.057 (Vernon 2001), amended by TEX. EDUC. CODE ANN. § 54.057 (Vernon 2005); Utah, UTAH CODE ANN. § 53B-8-106 (2002); Washington, WASH. REV. CODE § 28B-14-012 (2003).

<sup>30</sup> See Elizabeth Redden, *An In-State Tuition Debate*, INSIDE HIGHER EDUC., Feb. 28, 2007, <http://www.insidehighered.com/news/2007/02/28/immigration> (last visited Aug. 6, 2008).

<sup>31</sup> California Assembly Bill 540 amended the California Education Code section 68130.5 to create a new exemption from payment of non-resident tuition. Nonresident Tuition at California State University and California Community Colleges, CAL. EDUC. CODE § 68130.5 (West 2007). Students who have attended a California high school for three years and received a California high school diploma or its equivalent, such as a GED, are exempt from paying non-resident tuition. *Id.*

<sup>32</sup> See generally Leisy Abrego, *Legitimacy, Social Identity, and the Mobilization of Law: The Effects of Assembly Bill 540 on Undocumented Students in California*, 33 LAW & SOC. INQUIRY (forthcoming Aug. 2008).

living an informal existence provides the impetus for political participation? Unauthorized students have unique circumstances that set them apart from their immigrant parents and their native-born peers. Their lives are profoundly shaped by parallel processes of growing into adolescence and adulthood and acculturating to the norms and standards of U.S. culture. They find themselves between two worlds, betwixt and between their country of birth and the country they call home. In the words of many I have spoken to, they are *ni de aquí, ni de allá* (neither here, nor there). Most of them only know their birth country through their parents' stories. They may feel a nostalgic connection to their homeland, but do not have the ability to visit without having to make a clandestine crossing in order to return. At the same time, they feel the negative impact of racism in their own schools and communities. Yet with every year lived in the United States, they feel a growing distance between them and their parents as they become more acculturated. Ironically, though, each of these years also brings them closer to the consequences and limitations of their unauthorized status.

¶20 These children, born abroad yet brought at an early age to live in the United States by their parents, represent a relatively new but significant population. Their generation fits somewhere between the first and second generations, and therefore is commonly referred to as the 1.5 generation.<sup>33</sup> They are not of the first generation because they did not choose to migrate, but they are not of the second generation either, as they were born and spent part of their childhood in their country of birth. While they have some association with their countries of origin, their primary identification is affected by experiences growing up American. They, at times, straddle two worlds and are often called upon to assist their parents in the acculturation and adaptation process. However, their dual frames of reference provide both advantage and difficulty.

¶21 Unlike their parents, most do not migrate with the understanding of toiling in low-wage jobs. To be sure, their fates are shaped by larger processes of labor demand and immigrant restriction. However, they have grown up in the United States and have aspirations and expectations similar to those of their native-born and legal immigrant peers.<sup>34</sup> Their immigration status, however, separates them from their peers, as their aspirations cannot be fully realized without significant changes to the laws governing their rights to full participation. As a result, unauthorized students are fighting for their place at the table, in the classroom, and in the workforce.

¶22 While unauthorized students find open, albeit limited, avenues to participation in school, they are often left out of broader political processes.<sup>35</sup> United States immigration laws determine who is eligible to receive the benefits and to participate in the country's labor market and political system. As such, it is instrumental in determining how newcomers participate politically. In order to vote, serve on juries, and receive most health benefits, citizenship is essential. Legal permanent residents, while not able to

<sup>33</sup> See *supra* note 12.

<sup>34</sup> See generally Herbert Gans, *Second Generation Decline: Scenarios for the Economic and Ethnic Futures of the Post-1965 American Immigrants*, 15 *ETHNIC & RACIAL STUDIES* 173 (1992) (discussing the challenges confronting second-generation immigrants).

<sup>35</sup> Most colleges admit undocumented students, and in ten states undocumented students qualify for in-state tuition at public colleges and universities. See *supra* note 29. However, undocumented students do not qualify for public financial aid. See Susan Ferriss, *Undocumented Kids Seek Aid of Congress*, *SACRAMENTO BEE*, Oct. 16, 2007, at A3; Roberto G. Gonzales, *Wasted Talent and Broken Dreams: The Lost Potential of Undocumented Students*, *IMMIGR.POL'Y IN FOCUS*, Oct. 2007, at 1, 2.



experience the full range of benefits citizenship offers, do have more opportunities than unauthorized migrants, such as the ability to work lawfully.<sup>36</sup> However, unauthorized students do not have such opportunities, as their immigration status shuts them out of many forms of participation.

¶23 These students' lived realities provide strong evidence for the assertion that immigration policies hold strong salience in the lives of immigrants, as they have the power to designate statuses and determine who gets what. Social scientists have pointed out that such designations of "illegal alien," "green card holder," and "citizen" are arbitrary categories that separate people, endow status, and dictate who is in and who is out.<sup>37</sup>

¶24 Indeed, unauthorized settlement has legal and political implications, restricting unauthorized families' ability to participate in political activity as well as day-to-day life.<sup>38</sup> As social scientists have noted, immigration policies affect personal decisions such as work, driving, and going to school.<sup>39</sup> Scholars have also demonstrated that these policies have a strong power over immigrants. Kitty Calavita, for example, argues that immigration laws, rather than controlling immigration, control and marginalize immigrants.<sup>40</sup> Susan Coutin concurs, asserting that these laws in effect criminalize migrant behavior.<sup>41</sup> Migrants understand the law and how it restricts them and behave accordingly.<sup>42</sup> Does all of this mean, though, that these young women and men are completely disenfranchised? Coutin points out that migrants can and do exercise purposive action as they create what she calls legitimate spaces for work, political, and social life.<sup>43</sup>

#### IV. LATINO STUDENT POLITICAL PARTICIPATION

¶25 Although the recent struggle by unauthorized students for legalization and broader access for themselves is a relatively new one, Latinos are no strangers to the political trenches. To be sure, Latinos have historically been stimulated into political activity

<sup>36</sup> See, e.g., Thomas J. Espenshade, Jessica L. Baraka & Gregory A. Huber, *Implications of the 1996 Welfare and Immigration Reform Acts for US Immigration*, 23 POPULATION & DEV. REV. 769, 769-801 (1997).

<sup>37</sup> See, e.g., Cecilia Menjivar, *Liminal Legality: Salvadoran and Guatemalan Immigrants' Lives in the United States*, 111 AM. J. SOC. 999 (2006).

<sup>38</sup> NORA HAMILTON & NORMA STOLTZ CHINCHILLA, SEEKING COMMUNITY IN A GLOBAL CITY: GUATEMALANS AND SALVADORANS IN LOS ANGELES 152-80 (2001); Menjivar, *supra* note 37.

<sup>39</sup> Susan B. Coutin, *Questionable Transactions as Grounds for Legalization: Immigration, Illegality, and Law*, 37 CRIME LAW & SOCIAL CHANGE 19-36 (2002) [hereinafter *Questionable Transactions*]; SUSAN B. COUTIN, LEGALIZING MOVES: SALVADORAN IMMIGRANTS' STRUGGLE FOR U.S. RESIDENCY 27-47 (2000) [hereinafter LEGALIZING MOVES].

<sup>40</sup> KITTY CALAVITA, IMMIGRANTS AT THE MARGINS: LAW, RACE, AND EXCLUSION IN SOUTHERN EUROPE 10-13 (2005); Kitty Calavita, *Immigration, Law, and Marginalization in a Global Economy: Notes from Spain*, 32 LAW & SOCIETY REV. 529, 529-66 (1998).

<sup>41</sup> Susan B. Coutin, *From Refugees to Immigrants: The Legalization Strategies of Salvadoran Immigrants and Activists*, 32 INT'L MIGRATION REV. 901, 901-25 (1998); Susan B. Coutin, *Differences within Accounts of U.S. Immigration Law*, 19 POLAR: POL. & LEGAL ANTHROPOLOGY REV. 11, 11-19 (1996).

<sup>42</sup> CHAVEZ, *supra* note 21; *Questionable Transactions*, *supra* note 39, at 21-31; LEGALIZING MOVES, *supra* note 39, at 27-47; see also JACQUELINE MARIA HAGAN, DECIDING TO BE LEGAL: A MAYA COMMUNITY IN HOUSTON (1994); PIERRETTE HONDAGNEU-SOTELO, DOMÉSTICA: IMMIGRANT WORKERS CLEANING AND CARING IN THE SHADOWS OF AFFLUENCE (2001); PIERRETTE HONDAGNEU-SOTELO, GENDERED TRANSITIONS: MEXICAN EXPERIENCES OF IMMIGRATION (1994); Menjivar, *supra* note 37, at 999; CECILIA MENJIVAR, FRAGMENTED TIES: SALVADORAN IMMIGRANT NETWORKS IN AMERICA (2000).

<sup>43</sup> *Questionable Transactions*, *supra* note 39, at 21-41.

when issues of education, immigration, and political empowerment are part of the political discourse and agenda.<sup>44</sup> Social policies have also elicited Latino political participation,<sup>45</sup> as Latino voters have demonstrated strong support for a liberal domestic policy agenda and expressed support for increased government spending on domestic social problems.<sup>46</sup>

¶26 Historically, as Latinos in the United States have struggled to gain political rights and access to institutions, scholars have tried to understand the mechanisms that promote political participation and engagement. Contemporary scholarship has argued for the importance of studying immigrant youth civic engagement. Lopez and Marcelo, for example, argue that youth receptivity to civic engagement, the size of the immigrant youth population, as well as the differences between them and their native counterparts, provide ample reasons for the importance of study.<sup>47</sup>

¶27 One of the most dominant explanations of political participation is human capital. Scholars of political incorporation have argued that socio-economic status (SES)—level of education, income, and occupation—is the strongest predictor of political behavior.<sup>48</sup> Moreover, Latino political scholars find that increases in human capital lead to increased political participation.<sup>49</sup> However, many Latinos in the contemporary era, particularly unauthorized immigrants, exhibit very low levels of SES.

¶28 Much of the scholarship on Latino political participation fails to address the complexity of legal status and its salience for Latino communities, as a significant proportion of the population does not have the ability to regularize its status and must wait as others debate their uncertain futures. Indeed, unauthorized students accumulate human capital by way of pursuing higher education. However, their legal status issues ultimately limit the benefits of increased human capital, as financial assistance and the right to work remain unavailable to them.

¶29 Recent scholarship demonstrating low civic engagement among youth across the board further dims the picture of Latino youth involvement. In recent years, celebrities and politicians have recognized that young people represent a large, untapped demographic, and have tried to increase the numbers of student civic engagement and voting. Although there is a trend toward greater youth participation in community service,<sup>50</sup> between fifty and thirty percent of youth actually participate in volunteer

<sup>44</sup> Susan González Baker, *Vote for Me: In America Su Voto Es Su Voz: Latino Political Empowerment and the Immigration Challenge*, 29 POL. SCI. & POL. 465, 465-68 (1996).

<sup>45</sup> Rodney E. Hero & Caroline J. Tolbert, *Latinos and Substantive Representation in the U.S. House of Representatives: Direct, Indirect, or Nonexistent?* 39 AM. J. POL. SCI. 640, 640-52 (1995).

<sup>46</sup> RODOLFO DE LA GARZA & LOUIS DESIPIO, AWASH IN THE MAINSTREAM: LATINO POLITICS IN THE 1996 ELECTIONS 3-46 (1999).

<sup>47</sup> M.H. Lopez & K.B. Marcelo, *The Civic Engagement of Immigrant Youth: New Evidence from the 2006 Civic and Political Health of the Nation Survey*, 12 APPLIED DEV. SCI. 66, 66-73 (2008).

<sup>48</sup> SIDNEY VERBA & NORHMAN H. NIE, PARTICIPATION IN AMERICA (1972); Pierce Lewis, Casey McCracken & Roger Hunt, *Politics: Who Cares?*, AM. DEMOGRAPHICS, Oct. 1994, at 20-26; Jan E. Leighley & Arnold Vedlitz, *Race, Ethnicity, and Political Participation: Competing Models and Contrasting Explanations*, 61 J. POL. 1092, 1092-14 (1999).

<sup>49</sup> DE LA GARZA & DESIPIO, *supra* note 46, at 26-38; HARRY PACHON & LOUIS DESIPIO, NEW AMERICANS BY CHOICE: POLITICAL PERSPECTIVES OF LATINO IMMIGRANTS 33-34 (1994); JACK CITRIN & BENJAMIN HIGHTON, HOW RACE, ETHNICITY AND IMMIGRATION SHAPE THE CALIFORNIA ELECTORATE 23-27 (2002).

<sup>50</sup> Nakesha Faison & Constance A. Flanagan, *Youth Civic Development: Implications of Research for Social Policy and Programs*, SOC. POL'Y REP Vol. XV no.1, 2001, at 4, available at <http://www.srcd.org/documents/publications/SPR/spr15-1.pdf> (last visited Aug. 6, 2008).

activities.<sup>51</sup> These low rates of volunteerism among youth in general are consistent with the low rates of political involvement. Recent data supports these findings, and shows a decrease in political involvement and an increase in cynicism among youth about the political process.<sup>52</sup>

¶30 So what does the research literature say about why people participate? Many scholars have argued that in order for young people to be moved to participate in politics, they must experience positive political socialization,<sup>53</sup> establish civic competence,<sup>54</sup> build civic skills,<sup>55</sup> be mobilized through formal and informal networks,<sup>56</sup> and manifest political efficacy and interest.<sup>57</sup> Much of this, at least for young people, happens in the context of the college or university.

¶31 Education is a powerful predictor in understanding youth political participation. Researchers Jarvis, Montoya, and Mulvoy find that students inherit a set of civic resources and opportunities as they experience better political socialization and have more opportunities to forge friendships.<sup>58</sup> College students, they argue, enjoy political resources “such as political sophistication, knowledge about politics, political skills and a broader understanding of political life”;<sup>59</sup> “psychological resources [such as] the motivation to appreciate democratic governance and to develop democratic values”;<sup>60</sup> and “social resources [such as] the opportunity to spend time with other college students”<sup>61</sup> and to “join[] organizations that increase participation in civic life.”<sup>62</sup>

¶32 In the case of unauthorized students raised in the United States, many are taking their cues from their school campuses. Historically, young people like Andrea have

<sup>51</sup> JONATHAN F. ZAFF & ERIK MICHELSEN, BACKGROUND FOR COMMUNITY-LEVEL WORK ON POSITIVE CITIZENSHIP IN ADOLESCENCE: REVIEWING THE LITERATURE ON CONTRIBUTING FACTORS, CHILD TRENDS (2001), [http://www.childtrends.org/what\\_works/youth\\_development/doc/KCitizen.pdf](http://www.childtrends.org/what_works/youth_development/doc/KCitizen.pdf) (last visited Aug. 6, 2008); Constance A. Flanagan, Jennifer M. Bowes, Britta Jonsson & Beno Csapo, *Ties that Bind: Correlates of Adolescents' Civic Commitments in Seven Countries*, 54 J. SOC. ISSUES 457 (1998); Jonathan F. Zaff, Oksana Malanchuk, Erik Michelson & Jacquelynn Eccles, *Promoting Positive Citizenship: Priming Youth for Action* (CIRCLE: The Center for Information & Research on Civic Learning & Engagement 2003).

<sup>52</sup> ROBERT D. PUTNAM, BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY 259 (2000).

<sup>53</sup> The Tarrance Group and the National Association of Secretaries of State, New Millennium Survey: American Youth Attitudes on Politics, Citizenship, Government and Voting, *available at* [http://nass.org/index.php?Itemid=45&id=132&option=com\\_content&task=view](http://nass.org/index.php?Itemid=45&id=132&option=com_content&task=view) (last visited Aug. 6, 2008); LAKE SNELL PERRY & ASSOCIATES, SHORT-TERM IMPACTS, LONG-TERM OPPORTUNITIES: THE POLITICAL AND CIVIC ENGAGEMENT OF YOUNG ADULTS IN AMERICA 30-35 (2002).

<sup>54</sup> John M. Strate, Charles J. Parrish, Charles D. Elder & Coit Ford III, *Life Span Civic Development and Voting Participation*, 83 AM. POL. SCI. REV. 443, 443-64 (1989).

<sup>55</sup> SCOTT KEETER, CLIFF ZUKIN, MOLLY ANDOLINA & KRISTA JENKINS, THE CIVIC AND POLITICAL HEALTH OF THE NATION: A GENERATIONAL PORTRAIT 30-36 (CIRCLE 2002).

<sup>56</sup> Stephen Earl Bennett, *Left Behind: Exploring Declining Turnout Among Noncollege Young Whites, 1964-1988*, 72 SOC. SCI. Q. 314, 314-33 (1991).

<sup>57</sup> Sheilah Mann, *What the Survey of American College Freshmen Tells Us About Their Interest in Politics and Political Science*, 32 POL. SCI. & POLITICS 263 (1999); MARK HUGO LOPEZ & JASON P. KOLACZKOWSKI, CIVIC ENGAGEMENT AMONG NON-COLLEGE ATTENDING 18-25 YEAR OLDS, 263-68 (CIRCLE 2003).

<sup>58</sup> SHARON E. JARVIS, LISA MONTOYA & EMILY MOLVOY, THE POLITICAL PARTICIPATION OF COLLEGE STUDENTS, WORKING STUDENTS, AND WORKING YOUTH 4-5 (CIRCLE 2005).

<sup>59</sup> *Id.* at 4.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

gained entrée into social movements through campus organizations. Throughout the twentieth century, students from around the globe protested war, racism, and oppressive governments. In the United States, the core social movements in the 1960s were made up of student groups. As the war in Vietnam raged abroad and the freedom marches and women's movement hit their strides at home, young people across the nation let their voices be heard.<sup>63</sup> Meanwhile, in a changing South Korea, student groups engaged in sometimes violent battles as they spoke out against their government.<sup>64</sup> And let us not forget the student protests in Mexico City in 1968<sup>65</sup> and Beijing in 1989<sup>66</sup> that led to the deaths of hundreds, as both middle- and working-class students argued for democratic reforms in their respective countries. These actions and countless more were largely spearheaded by the youthful energy of students and incubated in college and university campuses.

#### V. CAPITAL, CONTEXT, AND SOCIALIZATION

¶33 Contemporary immigration research focuses on the interplay between individual level characteristics and structural considerations in examining how and why immigrant children and the children of immigrants become differently incorporated into the educational, economic, and political life of the United States. Developed by Alejandro Portes and Min Zhou<sup>67</sup> and refined by Alejandro Portes and Rubén G. Rumbaut,<sup>68</sup> this framework offers a theoretical lens for understanding how different levels of human capital and differing structural contexts determine the direction of these paths.

¶34 Portes and Rumbaut argue that modes of incorporation in the adaptation process of the immigrant 1.5 and second-generations are shaped by the various contexts of reception. The 1.5 and second generations possess skills in the form of education, job experience, and language knowledge. The currency of these skills, however, is contingent on the larger contexts that receive their respective groups.<sup>69</sup> Portes and Rumbaut point out that among other contexts, the policies of the receiving government, the host society's reception, and the conditions of the labor market are instrumental in structuring opportunities for immigrants and their children.<sup>70</sup> The contexts for undocumented students, while overwhelmingly negative, also offer some opportunities. By law they cannot work, receive financial aid, or participate in the electoral process, but because of the *Plyler* decision, they *can* go to school.<sup>71</sup> The current anti-immigrant

<sup>63</sup> See generally, SOCIAL MOVEMENTS IN AN ORGANIZATIONAL SOCIETY (Mayer N. Zald & John McCarthy eds., 1987) (collecting various essays on organizational theory, social movements, and the process of organizational change).

<sup>64</sup> Hyaewool Choi, *The Societal Impact of Student Politics in Contemporary South Korea*, 22 HIGHER EDUC. 175, 175-88 (1991).

<sup>65</sup> See ELENA PONIATOWSKA, MASSACRE IN MEXICO (Helen R. Lane trans., Univ. Mo. Press 1992) (providing a personal account of the 1968 protest).

<sup>66</sup> See GEORGE BLACK & ROBIN MUNRO, BLACK HANDS OF BEIJING: LIVES OF DEFIANCE IN CHINA'S DEMOCRACY MOVEMENT (1993).

<sup>67</sup> Alejandro Portes & Min Zhou, *The New Second Generation: Segmented Assimilation and Its Variants*, 530 ANNALS AM. ACAD. POL. & SOC. SCI. 74, 74-96 (1993).

<sup>68</sup> ALEJANDRO PORTES & RUBÉN G. RUMBAUT, LEGACIES: THE STORY OF THE IMMIGRANT SECOND GENERATION (2001) [hereinafter LEGACIES]; ALEJANDRO PORTES & RUBÉN G. RUMBAUT, IMMIGRANT AMERICA: A PORTRAIT (2d ed. 1996).

<sup>69</sup> LEGACIES, *supra* note 68, at 46.

<sup>70</sup> *Id.* at 46-49.

<sup>71</sup> *Plyler v. Doe*, 457 U.S. 202, 215 (1982).

climate in the United States keeps many undocumented students hidden and underground. However, support from community members, teachers, or others with resources is often a critical factor in motivating students towards educational attainment and civic engagement.

¶35 Congruent with Portes and Rumbaut's framework, many scholars have cited contextual factors such as legal status, political climate, and relationships with family members and the co-ethnic community as critical in shaping political activity. Audrey Singer and Greta Gilbertson, for example, argue that family and community relations influence individuals' decisions through shaping adaptation patterns as well as influencing immigrants' understanding of the meaning of citizenship.<sup>72</sup> Michael Rosenfeld attributes increases in political participation for Latinos in the 1990s to recruitment by both Democrats and Republicans, dual citizenship options for Mexican immigrants, and a hostile political climate for immigrants.<sup>73</sup> Adrian Pantoja, Ricardo Ramirez, and Gary Segura demonstrate how a highly charged political climate in California and the greater United States during that same time created a context that led many Latino immigrants to naturalize in the mid-1990s.<sup>74</sup>

¶36 Wendy Cho provides some useful insight that acknowledges the role of outside influences or contexts but also argues that while increases in human capital—such as the attainment of a college degree, higher income, and high skilled occupations—lead to increased political activity, it is socialization that determines how these skills will be manifested.<sup>75</sup> How individuals or groups are oriented towards political activity matters a great deal. Whether this happens in the community or in school, the effects of having a peer network socialized towards a particular set of activities can be enough to activate a large number of individuals. However, it is often the broader political climate that mobilizes them to action.

## VI. A CASE STUDY

¶37 Over the course of more than a year, I spent time with the Orange County Immigrant Student Group (OCISG)<sup>76</sup>, an organization of Latino college and university student volunteers, organized collectively to assist students, educate the community, and advocate for changes in legislation. Many of these students are *Plyler* beneficiaries, having gone through California public schools. Thanks to *Plyler*, many of them have enjoyed a full range of activities in school, including clubs and community service opportunities. However, upon graduation from high school, they face the limitations of their status.

¶38 My point of entrée into this group was an undergraduate student at my own university, Esperanza Rivas. Prior to this, I had known Esperanza for almost four years. We began our respective graduate and undergraduate studies at the same time and were

<sup>72</sup> Audrey Singer & Greta Gilbertson, *Naturalization in the Wake of Anti-Immigrant Legislation: Dominicans in New York City* (Carnegie Endowment for Int'l Peace Working Paper No. 10, 2000).

<sup>73</sup> Michael Rosenfeld, *Mexican Immigrants and Mexican American Political Assimilation*, in 3 MIGRATION BETWEEN MEXICO & THE UNITED STATES: BINATIONAL STUDY 1117, 1117-37 (1997), available at <http://www.utexas.edu/lbj/uscir/binpapers/v3b-4rosenfeld.pdf> (last visited Aug. 6, 2008).

<sup>74</sup> Adrian D. Pantoja, Ricardo Ramirez & Gary Segura, *Citizens by Choice, Voters by Necessity: Patterns in Political Mobilization by Naturalized Latinos*, 54 POL. RES. Q. 729, 729-50 (2001).

<sup>75</sup> Wendy K. Cho, *Naturalization, Socialization, Participation: Immigrants and (Non-)Voting*, 61 J. POL. 1140, 1140-55 (1999).

<sup>76</sup> The name of the organization has been changed to ensure confidentiality.

both living in a city eight miles from campus, taking the bus to school. We had both come from Chicago and had many similar experiences. Over the years, we ran into each other occasionally, but it was not until the early spring of Esperanza's last year at the university that we had a conversation about her status and her involvement in OCISG. At the time, I was trying to identify young adults in the community who were actively engaged in civic and political activity. I soon started attending meetings and becoming acquainted with the individual members.

¶39 The young men and women of OCISG represent a broad range of legal statuses and each of the three tiers of California's post-secondary public education system: California Community Colleges, California State Universities, and Universities of California.<sup>77</sup> While the majority of the group is made up of students currently in school, many others have already graduated from four-year institutions and some even hold advanced degrees. Most of the members were born in another country and have lived most of their lives in an unauthorized existence. The following discussion is drawn from my observations and the self-narratives of these young adults.<sup>78</sup>

#### A. *The March*

¶40 It is a warm Friday evening in late April 2006. Andrea Gómez and more than twenty-five others sit around the table at a local community college. This is the weekly meeting of the OCISG. Students take turns expressing their opinions and voicing their concerns. There is a nervous excitement in the room, as Andrea and the group divvy up tasks for the weekend. May 1, 2006, the big day, is only three days away, and there is so much to do before then. At least a dozen different high schools, colleges, and universities have signed on to participate, and the coordination of those students alone is quickly becoming a logistical nightmare. The banner is not yet finished, and someone has to collect the caps and gowns. Andrea asks over the buzz in the room, "Is the press release ready?" As the meeting progresses, committees form and various students step up to take responsibility for the various tasks. Soon the plan starts to take shape, and some of the tension is eased. The excitement can be seen on the students' faces.

¶41 The inclusion of the OCISG in the larger march was not something that was automatically considered in the beginning of the planning discussions. In fact, many of the youth groups that were involved in the marches nationally had to assert themselves and fight for the inclusion; they joined existing immigrants' rights groups or participated in ad hoc demonstrations. Immigrant rights groups did not intentionally leave them out of the larger process, however, as much as student issues were not a prominent part of

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<sup>77</sup> The California Master Plan for Higher Education, adopted by the state in 1960, helped integrate the missions of the University of California, California State University and California Community College systems. University of California schools have been designated as the state's primary academic research institutions, awarding doctoral and professional degrees, in addition to undergraduate degrees; California State University campuses provide undergraduate and graduate instruction through the master's degree and limited doctoral degrees; and the California Community Colleges provide academic and vocational education to high school graduates and returning adult students. CAL. EDUC. CODE § 66010.4 (West 2007).

<sup>78</sup> From January 2006 to August 2007, I spent time with this particular group as a participant observer. During this time, I took field notes of my time in meetings and other interactions with group members. I also conducted in-depth, semi-structured interviews with some of the group members as a part of a larger research project.

anyone's broader agenda. Andrea and others like her, however, felt it important that the student voice be a central part of the marches and demonstrations.

¶42 Because of these efforts, on May first, more than three hundred students came out to participate in the OCISG-planned action, showing the organizers and community members alike that students were not only concerned about the larger debate, they were also stepping up to be active participants in the quest for solutions. Moreover, it gave the students of OCISG a sense of achievement and showed them that they were part of the broader community struggle.

### B. Political Socialization

¶43 While the 2006 marches saw the inclusion of college students and the student access issue, OCISG members like Andrea were no strangers to political activity and civic engagement. Many of the leadership skills and organizing experiences these young people possess were incubated on high school and university campuses. In fact, most of the members of OCISG were involved in numerous clubs and organizations as early as high school.

¶44 In high school, Andrea was noticed by her teacher for being a leader among her peers in class. Over the first weeks of school, Andrea's teacher paid close attention to her interactions with other students. Within a short time, she was asked to take part in an initiative spearheaded by the vice principal. For the next two years, Andrea served on an advisory council that gave recommendations to the administration about how to address racial and ethnic tensions at the school. This experience served as a catalyst for later leadership positions for Andrea in college and the community, and incited what she referred to as a "sense of ownership in [her] education and development."<sup>79</sup>

¶45 In fact, through participation in school-based extracurricular activities, many members of OCISG developed important organizational skills, and an awareness of community issues and their ability to be a part of the solution. Having gained early leadership skills and community experience in high school, many of these students went on to higher levels of participation in college. At the time of my study, several members of OCISG held leadership positions in campus clubs or other community groups.

¶46 Concurrently, as these students moved on to college, the limitations of their unauthorized status began to become increasingly more salient in their day-to-day lives. Having been raised and schooled in the United States, many unauthorized students have aspirations similar to their United States-born peers. Unable to secure financial aid for school and uncertain of their futures, many OCISG members turned to immigrant rights groups and activities as a way to do something for themselves and their families. A majority of the members had participated in voter drives, and had organized for driver's license bills and the broader legalization movement.

¶47 Involvement in these organizing campaigns prompted students across many campuses to turn inward and to take steps in organizing for themselves. Beginning in the mid-1980s, many college and university officials in counseling centers and admissions offices started to identify these students and bring them together.<sup>80</sup> Out of these efforts, coalitions like the Leticia A Network in California began to push for policy change, in-

<sup>79</sup> Interview with Andrea Gómez, *supra* note 2.

<sup>80</sup> Hinda Seif, "Wise Up!" *Undocumented Latino Youth, Mexican-American Legislators, and the Struggle for Higher Education Access*, 2 *LATINO STUD.* 210, 210-30 (2004).

state tuition policies were crafted, and campus support groups began to take shape.<sup>81</sup> Inspired by these efforts, students began to form campus support groups.<sup>82</sup> However, much of the early advocacy work was done by university officials on behalf of the students. Most adults in the community believed that it was better that U.S. citizen advocates fight it out in the trenches and save undocumented students from the potential dangers of speaking out publicly. As student groups became more organized, and individual students began to find comfort in knowing they were not alone, they sharpened their focus to issues of educational access. Equipped with the important skills of organizing and knowledge of the immigrants' rights movement, students began to stand up for themselves.

### C. *The Aftermath*

¶48 In the aftermath of the marches, students quietly returned to their communities and campuses to regroup and develop strategies for continued work. In California, networks of student groups and advocates began to take shape, and the young people of OCISG went out into schools, churches, and community-based organizations to provide education to the broader community.

¶49 The seeds for activity after the marches were sown by organizing efforts as early as 2001.<sup>83</sup> Over the last few years, working to promote legislation such as the Development, Relief, and Education for Alien Minors Act (DREAM Act)<sup>84</sup> was the central activity for most immigrant student groups. In fact, DREAM Act advocacy work gave many unauthorized students a means to participate in the political process around a matter of direct relevance to them. Students became involved in activities on the ground: contacting legislators, mobilizing their various communities, and staging public actions. By the fall of 2004, momentum had built up to the extent that several Los Angeles-based organizations, including an immigrants' rights coalition and a Korean immigrant organization, along with students, participated in a two-week fast and vigil that led to national participation in a twenty-four hour hunger strike.<sup>85</sup>

¶50 As the movement grew and the policy process slowed, many of the leaders turned their attention towards the community. At the same time, many undocumented students had started to matriculate at colleges and universities thanks to in-state tuition laws.<sup>86</sup> Having been the first wave to chart their paths to and through college, these students began organizing younger students. Taken together, these streams have produced a very

<sup>81</sup> ALEJANDRA RINCON, UNDOCUMENTED IMMIGRANTS AND HIGHER EDUCATION: SI SE PUEDE! (2008) (chronicling the efforts of undocumented students and supporters to gain equal access to higher education through in-state tuition laws).

<sup>82</sup> Douglas McGray, *The Invisibles*, L.A. TIMES, Apr. 23, 2006, West Magazine, at 19.

<sup>83</sup> See generally Seif, *supra* note 80, for a discussion of an organizing effort in 2001 around California Assembly Bill 540.

<sup>84</sup> The Development, Relief, and Education for Alien Minors (DREAM) Act (S. 1545), was introduced on July 31, 2003, to provide a mechanism to obtain legal residency for certain undocumented students who are able to meet certain conditions. In October 2007, the Senate version of the bill failed to earn the 60 votes needed to permit debate on the legislation. 153 CONG. REC. S13,306 (daily ed. Oct. 24, 2007). See National Immigration Law Center Home Page, <http://www.nilc.org> (last visited Aug. 6, 2008), for current detailed information about the legislation.

<sup>85</sup> See, e.g., Jennifer Mena, "DREAM Act" Offers Hope to Immigrant Students, L.A. TIMES, Sept. 19, 2004, at B1.

<sup>86</sup> See *supra* note 29.



active community agenda. Students have organized collectively in groups like OCISG to provide information to various sectors of the community—students, parents, teachers and counselors. These young organizers realize that within the community there is a general lack of information among families and even school officials about the rights that undocumented students and families have to pursue higher education. Not only are many unaware of in-state tuitions laws, like California’s Assembly Bill 540,<sup>87</sup> but many do not even know whether undocumented students are allowed to go on to post-secondary education.

¶51 Many students have also noted a great deal of misinformation within community colleges and universities, as the front line staff in admissions offices, those with whom students are in direct contact, often do not know that undocumented students have the right to a college education, much less how to process students without social security numbers.

¶52 Such was the case with Karina Torres. When it came time to apply to college, Karina was without any assistance. None of her teachers ushered her through the process, and nobody within her peer network knew any other undocumented students in college. Unaware of her legal options, Karina did not know where to find the necessary information. Instead of going to a four-year college, she settled for a community college. She explained:

I didn’t know anything about AB 540 so [that’s] the reason [why] I didn’t go to university. Well first of all was because I was lacking the money so even if I were . . . well maybe if I knew the information I could have gotten a scholarship or something. But I didn’t know anything. I didn’t even know we had AB 540 so I thought I was going to pay like twenty thousand so I was like “no way I was going to pay that.” And I didn’t have a job, so I was like “even if I get a job I couldn’t still be able to afford it.” So that’s why I didn’t go. Nobody told me anything. I don’t know if my counselors knew, but they never told me anything.<sup>88</sup>

¶53 Similarly, in a group meeting, Priscilla Hernández shared with other participants a harrowing experience she had when trying to apply to college:<sup>89</sup>

I remember one time. That year I took off I went to apply for a job and the guy said your interview went fine. You’re a great person. And I’m all, “so I’m gonna get the job?” and he said “yeah, come on Saturday, oh but wait, bring a California ID and bring your social security. Without that you can’t get a job.” That just put me down, and so I was just like “I’m not going to go to school, I don’t care, I don’t care. I’m just gonna not go to school and work my whole life.” Then my mom and my sister were like, “no, no you have to go to school. You have to prove them

<sup>87</sup> See *supra* note 31.

<sup>88</sup> Interview with Karina Torres in Orange County, Cal. (Dec. 16, 2006).

<sup>89</sup> Priscilla’s testimony comes from a community workshop in Orange County, California, on November 20, 2006, which led to a production of an one-act play entitled, *Nine Digits Away from My Dream*, a collaborative theatrical effort of OCISG, the Breath of Fire Latina Theater Ensemble, and OC Human Relations, produced by Sara Guerrero and Normal Bowles, directed by Angela Cruz.

wrong,” and I was all proud, I’m really going to go forward in life, but then again something stopped me. When I applied on the computer, two weeks later they said there was a hold on my registration, and because of my resident status. When I went, some girl attended me and she said, “We’ll take it off, we just have to prove that you have papers.” She went to the back and she made me wait for a long time, and some other lady came and said, “What’s the problem?” And I said, “I’m just trying to get my hold out so I can register for classes,” and she just started being mean. She’s like, “Are you legal?” And I said, “Yeah.” And she’s like, “Did you come here illegally?” And I just stared at her and I was like, “What kinds of questions are those?” And she asked me, “Do you have a border pass? Do you have a border ID? How did you get here? How much did you pay for the coyote to come over here?” And I was just . . . I felt bad because I was gonna go to school and she was putting me down, and I came to school happy and I came out really sad. And the lady had told me the only way that you’re going to come to this school is if you fill out these papers and you get your high school records. I wasn’t going to let that stop me. I went to the high school and I got the records and when I went back I showed her my papers and she said, “Ok, well your hold is off. You may register for class.” For me, I always thought I was born here because I came here when I was one, so I don’t remember when I was in Mexico. I don’t remember anything. I can’t believe that some little numbers set me apart from everyone else.

¶54 Priscilla had the ambition not to be stopped, but her example is illustrative of the consequences of an ill-informed and anti-immigrant public with respect to undocumented students. That is, even college admissions counselors either did not know what to do about her situation or felt that they had the right to ask demeaning questions. The experiences of Karina and Priscilla are the day-to-day examples that are continually passed on by the members of OCISG to affirm the importance of their work.

#### *D. The Contexts of Their Work and Lives*

¶55 Because of their role in the Santa Ana march on May 1, 2006, OCISG members have become highly visible in the community. They are constantly being sought out by schools, civic organizations, and community members to give presentations, staff booths at conferences, and train staff members. They have also been honored by the Orange County Human Relations and the League of United Latin American Citizens because of their ongoing work within the community. This community education component has become such a central activity, OCISG members meet weekly to discuss ongoing and current projects.

¶56 Community activity at such a high level by a group of young adults expected to be waiting in the shadows runs contrary to conventional wisdom and much of the scholarly literature regarding youth participation. The contexts of their lives, however, provide important clues about why these young people are engaged in such high levels. Indeed, at first glance there is much evidence to assume that their immigrant status would serve to keep them politically disenfranchised and away from civic activity. Most of these

young adults are well aware of the anti-immigrant climate within California and the broader United States and the consequences of their organizing, including the threat of deportation. Moreover, their status puts them in close contact and conflict with the laws of the state and this significantly limits their options for participation.

¶57 At every turn, undocumented students are presented with constraints on their ability to civically participate. While certain avenues are closed, others are restricted. Because of such limitations, accomplishing the most simple of tasks often means taking risks. For example, buying a cell phone, obtaining a library card, or even renting a movie all involve difficulty and embarrassment. Even more prohibitive, undocumented students cannot work legally to cover the costs of their education. Thus, in order to pay for their schooling, they must take jobs within the informal economy, such as tutoring and cosmetics sales. At every turn, exposing themselves is tantamount to putting their lives on the line, as any of these pursuits can place them face-to-face with immigration authorities. Unauthorized students also have limited access to health care and social services. Increasingly more medical services are off-limits to the undocumented, and many community job training programs and activities require work permits, at a minimum.

¶58 Even traveling can prove to be a major problem. In most states, unauthorized migrants cannot obtain a driver's license.<sup>90</sup> Hence, they cannot purchase a car, buy insurance, or legally drive. In order to get to and from school and work, then, the unauthorized students/residents must rely on public transportation. In cities with good public transportation systems like New York and Chicago this is a viable, though limited, option. In sprawling metropolises like Los Angeles, however, reliance on public transportation severely limits employment and school options.

¶59 Taken together, these numerous barriers severely limit the mobility of these young adults. Nevertheless, since the marches, as demonstrated by the proliferation of immigrant student groups, civic activity has been on the rise among undocumented youth on college campuses and in communities. The OCISG has become so busy, it has recently moved into its own office, even though no one in the organization receives a salary.

### *E. Students Organizing for Themselves*

¶60 Despite the dangers involved in speaking out publicly, many students become frustrated by the limitations of their status and want to do something to remedy their situation. Moreover, students are finding strength and courage in numbers. One important consequence of the spring immigrant rights marches was the participation of thousands of high school and college students to show the nation as well as their peers that there are, indeed, hundreds of groups across the country in the same situation and willing to engage in the civic and political activity necessary for improving their circumstances.

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<sup>90</sup>Daniel C. Vock, *Tighter License Rules Hit Illegal Immigrants*, STATELINE, Aug. 24, 2007, <http://www.stateline.org/live/details/story?contentId=234828> (last visited Aug. 6, 2008). At the time of this report, only seven states—Hawaii, Maine, Michigan, New Mexico, Oregon, Utah, and Washington—allow undocumented immigrants to apply for driver's licenses. Of note, Utah's "driver privilege card" grants driving privileges to those without Social Security Numbers, but may not be used for identification purposes (unlike the other states that allow undocumented immigrants to apply for driver's licenses). *See id.*

¶61 Normally, many immigrant students live their outside lives in isolation, afraid to disclose their status and therefore not connecting with others who are similarly situated. After spending more than three years at her university, isolated and not knowing anyone else in her situation, Esperanza happened upon OCISG while doing a school project. On a few occasions, she tried to contact campus groups to get involved in DREAM Act work but could not find any student groups that wanted to work on it as a priority. During her senior year, she met César Meraz, the co-chair at the time, who introduced her to OCISG. Inspired by César's commitment to the issue, Esperanza ultimately joined the group. As she describes, "OCISG is a mix of people affected and not. I can actually help myself and others. I can change others' lives as well as my own."<sup>91</sup>

¶62 When I met Rosalba González, another OCISG member, she had all the education and credentials needed to be a teacher. The only thing that was missing was the right to work. Within her community of educators, she saw a great void. Her participation was driven by a desire to change those "who are in the position to change lives."<sup>92</sup> As she says, "I would like to raise awareness in the community because it's really missing among educators, in particular. So that's why I participate. I would like to donate my story and be able to help out." Rosalba has emerged as one of the state's leaders in the student movement and in OCISG. She is well known by the community at large and is often invited to speak in schools.

¶63 OCISG member Nimo Flores is younger than Rosalba, yet he shares the desire to educate the community. He recently transferred from a local community college to California State University at Long Beach. He has been fortunate to have a financial sponsor who pays his tuition. Nimo is well aware of how his circumstances may differ from others, and consistently counts his fortunes. People are often surprised by his level of optimism, something he uses to educate and inspire others:

I believe that since I'm in this situation . . . by using the arts as a way to teach other people, [I can] educate other people about the injustices that happen around the world. I think that it is a good way to change people's minds for the better and so that there is peace and justice in the world.

¶64 Eva Beltran, on the other hand is less optimistic. She has been out of school for a few years, and does not see a way to change her situation. She does, however, see the need to tell her story so that others can advocate for her:

I'm still waiting for my papers . . . I've been here since I was nine. I'm twenty-six years old. It's a big issue for me. It really affects my life 'cause I can't really pursue my career. I finished a credential program for a Special Ed teacher, like almost three years ago. And I can't work. So I'm working, but it's not what I really want to do. So that's why I'm here, 'cause I think everyone needs to hear our stories. And that we're really trying.

<sup>91</sup> Interview with Esperanza Rivas in Orange County, Cal. (Jan. 16, 2007).

<sup>92</sup> Rosalba González, Nimo Flores, and Eva Beltran's quotes are also taken from the November 20, 2006 Orange County workshop. *See supra* note 89.

Other members, like Concepcion Arango, have been able to regularize their immigrant status, but continue to stay involved. And others, like Bobby Jackson and Lani Tañón, although personally unaffected, have dedicated their time and committed their efforts, towards legalization efforts. Each of these young people has his or her own motivations for the work he or she does. The common contextual experience, however, is that of being an undocumented student.

*F. Tensions between Being Active and Risking Harm*

¶165 Because of the current anti-immigrant climate and intensification in deportations, the involvement of these students puts them in precarious positions. In September 2006, I was asked to invite Andrea to speak on a panel on immigrant youth at a conference at the University of Chicago. I had written a short piece about her and OCSIG, and the conference organizers felt she would be perfect for the panel they were planning. I gave the organizers Andrea's contact information and left it up to them to contact her. They soon followed up with a phone conversation. But upon learning of her undocumented status, they decided that it would be unethical to risk her deportation or any other potential legal complications by putting her on a plane to Chicago. Andrea urged them to reconsider their position because she felt that it was important for her to represent her own voice, rather than having someone else speak for her (I was invited to speak on the panel as her substitute).

¶166 The issue came up in conversation at an October OCISG meeting as the group was deciding about who should talk to members of the press and how they should identify themselves.<sup>93</sup> The conversation was initiated when a reporter came in and asked to interview some of the group members. The reporter informed them that he was doing a story about AB 540 students and wanted to conduct some interviews. The group felt a little uncomfortable by this and asked the reporter to wait outside for a few minutes while they decided how to approach the situation. Tezcatlipoca Villa, one of the group's more soft-spoken and thoughtful members, reminded the group of an article that he had brought in the previous week about a young activist whose family faced deportation charges because of her activism. Tezcatlipoca voiced concern and fear about the danger any sort of public outing posed to members of OCISG. This led to a broader philosophical question about public activism and the dangers of self-outing.

¶167 As they continued to debate about the issue, Ernesto Rodríguez, a longtime community leader, brought up an article that had appeared in one of the local newspapers that showed a picture of two of the group's leaders and listed their initials. Many of the members felt that the group should use more caution and discretion when dealing with the press and in public forums.

¶168 Andrea's position, however, evoked the current spirit of activism of many unauthorized students. She brought up the University of Chicago conference and voiced the need for undocumented students to be able to tell their own stories, unfiltered. She told the group that she felt strongly that while advocates were important to the movement, it was important for people to hear directly from unauthorized students their own narratives, circumstances, and struggles. She explained, "It's time for

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<sup>93</sup> OCISG Regular Meeting, in Orange County, California (Sept.19, 2006).

undocumented students to stand up for ourselves, and if we do not do it for ourselves, we will have lost everything we're fighting for."<sup>94</sup>

## VII. CONCLUSION

¶69 As students mobilized in the United States for immigrant rights in the spring of 2006, others across the globe have met with frustration and dissatisfaction with protest. In Chile, more than 600,000 students missed classes to demand free public transportation, lower college entrance exam fees, and greater participation in government.<sup>95</sup> Meanwhile, in France, two separate occasions produced youth outrage and protest, as young minority and immigrant youth revolted against public officials and more than one million university students occupied, blockaded, and closed hundreds of schools.<sup>96</sup> While each of these actions was carried out separately, they signal a rebirth of civic engagement and activism among young people in the face of perceived injustice, which has important consequences for the future.

¶70 In the United States today, it is the sons and daughters of the most recent waves of disenfranchised immigrants who have reinvigorated the sprit of student political involvement. Young people like Andrea have taken up the mantle of mobilizing others like them, taking their concerns to the streets to assert their place in history and fight for their own position in society. The decision to migrate to the United States was not theirs; however, they do not know any other home. Thanks to *Plyler*, these young people do have the right to attend elementary and secondary school here. Those experiences have led some of them to develop leadership skills and an orientation towards community service. However, without the possibility of making that education and experience count towards legal and unrestricted access to the fundamental rights that citizens enjoy and to key social institutions within U.S. society, their options are extremely limited. With their backs against the wall and too much to lose, they push forward. Investments in education over the years made possible by *Plyler* and the support of their families, teachers, and community provide them with the impetus to make the most of those opportunities. Moreover, leadership experiences in school have provided the necessary skills to actualize their organizing and advocacy pursuits. However, the potential consequences are frightening. By elevating their visibility, they risk being identified by authorities and anti-immigrant groups and, as such, leave themselves vulnerable to deportation and hate crimes.

¶71 While scholars, analysts, and policy makers ponder questions about a rise in immigrant political participation, new generations of activists are being born out of the very struggle to "become American," and in the process they are rewriting their own stories.

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<sup>94</sup> Interview with Andrea Gómez, *supra* note 2.

<sup>95</sup> Younge, *supra* note 9.

<sup>96</sup> *Id.*