

# HARVARD JOURNAL OF HISPANIC POLICY



**HARVARD** Kennedy School

JOHN F. KENNEDY SCHOOL OF GOVERNMENT

## Interviews

### **Challenges and Opportunities for Immigration Policy Reform**

U.S. Citizenship and Immigration Services Director Emilio T. Gonzalez  
*Interviewed by Luis Gonzalez and David Martinez*

### **Justice for All: Protecting Marginalized Communities in Southwest Texas**

Texas RioGrande Legal Aid, Inc., Executive Director David G. Hall  
*Interviewed by Brian Bombassaro*

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*Saru Jayaraman and Aarti Shahani*

### **Local Immigration Regulation: A Problematic Trend in Public Policy**

*Jill Esbenschade and Barbara Obzurt*

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*Eduardo J. Padrón*

### **The Tijuana Two-Step: The Border Patrol's Teargassing of Colonia Libertad and Extraterritorial Criminalization of Mexican Citizens**

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Paloma Negra  
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# *Harvard Journal of Hispanic Policy*

## **Call for Papers, Volume 21 (2009)**

### **Deadline: 15 November 2008**

The *Harvard Journal of Hispanic Policy (HJHP)* is now accepting submissions for Volume 21, to be published in April 2009. The *HJHP* is an annual, nonpartisan, student-run scholarly review published by the John F. Kennedy School of Government at Harvard University. The *HJHP's* mission is to educate and provide leadership that improves the quality of public policies affecting the Latino community. One of the only policy journals dedicated to examining the effects of policy on Latinos, the *HJHP* hopes to further the economic, social, and political empowerment of Latinos.

The *HJHP* is interested in manuscripts that emphasize the relationship between policy making and the political, social, and economic environments affecting Latinos in the United States. Topics of interest include (but are not limited to):

- Political participation of Latinos and their growing influence on public policy and electoral politics
- Health care reform debates and policy decisions (finance, quality standards and bills of rights, etc.)
- School reform debates and policy decisions, including educational standards, charter schools, and vouchers
- Economic security, business development, and welfare policies, including the implications of welfare reform and slowdown in the economy

#### ***Submission Guidelines***

*For articles:*

- Original and unpublished material
- 15–25 double-spaced pages
- All figures, tables, and charts submitted as entirely separate files
- Abstract of 100 words included

*For commentaries:*

- 5–10 double-spaced pages

*For book reviews:*

- 3–10 double-spaced pages

*In addition, all authors must observe the following:*

- Authors must submit a cover letter with the author's name, address, e-mail address, daytime phone number, and a brief biography, as well as two hard copies of the submission.
- Authors must submit an electronic copy of the submission on CD or by e-mail to [hjhp@ksg.harvard.edu](mailto:hjhp@ksg.harvard.edu).
- Submissions must be formatted on any version of Microsoft Word.
- Citations must be formatted in the author-date system via running text, according to the guidelines in *The Chicago Manual of Style*. Footnotes are not accepted.
- Authors are required to cooperate with editing and fact-checking.

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## Editor's Remarks

On the eve of administrative change in the White House, American citizens—and people all over the world affected by U.S. policy—anticipate the critical decisions that await the nation's future leader. During the presidential candidate nominating process in 2008, national polls indicated that voters' chief policy concerns included the economy, the Iraq War, and homeland security. While these issues dominated discussions during candidate debates throughout the year, immigration reform was often the elephant in the corner. Immigration policy has direct implications for two of the three issues U.S. voters find most pressing, but it remained an issue the candidates steered away from, lest their positions be deemed unpopular.

Consistent with our tradition since 1984, the *Harvard Journal of Hispanic Policy* presents relevant, timely, and thoughtful work to enrich the discussion of policy issues of importance to the U.S. Hispanic population. I am pleased to introduce the work featured in volume 20, which contributes valuable perspective to the ongoing debate surrounding U.S. immigration policy reform. This year's featured articles, commentaries, interviews, and book reviews consider the effects of immigration and immigration-related policy on areas that often fall outside the national public discourse but are nonetheless valid and illuminating.

Saru Jayaraman of Brooklyn College and Aarti Shahani of New York University explore the role of race and immigration status in the labor market in New York City, and discuss the implications for multiethnic coalition building. Research by Jill Esbenschade and Barbara Obzurt of San Diego State University questions the logistical, fiscal, and civil rights impacts of the growing trend of local ordinances enacted throughout the country pertaining to undocumented immigrants.

As president of Miami Dade College, the largest college in the United States, Eduardo J. Padrón offers his views on the Development, Relief, and Education for Alien Minors Act (the DREAM Act). Chicano/a studies professor Robert F. Castro of California State University, Fullerton, provides commentary on post-September 11 law enforcement methods by U.S. Border Patrol agents and their deleterious effects on noncriminal residents in colonias along the U.S.–Mexico border.

Volume 20 includes interviews with Emilio T. Gonzalez, director of U.S. Citizenship and Immigration Services (USCIS) and undersecretary of the U.S. Department of Homeland Security (DHS), and David Hall, the executive director of Texas RioGrande Legal Aid Inc. Gonzalez discusses his perspective on the challenges and opportunities facing USCIS and DHS with the impending change in administration, and the priorities for U.S. immigration policy. Hall discusses legal issues affecting the population in the southwestern region of Texas, including lawsuits over the border wall construction, home foreclosures due to the subprime mortgage crisis, and legal aid scams targeted to Spanish-speaking, immigrant clientele.

This volume also includes two book reviews. First, Amber Garrison, Pamela Hernandez, Diane M. Dunlap, and Aimee Clott of the University of Oregon review *Chicana/Latina Education in Everyday Life: Feminista Perspectives on Pedagogy and Epistemology* by Dolores Delgado Bernal, C. Alejandra Elenes, Francisca E. Godinez, and Sofia Villenas. Their review observes an emphasis on community rights in feminist and *mujerista* worldview concepts, and considers public policy implications. Second, we feature Michael Rosenfeld's review of *Mongrels, Bastards, Orphans, and Vagabonds: Mexican Immigration and the Future of Race in America* by Gregory Rodriguez. Rosenfeld offers insight to a timely book on the history of immigration and race relations in the United States and Mexico.

I am proud to expand on a tradition we began with volume 19 to display work by Latino artists. This year, volume 20 includes color illustrations of work by California print artist Gabriel Romo, New Mexico sculptor Patrocinio Barela, Texas painter Santiago Pérez, and New Mexico painter Ray Martín Abeyta. I would like to extend my thanks to the David Rockefeller Center for Latin American Studies at Harvard University and the National Hispanic Cultural Center in Albuquerque, NM, for enabling us to expand our efforts in volume 20.

Additionally, I would like to acknowledge HJHP Executive Advisory Board member and founding editor Henry A. J. Ramos, who was instrumental in bringing Guadalupe Rivera Marín, former member of Congress in Mexico and daughter of famed Mexican muralist Diego Rivera, to Harvard's campus last fall to visit with students and deliver a lecture on the roll of public art in the world today. I hope that HJHP will continue to host events in the future to make our printed work more interactive, engaging, and accessible to journal readers as well as the general public.

Lastly, I want to thank the journal staff who worked throughout the year to prepare the material contained in this volume for publication. I would especially like to acknowledge managing editor Casey Hernandez and student journals publisher Jen Swartout for their leadership and support in making this publication possible.

I present the *Harvard Journal of Hispanic Policy*, volume 20.

Tomás J. García  
Editor-in-Chief

Cambridge, Massachusetts  
April 2008

## Challenges and Opportunities for Immigration Policy Reform

*Emilio T. Gonzalez, Ph.D., serves as director of United States citizenship and immigration services (USCIS), an undersecretary position within the Department of Homeland Security (DHS). Appointed by President George W. Bush and confirmed by the U.S. Senate in December 2005, Gonzalez leads an organization of more than 15,000 federal and contract employees responsible for the accurate, efficient, and secure processing of immigration*

*benefits. Prior to joining the Miami-based international law firm of Tew Cardenas, Gonzalez was director for Western Hemisphere affairs at the National Security Council, Washington, D.C. In this capacity he served as a key national security and foreign policy advisor to President Bush and Condoleezza Rice.*

*An international affairs specialist, Gonzalez has spent most of his professional career involved in foreign affairs and international security policy issues. Gonzalez remains active in international politics. He often meets with heads of state, foreign ministers, trade ministers, ambassadors, and political leaders from throughout the hemisphere. Additionally, Gonzalez is a noted commentator on Hispanic and international affairs and has appeared on local, national, and international radio and television programs.*

*Gonzalez graduated from the University of South Florida in Tampa with a B.A. in international studies and also earned M.A. degrees in Latin American studies from Tulane University in New Orleans, LA, and in strategic studies and national security affairs from the U.S. Naval War College in Newport, RI. He was awarded the Ph.D. degree in international relations from the Graduate School of International Studies at the University of Miami.*

*Harvard Journal of Hispanic Policy staff members Luis Gonzalez and David Martinez interviewed Gonzalez on 25 February 2008.*

*Luis Gonzalez is associate publisher of advertisements and marketing for the Harvard Journal of Hispanic Policy and a candidate for the master in public policy degree at John F. Kennedy School of Government at Harvard University. Luis is from Houston, TX, and is a 2006 graduate from the University of Texas at Austin.*

*David Martinez is senior editor of special features for the Harvard Journal of Hispanic Policy and a candidate for the master in public policy degree at the John F. Kennedy School of Government at Harvard University. Originally from Las Cruces, NM, David is a 2004 graduate from the University of Arizona*

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### **HJHP**

What initially was it that drew you to the field of international studies? How did you come to work in this type of area?

### **Gonzalez**

It's just something that I've always enjoyed growing up. International studies, geography, history, these were just always disciplines that I enjoyed. When I got to the University of South Florida, I found that majoring in international studies allowed me to concentrate on all of those disciplines and not have to concentrate on one or the other, so it was a lot of fun. Then I joined the Army, and in the

Army I was able to continue my work in the international arena. I was very fortunate that the military sent me to graduate school. Three times. So I can't complain.

**HJHP**

When you accepted this position as director of USCIS, what were your goals for the organization?

**Gonzalez**

Interesting that you ask, because I actually wrote them down. And they're on a big flip chart here in my office. As we accomplish one, we sort of put a line through it. Primarily, it was to take the agency to the next level. When I inherited this agency, it had only been around for about two years. Less than two years. It was still going through growing pains. It really wasn't what I would call a complete agency.

So my goals were actually very broad in that we wanted to look at the agency, we wanted to grow the agency, we wanted to mature the agency, we wanted to staff the agency, we wanted to resource the agency in such a way that it could be, one, the best immigration service in the world and, secondly, a place where everybody would want to work.

**HJHP**

In what way, Dr. Gonzalez, would you say your goals have been achieved, and how would you say that they've evolved now that you've been at the helm?

**Gonzalez**

I've been able to accomplish all of my goals. It's interesting because the things that we've been able to do over the last couple of years, if we were a corporate environment, it probably would have been part of a five- to seven-year strategic plan. We've been able to do them in two years. We've done that by making sure that everybody stays focused on what we're trying to do. Just keep all the balls in there air, you know. If you start doing things sequentially, you kind of tend to lose your drive. I like to get people stuff to do and keep them busy. It's amazing; if you give, not just this agency, but any agency that opportunity to step up and deliver, it will.

**HJHP**

Dr. Gonzalez, looking forward, what do you see as the priorities in the U.S. immigration policy?

**Gonzalez**

Immigration policy would be coming up with another version of comprehensive immigration reform. I think we missed an opportunity when we didn't get it last year, and it's a problem, and it's an issue that won't go away. For those that think that by not addressing it, it'll go away, they're sadly mistaken. The problem is going to aggravate just about everything that happens in this country domestically.

It is an issue that needs to be addressed and it's an issue that needs leadership. Somebody needs to take the immigration portfolio and be a champion. Just like you have foreign policy champions in the Congress and you have . . . health and

human services champions in the Congress, you need an immigration champion in both houses, and I don't think we have that yet.

**HJHP**

I'm going to ask you to kind of step out of your role there at USCIS for a second and maybe think about what else legislators might be able to do, tactically, to come to a point of common agreement on the future of immigration policy.

**Gonzalez**

Listen, I'll be honest with you. I'm very pessimistic about comprehensive reform. I think—this is a self-criticism, I might add—I think we put too much in that last attempt at immigration reform, and any time you want to be all things to all people, you're no things to no people. So what happened was the immigration reform draft legislation was over 800 pages, you know? So I think what's going to happen is we need to be sensible about those areas of immigration where everybody can agree.

So, for example, H-1B, the professional and technical visas? I think there's a widespread support for an increase in the number of H-1B visas. Even people that don't like immigration understand the need for and increase in numbers of H-1B visas. There may be other things that people can put their hands around. The DREAM Act might be one that could survive a standalone implementation. But again, what you're going to see more and more are piecemeal attempts at getting to those things that both sides of the aisle can agree on as good ideas.

**HJHP**

Dr. Gonzalez, beyond the legislators in Congress, how do you think the public in general can think about and discuss solutions to immigration policy in a more constructive rather than divisive way?

**Gonzalez**

It's very hard. And that's actually where I step in because a lot of times when people say stupid things about immigrants, I show up and usually I'm much more articulate, better educated, and speak better English than those criticizing us because I'm an immigrant myself. But we have to move beyond the hyperbole and the sort of Lou Dobbs, every-night-people-sneaking-across-the-border programs and go into a much more elevated discussion about America's immigrant communities.

We suffer from a real political schizophrenia. We love immigrants as a nation; we just hate immigration. And you can't have one without the other. And we need to adequately highlight what America is because of its immigrants and, conversely, what America would be if we stopped allowing immigrants to come to the United States. This is the greatest power in the world because of our immigrant communities, not in spite of them. We need to continue to get that message out there. I mean, you'd be surprised how many people that don't know, for example, Henry Kissinger is an immigrant. Madeline Albright is an immigrant. The governor of Michigan is an immigrant.

We've got more immigrants in this particular Congress than at any time in our history. So we have to get away from the "all immigrants are bad;" we have to get

away from stereotyping illegal immigrants with legal immigrants and then scaring people. And those are the things that folks that know better need to do, and I do that as best I can given the time and constraints that I have. But I tell you what, I enjoy the hell out of doing that. I love calling people out when they say stupid things.

**HJHP**

Recently there've been quite a few reports, especially coming out of the Southwest, land owners, activist groups such as the Minutemen. I know this is primarily a law enforcement question. What effect, if any, would you say these groups have had on the overall environment in which USCIS operates?

**Gonzalez**

From a CIS perspective, none. But what it does do is it sort of poisons the whole environment when you start talking about immigration at large. And listen, you've got to be honest: the reason groups like the Minutemen exist is because the federal government has not done its job. We didn't get immigration reform. People are frustrated. As I tell folks, "I'm not a Washingtonian. I'm from the provinces. I'm from Florida." And folks get frustrated. I've lived in the Southwest. And I understand the problems that they're facing and they're looking to their government. And for a lot of these people, the help just isn't there, so they organize themselves as best they can. I certainly don't agree with what they're doing, but I can understand the frustration that would make them want to fill that void.

**HJHP**

Dr. Gonzalez, we're in the midst of an election year, and within the year we'll have a new president. Although we don't know who he or she will be and how they will address immigration/homeland security, from your years of experience and leadership in these areas, what would you want to make sure that the new leader would have to address these issues when they come into office?

**Gonzalez**

You know, when you get into these positions, I'll tell you: Personnel is policy. I think the thing that a new president has to do is pick somebody to replace me because I won't be staying. [Someone who] can a) run a very complex organization, b) understand the pitfalls and complexities of immigration, not just from a policy perspective but also from a public diplomacy perspective, and lastly, not to politicize immigration. Immigration, citizenship; there are no such thing as Republican immigrants or Democratic immigrants. And the more we can do to show these new Americans, these new citizens, how their country works and the more we can do to do this in a very nonpartisan or bipartisan way, I think we'll all be better served. This is not one of these positions where you want to put a party hack or an ideologue. This is a position where you really need to have somebody that can navigate in very, very treacherous waters. This is not a job for the faint-hearted, and I'm not just saying that because I'm in it. But you got to have pretty thick skin to be the head of immigration in this country.



## **HJHP**

Stepping back, what would you say are two or three of the principal challenges and opportunities that USCIS is going to have going forward with this impending administration change? And maybe even more generally, DHS, within its growing pains, incorporating—

### **Gonzalez**

This is going to be an exciting time. No U.S. administration has ever inherited a DHS. So this is going to be new. I would—I mean, if it were up to me and I were making decisions—I would, sort of, eventually reach out to each of the candidates and get a commitment from them to sort of leave everybody in place for the first six months while they get their people in. Because the last thing you want to do is take an agency like this and have its senior leadership disappear overnight. From a USCIS perspective, my biggest challenges are going to be I.T. That's the last thing on my list, by the way. We're going through some—we're putting out some serious money to completely redo our information technology infrastructure. It's about a three and a half billion dollar project. We can't screw up. So we're very, very carefully nurturing that process.

We're growing as an agency. When I got here there were 15,000 employees and contractors; we're up to about 19,000 now. This is an exciting agency, there's a lot going on, and the challenges at the macro level will be making sure that the new administration understands what this agency does, what it doesn't do, and make sure that it's staffed with high-quality political leadership in the next administration that will continue to carry into the next level and build on everything we've been able to build so far.

## **HJHP**

How have you been able to go about holding on to that institutional memory given the often highly politicized nature of immigration, and seeing possible turnover impending, how do you keep that institutional memory?

### **Gonzalez**

What I've done is, we have a very robust succession plan that we've created where we have our political appointees and then we have our senior career people. And we know that as soon as we start disappearing, we know who comes off the bench to fill what job. But one of the things that I guess is important, even though we have a small number of political appointees in this agency—I would say maybe six or seven—the fact that they're political appointees does not give them a pass on working. I expect all of my political appointees to work just as hard, if not harder, than my career people. And I make no distinction. When somebody comes into my office or when I'm doing an evaluation or whatever, I don't ask, "Hey, is this person a political appointee or not?" We've got a lot to do. I don't have time, I'm not a frivolous person, and I don't want to be frivolous with other people's time, and I don't need somebody on my staff who's just there to look good. And I'll give you my pitch: There are two kinds of leaders. The ones that want to do, and those that want to be. And if you want to do, come work with me. If you want to be, go somewhere else.



# HARVARD JOURNAL of HISPANIC POLICY

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- **A candid interview with U.S. Citizenship and Immigration Services Director Emilio T. Gonzalez**
- **Commentary by Miami Dade College President Eduardo J. Padrón**
- **Articles focusing on key implications of immigration on U.S. domestic policy**
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## Justice for All: Protecting Marginalized Communities in Southwest Texas

*David G. Hall is currently the executive director of Texas RioGrande Legal Aid, Inc. (TRLA), a nonprofit organization that provides free legal services to the poor in a sixty-eight-county service area in Texas. He has served in this position since 1975. Under his leadership, TRLA has grown to become the largest provider of free legal services in Texas and the third largest in the United States. He is licensed to practice law in the state of Texas and has been admitted to the U.S. Supreme Court, the Fifth Circuit Court of Appeals, the Texas Southern District/Bankruptcy Court, and the Texas Western District Court. Hall received his J.D. from the University of Texas in 1969.*

*Harvard Journal of Hispanic Policy staff member Brian Bombassaro interviewed David Hall on 28 February 2008.*

*Brian Bombassaro is associate publisher of web development for the Harvard Journal of Hispanic Policy and a candidate for the master in public policy degree at the John F. Kennedy School of Government at Harvard University. Brian is from Lafayette, IN, and is a 2006 graduate from the University of Florida.*

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### **HJHP**

To start out, could you just tell me a bit about your organization and its role in Texas?

### **Hall**

We're one of three legal services corporations funded by the legal services providers for the state of Texas. Our program is about the third largest of its kind in the country. We provide a full range of services, particularly on the civil side of the docket. We've recently started doing criminal defense work, public defender operations in a couple parts of the state, which is fairly new in the state of Texas. But on the civil side, we've been around since about 1970. We've got 130 lawyers, and about 350 people altogether, including paralegals and other support staff. So that's generally the picture.

### **HJHP**

Who are your clients? How do they generally find out about your office?

### **Hall**

Our program covers the border area, up through Central Texas, Austin, San Antonio. I think probably their primary feature is the border counties along the Texas/Mexico border, from El Paso to Brownsville. And that's overwhelmingly Mexican American, as you might imagine. Probably in the neighborhood, program-wide, . . . 70 percent of [our] clients are Mexican-Americans.

A lot of migrant farm workers are served out of our program. We're statewide for purposes of that. And we also cover six states in the Southeast, up through Kentucky, with an office in Nashville. And that's probably been our main national recognition, the representation of migrant farm workers.

**HJHP**

Has your office been affected by the recent surge in home foreclosures? And, if so, how do you help those clients?

**Hall**

Yes. We tend to be the lawyers of first resort, if you will, for people who are losing their houses. There are an awful lot of subprime mortgages in our part of the world, particularly down here along the border. The last number I saw was something like the 48 percent of the mortgages in the last five years in the Lower Rio Grande Valley have been subprime mortgages. All of those—well, not all of them, but certainly a large number of them are in jeopardy. Some have already gone into foreclosure.

We provide whatever services. In some cases, about all you can do is provide advice and some forms of counseling. But occasionally we'll find something where we can get in and do some good with negotiations with the note holders and try to find some kind of relief. But the remedies that are available for people in that circumstance are rather sketchy these days.

**HJHP**

I understand that you've also represented landowners being sued by the Department of Homeland Security with regard to the border wall. What legal rights do landowners have regarding their property in this situation?

**Hall**

That too, unfortunately, those rights are pretty thin. But the government's got to jump through all the proper hoops. We tend to be in a defensive posture with regard to most of those cases. We are looking at some offensive litigation surrounding some efforts the government's made up in the city of Eagle Pass, which is about halfway up the border from the coast, between El Paso and the coast, and about some 175 miles from San Antonio. We're looking at that.

But, in most situations, it's people who have—some of the earliest settlers in the United States are living in those small communities right along the river, folks that came over and their families came over during the Spanish colonial era in the 1700s, in little communities like Los Ebanos and Granjeno, here, in Hidalgo County. And they're very sensitive about donating their land to the federal government to build the immigration equivalent of the Maginot Line down here.

Texas, in case anybody in Washington ever noticed, is already pretty much surrounded by a moat. And if that's not effective, I'm not sure why they think that erecting a wall is going to make much difference. So we're just in the posture of saying to folks in the government, "Well, if you want this land, we're going to make sure that you do everything absolutely correctly down the line in order to get it." And we'll try to negotiate with the government when our clients want to do that, to get the best price they can get, if they've reached that point.

Right now, all of this stuff is in the stage of the government trying to gain access to do surveys, as to whether a wall is suitable, or they need roads, or whatever they need, or they think they need. So we're just trying to serve our clients' interest wherever they arrive at a conflict with the government.

### **HJHP**

Following up on the wall issue, a recent report by the *Texas Observer* seemed to suggest that the construction plans for the wall have been influenced by influential economic and political landowners along the border. Have you found this to be the case?

### **Hall**

Yes. When has our government not been influenced by money? I mentioned a little *colonia* called Granjeno. A lot of those owners down there, a very poor community, received notices of the government's, or the government has contacted a lot of them, to try to gain access to survey and that sort of thing. But the Sharyland Plantation—I think that's aptly named—owned by Ray Hunt of Hunt Oil interests out of Dallas, is a huge operation right next door. They're not being targeted for a wall. So some of that has at least two eyebrows raised, whenever people start examining it. You know, it's, at this stage, impossible to tell whether there is some validity to those concerns. But those concerns are definitely there.

### **HJHP**

I understand that, in Texas, there are residents who have seemed to have been scammed by a fake legal aid operation. What can people do to make sure they're not taken advantage in these scenarios, especially low-income individuals who are more dominant in the Spanish language?

### **Hall**

They can call us. We've been taking all comers on that one. Unfortunately, defendants are real artists that are hiding themselves behind a myriad number of those sham corporations. The attorney general up in Colorado and Colorado Legal Services have all gone after these folks. I understand one of them recently died, so we may not get much relief from him.

His brother is still around, but he's a very elusive character. So I'm not sure whether we'll ultimately get money back for people who have been scammed on this deal. But at least we'll be able to put [the scammers] out of commission and keep them from doing this again. I mean it's a full-court press on this thing, to try to protect people. And it's just a particular pernicious activity—catch people at their most vulnerable, when they're having serious legal problems, or don't have anyplace else to turn.

They open up the phone book and find legal aid, thinking that it's going to be the kind of legal aid—free legal services—that we provide. And they end up in the grasp of somebody that's charging them hundreds, if not thousands, of dollars for no service at all. Or—even worse—negligent or incompetent service that only worsens their problems.

### **HJHP**

Particular Texas municipalities have adopted stricter laws pertaining to immigration, such as forbidding landlords from renting to undocumented immigrants, or putting immigration officials in county jails. What legal rights do people have to respond to these situations?

## Hall

Most of that kind of activity has occurred outside of our service area, although there is, apparently, some effort underway [in] Travis County, Austin, to have the sheriff's office up there conducting border patrol activities, and bestowing upon themselves the nonexpertise of the border patrol, and ferreting out people whose immigration status is doubtful.

We have not seen a whole lot of that down here along the border. Most of that tends to be further removed in more hostile environments. But, you know, one of the problems that confront people who come to us is that we're fairly restricted in the clients that we can represent, in terms of immigration status. In 1996, Newt Gingrich's Congress slapped a restriction on representation of undocumented people to United States citizens, lawful permanent resident aliens, and a couple/three smaller exceptions.

We have not been able to provide representation in those kinds of matters nearly to the extent that it's necessary. I think an even bigger problem with those alien restrictions is the representation of low-wage workers who are constantly victimized. Because they're so easy to victimize, employers tend to prefer those folks on the payroll because they don't complain. They can't complain; they can be pretty much exploited at whim. So it's a real problem. It has the long-term effect of driving down wages and working conditions wherever that practice exists. It exists pretty much all over our part of the world.

## HJHP

From your experience, what would you say are the policy adjustments that are most needed?

## Hall

I was just looking at a number of things that come to mind. I was looking at an article today in *The New York Times*, pointing out that one out of 100 adults in the United States is in prison or is confined in jail. Among Hispanics, it's one in 36 adult men. Those are horrible numbers. We're trying to do what we can through providing good competent representation in a public defender context, trying to create defender programs that have never existed in Texas. I'm very proud of the work that we've done in that area. It just needs a lot more.

The other kinds of things, in terms of policy changes, that I think are desperately needed, are to take some of the shackles, or all of the shackles, off of representation of the poor. You know, this whole idea of us not being able to represent people who are undocumented or prisoners, or not being able to collect attorney's fees, or to represent the people in class actions, all these were put in . . . by conservatives and primarily led by the large corporate agricultural interests who didn't like our representation of farm workers in suits against them.

They found a willing audience in the Congress over the last 10 to 15 years and slapped all these restrictions on them that drive up the costs in representation, make it more difficult for us to provide services. It's just created obstacles that don't need to be there. If we really believe in equal justice under the law, then tell me how you manage to say that legal services lawyers shouldn't have all the tools that the other lawyers have to represent their clients? I don't think that the Bar

would stand for them not being able to collect attorney's fees or represent people in class actions if these were not poor people. So I see a lot of area there for a new administration, a new world order to address.

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# Collective Prosperity: The Power of a Multiethnic Agenda, a New York Model

*By Saru Jayaraman and Aarti Shahani*

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## Abstract

This article examines both the workplace and the jail as key sites to explore how strategic alliances may be forged between Black and brown, citizen and noncitizen communities. Focusing on Restaurant Opportunities Center of New York and Families for Freedom in New York, we will (1) explore the relationship between immigration status and race; (2) illustrate the centrality of multiethnic organizing in the restaurant industry for building a labor movement that relies on immigrant recruitment; and (3) expose how the dramatic increase of noncitizens and immigration enforcement in the criminal justice system, historically a space of African American discipline, is redefining core immigration concerns.

## Introduction

Black members of the Minutemen, a militia born from White supremacy, appear as the face of mass media's coverage of anti-immigrant protest. Lou Dobbs, the corporate-turned-populist commentator, champions the cause of African Americans harmed by undocumented immigrants. Labor economist George Borjas of Harvard University's John F. Kennedy School of Government reaches new levels of popularity with his arguments that recent immigrants' arrival is a source of negative competition for African Americans seeking jobs.

The sudden mainstream interest in the plight of the African American community may seem surprising, yet it is predictable. The argument is one that has been widely accepted and shared, and has even served as the basis for several legislative initiatives attempting to deny immigrant rights. For those interested in advancing the rights of both groups, therefore, advocacy must address these real and perceived divisions.

While there is no consensus on the relationship between the rights of Latinos, African Americans, and other groups of immigrants, there is wide agreement that the members of each group are second-class citizens (Johnson 1998). Race and immigration status are categories of formal and informal, legal and substantive exclusion.

A growing community of immigration scholars and political leaders are calling for "Black-brown solidarity," based on a historical analysis of race as the primary vehicle of class organization and oppression in the United States in efforts to unite the electoral bases against White supremacist and nativist agendas. Whether distant or urgent, this solidarity call is mostly symbolic. A Black leader at an immigrant rights press conference; diverse faces standing together to advocate pluralistic democracy; enlightened elected leaders calling on constituents to love thy brother.

But a language of shared values cannot replace the achievement of shared interests. As the chorus for Black-brown solidarity grows, so does the burden of its leadership. Latinos, African Americans, and other immigrant groups share more than just values. We share targets and demands.

This article takes the workplace and the jail—to explore how meaningful material alliances may be forged between Black and brown, citizen and noncitizen communities. Focusing on New York City as a global city at the forefront of multiethnic demographic changes and post-Fordist economic trends, we will (1) explore the complicated and converging relationship between immigration status and race; (2) illustrate the centrality of multiethnic organizing in the city's restaurant industry for building a labor movement that relies on immigrant recruitment; and (3) expose how the dramatic increase of noncitizens and immigration enforcement in the criminal justice system is redefining core concerns for immigration scholarship and advocacy. We conclude that solidarity between Latinos, African Americans, and other immigrant groups is as strategic as it is lofty. When transformed into interest-based research and campaigns, the bonds between Latinos, African Americans, and other immigrant groups may prove to be the critical vehicle in defining a viable domestic human rights agenda.

### **Race in a Global City—New York City**

While New York City's native-born population declined over a decade, the immigrant population grew by 38 percent. Nationwide, one in ten people are foreign-born, and in New York, one in three are foreign-born (NYCDCP 2004). Like the rest of the country, after the 1965 Immigration and Naturalization Act allowed for family sponsorship and skills-based entry into the United States, large numbers of new Latinos and Asians flooded New York City (Millman 1997, NYCDCP 2004). After 1970, however, not only did the city experience tremendous growth in the numbers of Dominicans, Haitians, and Guyanese, it also drew in Asians and Russians after the fall of the Soviet Union. At present Bangladeshis are the fastest-growing nationality in the city, exceeding even growth trends among Latinos (Waldinger 1996). Today's New York clearly represents an extraordinarily multiethnic community, with Latino immigrants from all regions of South and Central America; Asian, Arab, European, and Pacific Islander immigrants of every nationality, class, and skill level; Black immigrants from the Caribbean and Africa; and African Americans. Race and the "Black-brown divide" in this context is complex and multidimensional, with immigrants, Latinos, Black Latinos, and Black immigrants.

New York is interesting to examine not only because of its complex race and immigration dynamics, but also because of how its economic trends shape the rest of the nation. Simultaneous to the dramatic growth of the service sector, millions of poor immigrants are filling its ranks. The restaurant industry, for example, has become a gateway for opportunity to immigrants from all over the Third World. Immigrants from almost every ethnic group work in restaurants as their first job in the country. Saskia Sassen (2001), in her book *The Global City*, argues that immigrants working in large American cities represent the "periphery in the core." She argues that these immigrants have become necessary service workers, providing

low-skill services of multinational corporations. Though manufacturing has left these global cities, the headquarters of the multinational corporations that have outsourced their labor abroad or replaced it with technology, have remained intact. To serve the white-collar service workers toiling away into the late hours of the night, restaurant, deli, tax, and domestic workers, and the like, have to be available to anticipate their needs. This dynamic has created increased wage inequality in these global cities .

Roger Waldinger's 1996 book *Still the Promised City?* illustrates this phenomenon by describing how in New York City, manufacturing jobs started to leave in the 1950s, followed by severe job loss in the 1970s. Meanwhile, government jobs and the white-collar complex boomed, including communications, transportation, and advertising. From 1977 to 1987, New York City experienced new job growth because many corporations' headquarters remained and flourished in the city. The growth of these multinational corporations' offices created an increase in service jobs in New York City. There was great demand for high-skilled workers and, eventually, lower-skilled workers to serve them. During this period, New York City experienced an influx of Blacks from the South, an outflow of Whites to the suburbs, and three decades of immigration, with eighty thousand new immigrants coming to New York per year. These were the workers who filled the demand for service jobs.

Waldinger describes a divergent path for African Americans, Latinos, and immigrants—one taking public sector jobs, and the other filling low-wage service sector work. According to Waldinger, in the 1970s, Whites started to flee New York City, creating “empty spaces on the economic totem pole” in blue-collar jobs, small businesses, public jobs, manufacturing, and services. In the 1970s and '80s, African Americans moved up and took municipal jobs, in part because many had obtained the skills and credentials to obtain them, in part because discrimination kept them from obtaining other jobs. Immigrants, meanwhile, took the remaining jobs, in the manufacturing and service sectors. Now, of course, as manufacturing has disappeared, immigrants have largely filled the service sector.

However, we see two exceptions to Waldinger's argument that Blacks and other immigrant groups followed divergent paths. There are two obvious places in the New York economy where these groups come together—the hospitality sector and the criminal justice system. As one of the largest and fastest-growing sectors of the economy, and one that seeks to cater to the dining interests of diverse consumers, the restaurant industry includes workers that represent every race and national origin group in the city. Similarly, the criminal justice system brings together almost all people of color, as law enforcement from the point of arrest through sentencing and punishment discriminates on the basis of race. Exploring both contexts, we argue that it is more effective for Latinos—and every other group of color—to win victories in multiracial settings than alone.

## **Restaurant Opportunities Center of New York**

**By Saru Jayaraman**

From 2000 to 2001, I worked at the Workplace Project in Long Island, NY, a Latina/o immigrant worker organization center set in suburban Hempstead, where immigrant workers primarily live. While organizing custodial, factory, and restaurant workers, I would often feel frustrated at our inability to include Haitian and other workers that worked in our members' workplaces, which hindered our effectiveness. These workers felt they had little in common with a Latino immigrant center.

Like so many other New Yorkers, September 11 changed my life. On that day, seventy-three workers died at Windows on the World, the restaurant atop of the World Trade Center's Tower One. After the tragedy, the union that was inside Windows, HERE Local 100, asked me to establish an independent nonprofit organization that could support the families of the workers killed at Windows, the 250 displaced, and the thirteen thousand other displaced restaurant workers city-wide. I cofounded the Restaurant Opportunities Center of New York (ROC-NY) together with former Windows on the World worker Fekkak Mamdouh.

Initially, I was hesitant to take the job, but after meeting some of the workers from Windows, I was impressed by the diversity within the workforce—workers from almost every nation on the globe. Their language skills allowed them to work together effectively and communicate a welcoming image of New York as a global city. In fact, the creator and original owner of Windows on the World, Joe Baum, had hired someone on his staff that spoke every language worldwide, so that this person could greet any tourist in their native language. I was touched by the incredible unity of these workers—they could barely communicate with one another, yet were able to work together. They had experienced trauma together, but were visibly united. Among the workers of the maintenance and setup department, for example, I saw Chinese, Dominican, and Haitian workers embrace, ask about one another's families, and tell stories of their incredible experiences setting up for and cleaning after the thousands of customers that frequented Windows daily.

When I took the job, I was unaware of the restaurant industry's importance. As the restaurant industry epitomizes the growth of the service sector nationwide, so too does the New York City restaurant industry epitomize the growth of service jobs in the city from the late 1970s onwards. ROC-NY and the New York City Restaurant Industry Coalition's 2005 comprehensive industry report, "Behind the Kitchen Door: Pervasive Inequality in New York City's Thriving Restaurant Industry," shows that the New York City restaurant industry is booming, both in terms of jobs and revenue. Using a combination of census and Department of Labor data analysis, five hundred worker surveys, forty-five worker interviews, and thirty-five restaurant owner interviews, the report documented that the industry is expected to produce \$20 billion in revenue by 2020. However, despite the growth in jobs and revenues, workers' wages have stagnated over the last twenty years, and median annual income has hovered around \$20,000 since 1980. Our report showed that almost 70 percent of all New York City restaurant workers are foreign-born, and that close to 70 percent earn poverty-level wages. Sixty percent

of all workers reported not receiving proper overtime wage payments, 90 percent did not receive health insurance from their employer, and more than 80 percent did not receive paid sick days.

All of these issues create a public cost. According to the New York City Department of Health, restaurant workers are among the top frequenters of the city's emergency rooms, relying on taxpayer funds to pay their medical bills. Here, it is not the immigrants with their use of social services that burden the taxpayers, as anti-immigrant advocates would argue, but rather the employers' failure to fulfill their responsibilities that is ultimately forcing the taxpayer to subsidize the restaurateurs' low wages and poor working conditions. Cross-indexing the data in "Behind the Kitchen Door" has shown that when restaurant owners violate basic employment laws, they are forcing their workers to engage in practices that put the customers' safety and health at risk. Furthermore, worker mistreatment also has an effect on the industry's productivity and revenue. As Paul di Maggio (2001) argues in *The Twenty-First Century Firm*, employees who are underpaid or otherwise undercompensated have less long-term job security and are less loyal to employers. The New York City restaurant industry experiences very high turnover, and turnover means greater cost for the employer to retrain new employees.

Clearly, with low wages, occupational segregation, immigrant worker exploitation, lack of career ladders, and consequent lack of productivity, the restaurant industry in New York City presents an opportunity and a challenge to demonstrate transformation in the burgeoning service sector. With workers of so many different backgrounds—African American, White, U.S.-born Latino, and immigrant—it also presents a unique opportunity for multiracial organizing and policy work. It is within this context that I was able to cofound the Restaurant Opportunities Center of New York.

Since the tragedy of September 11, ROC-NY has expanded to organize restaurant workers citywide around the plethora of issues they confront as workers and, in large part, as immigrants. The mission of ROC-NY is to improve working conditions of restaurant workers' citywide and raise public recognition of restaurant workers' contributions to the city. Over the last five years, ROC-NY's membership has grown to almost two thousand members. These members are low-income African Americans, Latino Americans, and immigrant restaurant workers from all over the world, including Latin America, Asia, South Asia, Africa, the Caribbean, and the Arab world. To accommodate this diversity, our staff of ten speaks eleven different languages.

We employ a tripronged strategy to besiege the industry and build power for restaurant workers. First, we have developed our own eleven-step strategy for launching campaigns for workplace justice, to force large restaurant employers to provide decent wages, good health and safety conditions, respect for the workers' right to organize, job security, and equal opportunity to advance regardless of race, gender, religion, age, or sexual orientation. Second, we promote the "high road" in the industry by creating our own worker-owned cooperative restaurants, and convening and promoting restaurant owners who sign a Code of Conduct for good wages and working conditions. Finally, we conduct nationally recognized research

and policy work on a variety of issues faced by restaurant workers, including wages, discrimination, health and safety, health insurance, immigration, and more.

In *The Twentieth Century Firm*, di Maggio (2001, 51) discusses how firms in today's economy are engaged in "network forms of organization—collaborative networks of companies engaged in cooperative efforts." This means that, in deciding whether to take the high road or the low road—skimping on labor costs and worker benefits to reach profitability—companies will be swayed by "mimetic influences" (the desire to mimic companies that are successful); "normative influences" (the advice of consultants and schools that surround the industry); and "coercive influences" (laws or regulations imposed by government or imposed by some outside body). ROC-NY's model is attempting to influence the New York City restaurant industry to take the high road through all three methods. We are attempting to create new criteria for the "successful" firm to promote high road models—models with good labor practices—for the restaurants to emulate. We are convening these high road restaurateurs in our Restaurant Industry Roundtable and conducting customized job placement and training with them, to promote career ladders and skill standard development in the industry. Opened in January 2006, *COLORS* is a worker-owned cooperative restaurant initiated by ROC-NY in which forty immigrant restaurant workers co-own a fine-dining restaurant in Greenwich Village. We have developed our own school for low-wage restaurant workers in *COLORS* during the day, called *CHOW* (*COLORS* Hospitality Opportunities for Workers) to promote the high road through management training. Finally, we are coercing low-road employers to do the right thing by passing local legislation that would penalize illegal low-road practices and by launching public campaigns against particularly egregious low-road employers.

In each of these areas, we have succeeded only by building power among workers of different backgrounds to see their common struggle in the industry. We have won approximately \$580,000 in unpaid wages and discrimination payments for restaurant workers, as well as settlement agreements in each case that allow for sick days, vacations, promotions, and more. Through a combination of litigation and public pressure, we were able to convince several major restaurant owners to take the high road to profitability. In some early campaigns, we were only able to organize the Latino workers in the restaurant—not by choice, but because these workers were not able to help us reach beyond the language and cultural gap to approach others in their restaurant to join the campaign. As we made a greater and greater effort to diversify our staff outreach team, our campaigns became more diverse, and thus larger and more successful.

In fall 2005, we initiated our seventh campaign against world-famous French chef Daniel Boloud, whose *Restaurant Daniel* is one of five four-star restaurants in New York City. Several Latino bussers approached us complaining that they had been repeatedly passed over for promotion by management and had suffered years of racial epithets and verbal abuse. We told the workers that they would not be successful without organizing their Bangladeshi counterparts. Over the years, we had seen that while almost every restaurant workplace included an extraordinarily diverse workplace, employers frequently benefited from divisions between workers of different ethnic groups, who, rather than uniting to demand better

working conditions, fought, sometimes physically, with one another. After several late nights of waiting outside the restaurant to speak with the Bangladeshi bussers whom the Latino workers pointed out to us, we finally initiated the campaign. We organized forty restaurant workers to deliver a demand letter to Restaurant Daniel during dinner service and launched a litigation and organizing campaign against the restaurant. We obtained a front-page article in the New York Times Dining Section on 17 January 2007, by Kim Severson, with the headline, “Top Chef’s Kitchen Is Far Too Hot, Some Workers Say.” The article described the campaign in almost two full pages with eight color photos. As a result, the restaurant’s local councilmember Dan Garodnick was able to call the restaurant and arrange settlement talks, and we announced a major victory for the workers in summer 2007, including an Equal Opportunity Employment Opportunity Commission-monitored promotions policy, raises for runners and bussers, job security, grievance procedure, and management training. Although the Latino workers at Restaurant Daniel had been initially hesitant to include the Bangladeshis, saying that the Bangladeshis would probably not want to be part of any campaign, both groups ultimately recognized that it was their unity that led them to victory. One of the leaders of the campaign, Jose Arenas, noted that the victory would affect both groups: “People who work over there, Spanish and Bengali, now have opportunities to move up,” he told the press. “It’s good for them—they’ll make better money. I think it’s good for everybody.”

As of April 2008, ROC-NY is engaged in a workplace justice campaign against the Fireman Hospitality Group, with seven restaurants surrounding Carnegie Hall and Lincoln Center. In these restaurants, we have organized more than 250 workers—White, Black, brown, and immigrant, of all positions—to fight against unpaid wages, misappropriated tips, sexual harassment, and racial discrimination. Several White and Black waiters initially approached us for assistance, and, as in the Restaurant Daniel campaign, we told them that they would simply not be as effective without their counterparts of other races. These waiters ultimately agreed to conduct extensive outreach to other workers not only because they recognized the tremendous abuse those workers faced, but also because we were able to show them that as long as coworkers were receiving poor wages and working conditions, these conditions would allow the company to provide lower wages and working conditions across the board, dragging down the waiters’ conditions as well. Thus, based on their tremendous effort to unite all workers in the restaurant company, they have already won major improvements in workplace policy—tips are no longer being misappropriated, wages are being paid properly, and policies have been put in place to guard against discrimination and harassment. What has moved the company more than anything has been the visible and surprising unity among the workers, who have been segregated by position—White and African American waiters, Bangladeshi and Dominican runners and bussers, and Mexican kitchen workers. In one of the restaurants of the company, a group of Latino bussers was afraid to join the campaign until their White and Black waiter coworkers initiated action in their restaurant, after which they not only joined, but formed a new united front of bussers that even fought for and won a tip gain from their waiter coworkers.

Similarly, our work promoting the high road is more successful because of our commitment to multiracial organizing. We have organized forty workers, many of whom were displaced from *Windows on the World*, to open their own cooperatively owned restaurant. The workers are African Americans and immigrants from over twenty different countries who are now worker-owners of the restaurant. The unity of these workers of color has been one of the primary draws for consumers and one of the primary bases of its success. Based on this accord, ROC-NY has been able to advance a message through the restaurant, to demonstrate a model for the industry, and to show that employers can pay and treat their workers well and still make profit.

The third way in which we have successfully brought African Americans, U.S.-born Latinos, and immigrants of all races together has been by identifying the common issue of discrimination and occupational segregation in the industry. ROC-NY's 2005 "*Behind the Kitchen Door*" had two primary findings: (1) that a majority of restaurant workers suffer from low wages and poor working conditions; and (2) that severe discrimination keeps immigrants and people of color in these low-paying jobs, while the best-paying, front-of-house jobs are held almost entirely by White employees. We thus initiated an antidiscrimination campaign. The campaign combined "testing," litigation, organizing, and policy work to achieve genuine change for immigrants and workers of color in the New York restaurant industry. We conducted matched pairs "testing," in which we sent two hundred pairs of White and people of color applicants into fine dining restaurants to apply for the coveted waitstaff positions, some of the only living-wage jobs in the industry. Based on the research and corporate campaigns, ROC-NY's multiracial, worker-led policy committee is developing local affirmative action legislation to significantly decrease discrimination in the industry. The antidiscrimination campaign has allowed us to use litigation, organizing, research, policy work, and, most importantly, restaurant worker leadership development, to combat discrimination in the restaurant industry. It has also created a space to bring immigrants of different races together with African Americans, and immigrant rights and civil rights groups, around a common struggle against racism in the industry. African American, Latino, and other immigrant testers faced the same types of discrimination, and this information resonated soundly with our membership's experiences.

Critics might dismiss the ROC model as uniquely suited to the amazing diversity of the New York City restaurant industry, but we are striving to make multiethnic organizing in other cities' restaurant industries a reality. Changes in the economy of the South, for example, like the rest of the country, present real opportunities for multiethnic organizing in the service sector (Jones 2006). We have initiated an ROC branch in New Orleans and are ready to initiate others in the Detroit region and Chicago. In each of these cities, we have striven to include workers of different ethnicities in their struggle for justice and are beginning to make inroads. While we have certainly faced different challenges in these cities, we are committed to the model which we believe will ultimately be the only way to succeed in building power for all workers in the burgeoning service sector.

The ROC model draws upon the argument of collective prosperity. In this model, when all workers—immigrants, as well as U.S.-born Latinos, African Americans,



and Whites—are treated well and are not discriminated against, the industry enjoys less turnover and greater loyalty. And when workers are treated well, consumers enjoy safe and healthy eating environs while owners enjoy greater profitability. ROC-NY believes that this model has real potential for reframing the debate.

Much of the current policy debate around immigration is, in fact, a debate about labor—the never-ending struggle between anti-immigrant groups and big business, which clearly needs the immigrant labor but wants it to remain cheap and largely silent. From this perspective, there is a clear opportunity to use the collective prosperity model to show gains for all people of color, rather than simply fighting for immigrants' rights. Locally, affirmative action policies in the service sector would combat longstanding discrimination against people of color and create greater mobility to reach living-wage jobs. At the federal level, guest worker policies would allow employers to hire more cheap labor driving wages down for all workers. Giving immigrants the right to organize, on the other hand, would allow workers greater success in winning real improvements in working conditions. As a package, policies that protect employment rights and create greater opportunities for mobility will ultimately benefit all workers, responsible employers, taxpayers, and the economy.

## **Families for Freedom**

**By Aarti Shahani**

After the Twin Towers collapsed on September 11, the agency responsible for keeping foreigners out faced a similar fate. In the largest reorganization of the federal government since the creation of the Defense Department in 1947, Congress dismantled the Immigration and Naturalization Service and thrust its functions into the newborn Department of Homeland Security. Immigration control, originally based in the Treasury Department, has passed between many hands. Where immigration authority lies—the authority to symbolically and literally control who is a foreigner—provides a distinct time capsule of how America sees herself. The institutional transfer of immigration from the Justice Department into Homeland Security reflected both that immigrants would now be fundamentally associated with terrorism; and that America was preparing for a protracted War on Terror.

New York City, an epicenter of Arab, Muslim, and South Asian communities, soon became a domestic theater. Smoke was still rising from Ground Zero when joint task forces traveled across the five boroughs, knocking down doors to arrest men who had Muslim names, who lived in the apartment of such a person, or who were reported as suspicious by a neighbor or business competitor. Community organizations that had never filed a police complaint before now had to confront community/police relations on a massive scale. While only a few thousand were taken for deportation, those remaining feared they were next.

American history is no stranger to raids and deportations. The government arrested thousands of Eastern Europeans suspected of being Communists and expelled over five hundred in the Palmer Raids following World War I. Five hundred thousand Mexicans, half of whom were U.S. citizens, were forcibly repatriated in the 1930s. Nearly 120,000 Japanese, over half U.S. citizens, were

interned in American prison camps during World War II. Meanwhile thirty thousand Chinese faced deportation and averted it only through a confession program that required that they turn in fellow nationals. Mexicans became the target of mass expulsions in the 1950s, with Operation Wetback uprooting one million people in just one year (Ngai 2004, Preston 1994).

Post-September 11 was the first time in recent memory that deportation dominated the headlines. The authorities mounted a public relations campaign perhaps more aggressive than the enforcement itself, issuing untold press releases about the growing number of suspected terrorists caught. Journalists across the political spectrum were hungry to cover the Arab-looking faces caught in the net. Just a few blocks north of Ground Zero, targeted communities converged at the local Federal Plaza to decry the attacks.

At one rally focusing on immigrant community-police relations, a prominent Dominican leader stood in solidarity to express outrage against the government's Muslim roundups, according to a New York Immigration Coalition news release dated 3 June 2003. While his policy goal was to speak out against local police support of federal deportation efforts, his movement-building goal was to inspire New York's Latinos to sympathize, to heal anti-Muslim hate within his own community. Yet his eloquent speech was as bizarre as it was earnest. Missing was any mention of the roundups devastating Dominicans, the city's largest immigrant group.

Prior to the War on Terror, the trade and drug wars had made deportations a growing, if hidden part of the immigrant experience—hidden, because the fastest-growing site for apprehension was the criminal justice system. The overall number of domestic deportations is soaring. From 1981 to 1990, nationwide deportations totaled 213,071, of which 30,630 were categorized as “criminal aliens.” From 1996 to 2003, the total deportations totaled 1.2 million, nearly half (517,861) for criminal violations (DHS 2003).

In early 2001, before September 11, a handful of New York families facing deportation firsthand began meeting; mine was among them. My uncle had just been deported to India, and my father placed in deportation proceedings. Both men were long-term lawful permanent residents—or green card holders. They did not enter deportation because their status expired, but as the collateral consequence of a single criminal conviction. Our criminal defense attorneys advised each to plead guilty to improper cash transactions in a case related to our family business, a wholesale electronics store.

Before these men were arrested, they were heroes of a sort. New York was on the verge of an economic depression in the 1970s. The flight of affluent Whites and Blacks, the mass incarceration of poor Blacks and some Latinos, and the middle-class shrinkage threatened to implode New York City. But migrants from Asia, Africa, and Latin America entered en masse following the 1965 immigration reforms—a landmark civil rights bill with the unintended consequence of darkening the composition of America's immigrants. We brought money and ideas. We staffed gypsy cabs, dry cleaners, restaurants, and other service industries that accommodated global financial leaders and local residents. Some argue that, for

better or worse, immigrants made New York the city that never sleeps (Millman 1997).

My family was running our electronics store for over a decade when, in 1996, a New York antidrug task force entered with loaded guns and handcuffs. They charged that the business was selling watches and calculators to drug dealers. Whether they did so unwittingly was irrelevant.

The case dragged on for many years, ending only when attorneys urged them to accept guilty pleas in exchange for months-long sentences. A sympathetic judge allowed them to serve sentences consecutively rather than simultaneously, so one man could run the business while the other served his time. My uncle went in first. He did two years rather than eight months because of a parole board mistake, for which the state apologized. The day we thought my uncle was returning home, he was detained in another jail and the federal government began deportation proceedings.

In New York, the criminal justice system is the single largest referral point into deportation. With 11 percent of inmates being foreign-born, New York leads the nation with the highest proportion of immigrants in the prison system. There are over seven thousand foreign-born inmates in the custody of the New York Department of Corrections alone (NYDCS 2006). Upon completion of their sentences, immigrant prisoners do not return to their communities. Instead, they are subject to mandatory detention and deportation (Kateel and Shahani 2008; FFF and IDPNYSDA 2008). This civil proceeding affords no right to a public defender. Deportation for most families, including my own, comes as a surprise punishment.

When I began visiting my relatives in immigration detention, I noticed the other families waiting in the line. They looked like the same Black and brown faces from the criminal experience, with only accents to set them apart. Immigrants inside joke that detention is like a United Nations without Europe. In one cell block, detainees may speak over thirty languages and carry just as many passports. Nationality was not the only form of diversity; people had many legal statuses and claims. There were undocumented immigrants who overstayed a visa or crossed the border, recent entrants seeking asylum, green card holders with a past conviction, and people with old deportation orders who did not realize they were fugitives until they were detained while trying to address their status at Federal Plaza.

Legal services and public advocacy typically divided this prisoner community into different, opposing categories. Legal versus illegal, innocent versus criminal, criminal versus terrorist, “good” versus “bad.” Individualized, client-based approaches did not—in fact, could not—collect what were clearly collective problems. As tenuous as the domestic labor movement may be, there is an assumption that workers are in a shared struggle change. There was no similar working assumption for the families or prisoners.

Families for Freedom (FFF) began as an effort to build bridges and organize the families of deportees. Against messages that sought to distance “good immigrants” from “bad immigrants,” we created a network open to anyone facing deportation regardless of legal status or ethnic background. People came to the organization in

search of lawyers; none of us were. Nevertheless, we supported families through many activities. FFF held orientations on the deportation system, provided guidance on documenting the legal case, and gave referrals to the few pro bono and lo bono lawyers in the area. We drafted complaint letters when a family member was assaulted or mistreated in detention. Furthermore, FFF held social events that drew recently released detainees, families just beginning to face the secretive system, and single women struggling to raise a family after the deportation of the family breadwinner.

Black immigrants—whether Spanish-speaking Dominicans, French- and Creole-speaking Haitians, or Anglophone Jamaicans—predictably became our largest constituency. In major urban centers in the United States, where communities of color are increasingly noncitizen, deportation is experienced as an extension of the criminal justice system. While neither Immigration and Customs Enforcement (ICE) nor the city’s Department of Corrections have released figures on the racial breakdown of New Yorkers referred to the deportation system, those of us who visit jails and detention centers see a disproportionate number of Black immigrants.

On the streets, the fact of deportation is deeply felt and feared. In a survey of Washington Heights and Flatbush—predominantly Dominican and Black Caribbean neighborhoods, respectively—80 percent of those polled personally know someone who has been deported (FFF 2006a). Many deportees have left behind American-born children, many of whom are psychologically traumatized. Immigration enforcement has turned many women of color into single mothers and sole income providers.

The problem is not only the systemic integration of the criminal and immigration systems; it is also the utter lack of clarity among government officials, for whom deportation remains an elusive subject and immigrant prisoners are invisible inmates. Concerned members of the New York City Council, the Mayor’s Office of Immigrant Affairs, the state legislature, and foreign consulates who want to deal with the crisis do not understand the problem at hand. Criminal immigration enforcement is a recent phenomenon, largely the product of federal immigration laws passed in 1996. Only a few organizations work at the nexus of immigration and criminal justice. Fewer experts observe how noncitizens have become the comfortable targets of an unchecked collaboration between federal immigration authorities and local criminal justice actors.

The first burden that FFF had to meet was simple documentation. No studies existed to map the sociological impacts of deportation, document violations, or to frame the problem as one with tangible solutions. The second obstacle was to develop collective campaigns that united the diverse memberships. Our members, through tragedy and problem solving on a case-by-case basis, plowed the path. One such example: a corrections officer beat one of our Jamaican members so badly that the officer crushed his skull and left him with permanent brain damage. The member’s wife pushed the Jamaican consulate to issue a letter stating that Jamaica would not accept the detainee back for humanitarian reasons. The ICE, Homeland Security’s interior immigration police, was forced to release him to his family in New York.

Deportation typically requires two state actors, the sending and receiving countries. It is governed not only by domestic laws, but also by international laws. The United States is violating a number of binding international laws and norms, including the Vienna Convention, throughout the deportation process—from the point of criminal arrest to the moment of expulsion. Foreign governments, by facilitating U.S. deportations, are violating their own international law commitments.

Families for Freedom launched a multinational campaign to target the foreign governments facilitating premature and illegal deportations. The campaign relies on the specific knowledge of our diverse membership. To date, members have organized delegations to meet with consuls general in New York and institutionalized a consular roundtable for diplomats to discuss among themselves, with impacted families and community leaders. FFF also surveyed how consular offices experience deportation. From these surveys we developed recommendations that have become the basic demands of the Deportee International Justice Campaign (FFF 2006b).

Many receiving states have treated mass deportations from the United States as a regional security issue. Upon arrival to “home countries,” U.S. deportees may be locked up, be policed, and become homeless and unemployable. Deportees form their own social class. The Dominican Republic is one case in point. In March 2007, in recognition of the international impact of deportation, FFF helped organize an international conference on migration policies in the Dominican Republic. The conference, titled “Towards Comprehensive Migration Policies,” was a transnational dialogue among civic groups, academics, U.S. and Dominican governmental representatives, and affected families. Participants focused on the impacts that the U.S. and Dominican immigration laws and policies are having on communities in the United States, Dominican Republic, and Haiti. In the Dominican Republic, FFF members visited deported loved ones and organized meetings around the treatment of deportees in the Dominican Republic and Haiti. In all three countries, deportees are scapegoated by government and media for local crimes and economic downturn (see Brotherton 2003 and the 17 February 2006 *Christian Science Monitor*; on Haiti deportees, see UNHCR 2002; on Haitian-Dominican deportees, see HRW 2002). As a result, deportees face negative impacts to their civil liberties. Leader Rafaela Lozano reflected on the trip in an interview on 12 September 2007:

When we visited DR [the Dominican Republic], we met so many people who had been deported and are living with it isolated and ashamed. When we all came together you could see how many people are dealing with this unjust punishment and how many families are separated. We revived hope that there is the possibility of fighting to come back or fighting for your rights as a deportee in your home country.

This trip brought FFF closer to an international analysis of domestic immigration, a perspective that is sorely missing from much scholarship and advocacy. To date this campaign has yielded gains primarily in individual cases. We are now regularly able to prevent ICE from deporting people who are still litigating their cases, to investigate situations of abuse or medical neglect, and locate nationals

lost in the system. To achieve system-wide changes, the challenge and opportunity is to promote collaboration between foreign missions of different countries within the United States and to promote their partnerships with relevant public and private actors invested in the reform of the deportation system.

Our second collective campaign, American Kids, Immigrant Families, has had phenomenal success in creating new policy solutions and educating leadership within immigrant communities about the deportation system. In a typically crowded van ride with FFF members to Washington, DC, FFF cofounder Subhash Kateel remarked on the system: “Deportation is the cruelest civil proceeding in America. Is there any other where you can be incarcerated the whole time and never get a hearing?”

If there is a single feature that distinguishes today’s immigration system from the past, it is prison. Two years after NAFTA deregulated economic borders, President Clinton signed two domestic immigration laws that made deportation and detention mandatory minimums within our physical borders: the Antiterrorism and Effective Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act. Within this new system, judges do not have the power to consider the impact of deportation on American children.

At a Bronx town hall meeting in February 2006, American Julio Beltre stepped to the podium. Before families facing deportation, concerned citizens and leaders, and Congressman Jose Serrano, he recounted how Homeland Security took his father. His younger sister and brothers are also American citizens, he explained. They saw their daddy shackled and deported.

In direct response to Julio’s story and the pleas of so many other constituents, Congressman Serrano introduced the Child Citizen Protection Act (HR 1176) into the New York House of Representatives. Other Congress members are pledging support and organizations around the country are teaming with FFF to focus on the rights of American children in the immigration debate. On 10 April 2006, the same day as the massive immigrant protests in Los Angeles, FFF organized a vigil for the rights of children in front of Federal Plaza where children of deportees gave testimonies. At the height of the debate on comprehensive immigration reform, we joined with community groups from five other states to educate lawmakers about the deportation crisis. We explained to confused experts exactly why legalization did not begin to address the problem faced by the subjects of the deportation system. A pivotal report by Human Rights Watch (2007) on the impact of criminal deportations on families illustrates the point in detail. In the aftermath of the collapsed comprehensive immigration reform debate, the Child Citizen Protection Act stands with thirty sponsors in the House and growing support from diverse groups. The bill is a fundamental intervention against a trend toward increasing interior enforcement.

## Conclusion

The experiences of ROC-NY and Families for Freedom support a growing call: (1) to shift from a pan-Latino to a multiethnic consciousness that includes powerful yet marginalized non-Latino immigrants; and (2) to select campaigns grounded in a shared material interests with African Americans and other immigrant groups. Certain elements of immigration research and advocacy attempt to secure rights by denying the centrality of race in the challenges confronting immigration prosperity.

The comprehensive immigration reform (CIR) debate dominated headlines at several points over the last few years, but reporters have largely focused on corporate versus nativist agendas in the public policy debate. ROC-NY and FFF see opportunities to employ strategies from our local work, grounded in a human rights framework, to use a racial lens to build power among people of color across citizenship statuses. Reframing the CIR legislative agenda according to Black-brown solidarity could mean articulating the shared interests of African Americans and other immigrant groups. ROC-NY used this strategy in the Restaurant Daniel and Fireman campaigns, in preventing guest-worker programs from becoming a reality. We would recognize the concerns of African Americans regarding immigrants taking away jobs and point out the dangers of a lack of unity, as ROC did in those campaigns. In addition we would illustrate that allowing guest workers, with no rights to organize, allows employers to drive down wages and working conditions further.

Similarly, it has been too easy for certain elements of the immigrant rights movement to distinguish “good” from “bad” immigrants, claiming that some immigrants are not terrorists or criminals, implying that other groups in our society are. We see an opportunity to look at the most punitive migration-based punishments—detention and deportation—and link them to the enforcement trends that have led to the mass incarceration of African Americans.

We must support an immigration agenda based on human rights. To do so we must combine the labor and criminal justice movements of African Americans with the immigrant rights movement, creating a new framework advancing the human rights of people of color in the United States.

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### *Endnotes*

<sup>1</sup> The reorganization of immigration controls into the Department of Homeland Security was far from inevitable. James Sensenbrenner, the same Congressman to introduce HR 4437, proposed the reorganization bill that ultimately passed the House. But a bipartisan commission that had studied immigration for five years prior to September 11 urged Congress in an 18 April 2002 letter to Congressman Jim Kolbe to hand immigration functions to the State Department: “Migration issues are international in character and they require understanding and cooperation among many nations. State can and should play the key role in the broad questions of migration policy, as it now does in refugee matters.” Immigration as an international relationship has implications for domestic enforcement, especially in terms of the role that foreign states may play as claimants in a U.S. immigrant rights movement.

<sup>2</sup> Council of Pakistan Organization, Coney Island Avenue Project, Desis Rising Up and Moving, and the Arab American Family Support Center were among such organizations. Notes on file with author.

<sup>3</sup> Anecdotal accounts of the impacts of deportation on families grew in the media following September 11. See, for example, Albor Ruiz’s 3 November 2005 *New York Daily News* and Chisun Lee’s 18 March 2003 *Village Voice* articles.

<sup>4</sup> The most consistent and dramatic example of this deportee treatment may be Haiti (UNHCR 2002; see also the Web site of Alternative Chance/Chans Alternativ).

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# Local Immigration Regulation: A Problematic Trend in Public Policy

By Jill Esbenschade and Barbara Obzurt

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## Abstract

The years 2006 and 2007 witnessed an unprecedented trend in local governments passing ordinances aimed at undocumented immigrants. This article lays out the contours of this phenomenon, as well as the legal, logistical, and civil rights questions raised by the ordinances. We also explore the fiscal and community relations impacts. Finally, we look at some of the misperceptions that underlie the ordinances, including the perception of an “immigration crisis” that appears to be driven by an increase in Latino and immigrant residents of these mostly small cities and towns. We argue that local ordinances have fueled anti-Latino sentiment in these areas and pose a threat of widespread discrimination if enforced. Moreover, they violate the principles of a democratic society.

## Introduction

A looming issue for Latinos across the country is the proliferation of new local ordinances targeting undocumented immigrants. Such ordinances usually seek to impose harsh sanctions on landlords who rent to undocumented immigrants and/or employers who hire them. In many of the debates around such ordinances there is a fusion of undocumented immigrants and Latinos. This blurring of distinct (but overlapping) populations is dangerous, as such debates have heightened anti-Latino sentiment and such ordinances are likely to cause discrimination against Latinos through landlord and employer efforts to avoid possible violations. These ordinances are, therefore, of particular concern for those interested in public policy that affects Latinos.

Between May 2006 and September 2007, 131 cities and counties in thirty states considered ordinances targeting undocumented immigrants.<sup>1</sup> These ordinances contain five major aspects: rental provisions, employer sanctions, English as the official language, day labor prohibitions, and police enforcement of immigration law. The first three often come as a package and are sometimes called the Illegal Immigration Relief Act, or IIRA. Other locales have considered a wide variety of other measures. For instance, Prince William County, VA, adopted an ordinance (07-894) denying undocumented immigrants county services such as elder care, drug abuse prevention, and aid to the disabled.<sup>2</sup> According to the 9 July 2006 *San Francisco Chronicle*, the town of Milford, MA, amended their city regulations to prohibit any check cashing businesses, which often cater to immigrants.<sup>3</sup> Forty-four percent of localities have passed at least one prohibition. While this article focuses exclusively on the local level, it should be noted that there are also an unprecedented number of bills being considered and passed at the state level (NCSL 2007).

This article seeks to lay out the contours of the local ordinance phenomenon and also the principal arguments against such regulation. The article is based on over sixty interviews with members of communities where such ordinances have been considered. The members of the community are mainly representatives of non-governmental organizations, landlords, business owners, public officials, and police officers. Half of the interviews were conducted in a case study of Escondido, CA, and the others via telephone in fifteen cities in fourteen states. We also reviewed news articles from across the country, legal documents, proposed and passed ordinances, and videos of city council debates. Finally, we analyzed census data for the 131 localities. It is clear from the data collected that there has been a general lack of accurate information in the consideration of these ordinances. We will conclude by reviewing some of the common faulty assumptions on which the ordinance movement relies and the demographic shifts that have driven the perceived crisis.

### **Background of Ordinances**

There is no doubt that undocumented immigration has increased significantly in recent years. The leading demographer in the field, Jeffrey Passel, estimates that the unauthorized population nearly tripled between 1990 and 2004. Perhaps more significant to the proliferation of ordinances is the dispersal of undocumented immigrants to states that had previously seen any unauthorized and in many cases any immigrants and Latinos in general. In 1990, six states accounted for 80 percent of the undocumented population. By 2004, these six states were home to only 59 percent of undocumented immigrants (Fortuny, Capps, and Passel 2007, 45). While still housing the majority of undocumented immigrants, the six states account for fewer than 20 percent of the ordinances. Although the diffusion certainly contributed to rising concern across much of the country, we have not found a direct correlation between the number of proposed ordinances and the rise in the undocumented population in a particular state. By far the largest number of proposed ordinances is in Pennsylvania, with thirty-two locales (24 percent of the total number of ordinances). Pennsylvania saw the number of undocumented persons quintuple between 1990 and 2004, although the undocumented only make up 1 percent of the state's population—less than a third of the national average. On the other hand, an estimated 5 percent of the population of Oregon is undocumented and the state has seen a seven-fold increase (Fortuny, Capps, and Passel 2007, 34–37), but appears to have no locales considering ordinances. The rise in the number of undocumented persons has provided a basis for concern, but it has often required the media and politicians to raise the level to one of alarm.

The National Election Poll conducted in Iowa at the opening of the 2008 presidential election season showed that “illegal immigration” was the number-one concern among Republican caucus-goers, according to a *Los Angeles Times* article on 4 January 2008. While the centrality of the issue varies by poll and by group, it is clear that politicians are capitalizing on a growing nativist sentiment. This is particularly true among Republican politicians. Political scientists Karthick Ramakrishnan and Tom Wong's (2007) analysis of demographic, labor market, and political factors in relation to proposed local ordinances shows the strongest

correlation with political factors. They found, after controlling for demographic factors, that a locale in a Republican majority area was twice as likely as a Democratic area to propose, and even more likely to pass, an ordinance targeting the undocumented.

Several related trends of media coverage, national politics and widespread protests encouraged the spate of ordinances in 2006 and 2007. According to our LexisNexis search, in 2006 the number of articles in major newspapers headlined with the terms *undocumented* or *illegal immigrant/immigration* doubled over the number for each of the previous nine years. Media coverage of the subject was partly driven by renewed efforts in Congress to address the issue and vice-versa. Not since twenty years earlier, with the passage of the Immigration Reform and Control Act (IRCA), had Congress so intensely debated the issue.

However, Congress failed to pass a substantive immigration bill. Proposed measures ranged from draconian “enforcement-only” legislation to “comprehensive bills.” The proposed enforcement-only legislations would have turned millions of undocumented immigrants into felons and their abetting family members into criminals. The comprehensive bills included both increased enforcement (fences, new fines and penalties for illegal status, shifting of visas away from family preferences) and an easing on restrictions (path to citizenship, legalization of students, expanded guest worker programs). Nevertheless, despite intense negotiation, Congress failed to pass any measures in 2006 or 2007, with the exception of the expanded border fence. One reaction to the early efforts at enforcement-only solutions (particularly HR 4437) was an outburst of protests mainly organized by Latinos with support from organizations such as churches, unions, and civil rights groups. The protests in the spring of 2006 culminated with the Great American Boycott of 1 May, the one-day boycott of schools and businesses by legal and undocumented immigrants. Frustration at the lack of federal action, and what some perceived as the audacity of the protestors, resulted in the proposal of local ordinances.

The trend began when Joseph Turner, the founder of Save Our State (SOS), a nationwide organization that targets illegal immigration, attempted to put the original IIRA on the ballot in San Bernadino, CA. SOS is named after the official title of Proposition 187, a comprehensive ban on services to undocumented immigrants that was passed by California voters in 1994 but was found to be unconstitutional. While Turner was unable to get IIRA on the ballot in San Bernadino, his campaign inspired Mayor Lou Barletta of Hazleton, PA, who in turn motivated mayors and city councils across the country to consider similar ordinances.

One notable aspect of these local ordinances is that more than half include a housing provision, which is a new realm of regulating immigration. Employment prohibitions were enshrined in IRCA in 1986. English as the official language provisions have been adopted by over half the states and have been proposed on the federal level a number of times. Day labor restrictions have been introduced in many localities over the past twenty years. While there are federal statutes against harboring undocumented immigrants, there has been no previous effort to require landlords to check the legal status of tenants and to fine the landlords and/or revoke their licenses for failing to do so.<sup>4</sup>

## Principal Arguments against Local Ordinances

The following is an overview of some of the principal problems with these local ordinances, particularly with the housing sections. These arguments consider legal, logistical, economic, civil rights, and community relations impacts. While many of the ordinances have not yet been implemented and in several locales have been enjoined by the courts, the approval of the ordinances in and of themselves has had significant consequences. The most notable impact has been a public venting of hostility toward Latinos in many communities, and Latinos' (native-born, legal, and undocumented) heightened sense of being under attack.

## Legal Arguments

The main legal arguments against the local ordinances prohibiting landlords from renting to undocumented immigrants and employers from hiring them center around three areas: federal preemption, due process, and discrimination. The American Civil Liberties Union (ACLU), along with other leading civil rights organizations such as the Mexican American Legal Defense and Education Fund and the Puerto Rican Legal Defense and Education Fund, have successfully filed suit in six cities. In five of the six, preliminary injunctions have been issued, while in the sixth—Hazleton, PA—the ordinance was found unconstitutional after full trial and is now pending appeal.<sup>5</sup>

In July 2007, Judge James Munley of the U.S. District Court, in *Lozano et al. v. City of Hazleton*, returned a lengthy and detailed decision in which he found the Hazleton ordinances (the IIRA and the Tenant Registration Ordinance, or RO) to be unconstitutional because they were preempted by federal law and violated due process. Considering the federal government has already “occupied the field” of immigration law, and immigration is expressly a federal issue, local action is preempted by federal regulation. Moreover, the ordinances violate employers', employees', tenants' and landlords' right to due process conferred by the 14th amendment to the United States Constitution. The RO also violates an alien's right to contract under the federal Fair Housing Act, which, interpreted by Judge Munley, protects the right to contract of all persons, not contingent on legal status.

Judge Munley, however, did not find that the housing ordinance was discriminatory *prima facie*. Rather, he noted that a valid legal challenge may arise based on the application of the ordinance. The city avoided the discrimination claim by including in the ordinance a specific prohibition on complaints against tenants based on race or ethnicity. However, it is unclear exactly what will be required when a complaint process is actually implemented. It seems likely that complainants would use racial markers, national origin, and language ability in formulating the accusations of illegal status that will trigger the documentation checks. In fact, California passed AB 976 in October 2007, which prohibited cities from enacting laws requiring landlords to check legal status and went so far as to prohibit landlords from voluntarily conducting such checks, in order to prevent widespread discrimination.

District Court Judge John Houston, who granted a preliminary injunction on the housing prohibition in Escondido, CA, also upheld the plaintiffs' argument of conflict with the federal law. The housing provisions cause conflict preemption by

burdening the federal government with the obligation of providing information on thousands of renters, when the federal government has already set other priorities for the database which provides such information. Pennsylvania Judge Munley also questioned the ability of local governments to make a determination of immigration status by simply checking a database. Judge Munley found that the ordinances were based on the faulty assumption that “a conclusive determination by the federal government that an individual may not remain in the United States can somehow be obtained outside of a formal removal hearing.” The judge explained that the issue of legal status is much more complex than the dichotomous view of legal and illegal immigrants would indicate.

### **Logistical Concerns**

There are a number of logistical obstacles to implementing the ordinances as written. Because of the technical problems with a complaint-based system, and the likelihood that it could generate discriminatory practices, the city of Farmers Branch, TX, rewrote its ordinance to require that the legal status of all renters in the city be verified.<sup>6</sup> Under this alternative system, verification would occur for all renters at the time a rental contract is embarked or renewed. While this would avoid the issue of potential discrimination, such an all-encompassing process would create a huge bureaucratic burden for city administrators, not to mention the strain on the federal system.

Many cities are acting on the assumption that the status of noncitizens would be checked through the federal government’s database called SAVE (Systematic Alien Verification for Entitlements). Not only is there a question of whether this database can provide the appropriate information, as noted above in legal arguments, but there are also significant concerns over how well the system runs its basic services. Several government and academic reports have found that the SAVE system has serious problems with accuracy and timeliness. Moreover, these reports emphasize that the database is unable to handle new demand (ISR and Westat 2002; CIS 2004; GAO 2005; NGA, NCSL, and AAMVA 2006).

The federal government has already set priorities for this system, which include providing information to offices that grant government benefits, Departments of Motor Vehicles (DMV) that issue drivers’ licenses and identity cards, and employers who use the system as part of e-Verify (formerly Basic Pilot). The DMV’s use of the system is now required by the Real ID Act. Under this 2005 legislation, all DMVs must verify legal status for driver license and identity card applicants. The system is expected to be fully functional in 2008. However, a report by the National Governors Association, the National Conference of State Legislatures, and the American Association of Motor Vehicle Administrators in 2006 called into question the current efficiency of the database: “Insufficient information is available for states to reliably identify and validate an individual’s ‘pending’ immigration status. States also report real-time verification is not attainable approximately one-quarter of the time, which necessitates a time-consuming process to meet this requirement” (12).

Similarly, there is growing demand on the system through the expansion of Basic Pilot into e-Verify. In 2005, less than one-quarter of 1 percent of employers

nationwide used the system to check employees as they were hired, and yet the Government Accountability Office (2005) found the system was at its capacity. By 2007, the number of users had risen dramatically but was still under 1 percent. As of 1 January 2008, Arizona State's HB 2779 requires that all employers use the system. Meanwhile, under HB 1744, Illinois has prohibited its employers from using the system because of the inaccuracies that unfairly result in the loss of jobs.

### **Economic Issues**

Businesses, landlords, and cities have already felt the economic impact of local ordinances, often without the ordinances ever going into effect. These impacts have taken the form of loss of revenue, lowered property values, decreased city income, and heightened expenditures. Several cities have decided not to further pursue their ordinances or to rescind them in order to mitigate the negative fiscal results.

Businesses that cater to Latino clientele have experienced such a decline that owners have sued the city for damages, as was the case in Farmers Branch, TX. On 12 January 2007, the *Houston Chronicle* reported that businesses in Farmers Branch with a Hispanic clientele had seen a sales decline of 20-50 percent since the ordinance was read into the record two months earlier. According to Robert S. Nix of the Hispanic Bar Association of Pennsylvania, in a 20 March 2007 interview, "both in Hazleton, PA, and Riverside, NJ, there are 'for rent' signs . . . everywhere both for stores and apartments because people have moved out; they've left, both legal and those presumably illegal as well." Ironically, the influx of Latinos had contributed to an economic revitalization in cities such as Hazleton, Riverside, and Milford according the *Philadelphia Inquirer* of 20 January 2007. Cities in turn have lost the attendant taxes from declines in sales and rents.

Landlords have also been party to lawsuits against cities for such ordinances. Landlords are worried about their precarious legal position by having to abide by antidiscrimination laws and at the same time avoid violating the new regulations on not renting to undocumented immigrants. Landlords also point out that such ordinances may affect their property values and their other renters. Property values decline not only because of a reduced number of renters but also due to the added legal complications involved in owning rental property under these ordinances. Kathy Belville, president of the San Diego Apartment Association, noted in a personal interview on 9 April 2007 that landlords may not even be aware of undocumented residents living in a unit with a documented tenant. If landlords' licenses are revoked for violations, as contemplated by the ordinances, this would affect the renters in all units owned by the landlord.

City residents may be affected as "innocent bystander renters" and as taxpayers as well. While these ordinances are supposedly meant to save local governments money in services given to undocumented immigrants, in fact they have cost cities hundreds of thousands of dollars in legal fees. Escondido spent \$200,000 defending its ordinance only through the preliminary injunction stage. Farmers Branch spent over a quarter of a million dollars on the first round of its defense, as did Hazleton. These two cities have set up Web sites to solicit donations to help with



the costs of their defense. Hazleton also had the assistance of Lou Dobbs, who advertised the Hazleton site on his CNN program. Farmers Branch mayor Bob Phelps, previous mayor David Blair, and city attorney Richard Escalante wrote in a 8 May 2007 open letter to the town that costs of full trials are estimated in the millions.

### **Civil and Human Rights Violations**

The trials over these ordinances have centered on their constitutionality, centrally under the principle of federal preemption. However, a number of other important civil and human rights concerns emerge from the housing ordinances in particular. These include the likely violation of privacy rights, racial profiling, and children's rights.

Many of the ordinances contemplate a citizens' complaint procedure, raising the specter of spying and harassment particularly of Latinos. Because Latinos make up approximately 80 percent of the undocumented population, it is likely that Latinos will receive particular scrutiny from landlords and community residents intent on bringing complaints under the ordinance procedures. Such scrutiny could certainly involve violation of privacy rights and could be used as a form of harassment against minority members of these small, largely White, communities.

The ordinances may also violate international law by depriving undocumented immigrants and their families, both documented and undocumented, of shelter. For more than fifty years the United Nations has included the right to adequate housing in various declarations adopted by the General Assembly, including the United States. The original 1948 United Nations Universal Declaration of Human Rights includes the right to adequate housing as a recognized basic human right. The 1966 Covenant on Economic, Social and Cultural Rights reiterated housing as a basic human right. In 1989, the UN Convention on the Rights of Children also enumerates shelter as a basic right. Finally, the 1990 United Nations International Convention on the Protection of the Rights of All Migrant Workers and the Members of their Families also enshrines access to housing as a right.

Violations of the right to shelter are always troubling. This right has been recognized for all peoples, as well as for migrant families and for children specifically. Deprivation of the right to housing is particularly appalling when it involves children. Almost five million children live in households headed by undocumented immigrants, with almost two-thirds of these born in the United States. While most of these children do not live in communities with housing ordinances, 41 percent of the families targeted by these ordinances include children. Moreover, 31 percent of targeted families include U.S. citizen children (Passel 2006).

### **Community Relations Impacts**

Ordinances have also had negative impacts on community relations. Across the country, Latinos report feeling under attack. The 5 December 2007 *Washington Post* quoted a local Latino community leader in Culpeper, Virginia: "Things have really picked up since Prince William came out with that plan. They are blaming us for everything that's going wrong in this country and with the economy." This sentiment was echoed by many of our interviewees. In our case study of

Escondido, CA, we found both a general sense of heightened hostility toward the Latino community and specific instances of loss of community services.

In Escondido and elsewhere community members reported a proliferation of anti-Latino sentiment as a result of the ordinance debates. This sentiment often extended to legal residents and native-born Latinos. Anti-Latino sentiments were legitimized by city officials, who often group undocumented immigrants with Latinos. According to the president of Hazleton's Hispanic Chamber of Commerce in the *Pittsburgh Post-Gazette* on 9 March 2007, "the mayor has created a climate of fear among Latinos, even those in the country legally." In Escondido, numerous references were made to Latinos during the debates. In Valley Park, MO, the local paper, the *Riverfront Times*, on 28 February 2007, quoted the mayor: "You got one guy and his wife that settle down here, have a couple kids, and before long you have Cousin Puerto Rico and Taco Whoever moving in." While not all officials have been so blatant, the ordinance debates often served as a venting process for pent-up frustration and anger about the increasing numbers of Latinos in ordinance locales. Arcela Nunez-Alvarez, interim director of the Latino Research Institute, California State University at San Marcos, said in a personal interview on 16 February 2007, that Escondido, CA, observed a rise in tensions between White and Latino students at the local high school.

The ordinances and the environment surrounding their promotion serve to further isolate Latino and other immigrants. Ironically, such isolation is an impediment to the process of assimilation, which ordinance supporters often demand from immigrants. For example, the Web site set up by the supporters of the Farmers Branch ordinance declares that "those who enter our country legally should obey our laws, learn the English language, and assimilate into American society." The fear created by the ordinances makes immigrants less likely to seek out opportunities to incorporate into the community and may affect services offered to facilitate this process. For instance, according to a personal interview with the city librarian in Escondido, Laura Mitchell, on 16 March 2007, the library lost financial support for a bilingual program in the wake of the ordinance debates. According to Nunez-Alvarez, a teacher in Escondido also reported that parents were not sending their children to school for fear that the parents might be detained while waiting for the children outside school.

The negative reputation engendered by the perception of many as intolerance can disadvantage the entire community. A prestigious charter school that had considered locating its newest campus in Escondido changed its plan in part because, according to the principal, Nicole Hinostro, in an interview on 6 March 2007, "when we found out about that ordinance and the politics behind it, it didn't feel like it was fostering a multicultural type of community." Staff of community-based organizations across the country expressed similar concerns about growing intolerance.

### **Lack of Substantiation for Ordinance Claims**

Much of the debate around ordinances consists of blaming undocumented immigrants for a variety of social ills. Many ordinances are preceded by a preamble similar to that of the original San Bernadino IIRA, which found:

Illegal immigration leads to higher crime rates, contributes to overcrowded classrooms and failing schools, subjects our hospitals to fiscal hardship and legal residents to substandard quality of care, and destroys our neighborhoods and diminishes our overall quality of life.

While rising crime, overcrowded schools and burdened medical systems are the most common social ills enumerated, the Farmers Branch ordinance also referred specifically to September 11 terrorist attacks in their ordinance and the desire to counter terrorism has been cited in other cities as a justification.

Cities need to carefully scrutinize the data on whether problems attributed to undocumented immigrants exist or have been fabricated. Local reporters in the Valley Park, MO, *Riverfront Times* reported that the ordinance justifications there were unfounded. One 28 February 2007 article observes that “crime rates are at an all-time low, and school officials haven’t a clue what prompted claims of overcrowding.” Similarly, during the Escondido City Council debate on the ordinance, members used rising crime rate as a basis for their support. However, according to the FBI crime index, the crime rate dropped by 10 percent between 1998 and 2002 and dropped again between 2004 and 2005. In the case of Avon Park, FL, the ordinance was defeated precisely because the justification language on social ills—copied from Hazleton—was clearly untrue in Avon.

It is essential for proper legislative consideration that a causal relationship between undocumented immigration and social ills is not drawn without evidence. Many statements and statistics quoted by the proponents of the ordinances have been found to be unreliable, misconstrued, or anecdotal. During the Escondido debate, a council member referred to the “fact” that undocumented immigrants were responsible for 80 percent of gang-related crime, but the police chief later testified that only 10 percent of the city’s gang members were noncitizens. The lack of substantiation for these claims was clear in Hazleton, the only city to have a full trial on the ordinance. The *Pittsburgh Post-Gazette* reported on 9 March 2007:

During five hours on the witness stand, [Mayor] Barletta said Hazleton is being ruined by violent crime, crowded schools and a clogged emergency room at the city’s private hospital. He attributed many of the problems to what he called “illegal aliens,” even though he admitted he has no idea how many such immigrants are in his city. Lawyer Witold Walczak, of the American Civil Liberties Union, got the mayor to concede that he could not name a single instance where illegal immigrants had received service from Hazleton’s fire department or health officer. Mr. Barletta also was forced to admit he had no proof that illegal immigrants were the source of schools so crowded that numerous classes have to be taught in trailers.

The testimony went on to show that while crimes by undocumented immigrants had prompted the ordinance, only twenty of the 8,575 felonies in the city had been committed by undocumented immigrants. The same article noted that there was also no evidence that students taking classes in English as a second language, whose funding was also cited as a problem, were undocumented. This point exem-

plifies the tendency in these debates to assume that all immigrants, and non-English-speaking children, are undocumented.

There is also a tendency to equate Latinos with undocumented immigrants. This was seen in the Escondido debate in which a community assessment of the Latino population in the city, which did not mention immigration status, was repeatedly used to justify the ordinance. Reports from around the country confirm that discussion of the ordinances centered on Latinos. In fact, approximately 80 percent of the undocumented population is from Latin America (Passel 2005). However, most Latinos are NOT undocumented immigrants. According to the U.S. Census Bureau (2004) only 40 percent of Latinos are foreign born and fewer than 20 percent of Latinos are undocumented. Nevertheless, the influx of Latino and immigrant populations into new areas seems to have led some to conclude that the undocumented population is increasing dramatically.

### **Shifting Demographics in Ordinance Locales**

An analysis of the demographic data for the ordinance locales reveals that the great majority have immigrant and Latino populations below the national average. We do not know exactly what the undocumented population in the locales is, a problem that city administrators also face. However, estimates of the undocumented population use a residual method based on census data of the foreign-born from which the legal population is subtracted and a 10 percent adjustment for the undercount of undocumented immigrants is added (Fortuny, Capps, and Passel 2007, 60). This adjustment would occur in both national and local figures. While certainly the percentage of the undocumented foreign-born population varies in different areas, the ordinances are evenly divided between states in which the proportion of undocumented persons is more than the national average of 29 percent of foreign-born and states where the proportion is lower.

It is clear from this data that most locales considering these ordinances are not large metropolitan areas. Only 18 percent of the ordinances have been proposed in cities over 65,000. Another 15 percent are considered or passed in counties made up of a number of smaller cities and towns. Small cities with between 10,000 and 65,000 residents account for 30 percent of ordinances and finally, towns with a population of under 10,000 make up the largest group with 37 percent of ordinance locales.

U.S. Census data is available for all locales for 1990 and 2000. However, 2005 data is only available for locales over 65,000—that is for the twenty-three large cities and twenty counties that have considered or passed ordinances. An analysis of this data reveals that ordinance consideration is not correlated with *large numbers* of immigrant or Latino populations, but with *large increases* in these populations.

Table 1 shows both the percentage of Latinos and immigrants in the locales, as well as the increase in each of these populations. A review of the entire group of 131 locales on the left side of the table shows the percentage of both Latinos and immigrants is considerably below the national average. However, the increase of Latinos from 1990 to 2000 is above the national average and the increase of immigrants is at the national average. The right side of the table shows data for 2005

and increases from 2000 to 2005 but *only* for the locales over 65,000—one-third of the locales. This data shows that the percentage of Latinos is above the national average and the percentage of immigrants is slightly below. However, the increase in both categories is considerably above the national average.

As shown in Table 2, in 2000 only about 20 percent of the 131 locales had higher percentages than the national average of Latinos and of immigrants. Almost 40 percent, however, had above-average increases. Looking at only the largest locales, one-third had higher than average percentages of Latinos and 40 percent had higher than average percentages of immigrants. The majority, however, saw higher than the average increases in these populations.

Tables 3 and 4 are included because we believe that large cities actually skew the 2005 data and that the 2005 data from Tables 1 and 2 are not necessarily representative of the entire group. Counties, which are generally made up of smaller cities and towns, are closer to the small locales in demographics and more likely to represent entire samples for 2005 averages and 2000–2005 increases. However, they are lower in Latino population and slightly higher in immigrant population than small cities when compared to 2000 (not shown here). In looking at Tables 3 and 4, it is clear that in 2005 these locales have average Latino and immigrant populations far below the national average but increases above the national average. Table 4 shows that, in 2005 few counties considering ordinances had either Latino or immigrant populations above the national average, but over 40 percent had increases in Latino population above the national average, and over half had immigrant increases above the national average. Therefore, the data from all tables indicate that the increase in the foreign-born and Latino populations of ordinance localities probably plays a stronger role than the actual *number* of Latinos or immigrants in shaping popular perceptions of an “immigration crisis.”

In terms of the relationship between demographics and *passage* of ordinances, the data is less clear. Out of 131 ordinance initiatives, 44.3 percent of locales passed at least one provision of the ordinance and the same number have postponed their ordinances. The ordinances were rejected in 11.5 percent of the localities. The data indicates that the status of the ordinances is not directly correlated with the size of the Latino and immigrant population shares. Locales that passed ordinances had higher Latino and foreign-born populations than those localities in which they were postponed. However, locales that rejected ordinances had the highest percentage of Latinos and equal or higher percentages of foreign-born. It appears that having a large Latino population, with a significant native-born component, aids in ordinance rejection.

Finally, ordinances are not correlated with high local unemployment rates. Tables 1 and 2 show that the average of unemployment rates was below the national average in both 2000 and 2005 and changes were similar or identical to the national increase or decrease. Tables 3 and 4 reconfirm this, although it appears that the counties—again which may be more representative of the entire sample—do have a higher increase in unemployment. However, their average unemployment rate is still lower than the nationwide average.

## Conclusion

The proliferation of ordinances in communities that have experienced high influxes of Latinos and immigrants relative to their traditional population is cause for concern on many levels. This article has laid out some of the principal practical considerations involved in adopting such an ordinance: validity, enforceability, legal costs, and economic impacts. But even more importantly we should take into account the meaning of such ordinances in a democratic society. Judge Munley, in *Lozano et al. v. City of Hazleton*, concluded in his decision that such ordinances were unconstitutional,

The genius of our Constitution is that it provides rights even to those who evoke the least sympathy from the general public. In that way all in this country can be confident of equal justice under its laws.

These local ordinances bring into question our commitment to such equality and justice.

The ordinances alienate immigrants and Latinos, contributing to isolation rather than to incorporation into our increasingly diverse country. If enforced housing ordinances will foster racial profiling and discrimination, they also clearly violate the human rights of persons whose legal status may be in question but whose humanity must be recognized. The housing ordinances will only serve to drive undocumented persons and their family members (including many U.S. citizen children) into more precarious conditions. We have already seen the result of prohibitions in the employment sector, where many undocumented immigrants are exploited.

Of course, local ordinances could drive immigrants—and Latinos who feel the atmosphere is too hostile—to other towns or regions. This may serve to stem the flow of immigrants and Latinos into new areas, which appears to be an underlying motive of some ordinance supporters. However, it will not address the presence of millions of people, mainly workers, in the United States with no clear status. The contradiction between our labor practices and our immigration policies is something only the federal government should, and can effectively, address.

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### *Endnotes*

<sup>1</sup> Our list of 131 localities was obtained by cross-referencing the lists of all localities where ordinances had been proposed compiled by the Fair Immigration Reform Movement and the Puerto Rican Legal Defense and Education Fund. We double-checked any discrepancies against news reports. These numbers are as of October 2007 and all references to numbers of localities in this paper are derived from our cross-referenced list.

<sup>2</sup> For ordinance, see <http://www.pwcgov.org/documents/bocs/briefs/2007/1016/res07-894.pdf>.

<sup>3</sup> Amendment noted in city regulations at <http://www.milford.ma.us/zoning-by-laws.pdf>.

<sup>4</sup> We would like to note that while most of the housing provisions require landlords to check immigration documents, a few cities have developed other more generalized strategies to stop immigrants from obtaining housing. These include provisions that redefine “blood relative” or “family” in a much more limited way and restrict the sharing of housing in certain zones to this limited group of individuals and overcrowding regulations that limit the number of tenants in a unit.

<sup>5</sup> See ACLU site for updates and all legal documents (<http://www.aclu.org/immigrants/discrim/27452res20061115.html>).

<sup>6</sup> While both the city council and the 68 percent of voters in Farmers Branch approved versions of their ordinance, courts have enjoined them based on preemption. The ballot initiative was modified to exclude children and elderly people.

**Table 1. Select Demographic Characteristics of All Ordinance Locales**

<b>ALL LOCALITIES</b>	<b>2000</b>		<b>2005</b>	
<b>Average in Ordinance Locales</b>	<b>All Locales N = 131</b>	<b>National Average</b>	<b>Largest Locales N = 43*</b>	<b>National Average</b>
Latino population share	8.6	12.5	16.2	14.5
Immigrant population share	7.2	11.1	12.1	12.4
Unemployment rate	3.3	3.7	4.3	4.5
<b>Average Increase in Ordinance Locales</b>	<b>1990–2000</b>		<b>2000–2005</b>	
Latino population share	4.2	3.6	3.4	2.0
Immigrant population share	3.1	3.1	2.4	1.3
Unemployment rate	-0.3	-0.4	1.0	1.0

\*For Latino population shares, N = 42 locales; for unemployment, N = 34 locales.  
 Source: 1990 Census; 2000 Census; 2005 American Community Survey.

**Table 2. Share of All Ordinance Locales Rating “Above Average” in Select Demographic Indicators**

<b>ALL LOCALITIES</b>	<b>All N = 131</b>	<b>Largest Locales N = 43*</b>
<b>Percent of Locales with High Average**</b>	<b>2000</b>	<b>2005</b>
Latino population share	19.1%	33.3%
Immigrant population share	20.6%	39.5%
Unemployment rate	28.2%	32.4%
<b>Percent of Locales with Above-Average Increase</b>	<b>1990–2000</b>	<b>2000–2005</b>
Latino population share	38.9%	57.1%
Immigrant population share	36.6%	65.1%
Unemployment rate	60.3%	61.8%

\*For Latino population shares, N = 42 locales; for unemployment, N = 34 locales.  
 \*\* High average is any average higher than the national average. See Table 1.  
 Source: 1990 Census; 2000 Census; 2005 American Community Survey.



**Table 3. Select Demographic Characteristics for Ordinance Locales, Excluding Large Cities**

<b>SMALLER CITIES AND COUNTIES</b>	<b>All N = 108</b>		<b>Counties N = 20*</b>	
<b>Average in Ordinance Localities</b>	<b>2000</b>	<b>National Average</b>	<b>2005</b>	<b>National Average</b>
Latino population share	6.4	12.5	7.1	14.5
Immigrant population share	6.0	11.1	8.5	12.4
Unemployment rate	3.2	3.7	4.1	4.5
<b>Average Increase in Ordinance Locales</b>	<b>1990–2000</b>		<b>2000–2005</b>	
Latino population share	3.6	3.6	2.3	2.0
Immigrant population share	2.9	3.1	2.4	1.3
Unemployment rate	-0.3	-0.4	1.4	1.0

\*For Latino population shares, N = 19 locales

Source: 1990 Census; 2000 Census; 2005 American Community Survey.

**Table 4. Share of Ordinance Locales Rating “Above Average” in Select Demographic Indicators, Excluding Large Cities**

<b>SMALLER CITIES AND COUNTIES</b>	<b>All N = 108</b>		<b>Counties N = 20*</b>	
<b>Percent of Locales with High Average**</b>	<b>2000</b>		<b>2005</b>	
Latino population share	13.0		10.5	
Immigrant population share	15.7		25.0	
Unemployment rate	25.0		22.2	
<b>Percent of Locales with Above-Average Increase</b>	<b>1990–2000</b>		<b>2000–2005</b>	
Latino population share	31.5		42.1	
Immigrant population share	29.6		55.0	
Unemployment rate	57.4		77.8	

\* For Latino population shares, N = 19 locales

\*\* High average is any average higher than the national average. See Table 3.

Source: 1990 Census; 2000 Census; 2005 American Community Survey.

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# The DREAM Act, Deferred

By *Eduardo J. Padrón*

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Children born abroad but brought to the United States illegally live in a world of fading hope. Mostly Hispanic, they are allowed to attend school through the secondary level, but once they reach the age of eighteen our system tells them to pack up and leave. We teach them English, science, civics, and American values but then tell them that they cannot work here due to their fathers' sins. Free education is then followed by free deportation. As a result, the majority of these students transition silently from children attending school to eighteen-year-old unauthorized immigrants, unable to work legally or obtain citizenship. They are the innocent until educated.

However, there is a solution to this dilemma: the Development, Relief, and Education for Alien Minors Act (the DREAM Act). The only problem is that, like these children, the fate of the DREAM Act remains in limbo.

The Supreme Court decided in 1982's *Plyler v. Doe* that children brought into the United States by illegal means have the right to attend public schools. But what happens when those children grow up? Most attend college where they advance, get involved in community service projects and student governments, and embark on their first endeavor to realize their greatest potential. But because of our dysfunctional immigration system, they are barred from working legally and their uncertain legal status handcuffs their future.

While there are other solutions available to concerned states and institutions of higher learning, the reality is that only federal legislation can properly address the issue of citizenship. And the best piece of federal legislation to do so is the DREAM Act.

The DREAM Act is a bipartisan piece of federal legislation that would provide a path to citizenship for responsible, qualifying children of unauthorized immigrants. Since its introduction in 2001, the act has gained over two hundred

cosponsors in Congress. But because of opposition from the White House, it failed to become law in October 2007 as it fell just short in a procedural vote in the Senate (ironically, during Hispanic Heritage Month). Afterwards, Eugene Robinson—a columnist and associate editor at the *Washington Post*—noted in an 26 October 2007 opinion editorial that “the vote against the Dream Act was so irrational, so counterproductive, that it seemed the product of some sort of hormonal imbalance.”

Yet, despite political posturing over immigration, the DREAM Act is still a reasoned piece of legislation. Beneficiaries of the DREAM Act would have to meet strict criteria, including at least five years of residency, and then commit to serve in the military or attend college for at least two years. Children who arrive in the United States after age sixteen or who have reached age thirty would not be eligible under such stipulations, nor would delinquents. After a six-year probationary period, the student could earn permanent residency and, as the act’s name implies, could enable a segment of the population to pursue the American dream.

While the path of military service has garnered support from the armed forces, it has also been criticized by others as a means of luring more Latinos into combat. While such an effect is likely to occur, the act does not require any military service, and it offers more than one option to earning permanent residency.

Similarly, other opponents claim that the act lures parents into illegal behavior and that it equates to “amnesty” for illegal immigrants. They fear that it would reward and encourage illegal immigration by fueling parents’ hopes of earning citizenship for their children. But this argument is shortsighted because it’s immediate economic concerns, not future benefits, that drive illegal immigration. Parents would gain nothing from the DREAM Act, and its stringent, long-term residency requirements would exclude most immigrants. Furthermore, the only beneficiaries would be young people who already talk and behave like average American teenagers because they have been a part of our educational system for years.

The DREAM Act also has been criticized as costly since these students would become eligible for benefits such as in-state tuition at public colleges. These arguments, however, ignore the broad economic benefits of having a well-educated populace and more qualified military recruits in the system. Plus, the number of students involved in this program is still quite small. The National Immigration Law Center estimates that each year 65,000 high school graduates qualify for the DREAM Act’s benefits. But it is not known how many of those actually go on to complete and receive such benefits. It is estimated that only 7,000–13,000 students do so. If anything, then, we should compare these costs against the costs we are incurring from our current policy, which include the high costs of extensive litigation, processing, and deportation.

Ten states have already taken the lead by implementing in-state tuition policies for long-term unauthorized immigrants: California, Illinois, Kansas, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah, and Washington. But sixteen other states, including Florida, are still debating the issue while states such as Arizona, Mississippi, and Virginia have passed propositions banning in-state

tuition for unauthorized residents. In the absence of comprehensive federal legislation, states have started to draw up the dividing lines.

The problem with this is that states lack the necessary power to affect citizenship status on a national scale. Only Congress has the ability. But if we were to revisit and enact the DREAM Act, it could provide a clear, uniform, and fair pathway toward legal residency and citizenship.

As a compromise, some states such as North Carolina are requiring public colleges to admit illegal immigrants. In Florida, as in many other states, the decision is being left up to each institution. Our college, Miami Dade College, favors their admission and considers it a movement for positive social change.

For example, Maria Gabriela “Gaby” Pacheco is a model college student who arrived in the United States thirteen years ago. She was elected state president of the Florida Junior and Community College Student Government Association and is now working towards a bachelor degree in exceptional student education at Miami Dade College. However, she cannot be hired as a teacher due to her immigration status. Like her, there are thousands of potential teachers, nurses, and other professionals in demand who already know the language and the culture but cannot transition into the workforce upon graduating from high school. The marketplace and our country need their talents, and they deserve a chance to become productive Americans.

Too many young people like Gaby end up stranded between a high school diploma and deportation. Most of them have done nothing wrong, but because of a broken immigration system, these students are being placed on the wrong end of the law. Sadly, their only mistake was not being born here.

According to the Pew Hispanic Center, a new trend surfaced in 1995 when the number of undocumented arrivals surpassed the number of legal immigrants. States along the Mexican border hold the largest numbers, but the fastest growth of undocumented populations has shifted to states such as Kansas, Georgia, and Tennessee. Therefore, the effect of modern immigration is truly national in scope as Latinos currently represent over 80 percent of the approximately 12 million undocumented immigrants in the United States (Passel 2005).

Most children of unauthorized immigrants become U.S. citizens by birth, and as a result, many immigrant households become a mixture of U.S.-born children and foreign-born parents. But what about foreign-born children who had no say in their parents’ decision to cross the border? Of all the unauthorized immigrants, children born outside the United States account for 1.6 million (14 percent), and they are the unfortunate ones who will be left in limbo upon graduation. And most strikingly, unauthorized children are less likely than legal immigrants to finish high school and more likely to be poor (Passel 2005).

This then begs the question: do we want to retain these educated children and offer them the right opportunities, or do we want them to go elsewhere?

In reality most of them are not going elsewhere because their families came here for economic opportunities that are lacking in their home countries. Nor is mass deportation realistic because the cost and disruption of removing 12 million undocumented residents would be untenable both for U.S. industries that rely on these workers as well as for the foreign regions that would have to absorb them.

Therefore, the question becomes: do we want unauthorized immigrants to be workers in an underground economy, or wards of the state, dependent upon government services? If our society does nothing to address this issue, these questions will answer themselves in the affirmative.

In the case of Juan Gomez, the law is bending to keep him here, even though his parents and grandmother were deported to Colombia in October 2007. Through a private relief bill piloted by Senator Dodd (D-CT) and Congressman Diaz-Balart (R-FL), the first-year student at Miami Dade College and his older brother are able to continue their studies for the time being. Essentially, the bill buys them some time. But because these students are model “citizens,” they deserve more than a temporary stay. And across the country, there are thousands more like them.

The DREAM Act would have become law in less divisive times, and hope remains that it will form a key element of comprehensive immigration reform in the future. For now, though, institutions of higher learning and state legislatures should seek to ensure the following key provisions for unauthorized immigrants:

- 1) Allow them to pursue a degree at any community college;
- 2) Allow them to pursue higher education without the threat of deportation;
- 3) Offer in-state tuition with proof of residency for at least five years; and
- 4) Offer counseling geared toward obtaining citizenship while they continue their studies.

Because of our legal system, these children are classified as illegals. But the reality is that they had no say in choosing the location of their upbringing. As a society, then, we are faced with a choice to either support them or alienate them by leaving them in limbo. These are young people who deserve a first chance, not expulsion. Colleges can begin the movement toward the DREAM Act and states can enact their own legislative versions. But the legal status of these young people will ultimately require a federal solution. The DREAM Act should have passed before, and a wise administration will pass it now.

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# The Tijuana Two-Step: The Border Patrol's Teargassing of Colonia Libertad and Extraterritorial Criminalization of Mexican Citizens

By Robert F. Castro

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A new trend is rapidly spreading throughout the impoverished neighborhoods of Tijuana, Mexico: the “Tijuana Two-Step.” Unexpectedly, people drop whatever they are doing and run out of their homes. Yet they usually don’t get more than two steps out before falling to the ground, clutching their throats, convulsing, and gasping for air. The Tijuana Two-Step, then, is not a new dance craze but rather, a reference to the U.S. Border Patrol’s teargassing of poor communities like Colonia Libertad in Tijuana, Mexico. These attacks are criminalizing the innocent residents of these neighborhoods and forcing them to endure retributive sanctions despite having done nothing wrong.

These gassings were intended to target smugglers that had been throwing rocks at U.S. border agents. But these “nonlethal” gas canisters missed their intended targets and instead hit poor Mexican neighborhoods along the border, saturating residents and their modest shelters with chemical fumes. These episodes are symptomatic of how race, terrorism, and crime have fused into a unified post-September 11 enforcement approach. The chief distinction here, however, is that this unified approach has now expanded beyond the internal enforcement of immigration laws and is being projected outwardly across international boundaries through the aforementioned tear gas raids. Hence, the criminality formerly aimed at undocumented persons within the United States has been infused with an extra-territorial dimension and imposed on innocent individuals legally residing in their own nation. Clearly, these enforcement tactics are unacceptable for several reasons: (1) they are inconsistent with the Border Patrol’s own use-of-force policies; (2) they endanger innocent and often vulnerable individuals; and (3) these activities are incompatible with longstanding human rights protocols.

### Post-September 11 Crime Orientations

Jonathan Simon (2007a, 9; 2007b, 18–19, 277–279) has described this new form of enforcement as “governing through crime” and likens it to a colonizing virus that infects the government’s custodial institutions and practices. This new approach has also taken root in mechanisms that regulate and enforce the nation’s immigration laws. As Teresa Miller (2005, 21) writes, promulgating policies like counterterrorism has blurred traditional distinctions between illegal aliens, criminal aliens, and terrorists by embracing an expansive and unforgiving crime control model. In the end, the sting of this new legal regime has been felt most severely by undocumented populations within the United States (Aldana and Vargas 2005, 1689–1692).

Key policy developments highlight the dramatic shifts in immigration enforcement that have taken place since the September 11 attacks. Kil and Menjivar (2006, 168) artfully sum up the symbolic changes in procedural rights under this new enforcement paradigm.

The idea that the criminal justice system considers everyone, even undocumented immigrants, to have the right of due process has eventually given way to a militarized construction of undocumented immigrants as the enemy ‘other’ with dubious access to rights.

Anti-immigrant operations have paralleled this trend by implementing new policing tools like enhanced reporting requirements, interior raids, clandestine detentions, and mass deportations. For example, the government has created specialized units aimed at apprehending individuals who have failed to comply with deportation orders (Miller 2005, 87–88). For example, the Department of Homeland Security (DHS) has established Immigration and Customs Enforcement (ICE) strike teams to conduct raids on workplaces that regularly hire undocumented labor (DHS 2006). According to DHS (2007), ICE apprehended over 1,100 immigrant employees belonging to IFCO Systems North America Inc. in April 2006.

These sweeps have caused great concern within humanitarian circles because they are unraveling the social fabric that keeps mixed families together by separating undocumented family members from documented ones. An 18 March 2007 *Washington Post* article detailed the arrest of Marta Escoto and 360 other immigrants in March 2007 by ICE agents at a garment factory in Boston. Escoto, a mother of four, was unexpectedly forced to leave behind her two-year-old son, Daniel, and her four-year-old daughter, Jessie, in the care of her sister while she was in the custody of ICE, undergoing deportation proceedings.

New protocols have been introduced to foster closer cooperation between local police agencies and immigration authorities to enforce more expansive immigration laws. The problem that scholars have identified is the potential for abuse in law enforcement’s use of race to enforce federal immigration laws.<sup>1</sup> In *U.S. v. Brignoni-Ponci* (1975), the Supreme Court ruled that Border Patrol agents may not rely “exclusively” on the apparent Mexican ancestry of vehicle occupants to justify a car stop. Yet race can still be used to a substantial degree when stops are



made before border and secondary checkpoints, miles from international boundaries (*U.S. v. Martinez-Fuerte*, 1976).

DHS has given Border Patrol agents—acting in the capacity of immigration officers—greater latitude in justifying their immigration investigations. As a result, it has made all immigrants, and those that resemble them, virtual targets (Kil and Menjivar 2006, 170; Johnson 1996–1997, 269). Physical similarities between Mexican nationals and Mexican Americans (e.g., dark features: eyes, hair, skin hue) cast a shadow of suspicion over Mexican Americans despite being legal citizens protected by federal and state constitutions.

Some individuals might argue that this police-immigration immersion has enhanced public safety. However, this gritty approach has been implemented in ways that seem to contradict public safety standards like protecting spouses and school-age children from domestic violence. According to violence counselors quoted in the 6 January 2008 *Sacramento Bee*, immigrant spouses or children may have few alternatives available to them and remain in abusive relationships for fear of being denied a green card or being deported by the DHS.

Vulnerable segments of the Latino population also seem to be on the mind of school officials in Calexico, CA. A 31 December 2007 Associated Press (AP) story by Elliot Spagat reported that school administrators have been aggressively applying residency requirements to children attending the Calexico schools. In some instances, the school district has even hired a private investigator to follow children home from school—filming them in the process—to determine whether or not they reside on the U.S. side of the border. If it is determined that the children live on the Mexican side, they are then expelled from school.

### **The Targeting of Latina/o Populations**

Since September 11, Latino populations have been subjected to unwarranted scrutiny because of their racial ancestry and cultural heritage. In a notorious episode known as the “Chandler Roundup,” officers from the Chandler, AZ, police department and the Tucson Border Patrol conducted a series of raids into Latino communities in central Arizona over a five-day period (Arnold 2007, 119–124; Romero and Serag 2005). Approximately 432 undocumented persons were arrested, but the city of Chandler also had to pay \$400,000 to settle civil rights lawsuits brought by native-born and naturalized Mexican Americans that had been stopped and interrogated because of their Mexican features (Arnold 2007, 199–204).

Furthermore, human rights groups have documented the harassment and abuse that border residents routinely suffer at the hands of overzealous immigration officers. In one case, a twelve-year-old Arizona girl was shot in the leg by a Border Patrol agent while she was camping in her own backyard. The only explanation the agent offered was that he mistakenly thought the girl was an illegal immigrant. In another instance, immigrant witnesses to a Border Patrol shooting were prevented from giving their official statements to local police and detectives because border agents had already begun to apprehend and deport the witnesses. In fact, an Arizona local grand jury had to issue protective subpoenas to prevent any more material witnesses to the shooting from being deported (BNHR 2006, 9–10).

### Extraterritorial Crime Orientations

The overarching crime enforcement approach that shaped many of the aforementioned events has also taken on added meaning in the militarized context of the U.S.–Mexico border. Like Simon’s virus metaphor, September 11 crime enforcement efforts have become commonplace along the border and have been negatively affecting Mexican residents. On 26 November 2007, an incident occurred in Tijuana, Mexico, where residents received medical attention after being hit by tear gas. The Border Patrol claims that the tear gas attacks were aimed at rock-throwing smugglers, but the Mexican Consulate confirmed in December 2007 that at least eleven neighbors had been treated at Tijuana hospitals. If true, the Border Patrol projected an extraterritorial criminality onto innocent Mexican citizens.

Richard Marosi of the *Los Angeles Times* reported on 14 December 2007 that Robis Guadalupe Argumedo is still haunted by the memory of seeing a U.S. border agent peering over her fence and pointing his pepper-spray weapon at her home. “This isn’t Iraq, it’s Mexico,” she pleaded, but to no avail. A mother of two, Argumedo states that she endured three tear gas attacks since August 2007. Border agents have been known to use more potent versions of traditional pepper sprays and tear gas when launching these raids into the *colonia* areas. In fact, as AP’s Elliot Spagat reported on 18 December 2007, Esther Medina had to flee her modest home with her three-week-old grandson after the baby had begun coughing due to tear gas that had seeped through her walls. It is unclear whether Border Patrol officials diligently considered the danger that tear gas rockets might pose to *colonia* residents that are aged, sick, physically immobile, pregnant, or infants.

Few know better about these tear gas raids than Benito Arias, who reported that his nineteen-year-old pregnant sister-in-law lost consciousness during a recent tear gas attack. According to Spagat, amid the smothering fumes, family members took her to a local hospital where she was later stabilized. Border Patrol officials characterize their tear gas weapons as nonlethal, but innocent individuals have been killed by airborne canisters. Famed *Los Angeles Times* journalist Ruben Salazar was killed in an East Los Angeles bar by a sheriff’s deputy that had fired a tear gas projectile indiscriminately into the bar where Salazar was sitting (Garcia 1995, 3). In 2004, a college student died after being struck in the eye with a police pepper-spray ball during a celebration of the Red Sox’s pennant victory, Spagat reported. Moreover, even if these rockets miss individuals initially, they still pose a significant danger. Sometimes tear gas canisters can ricochet off objects like car windshields, causing them to break, shatter, and seriously injure bystanders.

Marosi’s article in *Los Angeles Times* further stated that fifteen-year-old Juanita Gonzalez is intimately familiar with the unpredictable flight paths of the tear gas charges. She saw one rocket fly onto her patio and explode before her while she was washing dishes. The burning fumes forced her to flee her home with baby brothers in tow. Later, she reported difficulty breathing and a burning sensation on her face. Several *colonia* residents recount similar episodes involving spur-of-the-moment evacuations as a result of these gas assaults. Colonia Libertad residents seem to be peaceful civilians that have not provoked U.S. border agents in ways that would warrant such sanctions.

Confrontational tactics, like the recent tear gas attacks, seem altogether inconsistent with the Border Patrol's own use-of-force policies. Border Patrol standards for its enforcement activities are located in the Code of Federal Regulations (CFR). These standards frame the internal use-of-force protocols to which immigration officers must adhere. The regulatory code governing the use of nondeadly force is the most relevant standard to apply here because a majority of law enforcement agencies categorize tear gas use as nonlethal force. Title 8 CFR § 287.8 (a)(iii) states that nondeadly force may be used only when a designated immigration officer has reasonable grounds to believe that such force is necessary.

A designated immigration officer shall always use the minimum nondeadly force necessary to accomplish the officer's mission and shall escalate to a higher level of nondeadly force only when such higher level of force is warranted by the actions, and apparent capabilities of the suspect, prisoner, or assailant.

Despite allegations of rock-throwing at U.S. border agents, the relevant question is what attacks are sufficient enough to warrant retaliatory gas assaults. Similarly, it is also important to ask whether launching tear gas canisters into densely populated civilian neighborhoods is a justifiable enforcement policy on its own terms. With unpredictable factors like erratic flight paths, secondary gas-mixing, wide saturation areas, vulnerable populations, and territorial issues, the Border Patrol's recent tear gas attacks pose unreasonable and unnecessary risks to Mexican citizens living in targeted communities outside of the United States' jurisdiction.

Furthermore, it is also easy to see how these same tactics seriously compromise human rights along the U.S.–Mexico border. The Border Patrol already has a dubious record with respect to immigrant human rights (BNHR 2006) and the recent tear gas attacks are a natural result of the enforcement culture that has been developing since September 11. The key difference that distinguishes previous enforcement activities from these tear gas attacks, however, is that earlier policing efforts were focused principally within U.S. jurisdictions. However, in this context, crime enforcement efforts were projected transnationally into a neighboring third world country, with little ability to protect its own citizens against such encroachments. As a result, innocent populations beyond our immediate borders are suffering from enforcement tactics originally intended to ensure the well-being of Americans within our nation's borders. These efforts are both absurd and abominable.<sup>2</sup>

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### *Endnotes*

<sup>1</sup> For an excellent, concise overview of how race has become integral to immigration enforcement, see Johnson 2004, 28–39.

<sup>2</sup> One method that might help break the material hold that September 11 crime orientations have on the U.S.–Mexico borderlands is to advocate en masse for more humane policies. Practically speaking, this means ratcheting back aggressive tactics like tear gas attacks and implementing rational use-of-force solutions when the Border Patrol is operating in areas that are primarily comprised of unarmed civilian populations. Lt. Gen. Steven Blum, chief of the National Guard Bureau, said in a 16 May 2006 press briefing that he believes that constitutionally sound use-of-force policies are essential for the National Guard troops that often supplement Border Patrol units in their duties. Low-intensity strategies for dealing with rock-throwing assailants should include forward-thinking defensive measures such as creating additional buffer zones for immigration agents that are sufficiently distanced from border geographies that rock-throwers might exploit (i.e., rooftops, hillsides, fence gaps, etc.); providing immigration officers with puncture resistant vests and helmets; retrofitting Border Patrol vehicles with metal window bars and shatter-proof glass; utilizing handheld crowd control shields to repel rocks thrown at border agents; and placing additional field supervisors in key areas that have a direct lines of communication with their Mexican counterparts. As it stands, GAO (2007, 13) evaluations of Border Patrol operations underscore the lack of experienced field supervisors that is likely to occur on the Mexican border with recent shifts of enforcement personnel. Parallel organizations, like the Los Angeles Police Department, have found that a lack of command and control in field settings can lead

to critical break-downs in enforcement protocol and tactics (LAPD 2007, 11). It may also be beneficial to increase basic weapons training for academy cadets.

Currently, Border Patrol trainees log the least number of weapons training hours relative to three other comparable law enforcement agencies (GAO 2007, 11). Perhaps the surest way to curb borderland atrocities, like the aforementioned tear gas attacks, is to bridle and tame the hyperaggressive enforcement culture that justifies and rewards such behavior.

# Special Content

## *Featured Artwork*

The *Harvard Journal of Hispanic Policy* is proud to continue featuring work by Latino artists. This effort began in volume 19 as a way to visually represent the heterogeneity of Hispanic culture and to offer insight into the complex history and vast scope of political issues relevant to Latinos throughout the country.

Much of the work featured in this section comes from the National Hispanic Cultural Center (NHCC) in Albuquerque, NM. The NHCC works to preserve, promote, and advance Hispanic culture, arts, and humanities. Since the center's opening in 2000, the NHCC has staged over twenty-five art exhibitions and five hundred programs in the visual, performing, and literary arts showcasing Hispanic culture throughout the world.

Additional contributions to this section come from California artist Gabriel Romo, whose work is part of a growing genre of urban artists changing the scene of traditional and nontraditional art.



Gabriel Romo, *Si Quieres Paz, Lucha por Justicia*, 2007  
Acrylic on Wood  
Courtesy of the Artist



Gabriel Romo, *Paloma Negra*, 2005  
Acrylic on Canvas  
Courtesy of the Artist





Gabriel Romo, *Madre Kahlo*, 2007  
Acrylic on Wood  
Courtesy of the Artist





Santiago Pérez, *Aztec Pilots in Search of Quetzalcoatl*, 2004  
Oil on linen  
Courtesy of the National Hispanic Cultural Center



Ray Martín Abeyta, *Rosario de Besos*, 2001  
Oil on linen  
Courtesy of the National Hispanic Cultural Center



Ray Martín Abeyta, *Tinta y Sangre*, 2003  
Oil on linen  
Courtesy of the National Hispanic Cultural Center



**Patrocinio Barela, 1908–1964**  
**(top left) *Man Seated on a Rock***  
**(top right) *Four Heads and Two Animals***  
**(bottom left) *Birth***  
**(bottom right) *Holy Family #2***

**Carved wood, photos by Addison Doty  
Courtesy the National Hispanic Cultural Center**

**Gregory Rodriguez**  
*Mongrels, Bastards, Orphans, and Vagabonds:*  
*Mexican Immigration and the*  
*Future of Race in America*  
(Pantheon Books, 2007)

*Reviewed by Michael Rosenfeld*

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Gregory Rodriguez's *Mongrels, Bastards, Orphans, and Vagabonds* traces the history of immigration and "race" relations in Mexico and the United States from 1519 to the present in 260 pages comprising nine chapters. This book is important, imminently timely, and written with the journalist's penchant for balance, conciseness, and interesting anecdotal evidence. The book is a welcome relief from the numerous publications of the genre written by the students of lost-in-the-'60s activists who are not attuned to the success the civil rights movement achieved and consequently have failed to adopt an agenda more in keeping with the present realities: in particular that Mexican Americans are not, and have never been, a homogenous group for which any one person can be the spokesperson and that the struggle between economic classes might be a more appropriate arena for the modern activist of any race in America.

Beginning with the arrival of Hernán Cortés and the *conquistadores* in 1519, Rodriguez gives a brief, but fresh account of the Spanish conquest of Mexico including the roles of church and state and an illuminating discussion of *La Malinche*. He amply documents the political, social, and sexual relations that existed between the Spanish, the native Indians, and the African slave populations. He reveals both the Spanish and Indian initial attitude toward race as based more on ethnic or cultural practices as opposed to "blood" or skin color.

He documents the Spanish attempt to establish segregated *repúblicas* in conquered Mexico and to formalize relations between the Spanish and Indian societies. Inter-marriage between the cultures was, at first, encouraged. Children of the many mixed marriages between the Spanish and Indian elites were accepted as full members of one society or the other. This system began to break down under the reality of informal mixing—sometimes by force, sometimes by mutual consent—which resulted in the creation of the *mestizo*: originally a designation for people of mixed race born out of wedlock. The Spanish government first attempted to embrace and then to suppress this growing group, which held no loyalty to either the Spanish or Indian culture and was, therefore, uncontrollable by either.

The story of the Virgin of Guadalupe is amply treated as well as her role in Christianizing most Indians and forming a basis for solidarity among the masses. Government and church policies inadvertently and tragically “detrified” many of the Indians and exacerbated the effects of European diseases upon them. This contributed to their catastrophic decline in numbers (from perhaps 25 million in 1520 to about 1 million by 1620) radically changing the equation on which the *repúblicas* system was based. The Spanish elite, attempting to maintain their status, abandoned the two *repúblicas* system in favor of the *sistema de castas*, a highly complicated hierarchical caste system based on bloodlines, which was designed to encourage loyalty to the Spanish elite by putting Spanish at the top of the social pyramid, while making it possible to “cleanse” bloodlines through proper marriage.

The *casta* system, which was never properly codified in law, proved to be grossly inadequate to deal with the complexity of a society that, as early as the third generation, was already composed of Indian (of more than one status), Spanish (of more than one status), African (of more than one status), and a rapidly growing number of various mixtures and re-mixtures of each, all complicated by questions of ethnicity versus race, religion, personal relationships, questionable paternity, regional differences, poor and impossible recordkeeping, and the transcendence of wealth over all other considerations. The latter is held to be especially important as a high demand for agricultural and industrial workers and domestic servants encouraged the illegal flow of Indians away from their segregated communities in search of better situations on the farms and in urban centers. Influential employers inhibited the meager government attempts to enforce inadequate laws aimed at curbing integration. Newfound wealth among some members of all *castas* in the growing, complex society further blurred any attempt at defining race, much less enforcing laws based upon it.

Next the work deals with the Franciscan missions and the Spanish movement northward in search of wealth and souls. The common use of Christianized Indians in the colonization and settlement of the north is well established. The colonization of the far north (including current Texas, New Mexico, and Arizona) followed. The leader of the first settlement effort (in New Mexico) in 1598 was an aristocrat who happened to be married to a *mestiza*—the great-great-granddaughter of both the emperor Montezuma and the *conquistador* Hernán Cortés. This is pointed out as “a dramatic example of the fusion of the conquistador and the conquered” (p. 56). Additionally, it is noted that this colony was, unlike those which followed, composed mostly of Iberian-born racial Spaniards (and a large retinue of African and Indian slaves). The Spanish soldier-settlers numbered at 130, only thirteen of whom brought their wives. The mixture of these Spanish settlers and sexually active missionaries with their slaves and the local native population is portrayed as a scaled-down version of the original conquest. Sexual abuse and “concubinage” often resulted in children who were not accepted by either culture. As was the case during the conquest of central Mexico, many legitimate births also resulted, in which the children were fully integrated into polite society. Rodriguez also demonstrates the fluidity of racial classification throughout this period by providing recorded evidence of how specific individuals changed racial



status over time, almost always “in the direction of Spanish” in order to gain economic advantage.

New Mexico, Texas, Arizona, and finally California developed distinctly different characters depending on the tides of fortune and the attitudes of the native peoples inhabiting the lands. They were all similar, however, in that racial and ethnic mixing were the norm in these areas. It was mostly only mixed-blood Mexicans who could be enticed to settle in the far north since laws and customs inhibiting upward mobility were far more relaxed farther from the capital. Only the small ruling elite (Spanish by law) attempted to maintain its ethnic and racial purity. Shortly before independence, the Spanish parliament officially removed all official barriers to social mobility based on race.

Feeling the need to increase the population of its far Northern provinces Spain (and Mexico after independence) attracted thousands of Americans to the Texas frontier with the promise of land. These immigrants were typically welcomed. Marriage was common between the immigrant Americans and Texas Mexicans (Jim Bowie, it is pointed out, married a Mexican woman, as did Kit Carson in New Mexico). Economic considerations and family ties caused local Mexican leaders to discourage the Mexican government from attempting to control a wave of mostly illegal immigrants, who soon outnumbered Mexicans by about ten to one. People continued to blend easily in the Mexican-dominated rural areas, but the Americans proved elitist in the enclaves where they clustered to form a clear majority.

Texas independence and its subsequent annexation into the United States along with the rest of Mexico’s far northern provinces following the Mexican-American War was an important factor in touching off the American Civil War. Abolitionist Mexico was seen as a threat to Southern slavery. Rodriguez chronicles events, particularly involving Texas and Mexico, which rival the Underground Railroad in the North. Mexico, after all, was closer, had a better climate and had a better reputation for racial color blindness than did Canada or the American North. The Mexican-American War and debate over the war is portrayed as a turning point in American attitudes about race. It was the question of what to do with the Mexicans who would be part of any land acquisition, he argues, that gave rise to the general American belief that the Anglo-Saxon was superior. Ample evidence is provided to give credence to the claim that the American chauvinistic fear of having to absorb such a large number of Indians and mixed-race Mexicans turned the tide against acquisition of any Mexican territory encumbered by a significant number of Mexican inhabitants.

The American occupation of New Mexico, Arizona, and California during the Mexican-American War was easily accomplished. California alone showed minor resistance. In the years that followed, however, as many occupied people experienced harsh treatment at the hands of the Americans, insurgencies did occur. They were all ineffective due largely (setting aside the power of the U.S. Army) to lack of unity on the part of the Mexican Americans, particularly the propensity of the upper classes to prefer negotiations, law, and order over armed rebellion. In general, the Mexican upper class was socially accepted by the victors and intermarriage was initially common among the elites. For a time following the transition from

Mexican to American government, the Mexican American elites held their own both socially and economically. The amount of time this held true was dependent on the amount of time it took for a majority of Americans to inhabit the region. In Texas, where Americans vastly outnumbered Mexicans, their subjugation was accomplished even before statehood. In the north of California, the change was sudden with the discovery of gold the same year. Southern California took longer. Arizona continued with little change until near the end of the nineteenth century, when the railroad began to bring American settlers. New Mexico remained majority Mexican until the middle of the twentieth century.

Some Mexican Americans elected to relocate to Mexico, where they generally did not fit in. In return, the California Gold Rush attracted a large number of Mexicans to work in the gold fields. This first influx of immigrants was largely not accepted by the California-born Mexican Americans, who saw them as culturally different.

The Treaty of Guadalupe Hidalgo, which ended the war, granted full rights of citizenship, including land rights, to the Mexicans who lived in the ceded territories. There remained the burden of proving title to the land, however. Many lost their land in the process. Quite often large tracts of land ended up belonging to the lawyers whose job it was to assist the landowners to validate their titles. This is offered as one example of the way even the Mexican American elite families were marginalized in both political and economic power. As Americans gained more social, economic, and political control, establishing “Whiteness” became more of a priority for the Mexican elite and for those seeking upward mobility or fair treatment by local officials.

After a brief period in which American and Mexican inhabitants of the new territories more or less learned to peacefully coexist and more prosperous Mexicans were socially accepted as “Spanish,” a new wave of Americans, particularly in Texas, swept in and quickly outnumbered the early American settlers. The newcomers were frequently Southerners and not disposed to view race in ethnic terms. Brown skin tended to denote *foreigner*. At the same time, the federal government, contrary to the Treaty of Guadalupe Hidalgo, decided to allow the new states to determine the question of citizenship for themselves. The new state constitutions (except for New Mexico’s) granted citizenship or suffrage rights only to “White” Mexicans without defining the term. Local authorities were left to decide who among the Mexican population was eligible for rights and who was not. Soon, even most elite Mexicans were pushed to the bottom of the social hierarchy as a Black or White attitude eroded the middle class of elite Mexicans. Interracial marriage became the exception even among the elites.

The building of railroads and expansion of agriculture and mining in the Southwest created a strong pull for immigration at the close of the nineteenth century attracting tens of thousands of migrant workers northward from deep in Mexico. This began a pattern of labor migration. Mutual resentment normally characterized the relationship between the native-born Mexican American and the immigrant Mexican laborer. The American-born had ceased to be fully Mexican but was not accepted as American.

The Mexican revolution fueled a wave of anti-immigrant sentiment in the border regions as more Americans relocated to the Southwest and more Mexicans came there seeking refuge from the war. Some few of the Mexican immigrants were radical revolutionaries. Not wanting to be embroiled in the Mexican conflict, Americans developed a distrust of the immigrants and did not mentally separate native-born American citizens of Mexican descent from immigrants. As the revolution disintegrated into civil war in Mexico and American lives were lost, the distrust often led to violence against Mexicans in general. American-born Mexicans, in their own defense, often attempted to distance themselves from the Mexican migrants.

Before this situation could be resolved, World War I loomed on the horizon, increasing American distrust of Mexicans as Germany attempted to ally with Mexico against the United States. The unsecured border became a political issue. The government responded by imposing restrictions, which made crossing more expensive and difficult. The Border Patrol was organized. One unintended result was that many Mexicans, dependent on temporary, seasonal migration to the United States to work, found that reentering the United States had become so risky and expensive that they were forced to stay permanently in the United States or allow their families to languish in abject poverty in Mexico. Few immigrants sought citizenship largely because they hoped to return home one day or because the prejudice was so great in the United States that citizenship would not have been an advantage. In addition there was the effect of Mexican government policy, espoused by the Spanish-language press, that assimilating to American life was a “betrayal to Mother Mexico” (p. 148).

WWI marked the first time the U.S. government asked for help from the Mexican community and the response was great, especially from New Mexico. As a result, many Mexican Americans served in the U.S. forces during the war and many earned distinction. Their return home sparked a patriotic movement. A Mexican American middle class began to grow and its members began to assert their identity as Americans. In 1929 the League of United Latin American Citizens (LULAC) was formed. LULAC’s mission was to promote allegiance to the United States while promoting ethnic pride and bilingualism. A new era of dedicated, competent advocacy had begun.

The period 1900 to 1930 witnessed a massive influx of Mexican immigrants. This transformed the existing Mexican American communities into migrant colonies. The Great Depression gave rise to the nativist movement and a new wave of anti-immigrant sentiment and threats (rarely carried out) of deportation. There was abundant pressure on Mexicans to return to Mexico—particularly in Texas and Los Angeles, which saw a 30 percent decline in their populations, including legal as well as illegal immigrants and American-born Mexican Americans.

The nativist movement launched an attack on the “White” legal status of Mexicans that would have left them subject to segregationist legal restrictions. Mexican American groups successfully defended their claim to “Whiteness” in the courts and began to distance themselves from African Americans. By the end of the 1930s, immigration severely curtailed, the Mexican American communities

had transformed again and were now composed of mostly second- and third-generation American citizens who were better educated and more likely to assert their civil rights. It was at this time that the United States entered World War II.

Service in either the military or war-related industries provided skills, confidence, and money to many Mexican Americans, but when the war was over, returning GIs frequently found that, especially in Texas, old attitudes had not changed. The American GI Forum was formed in response to these sentiments and rose to national importance along with LULAC in a slowly successful struggle for civil rights. By late midcentury segregationist practices, particularly in education, were largely curtailed. The GI Bill and veterans loans increased home ownership and further raised the educational level for a new Mexican American middle class. Thousands migrated from Texas in favor of more racially tolerant California. Intermarriage rose dramatically, especially in that state.

The *Bracero* Program is thoroughly discussed as well as LULAC's and the GI Forum's opposition to it. The existence of so many immigrants, they believed, inhibited their efforts to help the Mexican American community assimilate into American life. This position was reversed in the 1950s in light of the human suffering brought about by the arrest and deportation of more than a million immigrants in the beginning of the Cold War. Meanwhile a growing number of second-, third-, and fourth-generation Mexican Americans (now the majority) continued to disassociate themselves from the immigrant, spoke English at home, and had begun to identify themselves as Latino or Latin American, as opposed to Mexican.

Great strides had been made in civil rights, but the income and education gaps remained. The 1960s would see a focus on these areas. In the 1950s African Americans achieved marked success in gaining federal legislation and funding for programs aimed at improving their conditions. For generations Mexican American activists had focused on assimilation and protecting their legal status as "White." With the possibility of legal protection and funding, the new generation of Mexican American (and other) activists began to search for a new identity and a legal status similar to that of the African American: as a "minority." The 1960s saw a surge of militant activity, particularly on college campuses. The new focus was on cultural pride. The assimilated middle class Mexican American began to be attacked as a sell-out. A handful of leaders gained national status, in particular farm labor leader César Chávez (who the national press granted status equal with Martin Luther King, Jr.) and Corky Gonzales (the first to apply the term "Chicano" to the student movement). The Chicano *movimiento* sought to achieve solidarity by developing a sense of outrage at the treatment Mexican Americans had suffered at the hands of White Americans. Use of the term was appropriated by politicians, academia, and the press. The Chicano *movimiento* had tremendous impact on the academic and political landscape, though more than 90 percent of Mexican Americans (including Chávez) never identified with the term or fully embraced the tenets of the movement.

With funding from the Ford Foundation, the Mexican American Legal Defense and Education Fund was formed and achieved great success in removing barriers to integration and political participation. New immigration policies (supported by Mexican American groups, including Chávez's United Farm Workers) terminated

the *Bracero* Program in 1964 and seriously curtailed legal immigration eight years later. At this moment, serious population growth and runaway inflation in Mexico combined with the large number of Mexicans who had ties and experience in the United States—a legacy of the *Bracero* Program—created a massive wave of illegal immigration from deep within Mexico. About 85 percent of the new immigrants were “circular,” returning to Mexico. The numbers were so large, however, that the 15 percent who remained were significant. For the first time, noticeable numbers of women and children were among them, putting down roots intentionally or not. The decline in agricultural workers that occurred during this time found most of these new immigrants locating not in the fields and rural communities, but in the urban centers where they became much more visible.

In 1973, the Supreme Court granted minority status to Mexican Americans. By the 1980s, with the Mexican American middle class expanding further, many Chicano activists had moved into business and (especially in Texas) into the Democratic party (a considerable number of the men having married White women). The *movimiento*'s success in establishing the Chicano Studies Programs in California universities provided a safe haven for activist academics who continue to be an influential force among college-educated Mexican Americans in California.

The final chapter begins with an account of the conflicting and often ironic views of racism and assimilation that existed/exists among Mexican Americans between generations and between the four Southwestern states. Policies developed during the 1960s are portrayed as having created a “race-based spoils system in which minority groups were encouraged to highlight their oppression and dysfunction in order to qualify for assistance” (p. 225). The diverted attention from a “burgeoning Mexican American middle class” (p. 226) as data, was manipulated to suit the purpose of activists and politicians. The terms “Latino” and “Hispanic” began to appear as the result of attempts to forge political unity between Mexican Americans, Cubans, and Puerto Ricans. In the 1980s the print media began to use the term “Hispanic” almost exclusively. Politicians adopted the term in order to create the illusion of a larger constituency. The term “Mexican American” soon disappeared entirely from the media, which conferred great power on activists by allowing them to speak for “Hispanics” as if they were all of one mind (which was not born out by research). The advertising industry and Spanish-language media promoted the myth of a homogenous Hispanic population loyal to the Spanish language. In reality English continued to overwhelmingly eclipse Spanish as the language of choice for third-generation Mexican Americans and the *barrio* received continuous transfusions of immigrants as the second- and third-generation typically moved into mainstream American life where they were similarly divided in opinion between generations, class, and region.

The 1986 Immigration Reform and Control Act—remembered chiefly in the current climate for its amnesty provision—is shown to have sharply increased both legal and illegal immigration. The Save Our State movement reacted by sponsoring California's infamous Proposition 187—an attempt to force the federal government to take strong action to curtail illegal immigration. The campaign surrounding Prop 187 tended to foster a heretofore rare solidarity between

immigrants and Mexican Americans and also to have set in motion an exponential increase in enrollment in citizenship classes and applications for naturalization. Mexico, a decade earlier, had already begun to recognize the growing importance of the Mexican American population in mainstream America and had initiated a reversal of its longstanding policy of discouraging Mexicans from seeking United States citizenship.

By the 1990s the Hispanic political voice was being heard and becoming more diverse with an influx of refugees from Central American turmoil. The creation of a strong economic base and aggressive marketing in this decade created greater opportunities at all levels in business and politics. The ability to speak Spanish, or even just having brown skin without speaking Spanish, had become an asset in the business world, which was in stiff competition to attract customers from the considerable Hispanic population. Politicians sought to present a Hispanic face and to facilitate communication with the Spanish-speaking population. At the close of the twentieth century Mexican Americans were being elected to office at all levels of government in California, some even receiving the majority of the non-Hispanic vote as people became increasingly aware that there is virtually no ethnically based difference in political views between Whites and Hispanics.

In the current era, Rodríguez concludes, the existence of a sizeable middle class of Mexican Americans as well as a sizeable number of influential Mexican American elected officials has marginalized the power of civil rights groups to speak for Hispanics in general. The very notion of minority status has been challenged and is already becoming obsolete in some parts of the country. It seems to be an issue of economic class that divides most Mexican Americans from most of White America just as economic class has always divided the ever-increasing number of upwardly mobile Mexican Americans from the immigrant Mexican. This is an important point which the author makes but does not develop. His overriding thesis is that Mexican Americans will never be fully assimilated as were the European immigrants of an earlier era. Due to the proximity of Mexico and a continuous influx of immigrants, Mexican culture will have a greater impact on the United States than did the European one-time immigrations. Instead, the question of race, never able to be neatly categorized in regard to Mexicans or Mexican Americans, is only becoming more complex and may break down entirely as Mexicans inevitably continue to be absorbed into and—just as inevitably—to influence the United States.

**Dolores Delgado Bernal,  
C. Alejandra Elenes, Francisca E. Godinez,  
and Sofia Villenas**

***Chicana/Latina Education in Everyday Life: Feminista  
Perspectives on Pedagogy and Epistemology***

**(SUNY Press, 2006)**

***Reviewed by Amber Garrison, Pamela Hernandez,  
Diane M. Dunlap, and Aimee Clott***

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Cultural knowledge can and should inform educational achievement, policy formulation, and policy analysis. That is the message at the heart of this important book edited by Bernal, Elenes, Godinez, and Villenas, titled *Chicana/Latina Education in Everyday Life: Feminista Perspectives on Pedagogy and Epistemology*. We first came to this book as we worked together to design research studies about Chicanas/Latinas in higher education. Like the authors, we gathered together in our homes because this was where we felt most welcomed and supported. Despite our love of the academic world and our fierce individual and shared commitment to the life of the mind, we often found ourselves having to leave our campus and our classrooms in order to have a full and real discussion where we did not fear negative consequences to our inquiry.

This book reflects new ways of thinking and the life of the mind. The ideas that emerged from the stories and research studies in the book both challenged and excited us. We compared these stories to ours. We recognized *trenzas* and *mestizaje* as a worldview and practice of bringing together women of color and their different realities in order to reveal gaps, opportunities, and similarities of experience. Pam called her mother to see if *mestizaje* is still a concept used in Honduras (it is), and we checked in with cousins and nieces asking, Does this sound right to

you? Is this what it is like for you? We bought and gave away copies of the book to everyone we cared about, so they could join us in the excitement of new thinking.

We also noticed another complexity within this conversation of *mestizaje* when we came together. You see, not all of us are women of color, which contributed to even more unsettling dynamics in the table of discussion. The intersectionality present within and for each of us was an additional reality we had to address immediately and will continue to acknowledge throughout the work we do. By addressing and acknowledging the unsettling complexities, we then try to put *mestizaje* into practice. The practice is the question and challenge that this book tries to provide guidance on. We were able to rely on the book as we navigated the terrain of these intersecting complexities.

Encouraged in our conversations by the authors' voices related to our own research, two important things became apparent to us. First, several of the studies reported in the book addressed the same complex problems we experienced in our own research. For instance, the research participants were often of another ethnicity and culture, which developed an understanding of the implications this had for us as we did our research and went about our lives. For this reason, the text stands above most of the other books and articles that we were reading at the same time. Many edited books promise guidance in research or life, but few deliver on the introductory promise in the ways this book does. Secondly, the book itself stands as a powerful testimony that it is possible to work *en colectivo* and not sacrifice the quality of research, thought, or story. If anything, we found that the research quality is enhanced by the continuous examination of the researcher's role, the research participants, and the communities they represent.

Initially, we were surprised that the authors identified the book as an anthology, instead of as an edited collection. But we came to understand that it was, indeed, more a flowering of life and a careful sharing of a developmental arc of thinking than it was a collection of chapters. The authors worked to identify what is important for the Latina community. Step by step, they traveled down a path, talked about their experiences, and then veered onto another path. All the while, they constantly searched for and found the secure footing that led them between the emerging messages of expanding empowerment, persistently seeking to open up the status quo. They have done this in a way that models a powerful underlying relational and dialogic epistemology of individual and collective exploration.

The authors deliberately situate the unfolding topics of the book in the borderlands between education and life, challenging their own ideas of how relational praxis might emerge. They brilliantly organize the stories and studies around the life stages of women (youth, emerging womanhood, young adult/college age, maturity, motherhood, elder status), pointing to what anyone can learn with women in all stages of life and career development. Their text and research deliberately challenged the old ways of compartmentalized thinking and bravely traveled into new ways of thinking about our actions through relationships.

The organizational framework of the book also mirrors the process they followed in the development of the anthology. Individual scholarship does not typically recognize community. For example, how many times have you, as a student, been in an academic setting where you spent the whole time trying to figure out if you had



the right to speak, or if you had to be able to quote certain authors or research studies in order to gain the right to speak as an equal? How many times have you earned the right to speak as an equal in one academic setting, only to find that you had to start over again to earn your legitimate right to be fully present in the next setting? Usually, the unwritten rules about what you can say are external to you, and they usually reside in the resident authority, who may or may not want to know what is really on your mind or in your heart. We believe that both community and scholarship can and should be fully present for a true praxis of teaching and learning. Acceptance of everything on the table is a given with us, so we do not have to spend our time determining who has the best peacock feathers. We were moved and encouraged to read that the authors of this book also found this possible and essential.

The four editors and authors worked with women in formal and informal roles as they conducted their research and as they compared the findings of their research to their lives. Each author contributes to the book by providing research using creative methods including narratives, stories, and poetry to provide an image of research that was functional and rational, as well as touching and empowering. They reminded us that what we typically think of as formal education is only one of the many ways in which we teach and learn. Formal education is often thought of as the only method for education, even though most of what is learned and lived is absorbed through informal education. Some feel that what is learned and not based on data or theory is of lesser importance, especially within a formal educational setting. Furthermore, the formal setting is the one most susceptible to colonization and the restriction of deep inquiry. Sometimes unmapped intellectual exploration is hard to do in the formal educational setting simply because the formal system is the de facto guardian of the status quo. However, the unmapped terrains often contain knowledge of life that is incredibly profound. One can travel these terrains, but they can never be contained in a single map because each person's journey will be different.

There are multiple examples from the book where the authors draw upon the works of other feminist researchers such as hooks' (1994) critique of traditional "intellectual" workspaces, Anzaldúa's (1987) borderlands and *mestiza* consciousness, Perez's (1999) imagining of decolonial space, and Sandoval's (2000) oppositional consciousness to point to new possibilities. Examples include Mixpe Ley's description of the birth of her *activista* spirit to Ayala, Herrera, Jimenez, and Lara's unfolding of the integral Latina health education project. What is remarkable about this is that they deliberately do not name their answers as *the* answers. They call their work an exploration and encourage other explorations. This sets them apart from most reported research in that they offer their work and encourage each of us to walk our own paths and find our own ways of being, thinking, and knowing.

In reviewing the research findings, the authors seem hesitant to generalize, carefully reminding us that *their* truth may not be *ours*. Perhaps they are just being gentle in delivering the message that relationships are at the heart of being, thinking, and knowing. Or perhaps they are trying to show us, rather than tell us, that collective exploration is the key. In other words, as the author you must take care

of your reader's ability to remain exploratory when they are reading your work so that reading and writing is a mutually exploratory process for both.

Yet the most powerful policy message in this book is that the worldview *feminista* and *mujerista* is not about women's rights, but rather about community rights. They argue that the elderly, the women, and the children are the most vulnerable in any community and that the *feminista* perspective insists that "our community struggles begin with women and children's issues" (p. 8). Indeed, we must start with the most vulnerable and most often left behind in a globalizing economy. This is the only way we can invigorate and reform policy without compartmentalizing and trivializing lives or sacrificing the security of the many for the comfort of the few. We must place the most vulnerable at the center of each economic or political decision. The authors challenged policy makers, and us as a research team, to consider what policy might be like if it was centered on practices that "truly respect and work from the power of relationships, commitment, wisdom, and sensibilities born of a life's work of straddling fragmented realities" (p. 5).

In fact, there is more knowledge in this book than what they have claimed. Then again, the authors do not seek to place claims on the knowledge within the text. Instead, borderland theories are used to guide us in finding and navigating the new terrains that are a part of both formal and informal educational settings. Some of these terrains include official educational policy (e.g., anti-bilingual educational initiatives, the No Child Left Behind Act), school structures, curriculum, and cultural practices. As educators look toward the implementation of assessment policies for higher education, this book can help inform how professors and administrators can and should take into account how "individuals will their agency in response to institutional biases and conservative forces" (p. 215). The ultimate goal for any current or future educational policy must be to transform any and all practices that replicate various forms of oppression.

The authors quote Toni Cade Bambara (1983, viii) in their introduction to explain what they think is truly important about their work. The real result, they state, can only come after the book is published: "The work: To make revolution irresistible." For us, the authors of this book succeeded in making the hard task of finding our individual and mutual ways into a new and better *historia* irresistible. Read the book yourself and see if it does not enliven your life and your thinking. Chicana feminist thought is a practice, a method, and also a way of life. Compartmentalization is not only unnecessary in our classrooms, our policies and our lives; it is the single greatest threat to our discovery of an optimistic *nueva historia*. *Mestizaje* as consciousness of an ethical commitment to egalitarian social relations in the everyday political sphere of culture can "invite and link together citizen subjects who had previously been separated by gender, sex, race, culture, nation and or class in a new alliance" (Sandoval 1998, 355).

In the spirit of what this book offered us, we leave you with our own story of a path we are traveling in *collectivo*. Upon our journey, in trying to write this book review collectively, we had to stop and consider the positions we hold as intellectual women in the academy and also as women of different life experiences and privileges. Through this process of the *collectivo* it required each of us to continuously

reexamine our politics, values, experiences, and roles both in society and with each other. The “how to” is evident in our collective dialogue and thought of the *trenza* concept, defined as braiding or enlacing cultural knowledge into educational policy.

At one point we discussed how the *trenza* concept was nostalgic of the Virgin Mary, a Roman Catholic religious symbol. The *trenza* concept was also reclaimed by Chicanas during the Chicano movement. While reminiscent, the concept was also painful because it resonated with a *hermana*'s story about a patronizing experience caused by her “different and so cute” hairstyle in elementary school compared to other girls in her class. Her hair was braided in the traditional *trenza* way, which highlighted her differences and set her apart. This story led us to a discussion about the actual process of braiding where there is a weaving of hair (or weaving our identities and layers of self) into a uniform braid. Questions emerged regarding whether we become uniform when weaving into this image of one braid. What did this mean for feminists that want to maintain their multiple identities? The braid became a symbol for the greater journey that we were on, similar to the journeys portrayed in the book.

As you can see by this story, the *collectivo* approach is difficult and challenging because it requires each person to continuously reflect upon and revisit personal, political, and relational complexities that are inseparable. However, the fruits that came to bear from this journey took us further than we each could have gone by our compartmentalized selves.

In summary, if you read the studies in this book there are many findings discussed that can be useful. But by offering these studies the authors are not prescribing an answer. The purpose of this book is not to push an agenda and tell us what to think. Rather, the purpose has taught us the collaborative ways to create alternatives of how to think. They taught us how to travel, not where to go. This is the journey, the collaboration and praxis of creating new epistemologies, ontologies, and ultimately pedagogies—the overarching reason this book belongs on your bookshelf.

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<http://www.aclumich.org/>

Founded in 1920 as a civil liberties advocacy group. The Michigan chapter promotes public education campaigns and civil liberties litigation.

#### **Art by Latina Artists**

<http://artbylatinaartists.com/>

An independent forum for Latinas to showcase their art.

#### **California Community Foundation**

<http://www.calfund.org/>

Founded in 1915 in Los Angeles. Focuses on grant writing and managing charitable funds in order to strengthen Los Angeles communities.

#### **Center for the New Economy**

<http://www.grupocne.org/>

A private, nonpartisan corporation that promotes economic development in Puerto Rico.

#### **Congressional Hispanic Caucus Institute**

<http://www.chci.org/>

Founded in 1978 as a nonpartisan and not-for-profit organization that aims to increase the role of Hispanics in policy making.

#### **David Rockefeller Center for Latin American Studies**

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An affiliate of Harvard University that seeks to increase understanding of Latin American cultures, economies, histories, and contemporary affairs.

#### **Foundation Center**

<http://foundationcenter.org/>

Founded in 1956 to connect grant writers and not-for-profit organizations with each other and other philanthropic resources.

#### **GovTrack**

<http://www.govtrack.us/>

Founded in 2004. Provides a means to discover and track pending legislation.

#### **Hispanic Association on Corporate Responsibility**

<http://www.hacr.org/>

Has promoted the inclusion of Hispanics in corporate America for the past twenty years.

#### **Hispanic Scholarship Fund Institute**

<http://www.hsfi.org/>

Has funded and supported Latinos seeking higher education for the past thirty years.

#### **Latino Art Museum**

<http://www.lamoa.net/>

A not-for-profit organization that supports and promotes the work of contemporary Latino artists living in the United States.

**Latino Coalition**

<http://www.thelatinocoalition.com/>

Monitors and reports on policies affecting the Latino community.

**Latino Issues Forum**

<http://www.lif.org/>

A not-for-profit advocacy group founded in 1987 to promote education, health care, civic participation, and innovation in the Latino community.

**Latin Vision**

<http://www.latinvision.com/>

A Hispanic business and media network.

**MANA, A National Latina Organization**

<http://www.hermana.org/>

Created in 1974. A national advocacy organization that supports programs that work to empower Latinas through leadership development, community service, and advocacy.

**Mexican American Legal Defense and Educational Fund**

<http://www.maldef.org/>

Founded in 1968 in Texas to support policies and litigation that protect the civil liberties of Latinos. Presently the nation's foremost not-for-profit organization devoted to Latino litigation and advocacy.

**National Hispanic Cultural Center**

<http://www.nhccnm.org/>

Opened in 2000 in Albuquerque, NM, as a showcase and education center for Hispanic arts, humanities, and culture, including culinary arts.

**National Hispanic Institute**

<http://www.nhi-net.org/>

Organizes and supports programs that promote excellence in Latino students and encourages Latino community cohesion and pride.

**On the Issues**

<http://www.issues2000.org/>

A not-for-profit organization that provides nonpartisan information on presidential candidates and other political figures.

**Pew Hispanic Center**

<http://www.pewhispanic.org/>

Founded in 2001 as a nonpartisan research organization dedicated to improving understanding of the role of the Hispanic population in the United States today.

**Tomas Rivera Policy Institute**

<http://www.trpi.org/>

Has issued policy briefs that examine the important issues of education, health care, and economic access in minority communities for twenty years.

**William C. Velasquez Institute**

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