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“COMO UNA JAULA DE ORO” (IT’S LIKE A GOLDEN CAGE): THE IMPACT OF DACA AND THE CALIFORNIA DREAM ACT ON UNDOCUMENTED CHICANAS/LATINAS

LINDSAY PÉREZ HUBER*

This study utilizes a Latina/o Critical Theory (LatCrit) framework to examine how undocumented and formerly undocumented Chicana/Latina college graduates are impacted by the California DREAM Act (Development, Relief and Education for Alien Minors Act, S 1291) and DACA (Deferred Action for Childhood Arrivals), recent state and federal policies meant to increase educational and economic opportunities for undocumented youth who meet certain requirements regarding age, education, criminal record and time in the U.S. Findings indicate that the historical contradictions of access and restriction of legal protections and opportunities for the undocumented continue with these policies and become lived in the daily experiences of the study participants. Longitudinal data includes a series of two interviews conducted in 2008 with 10 undocumented Chicana/Latina undergraduates, and a series of two additional follow-up interviews conducted in 2013-2014 with 9 of the original 10 participants, a total of 38 interviews.

As far as being undocumented, I would like people to know that . . . there are other people like me who are stuck in, like my mother says, this golden cage.

—Sofia, DACAmended graduate student

*De que me sirve el dinero,
si estoy como prisionero,
dentro de esta gran nación,
cuando me acuerdo hasta lloro,
aunque la jaula sea de oro,
no deja de ser prisión¹*

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—Los Tigres Del Norte, “*La Jaula De Oro*”²

INTRODUCTION

When the federal DREAM Act was presented for a vote to the U.S. Senate in 2010, hundreds of thousands of undocumented students across the nation were closer to a pathway of lawful residence status than had ever been witnessed in U.S. history.³ It was estimated that well over half a million young people in the country would have benefitted from the DREAM Act.⁴ Data on the U.S. undocumented⁵ youth population indicates the vast majority were (and still are) Latina/o.⁶ Sadly, the bill fell short of passing by only five votes, crushing the hopes of many communities, families, and students, like Sofia (epigraph above), who feel trapped

and Ethnic Studies from the Graduate School of Education at the University of California, Los Angeles. Partial funding for this study was provided by the CSULB College of Education Veffie Milstead Jones faculty research award. The author would also like to thank CSULB College of Education Dean Marquita Grenot-Scheyer for her support of this work.

¹ What good does money do me

If I'm like a prisoner

Within this great nation?

When I think about it, I even cry

Although the cage is made of gold

It doesn't stop being a prison (translation by author).

² LOS TIGRES DEL NORTE, *LA JAULA DE ORO* (Profono Internacional 1985).

³ Michael A. Olivas, *The Political Economy of the DREAM Act and the Legislative Process: A Case Study of Comprehensive Immigration Reform*, 55 WAYNE L. REV. 1757 (2009). Olivas provides an extensive legislative history of the federal DREAM Act and its movement through the legal system and articulates the difficulty of engaging in research on pending legislation. Olivas argues it is important to understand how this legislation is inherently connected to a larger movement for immigration reform and, at the same time, a “systemic regime” of oppression.

⁴ Jeanne Batalova & Margie McHugh, *DREAM vs. Reality: An Analysis of Potential DREAM Act Beneficiaries*, MIGRATION POLICY INSTITUTE (2010), <http://www.nysylc.org/wp-content/uploads/2009/02/DREAM-Insight-July2010.pdf> (last visited March 4, 2015). Researchers estimated that approximately 612,000 youth between the ages of 18-29 would have immediately been eligible for conditional status if the DREAM Act had passed in 2010. This does not mean, however, that those eligible for conditional status would eventually receive permanent residency. An individual who met the requirements of the bill would still have had to spend up to 10 years in conditional status before becoming eligible to adjust to legal permanent residency. See Michelle Mittelstadt, *MPI Updates National and State-Level Estimates of Potential DREAM Act Beneficiaries*, MIGRATION POLICY INSTITUTE (2010), 5.

⁵ I use the term undocumented to describe persons that do not possess legal authorization to be in the country.

⁶ PEW RESEARCH CENTER, *Unauthorized Immigrant Population Trends for States, Birth Countries and Regions* (Dec. 11, 2014), <http://www.pewhispanic.org/2013/09/23/unauthorized-trends/> (last visited March 4, 2015).

by their liminal status as undocumented immigrants.⁷ After the failure of the DREAM Act, it was clear that undocumented youth were in critical need of relief from the threat of deportation. National attention to the plight of undocumented students added to the pressure for policy reform to address the issue.⁸ On June 15, 2012, the U.S. Department of Homeland Security (DHS) announced the DACA (Deferred Action for Childhood Arrivals) program, which grants work authorization and deferral of deportation proceedings for two years for undocumented youth who meet specific eligibility requirements.⁹

DACA increases educational and occupational opportunities for undocumented young people, like Sofia, by allowing them to work legally, obtain driver licenses, receive scholarships, and participate in job training programs. However, the interview with Sofia was *after* the passage of DACA. Sofia lived in California, where in 2011 the state legislature passed the California DREAM Act, which allows undocumented students access to certain forms of financial aid to attend public colleges and universities.¹⁰ Despite the increase in access to education in California and the protection from detainment and deportation that DACA provides, Sofia explains the continued limitations imposed by her immigration status, a sentiment also expressed by others in this study.

⁷ See Cecilia Menjívar, *Liminal Legality: Salvadoran and Guatemalan Immigrants' Lives in the United States*, 111 AM. J. OF SOC. 999-1037 (2006) and Leisy J. Abrego, *Legal Consciousness of Undocumented Latinos: Fear and Stigma as Barriers to Claims-Making for First- and 1.5-Generation Immigrants*, 45 LAW & SOC'Y REV. 337-370 (2011) on the liminal status of the undocumented. See also Roberto G. Gonzales & Leo R. Chavez, "Awakening to a Nightmare": *Abjectivity and Illegality in the Lives of Undocumented 1.5-Generation Latino Immigrants in the United States*, 53 CURRENT ANTHROPOLOGY 255-281 (2012) on use of the concept of abjectivity to describe the limitations of immigration status in the daily lives of undocumented immigrants.

⁸ See Olivas, *supra* note 4.

⁹ DACA eligibility requirements include: arrival in the U.S. before 16 years of age; continuous residence in the U.S. since arrival; under 31 years of age as of June 15, 2012; current enrollment in school or high school/General Educational Development (GED) completion; or being an "honorably discharged veteran" of the U.S. military; no felony or significant misdemeanor convictions and does not "pose a threat to national security or public safety." See UNITED STATES CUSTOMS AND IMMIGRATION SERVICES, *Consideration of Deferred Action for Childhood Arrivals (DACA)*, (2015), <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process>.

¹⁰ The California DREAM Act is a package of bills (AB 130 and AB 131) passed by the California State Legislature in 2011 that provides greater access to public higher education for undocumented students who meet particular requirements. Further details of the Act are provided in the "Current Policies" section of this paper.

In the epigraph above, Sofia borrows her mother's description of how she feels, "trapped in this golden cage, *como en una jaula de oro*," as an undocumented immigrant in the U.S. This is a powerful metaphor used by Sofia's mother and now herself, to describe her experience. Sofia explained the metaphor:

[The cage is] golden because we are blessed to have a lot. I have a car. I have a job. I'm going to graduate school. That's something not a lot of people get to accomplish in their life. So it's a golden cage. I have more than I need, you know, I'm blessed, overwhelmingly. It's a cage, my mom says, because . . . you are limited to what you can do, and where you can go, and there are certain things that you can and can't do. You know, whether I want to travel, I can't. Whether I want to go see my family [in México], I can't. If my mother wants to go see her mother [in México], she can't. So that's why it's a cage, because you are free but it's like an illusion of freedom. You are not really free.

Sofia suggests that policies, like DACA, are in fact an "illusion of freedom" that provide limited opportunities, yet, continue to exclude undocumented youth from full participation in American society. The Mexican *norteño* band, *Los Tigres del Norte*, popularized the metaphor "jaula de oro" in a best-selling *corrido*, in which they use the phrase to describe the way undocumented *Mexicana/o* immigrants feel pain, conflict, and entrapment caused by the limitations imposed by their legal status.¹¹ The song, *Los Tigres*, tells about the plight of undocumented *Mexicanas/os* (and certainly other undocumented Latinas/os) in the U.S. that still rings true today, three decades after the production of the song, through the stories of the college-educated immigrant women who participated in this study.

This study utilizes a racist nativism framework to examine how undocumented and formerly undocumented Chicana/Latina college graduates are impacted by DACA and the California DREAM Act. To begin, I propose a racist nativism framework and explain the insight it provides to this study. Next, I present an overview of the historical legislative

¹¹ LEO R. CHAVEZ, *SHADOWED LIVES: UNDOCUMENTED IMMIGRANTS IN AMERICAN SOCIETY* (Cengage Learning, 2nd ed. 1997); JOSÉ DAVID SALDÍVAR, *BORDER MATTERS: REMAPPING AMERICAN CULTURAL STUDIES* (University of California Press, 1997).

context of education access for undocumented students nationally, with a particular focus on legislation in California, where study participants resided.¹² Examining this legislative context reveals that there has been no consistency in the courts' decisions regarding access to education for undocumented youth. In fact, this brief history reveals that when state and federal legislation provide greater access to educational and economic opportunities for undocumented youth, it also places restrictions on that access—creating a contradiction to the premise of access many court decisions and laws were meant to provide.¹³ I argue that these contradictions become “lived”—experienced in everyday life—when participants encounter increased access in education and employment, yet at the same time are not able to fully participate in American society. I will support my argument by outlining the study's methodology, including a description of the participants. Finally, I present the findings on how these historical policy contradictions emerged in the educational and occupational experiences of study participants.

THEORETICAL FRAMEWORK

Critical Race Theory (CRT) has a robust history in legal scholarship as a theoretical effort to include a racial analysis of legal doctrine and discourse.¹⁴ CRT has expanded from the legal field and is now widely utilized in education. CRT as a theoretical framework in education is used in several ways. First, it draws from multiple disciplines to challenge white supremacy that shapes the way research specifically, and society

¹² All participants in the study attended public primary and secondary schools in the greater Los Angeles area. Some also attended community colleges in this area. All attended and graduated from a southern California, University of California, campus.

¹³ The history of legislation I provide here is brief and not meant to be exhaustive. Rather, I provide some key legislative decisions regarding the education of the undocumented in the U.S., in particular, California to illustrate the contradictions in access and restriction that I explain here.

¹⁴ There are numerous scholars that have contributed toward the early development of CRT in the law including Derrick Bell, Kimberley Crenshaw, Devon Carbado, Sumi Cho, Richard Delgado, Neil Gotanda, Lani Guinier, Angela Harris, Cheryl Harris, Charles Lawrence, Mari Matsuda, Margaret Montoya, Francisco Valdez, Natsu Taylor Saito, Jean Stefancic, Gerald Torres, Patricia Williams and others. There are several important books that compile key articles in the early CRT movement with the law, including *CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT* (Kimberlé Crenshaw et al. eds., The New Press: Distributed by W.W. Norton & Co., 1995) and Richard Delgado & Jean Stefancic, *CRITICAL RACE THEORY: THE CUTTING EDGE* (Temple University Press, 1st ed.1995) (*See also* 2nd and 3rd editions).

generally, understands the educational experiences, conditions, and outcomes of People of Color. Second, CRT builds from the knowledge of communities themselves to reveal the ways race, class, gender, and other forms of oppression interact to mediate the educational trajectories of those affected by such oppression. Third, CRT is committed to deconstructing these oppressive conditions and empowering communities of color to work towards social and racial justice.¹⁵ Latina/o Critical Theory (LatCrit) is a theoretical branch of CRT that is inclusive of these three functions. However, LatCrit allows researchers to examine the unique experiences of Latinas/os often overlooked in CRT, such as immigration, language, ethnicity, culture, identity, phenotype, and sexuality.¹⁶ I employ a CRT framework, and specifically, a LatCrit perspective, as the foundation for this study.¹⁷ Through a more focused LatCrit theoretical approach, the conceptual framework of racist nativism emerges.

In 2008, my colleagues and I developed racist nativism as a conceptual framework to explain how people of color have historically experienced racialized constructions of non-nativeness in the U.S., regardless of their actual origin.¹⁸ Contemporary patterns of racist nativism follow earlier characteristics of nativism, as outlined by John Higham, that include an “intense opposition to an internal minority on the grounds of its foreign (i.e. ‘un-American’) connections,” which reinforced beliefs of Anglo-Saxon white superiority, and accordingly began the construction of an “American” national identity.¹⁹ However, Higham did not include a race analysis, as he compared experiences of southeastern and northern European whites migrating to the U.S. during the early late 19th and early 20th centuries. These identity constructions have been used to include those who racially align to constructions of whiteness in U.S. society, and

¹⁵ See Daniel G. Solorzano, *Critical race theory, race and gender microaggressions, and the experiences of Chicana and Chicano scholars*, 11 INT’L J. OF QUALITATIVE STUD. IN EDUC. 121-136 (1998) (providing five key tenets of CRT in education) [hereinafter *Solorzano, Critical race theory*].

¹⁶ *Id.*; See also Daniel G. Solorzano & Dolores Delgado Bernal, *Examining Transformational Resistance Through a Critical Race and Latcrit Theory Framework: Chicana/Latina and Chicano Students in an Urban Context*, 36 URB. EDUC. 308-342 (2001).

¹⁷ See *id.*

¹⁸ Lindsay Perez Huber et al., *Getting Beyond the “Symptom,” Acknowledging the “Disease”: Theorizing Racist Nativism*, 11 CONTEM. JUST. REV. 39-51 (2008).

¹⁹ John Higham, *Strangers in the Land: Patterns of American Nativism 1860-1925* 4 (Rutgers University Press, 1955).

exclude those who do not.²⁰ Thus, strategies of exclusion of the perceived “foreigner” have taken on both racist and nativist dimensions.

Racist nativism has targeted various people of color historically, but in the contemporary moment, it is a form of racism that particularly targets Latinas/os, immigrants and non-immigrants.²¹ The recurrence of draconian anti-immigrant legislation across the country in recent years proves racist nativism is a useful and robust framework to examine the intersections of race and immigration status that emerge in immigration discourse, policy, and everyday experiences of Latinas/os. The study uses this framework first to examine how racist nativism has influenced policies that impact undocumented immigrant students in higher education by creating contradictions of access and restriction on educational opportunities because of non-native perceptions of Latina/o undocumented youth. Second, the framework is utilized to understand how undocumented and formerly undocumented Chicana/Latina college graduates are impacted by the California DREAM Act and DACA. In this context, racist nativism illuminates how racism is intricately tied to undocumented status, which in turn explicitly and implicitly mediates educational and occupational access and opportunities of the undocumented participants in this study. Racist nativism exposes dominant beliefs about Latina/o undocumented immigrants as “criminals” who are perceived to drain scarce social and economic resources that they do not deserve to have access to, and should thus be excluded from.²²

²⁰ Rodolfo Acuña, *OCCUPIED AMERICA: THE CHICANO'S STRUGGLE TOWARD LIBERATION* (Harper Collins, 1978); Rene Galindo & Jami Vigil, *Are Anti-Immigrant Statements Racist or Nativist? What Difference Does It Make?*, 4 *LATINO STUD.* 419–447 (2006); Kevin R. Johnson, *The New Nativism: Something Old, Something New, Something Borrowed, Something Blue, in IMMIGRANTS OUT! THE NEW NATIVISM AND THE ANTI-IMMIGRANT IMPULSE IN THE UNITED STATES 165-189; IMMIGRANTS OUT!: THE NEW NATIVISM AND THE ANTI-IMMIGRANT IMPULSE IN THE UNITED STATES* (Juan F. Perea ed., 1996); George Sánchez, *Face the Nation: Race, Immigration and the Rise of Nativism in Late Twentieth Century America*, 31 *INT'L MIGRATION REV.* 1009-1030 (1997).

²¹ See *supra* note 15.

²² For further examples of such dominant U.S. perceptions of undocumented Latinas/os see Leo R. Chávez, *COVERING IMMIGRATION: POPULAR IMAGES AND THE POLITICS OF THE NATION* (University of California Press, 2001); Grace Chang, *DISPOSABLE DOMESTICS: IMMIGRANT WOMEN WORKERS IN THE GLOBAL ECONOMY* (South End Press, 2000); Pierrette Hondagneu-Sotelo, *DOMESTICA: IMMIGRANT WORKERS CLEANING AND CARING IN THE SHADOWS OF AFFLUENCE* (University of California Press With a New Preface Edition, 2007); and Otto Santa Ana, *BROWN TIDE RISING: METAPHORS OF LATINOS IN THE CONTEMPORARY AMERICAN PUBLIC DISCOURSE* (University of Texas Press, 2002).

METHODOLOGY & DATA

A *testimonio* methodological approach was utilized for the study, grounded in a Chicana Feminist Epistemology (CFE), and guided by a CRT theoretical framework.²³ The origins of *testimonio* are found in Latin American human rights struggles.²⁴ It has been utilized as a strategy of resistance to reinscribe the histories and experiences of those that “would otherwise succumb to the alchemy of erasure.”²⁵ Women of Color scholars like the Latina Feminist Group have utilized *testimonio* to document their own histories and experiences,²⁶ while others, particularly in education, use *testimonio* in the research process to document the experiences of their participants,²⁷ and as a pedagogical tool.²⁸

CFE, as an epistemological positioning, rejects the claimed neutrality of the research process, recognizes the researchers and participants’ experiential knowledge as critical to scholarly inquiry and encourages

²³ Dolores Delgado Bernal, *Using a Chicana Feminist Epistemology in Educational Research*, 68 HARV. EDUC. REV. 555-579 (1998).

²⁴ See, e.g., Rigoberta Menchu et al., I. RIGOBERTA MENCHU: AN INDIAN WOMEN IN GUATEMALA (Verso, 1987).

²⁵ The Latina Feminist Group, TELLING TO LIVE: LATINA FEMINIST TESTIMONIOS 2 (Duke University Press Books, 2001).

²⁶ For other Chicana/Latina scholars who have documented their *testimonios* see also Cantú, 2008; Delgado Bernal et al., 2009; Espino et al., 2012; Prieto & Villenas, 2012; Saavedra & Salazar Pérez, 2012; Urrieta & Villenas, 2013.

²⁷ See Rebeca Burciaga, *Chicana Ph.D Students Living Napanla: Education and Aspirations Beyond the Doctorate*, (unpublished Ph.D. dissertation, University of California, Los Angeles, 2007) (on file with author); Claudia G. Cervantes-Soon, *Testimonios of Life and Learning in the Borderlands: Subaltern Juárez Girls Speak*, 45 EQUITY & EXCELLENCE IN EDUC. 373-391 (2012); Cindy Cruz, *Testimonial Narratives of Queer Street Youth: Toward an Epistemology of a Brown Body*, (unpublished Ph.D. dissertation, University of California, Los Angeles, 2006) (available at Proquest, UMI No. 3251434); Lourdes Diaz Soto et al., *The Xicana Sacred Space: A Communal Circle Of Compromiso For Educational Researchers*, 79 HARV. EDUC. REV., 755-776 (2009); Lindsay Perez Huber, *Challenging Racist Nativist Framing: Acknowledging the Community Cultural Wealth of Undocumented Chicana College Students to Reframe the Immigration Debate*, 79 HARV. EDUC. REV. 704-729 (2009); Lindsay Pérez Huber & Bert Maria Cueva, *Chicana/Latina Testimonios on Effects and Responses to Microaggressions*, 45 EQUITY & EXCELLENCE IN EDUC. 392-410 (2012); Norma González, *Testimonios of Border Identities: Una Mujer Acomedida Donde Quiera Cabe*, in CHICANA/LATINA/LATINA EDUCATION IN EVERYDAY LIFE: FEMINISTA PERSPECTIVES ON PEDAGOGY AND EPISTEMOLOGY 197 (SUNY Press, 2006); Kris Gutiérrez, *Developing a Sociocritical Literacy in the Third Space*, 43 READING RES. Q. 148-164 (2008).

²⁸ Sonya M. Alemán, *Testimonio as Praxis for a Reimagined Journalism Model and Pedagogy*, 45 EQUITY & EXCELLENCE IN EDUC. 488-506 (2012); Rina Benmayor, *Digital Testimonio as a Signature Pedagogy for Latin@ Studies*, 45 EQUITY & EXCELLENCE IN EDUC. 507-524 (2012); Cindy Cruz, *Making Curriculum from Scratch: Testimonio in an Urban Classroom*, 45 EQUITY & EXCELLENCE IN EDUC. 460-471 (2012).

collaboration between researchers and participants.²⁹ CFE supports the methodological approach of *testimonio*, where participants are prompted to share their experiences of struggle, survival, and resistance within the context of oppressive institutional structures and interpersonal events. CRT, specifically LatCrit, guides the use of *testimonios* from a Chicana feminist epistemological perspective in several specific ways. *Testimonio* as used in this study reveals 1) the multiple injustices encountered by Chicana/Latina undocumented youth that emerge from systems of oppression, 2) challenges dominant ideologies and beliefs about undocumented immigrants, 3) validates the experiential knowledge of the participants in this study, 4) acknowledges these experiences as part of a collective history and memory, and 5) commits to exposing and dismantling injustice.³⁰ Thus, *testimonio* in this study can be described as a “verbal journey of a witness who speaks to reveal the racial, classed, gendered, and nativist injustices they have suffered as a means of healing, empowerment, and advocacy for a more humane present and future.”³¹

Using *testimonio* in this way, the data for this study was collected in two phases. A series of interviews were conducted in 2008 and again in 2013-2014. In 2008, I engaged a network sampling method to recruit participants attending a specific University of California (UC) campus who, at the time of the interview, (a) were undocumented, (b) were female, (c) identified México as their country of origin, and (d) were from a low-income family.³² Based on these criteria, I recruited 10 Chicana/Latina undocumented student participants. During the first phase of data collection in 2008, I conducted a series of two in-depth interviews with each participant, for a total of 20 interviews. Each of these interviews were 2-2 ½ hours long. During this phase, participants explained their educational trajectories from preschool/kindergarten level to higher education. These interviews explored family migration stories, experiences with discrimination and negative perceptions, navigational strategies, and future goals and aspirations.

²⁹ See *id.*

³⁰ Lindsay Pérez Huber, *Disrupting apartheid of knowledge: Testimonio as methodology in Latina/o critical race research in education*, 22 INT’L J. QUALITATIVE STUDIES IN EDUCATION 639, 645 (2009) [hereinafter Huber, *Disrupting apartheid of knowledge*].

³¹ See *id.*

³² See PATRICIA GÁNDARA, *OVER THE IVY WALLS* (1995) (using a network sampling method in qualitative data collection).

In the second phase of data collection that took place between 2013 and 2014, I conducted two additional follow-up interviews with nine of the ten original participants, for a total of 18 interviews during this phase. In this set of interviews, participants described their post-college experiences as well as the impact of the California DREAM Act and DACA on their lives. Each interview was approximately 1 ½ to 2 ½ hours in length. Data for this study includes 38 total interviews (20 collected in 2008 and 18 collected between 2013-2014). To analyze the interviews, I employed a critical race grounded theory approach—an analysis strategy that allows themes to emerge from data while using a CRT lens to reveal often-unseen structures of oppression.³³ This approach allowed simultaneous involvement in data analysis and advancing theory development, strategies primarily used in traditional grounded theory.³⁴ However, this approach also allowed me to utilize a CRT lens to isolate thematic categories that emerged from the data and explore the ways race, immigration status, gender, and class emerged in the women’s educational trajectories.

A HISTORICAL LEGISLATIVE CONTEXT: EDUCATION AND UNDOCUMENTED STUDENTS

Both federal and state legislative histories regarding the undocumented reveal the complex and evolving relationships between race, immigration, and education. U.S. legislation articulating rights, protections, marginalization, and exclusion of immigrants has a century-long history that undoubtedly shapes the current undocumented immigrant experience.³⁵ Some scholarship outlines particular legislative histories related

³³ Maria C. Malagon et al., *Our Experiences, Our Methods: Using Grounded Theory to Inform a Critical Race Theory Methodology*, 8 SEATTLE J. SOC. JUST. 253, 263-65 (2009).

³⁴ See BARNEY GLASER, *THEORETICAL SENSITIVITY: ADVANCES IN THE METHODOLOGY OF GROUNDED THEORY* (1978); BARNEY G. GLASER AND ANSELM L. STRAUSS, *THE DISCOVERY OF GROUNDED THEORY: STRATEGIES FOR QUALITATIVE RESEARCH* (1967).

³⁵ Historically, immigration law has been intricately tied to legal constructions of racial categories used to regulate those arriving in the U.S. and excluding those already residing in the country. Since the late 19th century, legal strategies have been used to restrict immigration and rights of various immigrant groups including Southeastern Europeans, Chinese, Japanese, and Latinas/os (particularly Mexicans and Chicana/os). MAE NGAI, *IMPOSSIBLE SUBJECTS: ILLEGAL ALIENS AND THE MAKING OF MODERN AMERICA* (2004); Natsu Taylor Saito, *Alien and Non-Alien Alike: Citizenship, “Foreignness,” and Racial Hierarchy in American Law*, 76 OR. L. REV. 261 (1997); ELLEN D. WU, *THE COLOR OF SUCCESS: ASIAN AMERICANS AND THE ORIGINS OF THE MODEL MINORITY* (2014).

to undocumented students. For example, Olivas³⁶ and Pabón López & López³⁷ outline a detailed history of *Plyler v. Doe*,³⁸ while Rincón³⁹ provides a history of Texas legislation regarding resident tuition in higher education and undocumented students. I provide an overview of legislation and policies specific to the education of undocumented students, with a focus on California. This context is significant for several reasons. First, California has the largest undocumented immigrant population in the U.S.⁴⁰ Second, policy decisions in this state often influence other states in regard to undocumented student access to higher education.⁴¹ Third, this context has shaped the educational opportunities and schooling experiences of the participants in this study, all who have lived the majority of their lives in California. The context begins with *Plyler*, which established the precedent for education of undocumented school children in the U.S., and follows chronologically to the most recent policies affecting educational and occupational opportunities for the undocumented, the California DREAM Act and DACA.

1980's: PLYLER V. DOE SETS PRECEDENT

In 1975, the Texas legislature revised its education laws to charge tuition for undocumented schoolchildren enrolled in Texas public school districts. It also authorized schools, at their discretion, to deny undocumented children enrollment. The Mexican American Legal Defense and Education Foundation (MALDEF) initiated a lawsuit challenging these practices on behalf of undocumented Mexican students in Texas. The lawsuit was eventually argued before the U.S. Supreme Court as *Plyler v. Doe*. In 1982 the Court struck down the legislation revision, ruling that

³⁶ MICHAEL A. OLIVAS, *NO UNDOCUMENTED CHILD LEFT BEHIND: PLYLER V. DOE AND THE EDUCATION OF UNDOCUMENTED SCHOOLCHILDREN* (2012).

³⁷ MARIA PABÓN LÓPEZ & GERARDO R. LÓPEZ, *PERSISTENT INEQUALITY: CONTEMPORARY REALITIES IN THE EDUCATION OF UNDOCUMENTED LATINA/O STUDENTS* (2010) at 15.

³⁸ *Plyler v. Doe*, 457 U.S. 202, 230 (1982).

³⁹ ALEJANDRA RINCÓN, *UNDOCUMENTED IMMIGRANTS AND HIGHER EDUCATION: SÍ SE PUEDE!* (2008).

⁴⁰ PEW RESEARCH CENTER, *U.S. Unauthorized Immigration Population Trends, 1990-2012* (December 11, 2014), <http://www.pewhispanic.org/2013/09/23/unauthorized-trends/> (last visited May 8, 2014).

⁴¹ See Olivas *supra* note 4 at 1768-9. Olivas explains how *Student Advocates for Higher Education et. al v Trustees, California State University et al.* in 2006, allowed citizen college students of undocumented parents access to financial aid programs. In addition to rulings in Virginia and Colorado, these rulings “made a virtue of necessity” for citizen children of undocumented parents to establish residency for state financial aid eligibility.

it was unconstitutional to deny any child, regardless of immigration status, a public K-12 education.⁴² The *Plyler* case set legal precedent for the education of undocumented children in the U.S. and continues to be a landmark case that has provided constitutional protection of K-12 public education for undocumented children.

Several years later in 1985, California widened access to higher education for undocumented college students when the Superior Court of Alameda ruled in favor of plaintiff Leticia A., allowing undocumented college students to pay resident fees on the same terms as U.S. citizens. The decision applied to students enrolled in the public University of California (UC) and California State University (CSU) campuses. The ruling also allowed undocumented students to become eligible for state financial aid programs such as Cal Grants.⁴³ However, the gain in educational access for undocumented students in California was short-lived. Only five years later the *Leticia A.* decision was challenged and defeated.

1990's: RESTRICTING ACCESS

In 1990, a UC admissions official refused to follow state policy to grant resident fee status to admitted UC undocumented students. The official, David Paul Bradford, filed suit against the UC and won an injunction to overrule the decision made in *Leticia A.* The “Bradford order,” as it came to be known, was in effect at all UC campuses by fall 1991.⁴⁴ The order required all undocumented students to pay non-resident fees at public institutions of higher education. By spring of 1995, all three segments of the public higher education, including the California Community Colleges (CCC), CSU and UC’s, had implemented the Bradford order. Under this decision, undocumented students could be admitted to a public institution, but would have to pay fees more than three times the amount of students with legal residency status. With the implementation of the Bradford order, undocumented students were again, largely shut out of higher education in California.

⁴² See Pérez Huber, *Disrupting Apartheid of Knowledge*, *supra* note 31 (providing a detailed description of how *Plyler* moved through the courts and how the Supreme Court decided the case).

⁴³ The California Student Aid Commission administers the Cal Grant, a state-funded financial aid program for college students who meet academic and financial eligibility requirements. See <http://www.calgrants.org/>.

⁴⁴ Regents of Univ. of Cal. v. Super., 276 Cal. Rptr. 197.

In 1994, at the height of an economic recession, Proposition 187, the “Save Our State” or “SOS” initiative, passed into law by a majority of California voters. Born from a fear of the “Other,”⁴⁵ the law targeted the state’s predominantly Mexican undocumented population.⁴⁶ It denied almost all public social and health care services, and would have allowed K-12 schools to deny enrollment of undocumented children (although a likely violation of *Plyler*).⁴⁷ Proposition 187 would have had disastrous effects on the lives of the undocumented and on the educational access of undocumented students in particular.⁴⁸ Fortunately, injunctive relief was granted almost immediately and California courts struck down nearly all of its provisions, with the exception of the bar on establishing postsecondary residency for undocumented college students.⁴⁹ Following the failure of Proposition 187 and similar draconian bills in other states, Congress sought to develop federal strategies to curb immigration.

Shortly following Proposition 187, Congress sought to restrict immigration and in 1996, implemented the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). These laws limited access to certain social and health benefits for the undocumented among other restrictions. In addition, it required states to enact laws in order to provide resident tuition to undocumented students in its public higher education institutions,⁵⁰ providing an opportunity for states to decide their tuition policies for undocumented

⁴⁵ Marcelo M Suarez-Orozco, *California Dreaming: Proposition 187 and the Cultural Psychology of Racial and Ethnic Exclusion*, 27 ANTHROPOLOGY & EDUC. Q. 151-8, 163 (1996).

⁴⁶ Lindsay Pérez Huber, *Discourses of Racist Nativism in California Public Education: English Dominance as Racist Nativist Microaggressions*, 47 EDUC. STUD. 379, 384 (2011). Pérez Huber explains that although Prop 227 did not explicitly targeting the undocumented, this policy was one that was also born from the fear of the “Other.” The author states, “Prop 227 ended bilingual education in California public schools, forcing [English Learner (EL)] students into structured English immersion programs. Although this law affected all EL students, it targeted Spanish-dominant students, whom, at the time Prop 227 passed, comprised 81 percent of all EL students in California public K-12 schools” at 384.

⁴⁷ See Ruben J. Garcia, *Critical Race Theory and Proposition 187: The Racial Politics of Immigration Law*, 17 CHICANO-LATINO L. REV. 118 (1995) at 129-31 (explaining that one of the goals of this proposition was to invite the Supreme Court to overturn *Plyler*).

⁴⁸ See Olivas *supra* note 37.

⁴⁹ Michael A. Olivas, *IIRIRA, The Dream Act, and Undocumented College Student Residency*, 30 J. C. & U. L. 435, 449 (2004) at 448-49.

⁵⁰ See GÁNDARA, *supra* note 33.

students. In 2001, Texas and California both granted resident tuition to undocumented students.

2000's: A DECADE OF CONTRADICTIONS

In California, Assembly Bill 540 (AB 540) passed into law in October 2001 and was implemented January 2002. AB 540 provides greater access for undocumented students by allowing them to pay resident fees in all three public systems of higher education, the CCC, CSU, and UC systems.⁵¹ The law outlines three eligibility requirements for students: 1) the student attended a California high school for at least 3 years (schooling does not have to be consecutive), 2) the student graduated from a California high school or received an equivalent degree (GED), and 3) the student files an affidavit with the higher education institution stating that they will file an application to obtain legal permanent residency as soon as they are eligible. If these three requirements are satisfied, undocumented students are allowed to pay resident tuition fees at all public institutions.⁵² However, AB 540 did not allow undocumented students access to financial aid programs.

While AB 540 opened access to public higher education, a different message was sent to undocumented students from the federal level. The federal Development, Relief and Education for Alien Minors Act, also known as the DREAM Act, was first introduced in Congress in 2001 and has undergone various drafts since.⁵³ For nearly a decade, the Bill was not able to garner enough support to come up for a vote in Congress. However, in 2010, it came closer to passing than ever before. In this version,⁵⁴ an undocumented person was eligible if she or he entered the U.S. more than 5 years ago (if 15 years old or younger at the time of arrival) and could demonstrate good moral character. Once the student graduat-

⁵¹ NANCY GUARNEROS ET AL., *STILL DREAMING: LEGISLATION AND LEGAL DECISIONS AFFECTING UNDOCUMENTED AB 540 STUDENTS* (2009) at 1.

⁵² *Martinez v. Regents of the University of California*, 241 P.3d 855 (Cal. 2010) (AB 540 was unsuccessfully challenged when the California Supreme Court ruled that the exemption from nonresident tuition provided by AB 540 did not violate California Education Code).

⁵³ See Olivas *supra* note 4. In this article, Olivas provides an extensive legislative history of the federal DREAM Act and its movement through the legal system, where the author articulates the difficulty conducting research on pending legislation. Olivas argues it is important to understand how this legislation is inherently connected to a larger movement for immigration reform and at the same time, a "systemic regime" of oppression (p. 1758).

⁵⁴ Development, Relief, and Education for Alien Minors Act of 2010, S. 3992, 111th Cong. (2010).

ed high school, she/he would be able to apply for conditional permanent residence status that would authorize six years of legal residence. At the end of this term, permanent resident status would be granted if the student had attended college or served in the military for at least two years. When the bill went up for a vote in December 2010, it received just a few votes short of the 60 Senate votes required to move the legislation forward.⁵⁵ The Migration Policy Institute has estimated that well over half a million young people in the U.S. would have benefitted from the DREAM Act.⁵⁶ Undocumented students in California were allowed access to in-state tuition,⁵⁷ but shut out from a pathway to citizenship that would allow them to utilize their degrees in the formal labor market.

CURRENT POLICIES: CALIFORNIA DREAM ACT AND DACA

With the failure of the federal DREAM Act, California developed its own policies to provide greater access to public higher education for undocumented students. In 2011, a package of bills (AB 130 and AB 131) was passed into law as the California DREAM Act.⁵⁸ AB 130 was implemented in January 2012, and AB 131 in January 2013 for students enrolled in public higher education (CCC's, CSU's, and UC's). AB 130 provides undocumented students access to private institution-based funds, while AB 131 provides access to specific forms of state financial aid programs, including some Cal Grants.⁵⁹ However, undocumented students are not eligible to apply or receive Cal Grants until all California resident students have first received the award they are eligible to receive.⁶⁰

The failure of the federal DREAM Act also led to changes in immigration policy to halt deportations of undocumented youth that would

⁵⁵ Michael A. Olivas, *Dreams Deferred: Deferred Action, Prosecutorial Discretion, and the Vexing Case(s) of DREAM Act Students*, 21 WM. & MARY BILL RTS. J. 463, 464 (2012).

⁵⁶ Jeanne Batalova & Margie McHugh, *Insight: DREAM vs. Reality: An Analysis of Potential DREAM Act Beneficiaries*, MIGRATION POLICY INSTITUTE, July 2010, available at <http://www.nysylc.org/wp-content/uploads/2009/02/DREAM-Insight-July2010.pdf>.

⁵⁷ See *supra* note 3.

⁵⁸ Development, Relief, and Education for Alien Minors (DREAM Act) S. 1291, 107th Cong. (2001).

⁵⁹ Institution-based funds include campus grants and scholarships. State financial aid programs include, for example, the Board of Governors (BOG) fee waiver. This program allows community college tuition fees to be waived for California Community College (CCC) students who meet income eligibility requirements. See *supra* note 45 for explanation of Cal Grant.

⁶⁰ California Dream Network AB 131 Facts, <http://www.cadreamnetwork.org/AB131-facts>.

have benefitted from the legislation.⁶¹ On June 15, 2012, the U.S. Department of Homeland Security (DHS) announced the Deferred Action for Childhood Arrivals (DACA) program, which allows undocumented people who meet specific requirements to receive a two-year work authorization, subject to renewal and defer removal proceedings.⁶² According to U.S. Citizenship and Immigration Services (USCIS), deferred action is “the use of prosecutorial discretion to defer removal action against an individual for a certain period of time.”⁶³ Some requirements set by USCIS for those seeking protection under DACA include arrival in the U.S. before 16 years of age, continuous residence in the U.S. since arrival, and were under the age of 31 as of June 15, 2012. The applicant must also be either enrolled in school, have graduated high school (or earned a GED), or be an “honorably discharged veteran” of the U.S. military. Furthermore, one must not have been convicted of a felony, convicted of three or more misdemeanors, or “pose a threat to national security

⁶¹ See *supra* note 57 at 473. Here, Olivas provides an important backstory of DACA. He explains that Democratic leaders urged President Obama and former Director of Homeland Security, Janet Napolitano, to stop deportations and removals of low-priority undocumented youth. Olivas reports that in one such request, Napolitano responded that she would not employ prosecutorial discretion to groups, “by executive fiat.” However, under political pressure, DHS engaged a “test-case review” of immigration cases in Baltimore and Denver in 2011 that would consider how the Obama Administration could extend a form of prosecutorial discretion to undocumented persons with no prior criminal record, with a focus on the elderly and children who had lived in the U.S. for a significant amount of their lives. This test-case review led to the broader implementation of DACA. In this study, several participants explained that the political pressure to utilize deferred action came from the efforts of undocumented youth activists and activist groups, not solely from political leaders.

⁶² See Maria A. Fufidio, “*You May Say I’m a Dreamer, But I’m Not the Only One*”: *Categorical Prosecutorial Discretion and Its Consequences for US Immigration Law*, 36 *FORDHAM INT’L L.J.* 976-1062 (2013). Fufidio explains that DACA emerged from the practice of prosecutorial discretion used in immigration enforcement that allows for discretionary relief from deportation for particular groups of people with similar situations called “categorical” or “macro-level” prosecutorial discretion. She argues DACA is a form of categorical prosecutorial discretion, that allows DHS agents to utilize deferred action, with the ability to chose not to arrest, detain, prosecute, or remove an undocumented person of this particular group for a specified time period, as stipulated by the requirements for the categorical prosecutorial discretion. Deferred action then, mediates decision-making of DHS agents who implement current immigration policy. Thus, DACA is a form of deferred action granted by categorical prosecutorial discretion. For a history of prosecutorial discretion in immigration law, see Shoba Sivaprasad Wadhia, *The Role of Prosecutorial Discretion in Immigration Law*, 9 *CONN. PUB. INT. L.J.* 243 (2009).

⁶³ U.S. Citizenship and Immigration Services’ Consideration for Deferred Action for Childhood Arrivals Process, <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process>.

or public safety.”⁶⁴ Currently, over half a million people have applied for DACA and over 400,000 applications have been approved.⁶⁵ The majority of those applicants and recipients are Latina/o immigrants.⁶⁶ However, DACA as a form of prosecutorial discretion is not a guarantee,⁶⁷ and while the Obama administration supports this program, a future administration may not.

This brief historical context of policies reveals the legal contradictions of educational access and restriction for undocumented students. Within the span of a few decades, we see stark contradictions between access and restrictions to educational access and opportunity for undocumented students. The 1980’s brought promise for undocumented students in the U.S., and California in particular, who had access to free public K-12 and affordable higher education in the state. However, this promise nearly disappeared in the 1990’s when in-state tuition was banned for undocumented students, largely shutting this group out of higher education in California. Also in this decade, the majority of California voters passed Proposition 187.⁶⁸ Although the law was never implemented, it sent a clear message to undocumented communities across the state—they were not wanted. Since 2000, legislative decisions in California have been more hopeful for undocumented youth. Undocumented college students have access to in-state tuition and more recently, to financial resources to pay for college tuition and expenses. DACA provides the opportunity to work legally. This history tells us that despite the legal protections provided by *Plyler*, there have been numerous attempts (i.e. Proposition 187) to exclude undocumented children from public education. The efforts to restrict rights of the undocumented acts as a proxy for race,⁶⁹ where policy has enforced racial discrimination of predominately Latina/o immigrants based on their noncitizen status. California’s Proposition 187 was a clear example of the racist

⁶⁴ *See id.*

⁶⁵ Tom K. Wong et al., *Undocumented No More: A Nationwide Analysis of Deferred Action for Childhood Arrivals, or DACA*, CENTER FOR AMERICAN PROGRESS, September 2013, available at <http://www.americanprogress.org/issues/immigration/report/2013/09/20/74599/undocumented-no-more>.

⁶⁶ *See id.*

⁶⁷ Bill Ong Hing, *The Failure of Prosecutorial Discretion and the Deportation of Oscar Martinez*, 15 SCHOLAR 437-533 (2013).

⁶⁸ Proposition 187 is described in this section.

⁶⁹ Kevin R. Johnson, *Driver’s Licenses and Undocumented Immigrants: The Future of Civil Rights Law*, 5 NEV. L.J. 213-239 (2004).

nativism that fueled proponents' support of the policy. The campaign for Proposition 187 demonstrated an explicit connection to race, where undocumented (mostly Latina/o) immigrants were targeted as scapegoats for the state's economic recession.⁷⁰ Since Proposition 187, there has been an increasingly optimistic trajectory for California's undocumented population, and specifically students, that provide new structures of opportunity for educational access. However, at the same time, there has been a disturbing national upsurge of anti-immigrant laws recently passed in several states (similar to California Proposition 187), such as Arizona SB 1070,⁷¹ Alabama HB 56, and Georgia HB 87, described as some of the toughest, most inhumane state immigration laws seen in decades.⁷² These laws sought to severely restrict the lives of the undocumented by enforcing immigration stops and authorizing the detaining of those that could not provide identification, creating a climate of fear and hostility. For example, Alabama HB 56 (the Beason-Hammon Alabama Taxpayer and Citizen Protection Act) restricted the undocumented from engaging in business transactions with the state, which precluded them from registering or moving their manufactured homes. A lawsuit was filed challenging this restriction in *Central Alabama FAIR Housing Center v.*

⁷⁰ Ruben J. Garcia, *Critical Race Theory and Proposition 187: The Racial Politics of Immigration Law*, 17 CHICANO-LATINO L. REV. 149-154 (1995); ROBIN DALE JACOBSON, *THE NEW NATIVISM: PROPOSITION 187 AND THE DEBATE OVER IMMIGRATION* (2008); see also *supra* note 35.

⁷¹ Kristina Campbell, *The Road to SB 1070: How Arizona Became Ground Zero for the Immigrants' Rights Movement and the Continuing Struggle for Latino Civil Rights in America*, 14 HARV. LATINO L. REV. 1, 1-21 (2011). Although SB 1070 received national attention and controversy, Campbell reports that in 2010 when the Bill was signed into law, there were already over half a dozen laws restricting rights of the undocumented. These laws had been implemented by statute and amendments to the Arizona Constitution. For example, Proposition 300 prohibits undocumented students enrolled in Arizona's public college and universities from benefiting from in-state tuition, receiving financial aid or enrolling in adult education. See also *THE STATE OF ARIZONA (CAMINO BLUFF PRODUCTIONS, 2013)* (capturing the implications of SB 1070 on undocumented immigrant communities in the state).

⁷² See *id.* These requirements, in varying forms, were in each of the original bills signed into law within Arizona, Alabama, and Georgia, respectively. Currently, challenges to these laws continue in state courts. For example, the Alabama requirement on barring undocumented students access to public higher education in the state was struck down soon after the bill was signed into law. Arizona SB 1070 was challenged in U.S. Supreme Court in 2012, striking most provisions but upholding the provision requiring immigration checks during lawful stops, detentions, or arrests. See also Kevin Johnson, *Sweet Home Alabama? Immigration and Civil Rights in the "New" South*, 64 STANFORD L. REV. 22, 22-28 (2011); Maria Pabón López et al., *The Prospects and Challenges of Educational Reform for Latino Undocumented Children: An Essay Examining Alabama's H.B. 56 and Other State Immigration Measures*, 6 FLA. INT'L U. L. REV. 231, 231-249 (2011).

Julie Magee.⁷³ In an opinion delivered by District Court Judge Myron H. Thompson, he stated,

There is evidence that the legislative debate on HB 56 was laced with derogatory comments about Hispanics. This evidence reinforces the contention that the term ‘illegal immigrants’ was just a racially discriminatory code for Hispanics. For example, Representative Rogers made comments that reflect popular stereotypes about Mexicans and draw explicit distinctions along the lines of race and national origin, not immigration.⁷⁴

Judge Thompson explained how Arizona lawmakers conflated race and immigration status during discussions regarding HB 56. In addition, he further stated in the opinion,

[T]hat the term illegal immigrant was often a code for Hispanics is reinforced by the fact that HB 56 treats mixed status children, the overwhelming number of which are Latino, differently from the way children have been historically viewed and treated in Alabama.⁷⁵

Here, Judge Thompson refers to the ways lawmakers discussed children in undocumented families, observing the differential treatment of these Latina/o youth compared to their non-Latina/o counterparts. In this opinion, Judge Thompson calls out the racist nativism of Arizona lawmakers who strategically propagated unfair housing practices that targeted undocumented Latinas/os, using racist Latina/o stereotypes and inaccurate data on population growth to gain support.

As *FAIR Housing Center* indicates, we will continue to witness the political backlash that emerges from fear of the “Other,” as the predominantly Latina/o undocumented immigrant population increases in the U.S. Particularly, as the undocumented, mostly Latina/o, population grows in historically white communities. As a result, we should expect to see increasingly polarized contradictions in legislation as policy and lawmakers devise strategies on how to deal with immigration. In the

⁷³ Cent. Alabama Fair Housing Center v. Magee, 835 F. Supp. 2d 1165, 1193 (M.D. Ala. 2011) *vacated sub nom.* Cent. Alabama Fair Housing Center v. Comm’r, Alabama Dep’t of Revenue, No. 11-16114-CC, 2013 WL 2372302 (11th Cir. May 17, 2013).

⁷⁴ See *id.* at 84.

⁷⁵ See *id.* at 87.

meantime, legislation that targets the undocumented will continue to serve as a proxy for race, and Latinas/os will continue to be the preoccupation of immigration discourse.⁷⁶ Legislation like HB 56 in Georgia and Proposition 187 in California are indicative of this preoccupation. This study examines how these policy contradictions become lived—experienced in everyday life—for undocumented Chicanas/Latinas. The findings of the study signal how the lives of the undocumented are mediated by the divided (and often schizophrenic) characteristics of public discourse (shaped by policies and legislation) on immigration—where access to greater opportunities is sought, while maintaining a legacy of racist nativism and perpetual subordination through the restrictions imposed upon them.

FINDINGS: BEFORE THE CALIFORNIA DREAM ACT AND DACA

In the first set of interviews collected in 2008, participants were undocumented undergraduate students attending one University of California (UC) campus. In the 2013-2014 interviews, each participant had graduated from their institution and was working full-time, part-time, and/or attending graduate school. Each participant had graduated college before the implementation of the California DREAM Act and DACA. The longitudinal nature of the interviews allowed participants to discuss their experiences before and after the implementation of these policies. Thus, the findings in this section are presented in two parts. The first section discusses the key themes that emerged from their *testimonios* before the implementation of the California DREAM Act and DACA. The second section provides key themes that emerged after the implementation of these policies.

In the initial interviews conducted in 2008, the women discussed their educational and occupational aspirations and goals following graduation. The majority of students sought to pursue graduate or professional degrees, and had hoped that there would be positive developments in either the federal DREAM Act or comprehensive immigration reform that would afford them greater post-graduate opportunities. By 2010, the

⁷⁶ See Mary D. Fan, *Post-Racial Proxies: Resurgent State and Local Anti-“Alien” Laws and Unity-Rebuilding Frames for Antidiscrimination Values*, 32 *CARDOZO L. REV.* 905, 905-45 (2011); Kevin R. Johnson, *Race and Immigration Law and Enforcement: A Response to Is There a Plenary Power Doctrine*, 14 *GEO. IMMIGR. L.J.* 289, 289-305 (1999). See *supra* note 69. Garcia argues that immigration status has been used as a proxy for race, particularly within immigration discourse.

majority of participants had graduated with their bachelor's degrees and were heavily involved and/or took leadership roles in activist efforts to push the federal DREAM Act forward. Passage of the bill would have provided them the opportunity to utilize their degrees in pursuit of a lasting career. Several women described their tremendous disappointment when the federal DREAM Act fell just a few votes short of passing in Congress. Following the failure of the bill, they were left with college degrees from a world-class university with no options for lawful employment. Opportunities for advanced degrees were also limited. Moreover, they continued to be excluded from the everyday privileges lawful residents enjoy such as driver's licenses, and traveling abroad. While many had aspired to pursue graduate school as college students, their options were limited. They would only be able to pay in-state tuition at a graduate program within California, and would have to be able to afford graduate and/or professional school tuition, which is typically much higher than undergraduate tuition. As a result, many women continued working in the low-wage, informal labor market (as they did in college) providing babysitting, tutoring, or consulting services. They explained that the transition out of school was very difficult due to the conditions they faced, an experience I term *post-graduate trauma*, which is the first theme I discuss in this section. In addition, many women shared that they were exploited by employers when they did find work. Thus, worker exploitation is the second theme analyzed that was experienced by participants before the California DREAM Act and DACA.

POST-GRADUATE TRAUMA

Graduation is typically a time of great joy for college students who finally see years of dedication and hard work pay off. Several past studies have explored the additional stressors, and even trauma, that school completion can cause undocumented students as graduation day looms near.⁷⁷ This study found that stress, anxiety, and trauma only increased following graduation, once the women were faced with the reality of

⁷⁷ William Perez et al., *Academic Resilience Among Undocumented Latino Students*, 31 HISP. J. BEHAV. SCI. 149, 149-77 (2009); Hinda Seif, "Unapologetic and Unafraid": *Immigrant Youth Come Out From the Shadows*, 2011 NEW DIRECTIONS CHILD. ADOLESCENT DEV. 59, 59-75 (2011). Seif in particular describes the "trauma" graduation can bring undocumented Latina/o students as they near completion of schooling. I use this term similarly to explain the emotional trauma experienced by the participants in this study after the completion of their college degrees.

continued economic constraints and uncertain futures with no options to adjust their immigration status. Ruth⁷⁸ graduated with honors in sociology and a minor in education from a UC⁷⁹ school. She is the oldest of nine children and the first in her family to graduate high school and college. Ruth described the deep sadness and disappointment she felt the year following her graduation.

After [graduation] was kind of surreal and like, a reality check. I didn't pick up my diploma until a year later. I think I didn't pick up my diploma because it made it real that I was finally done with school and I had this degree, and I was not going to use it. I remember I was a nanny, but then, that job ended, so I was without a job for some time. I was without a stable place to live. . . financially it was rough. After graduating I really didn't have much money. . . . I cleaned a house a few times. I remember going to clean this house. The people were like, I will pay you \$100 if you clean my house, \$100 is not that bad in reality, I was able to do it pretty quickly, but I remember leaving and feeling super tired and then waiting for the bus after I cleaned the house . . . my mind would be like, [UC] was such a waste. There were moments where I would feel like that . . . so I would have moments that were really low. I would be sitting there and thinking "oh my gosh I can't believe it!" So much money, so much hard work for nothing. I would cry. There's nothing shameful [about] cleaning somebody's house, but I was like, I worked so hard and this is what I'm doing. This is so unfair. I had moments where it was hard for me to see friends of mine that did the same major and . . . they had a good job, but I couldn't because I didn't have the choice.

Ruth described the painful memories of her subjugation to the low-wage labor market, despite having a college degree from one of the highest-ranked universities in the country. It was especially difficult when she saw her friends with the same degree acquire employment that aligned with their academic training. Alicia, another participant in the study shared similar experiences with post-graduate trauma.

⁷⁸ Actual names of all participants in this article have been replaced with pseudonyms for confidentiality.

⁷⁹ The actual name of the University of California campus is not used in this study for confidentiality.

Alicia graduated with a major in political science and minor in Chicana/o studies and was her family's primary caregiver, including her ill mother, throughout her undergraduate career. Similar to Ruth, Alicia also described the anxiety she experienced after graduation.

I think I really felt lost at that time . . . like, what am I going to do now? Am I going to be an organizer for the rest of my life. . . . I'm like what is my career going to look like? I started becoming really anxious about my future. . . . I see a correlation where undocumented students always feel safe when they're students. So, that was my initial thing when I graduated from [UC]. I didn't feel safe anymore because back then, when you're a student, you're undocumented. . . . I don't have an ID, [but] I have my school ID because I'm a student. So, you have a lot of like, student privileges that . . . feel very safe. So, when I graduated that was my first feeling . . . I don't feel safe anymore. I'm not just an undocumented student, I'm an undocumented immigrant. Not that it's bad but it's just like there's no more protection and you're more vulnerable to a lot more . . . like exploitation . . . I don't know, just like being a student gives you the sense of safety.

Unlike Ruth, Alicia experienced this trauma in relationship to her shifting identity. Alicia explains that there is a sense of safety and a set of privileges that comes with a "student" identity. Upon graduation, her anxiety was not only caused by an uncertain future, but also the vulnerability of losing the safety and privilege of her undocumented student status.

Many of the participants experienced post-graduate trauma associated with their undocumented status. As Ruth described, many felt like their degrees didn't matter. Alicia explained that her undocumented status made her feel vulnerable without the protections a student identity afforded. Despite her degree, she faced the same restrictions and exclusions as other undocumented immigrants. During this time, participants had to make decisions about what they would do next, at this point in their lives with extremely limited options. The study also found that their status mediated their post-graduate trajectories as they made decisions about their educations and careers without lawful status. In the previous example, Alicia mentioned the vulnerability assigned to undocumented immigrants who have few legal protections. For the participants, this vulnerability was most prevalent post-graduation, during a

time when DACA had not yet been implemented. Several other women in the study described the vulnerability they experienced, specifically to exploitation in the workforce.

WORK EXPLOITATION

Sandra graduated from UC with a major in sociology and minor in Chicana/o studies. Soon after graduating, Sandra's father was abruptly deported by ICE (Immigration and Customs Enforcement) after living in the U.S. for more than two decades. He had always worked to support the family, including Sandra's mother and her two younger brothers. Sandra, the oldest in the family, was left with no choice but to become the main financial provider for her family in his absence. In 2008, Sandra had planned to pursue graduate school to become a high school counselor. However, she knew she would not be able to afford graduate school tuition, or be able to acquire the necessary credentials to work in a K-12 school without lawful status. Thus, when she was provided the opportunity to work as a consultant for a non-profit organization she took it, even though it did not exactly align with her career goals. The organization provided programs, initiatives and services that sought to improve the lives of Latina/o immigrants. Sandra took on multiple roles in the organization that included grant writing, fundraising, event planning, and program coordination. Due to the many responsibilities she was assigned, she worked extremely long hours. She explained,

Grant writing as it is, is a really difficult job. You know, it's a lot about establishing relationships, a lot of writing involved. So that was like a full time job, and then add the special events coordinating. So like I said . . . from my regular hours, like 8-5, I was doing fundraising . . . the grant writing . . . and then I had to stay until like 1 a.m. to do the event coordinating, all the planning that had to take place. . . . I was the only one that had to work a lot of weekends. Often times, even if I called in sick I would be asked to work on things from home. They were not very flexible in terms of giving me vacation time. I was never able to take like a week off. It was always like a day here and a day there, whereas people could be gone for all of December, and I'm just not able to ever do that. I had definitely different treatment.

Not only was Sandra asked to take on more responsibilities than most other employees, she was expected to work additional hours, on weekends, and was unable to take time off. Sandra explained that when she told her boss she could not meet some of these demands he responded, “Oh, you can’t stay late? Well then, good luck finding another job that’s not going to look past your status.” Sandra explained that these comments “scared” her into continuing the work and unfair demands her boss placed on her. Moreover, with her father deported she was now financially responsible for her family and could not afford to leave.

Goreti shared a similar experience of work exploitation. Goreti graduated with a major in neuroscience and in her 2008 interview, aspired to attend medical school and become a neurologist. After graduation and still without lawful status, she continued working for an independent tutoring company, the same job she had in her last years as an undergraduate. Following graduation, Goreti completed a certificate program in grant writing to be able to provide consulting services for non-profit organizations in order to find work. Once she completed the program, her current employer asked that she take on grant writing work for the company. Goreti worked there with her younger brother, who was also undocumented at the time. Their employer was aware of their undocumented status. She shared,

So I did her grants and I got her approved. . . . I’ve gotten them all approved, which is great. But . . . after I graduated I went . . . we went through a financial problem, pressure, because with that boss, like I said, we weren’t getting along very well and she was going through financial problems. So she stopped paying me for awhile . . . so . . . sometimes she would give me a third of it [pay] and then a third of it the next month, ‘cause she paid us monthly. So she would pay us a little bit here and there. . . . I think one month she didn’t pay [at all]. . . . Since my brother and I were working together, it happened to both of us and at the same time, my parents’ boss was doing the same thing with the whole economy problem. So, they weren’t getting paid. I wasn’t getting paid. And so we had problems not just paying rent, but buying food for the household. I think it’s the only time that I’ve seen our fridge that empty. [We were] just struggling for everything.

Goreti explained that when the business slowed down, her employer would hold her and her brother's pay although they continued to work. At the same time, her undocumented parents also faced the same treatment at their jobs in the service industry. As a result, the family experienced tremendous financial constraints despite the fact that each of them was working full-time jobs. During this time, Goreti was faced with the same challenges many undocumented workers experience when their employers exploit them. She explained that her parents' employer would threaten "to call immigration on them" if they requested their back pay. Goreti felt she and her family "had no option" but to endure the exploitation.

Other women shared similar financial difficulties following graduation because of limited work options. While all of the participants had sought to pursue graduate or professional school in their 2008 interviews, only one woman, Carmen, continued on to a master's program immediately following graduation. She was offered a full scholarship by a private foundation to fund her graduate program. However, the California DREAM Act had not yet passed at the time, and the University was unable to transfer the funds due to her undocumented status. As a result, the scholarship was taken away. Similar to other participants, Carmen worked in jobs where she was over-qualified and in some cases, mistreated following graduation. She held several jobs while attending her master's program to pay her tuition. These experiences led to great stress, anxiety and even depression. Three participants, including Carmen, were able to adjust their status before the implementation of DACA, which allowed them greater access to many of the constraints they previously experienced as undocumented women.⁸⁰ For the remaining participants, it would take several years after graduating before they would find some relief with the California DREAM Act and DACA.

⁸⁰ Two women married their long-time partners and were able to gain conditional permanent residency. Under conditional permanent residency granted through marriage of a U.S. citizen, these women have a conditional status that will expire two years after marriage. They must apply to have the condition removed before the conditional status expires, or they may face deportation. Both women described this process as costly, rigorous, and emotional, requiring them to provide documentation of their presence in the U.S., intimate details of their relationships with their spouses, and an interview with an immigration officer to confirm that their marriages were not held to circumvent immigration law to become lawful residents. A third participant was granted residency through a family sponsor.

FINDINGS: AFTER THE CALIFORNIA DREAM ACT AND DACA

By the time the California DREAM Act and DACA were implemented during 2011-2012, two participants, Carmen and Alicia, had married their long-time partners and were able to attain permanent residency. An additional participant, Veronica, also adjusted her status through a family petition, after waiting over 10 years to receive an immigrant visa. For the remaining six women, there was no change in their undocumented status and each was working either part-time or full-time jobs. The impact of these policies were most relevant for these six participants, but certainly affected the lives of all. Following the announcement of these policies, the participants explained that there was a great increase in employment and educational opportunities, and this enabled them to pursue the goals they had aspired to. However, they also described the continuing constraints they encountered in their daily lives. There were three major themes that emerged in how these policies impacted the women. These themes are, 1) providing a sense of protection, 2) increased opportunities, and 3) continued exclusion.

SENSE OF PROTECTION

Many of the women whose undocumented status was unchanged when the 2013-2014 interviews were conducted spoke of the sense of “protection” that they felt as a result of being approved under DACA. Victoria graduated from a UC school with a double major in political science and history. She had worked as an intern in the political efforts to pass the California DREAM Act, and as a result, began work as a field deputy for a California assembly member as soon as she was approved under DACA. When asked about the impact this policy has made in her life, Victoria explained, “you just feel a sense of protection.” She continued to explain,

It took me a while to realize, ‘Oh crap, I can go and find another job.’ I don’t have to take this. I can just walk away from this. . . . I don’t have to take being the least priority program in an organization. . . . I don’t think you have that kind of liberty or mental...I don’t even know how to say it. . . .mental liberation. People usually just walk away from shitty situations. They find another job. But yeah, you can, you can walk away from it . . . there are options.

Victoria described that the protection she experienced as a result of DACA gave her a feeling of “liberation.” She was relieved of some of the constraints she encountered before DACA. Specifically, she explained that she was no longer restricted to jobs and other “situations” in her life that made her unhappy or where she felt she was being treated unfairly.

Other women described this sense of protection. For example, after Goreti quit her job working with the tutoring company, she helped her parents open a small restaurant. She explained that before DACA, there were business opportunities for the restaurant she would avoid because of her (and her parents’) undocumented status. Goreti was extremely careful in her business decisions and was weary to apply for programs that would benefit the restaurant. After DACA this changed. She stated,

I’ll feel more comfortable in applying for different things, even . . . like accepting EBT. You know, you have to have a federal identification. . . . So I’ve held back on a lot of things for the business because of that . . . now with DACA, that’s going to help me help them [her parents] more and not be as scared. . . . A lot of people come to us . . . now and asking us how we started our business, how we’re going through it. . . . I’m very interested now in doing some consulting for businesses.

Goreti explained that she now is not “scared” to make important decisions for her family’s business. DACA has given her a sense of protection that allows her to be more confident when seeking resources, and is now considering providing consulting services to others in the community interested in creating their own small businesses.

The women also described the freeing effects of the California DREAM Act, allowing them to pursue their aspirations. As soon as it passed, Ruth began preparing to enroll in graduate school to pursue her aspiration of becoming a high school counselor. By the 2014 interview, she was a second year graduate student in a master’s program in school counseling. She explained that with the funds the California DREAM Act provides, her graduate school tuition is covered. However, she pays a few hundred dollars in student fees each semester, which she says she had to save for. Ruth stated, “So if it was not because of the California DREAM Act, I probably couldn’t attend this semester, realistically, because I don’t have the money at all. . . .but I have enough money to pay for my fees.” Ruth then explains the effects of not having to worry about paying her graduate school tuition:

Ruth: I was able to enjoy the [winter] break without thinking, oh my gosh, like it's coming up next and I need to go pay my fees. But I don't have to worry about my tuition being paid. So it gives me more peace of mind.

Lindsay: And how do you think that affects you, having that peace of mind?

Ruth: I'm able to focus on other things like, enjoy my family. I'm able to, for instance, on Christmas . . . I was able to buy little gifts for my family members. I don't have a whole lot of money, but I was able to buy small things, or go celebrate with my friends. I went to watch a movie . . . before if my friends would go out, I would have to eat at home and just order a glass of water. I mean, I didn't mind. I just knew that I had to sacrifice, not eating out. . . . I would hang out with people, I would just not order food at restaurants. The fact that I can, once in a while, not very often . . . order a meal at a restaurant . . . it gives me some more like, freedom to enjoy like, other things.

Ruth explains the “peace of mind” and “freedom” she experiences as a result of the California DREAM Act, knowing that she no longer has to find a way to pay her tuition each semester, as she had to do when she was an undergraduate student. This allows her to spend the limited time she has outside of her graduate program, to enjoy with family and friends.

Prior to the California DREAM Act and DACA, many participants described feeling a sense of vulnerability, being easily targeted by exploitation and mistreatment. After the implementation of these policies, participants described feeling more protected, and confident to exit unfair situations, particularly jobs, knowing that they are eligible for legal employment by other employers. This protection led to a sense of liberation from some restrictions and exclusions they had encountered previously.

NEW POSSIBILITIES

The women in this study not only found a sense of protection and liberation upon the implementation of the California DREAM Act and DACA, but also, increased opportunities. Alicia described, “I mean, talk about the possibilities you know. . . just the possibilities, I feel are greater.” New possibilities became a reality for the participants as a result of

the opportunities these policies afforded, such as some forms of financial aid, access to driver's licenses, and permits to work lawfully in positions appropriate for their education and training. For example, when Ruth learned that the California DREAM Act had passed in 2011, she immediately applied and was accepted to a graduate program, the degree she had aspired to during the 2008 interview but was not able to pursue until this policy was implemented. Today, she still aspires to be a high school counselor.

By 2012, DACA increased the opportunities available for other study participants. For example, as soon as Victoria received DACA approval, she was able to secure a position as a field deputy for a California assemblyman. Before DACA, she was only able to work as an unpaid volunteer in the assemblyman's office, while working part-time as a receptionist at a dance studio. Victoria shared, "It was two and a half years after graduating that I was going to have my first job . . . like a job that you need a college degree for to have!" Similarly, when Sandra received DACA approval, she quit her job at the non-profit that exploited her (described in the previous section), and secured a new position at a non-profit focused on improving the health and education of youth. She now leads organizational efforts to focus on serving immigrant youth. Victoria and Sandra plan to apply to graduate school in the near future.

Clearly, these policies have provided greater access to educational and economic opportunities for these women. However, several participants spoke about how these policies would also benefit others. Goreti reflected on the impact of these policies on undocumented youth generally, "It's going to open a lot of doors to [undocumented] youth. . .there's a lot of undocumented youth with great potential. . . it's not even about drive, it's about opportunity." Goreti explained that in the past, many undocumented youth felt discouraged to pursue higher education, but now they will encounter new possibilities that increased opportunities will afford them.

Lizet shared a similar view on the implications of these policies, but spoke more specifically on the impact within her local community. Lizet graduated with a double major in Chicana/o studies and sociology (with honors) with a minor in labor and workplace studies. Following graduation, she became a community organizer and worked for a non-profit organization in 2014, leading regional activism efforts for undocumented youth in Southern California. Despite her own organizing efforts in

support of DACA, Lizet was hesitant to apply, because she felt DACA was only a temporary solution to a much larger problem. However, she felt that having DACA would allow her to help her family and better serve her community in her organizing efforts. She explained,

Just helping people, you know, with . . . the checkpoints, and the policy that [if] you don't have a license, [you can] call someone and they'll come and take your car. You'll still get the ticket but at least they won't impound your car. In south LA . . . we have a lot of checkpoints . . . a lot of DUI checkpoints . . . a few blocks from where I live . . . so that was one of the things that motivated me . . . with this license, I can help in so many ways.

Here, Lizet explains that having a driver's license would allow her to help other undocumented people in her community when, for example, they are stopped at a checkpoint for not having a license. Lizet applied for DACA in 2013 and her case was still pending at the time of the interview.

Ruth shared what she described as the indirect benefits of DACA on her family. Ruth has younger undocumented siblings who also received DACA approval. She explained this impact,

So really having DACA has also benefited my family. For instance, overall I feel my parents have more peace of mind and feel better that I'm not just a babysitter, that I actually have a real job. And then my siblings, they help my family financially. So that's actually pretty big, and now that even helps my parents that can't apply for it, but indirectly those policies have been of great benefit to them.

Many participants viewed the California DREAM Act and DACA as policies that impacted their own lives, but also of their families and communities. As each of the participants had already graduated with a college degree and the California DREAM Act provided very limited funds for graduate school, most women did not directly experience the benefits of increased access to financial aid. However, many found reward in knowing other undocumented students (particularly younger siblings) would not have to endure the same struggles to afford a college education. Moreover, DACA affords greater educational and economic opportunities for the women and provides a sense of protection from an immigration status that otherwise leaves them feeling very vulnerable,

particularly as they transitioned out of college. Although these policies certainly have had positive effects in the lives of the study participants, it was also clear that those who remained undocumented continue to experience constraints and exclusion, as demonstrated by the next section.

CONTINUED CONSTRAINTS AND EXCLUSION

The women who remained undocumented during the 2013-2014 interviews explained the continued constraints they encountered and forms of exclusion they experienced from full participation in U.S. society, despite the benefits they were afforded under state and federal policies. Victoria summarized her sentiment, “In a sense I still feel like I’m undocumented. I know that I can’t travel. . . . There are still limitations to what you can do.” Victoria clearly articulates that even with DACA, there are constraints she experiences that are a constant reminder of her undocumented status. Here, she explains the exclusion from everyday privileges such as traveling outside of the country.⁸¹ For Victoria, travel was especially important because it is necessary to achieve her goal of becoming a political diplomat, her aspiration in the 2008 interview. When she learned of the international training required for such a position, she knew that she would not be able to pursue this career as an undocumented person. Thus, the travel restrictions imposed on Victoria by her immigration status placed constraints upon her future career options.

Alicia, now a permanent resident, remains highly active in advocating for undocumented communities. She also describes the constraints undocumented youth experience, regardless of policies meant to provide more opportunities for them. She explains,

[The undocumented] are actually barred from having [health] services . . . so they aren’t going to get health benefits. They are not going to be part of this Affordable Care Act. They can’t go back to their countries to visit family. There’s a little loophole, but it’s another process. There’s still a lot of barriers.

Most of the participants identified access to healthcare as a concern for themselves and for their communities. While in college, a student

⁸¹ Stipulations of DACA eligibility by USCIS state that one must not travel outside the U.S. while their case is pending. Even upon DACA approval, travel restrictions remain in place, unless an application for advanced parole is also approved by USCIS and the purpose of travel falls under the approved categories set by the agency (*see supra* note 8). This is the “loophole” Alicia refers to in her interview.

health plan ensures access to healthcare, but this care ends once a student graduates. Several women discussed this concern. As a licensed social worker, Alicia focused much of her work on creating greater access to healthcare and mental health services for undocumented youth. She shared,

A lot of our peers and colleagues were undocumented. We always knew we were dealing with a lot of health issues from physical to mental, to just overall well-being and we realized that we didn't have access. So as soon as we were done being students . . . because being a student . . . you get health access . . . but then as soon as you were done being a student that's it. You don't have insurance and your job, most of the time, are not going to provide you with insurance. So a lot of my friends were just sharing that. We were struggling a lot.

As a result of this concern, Alicia created a free mental health program tailored to the needs of undocumented youth that trains social workers on how to better serve undocumented communities. As she explained, she remains very concerned about millions of undocumented people in the U.S. with limited or no access to healthcare.

Finally, Sofia shared the financial constraints and exclusion she experienced as a graduate student, despite the California DREAM Act. Sofia graduated from a UC school with a psychology major and immediately began working, first as a tutor, then at a daycare center. Sofia decided that she wanted to pursue nursing and was recently accepted to a nursing program at a small, private institution in Southern California. Sofia estimated that the total cost of her graduate program would be \$65,000. She discussed going to a financial aid counselor and asking about resources the California DREAM Act could provide before entering her program,

So I had met with [the financial aid counselor] and said, you know, because a lot of people had started arguing . . . we didn't use [financial aid] during undergrad so why can't we use it now if we never tapped into it before? But it doesn't work that way, so when I met with her, she was like . . . I don't qualify for a federal grant or federal loan because I'm not even a resident. So I knew that I was going to have to do it on my own, so that's why I was working so much and saving money.

Sofia's campus did not offer institutional funds for her graduate program, funds she would be able to access through California DREAM Act. She explained most students in her program used federal loans to help pay for school. Neither the California DREAM Act nor DACA allow undocumented students access to federal financial aid programs. As a result, Sofia worked multiple jobs following graduation and began saving money, knowing she eventually wanted to pursue the expensive program. She has been able to pay tuition with money she had saved, but was concerned about her future when the money runs out. There were no institutional funds available to her and she is excluded from access to federal school loans as an undocumented immigrant.

Although the California DREAM Act and DACA provided more opportunities to the women in this study, they also shared the continued constraints as reminders of the various ways undocumented people and the DACAmended⁸² in the U.S are excluded from equal opportunities to travel, to affordable healthcare and insurance, and to fully benefit from financial programs for advanced degrees. Each of the women in the study described these policies as a temporary solution and not enough to truly feel they have equal access and opportunities in American society. Veronica, now a permanent resident, summarized the concerns of many participants,

There's just so many uncertainties out there and I still feel like . . . although . . . it's helping some people, now they have [your] information. Now whoever comes next [presidential administration], if they take it [away], what's going to happen? There's so many uncertainties out there. . . . And I know that there's a lot of people [and] organizations out there that are working to make it more permanent but, just two years is not enough. Two years flies by so fast, and some people paid a lot of money to get this DACA, and now . . . I don't know what they're going to do. . . . I mean it's a . . . start but it's not enough.

In many ways, the experiences of the participants before and after DACA illustrate how they encounter the contradictions between access and restriction that; on one hand, provide greater educational and work opportunities, and on the other, place restrictions on this access that limit

⁸² The term "DACAmended" was created by undocumented youth activists to describe individuals who have received DACA approval.

their options, lives, and futures. Before the California DREAM Act and DACA, participants' options for advanced education and employment were extremely limited, leading to experiences with work exploitation and post-graduate trauma as an effect of the restrictions placed on their lives. With the announcement of the DACA program, participants felt a sense of protection and were presented with possibilities for the future that were not tangible before. However, without comprehensive immigration reform, these women, their families, and communities will not be allowed the same rights as U.S. citizens. They may obtain temporary authorization to be in this country (i.e. DACA), but currently there is no guarantee for how long. Thus, the findings reveal that the lives of the participants in this study are constantly in flux, as they grapple with the contradictions of being and living as undocumented immigrants who are perceived to be deserving of *some* access to opportunities in the U.S., but not *all* that are enjoyed by U.S. citizens. This is the function of racist nativism, to assign values of difference to Latina/o undocumented immigrants in order to justify the subordination they experience as a result of their legal status.

CONCLUSION

In the first half of this paper, I provided a legislative context that positioned the discussion of the DACA and the California DREAM Act within a historically located understanding of the contradictory approaches the U.S. generally, and California specifically, have taken toward access and opportunities for undocumented communities. Those contradictions are indicative of the ever-changing public sentiment regarding rights of the undocumented to participation in American society, most of whom are Latina/o.⁸³ The *testimonios* of the participants in this study demonstrated the contradictions they experience being provided greater opportunities, yet continuing to encounter constraints on their daily life. These contradictions align with the contradictory nature of the historical legislative context from which these policies emerged.

⁸³ Public Divided Over Increased Deportation of Unauthorized Immigrants, PEW RESEARCH CENTER (2014), <http://www.people-press.org/2014/02/27/public-divided-over-increased-deportation-of-unauthorized-immigrants>. This report that shows the majority of Americans (nearly 75%) feel undocumented immigrants should be able to remain in the U.S. if they meet certain requirements. Yet, less than half (46%) feel the undocumented should be offered a pathway to citizenship.

Data collected in 2008, and again with the same participants in 2013-2014, provided a more comprehensive understanding of how these policies impacted the educational and economic opportunity structures before and after policy implementation. Before implementation, these college-educated women experienced a particular form of post-graduate trauma that is quite distinguished from the typical anxiety about the future many college graduates face. They experienced a sense of vulnerability, fear, and uncertainty about whether they would benefit from their college educations. The latter became especially apparent for those women who experienced continued subjugation to the low-wage, informal labor market, and were exploited by employers in the same ways other undocumented Latina/o immigrants encounter.

After the implementation of these policies, participants experienced a sense of protection from the vulnerability they faced after graduation. Having a social security number, access to driver's licenses, work authorization, and access to some forms of financial aid afforded the women a sense of "liberation" and "peace of mind." Their undocumented status no longer felt as limiting as in the past. In addition, these policies increased opportunities in education and employment, and brought about a more optimistic view of future possibilities. However, a resounding theme was also the continued constraints that excluded the undocumented women from traveling abroad, access to affordable healthcare, and full access to financial aid programs for advanced degrees, leading many to feel uncertain about their futures.

The data in this study demonstrates that the historical contradictions of rights and access for undocumented Latinas/os in the U.S., and in California specifically, also emerge in how undocumented Latina/o youth experience the recent policies meant to increase educational and economic access. While the California DREAM Act and DACA certainly provide more opportunities and some legal protections, they are not enough. There is a continued exclusion of this population from full and equal participation in the U.S., though society benefits from these highly-educated professionals who often work to improve the conditions and quality of life of marginalized communities—efforts that improve the broader experiences of all those living in the U.S.⁸⁴ These findings indicate that while the

⁸⁴ Derrick Bell's interest convergence theory may be of use to analyze who really benefits from providing increased educational and occupational opportunities to undocumented youth. According to Bell, interest convergence theory functions so that one party enjoys some

policies offer some relief, the participants continue to experience the constraints their undocumented status assigns them, and their exclusion from full participation in U.S. society that citizenship status would offer. These constraints and exclusion are reminders of the perceived non-nativeness of undocumented Latina/o youth in the U.S. Structures of educational and economic opportunities are mediated by racist nativism when these youth are afforded a provisional form of access, where constraints and exclusions continue to limit their lives and their futures.

On November 20, 2014, President Obama announced his executive action on immigration. Among these programs included expanding the DACA program to more undocumented youth and allowing deferred action and employment authorization to some parents of U.S. born and permanent resident children, known as Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA).⁸⁵ The Pew Research Center reports that 3.8 million undocumented immigrants, mostly from Mexico, would become eligible under this announcement.⁸⁶ The expansion programs were to be implemented by USCIS beginning with the DAPA program on February 18, 2015. However, 25 U.S. states joined

rights or privileges because of the significant benefit another party would enjoy due to granting such rights. Bell uses an example of White elites incorporating poor Whites into policy decisions around slavery during the Reconstruction era in order to break potential class alliances of poor Whites and Black slaves. In effect, White elites persuaded poor Whites to support slavery, even when this decision was to their own detriment. In his example, Bell illustrates how poor Whites were given increased voting power to change, or maintain policies in which White elites would benefit. Further research could explore if and how interest convergence may be operating in the debate over increased educational and economic opportunities for undocumented youth. See DERRICK BELL, *SILENT COVENANTS: BROWN V. BOARD OF EDUCATION AND THE UNFULFILLED HOPES FOR RACIAL REFORM* (2005).

⁸⁵ According to USCIS, DACA eligibility has been expanded to undocumented youth by removing the maximum age limit of 31 years old and extending the period of temporary work permits from two years to three years. In addition, through the federal DAPA program (Deferred Action for Parents of Americans and Lawful Permanent Residents) parents of U.S. born and permanent resident children are eligible for deferred action and employment authorization if they have lived in the U.S. continuously for five years. Finally, the announcement includes expanding provisional waivers of unlawful presence to include spouses and children of lawful permanent residents and U.S. citizens, clarifying immigrant and nonimmigrant visa programs, and promote the naturalization process for lawful permanent residents. USCIS reported that the DAPA program would be the first to be implemented on February 18, 2015. The remaining initiatives were planned to begin in the following months. See U.S. Citizenship and Immigration Services' Executive Actions on Immigration, <http://www.uscis.gov/immigrationaction#3>.

⁸⁶ See *Those From Mexico Will Benefit Most From Obama's Executive Action*, PEW RESEARCH CENTER (November 2014), available at <http://www.pewresearch.org/fact-tank/2014/11/20/those-from-mexico-will-benefit-most-from-obamas-executive-action>.

as plaintiffs in a Texas lawsuit to challenge the implementation of the program in *Texas, v. United States*.⁸⁷ On February 16, 2015 federal district judge Andrew Hanen ruled to grant a temporary injunction that enjoined the implementation of all DACA expansion programs, halting these efforts.⁸⁸ The following day, Obama announced there would be a federal appeal of the ruling and urged lawmakers to return to negotiations on broader immigration reform.⁸⁹ As this article is being written, the U.S. Department of Justice has filed an appeal and motion to stay Judge Hanen's ruling on the injunction.⁹⁰ The fate of DACA expansion programs will soon be decided, determining whether undocumented families of DACAmented youth will, in fact, have access to the temporary protections these programs would provide.

The DACA expansion announcement offered some hope for undocumented immigrant communities. However, *Texas, v. United States*, indicates that lawmakers in half of all U.S. states are in opposition to Obama's executive orders on immigration and there will be an uphill battle to implement them. This large-scale opposition is concerning, considering these orders only remain in effect as long as the current administration supports them. The future of all executive order programs implemented by Obama (including DACA) would be uncertain, should a Republican presidential administration be elected in 2016. We must also confront the fact that none of these programs provide a pathway to citizenship for anyone—only a congressional decision would accomplish this. Thus, we remain at the crossroads of immigration reform once again. One path leads to increased rights, access, and opportunities to better futures that citizenship provides, while the other leads back to the *jaula de oro* that imprisons individuals and restrains potential contributions of a large segment of our society. One path leads to a hopeful future and the other, an uncertain one. It is in our best interest as a society, to choose hope.

⁸⁷ *Texas v. United States*, No. B-14-254, 2015 WL 648579 (S. D. Tex. Feb. 16, 2015).

⁸⁸ *Id.* at 73-123 (ruling for the order of temporary injunction was based on four factors that included 1) Likelihood of success on the merits of the plaintiff states, 2) irreparable harm if the injunction is not granted, 3) balancing competing hardships to parties and 4) balancing the public interest to show that the preliminary injunction would not have adverse effects).

⁸⁹ Michael D. Shear & Julia Preston, *Dealt Setback, Obama Puts Off Immigrant Plan*, THE NEW YORK TIMES, Feb. 17, 2015, available at <http://www.nytimes.com/2015/02/18/us/obama-immigration-policy-halted-by-federal-judge-in-texas.html>.

⁹⁰ Katie Zezima, *Obama Administration Appeals Ruling on Immigration Orders*, WASHINGTON POST, Feb. 23, 2015, available at <http://www.washingtonpost.com/blogs/post-politics/wp/2015/02/23/obama-administration-appeals-ruling-on-immigration-orders>.