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# Challenging Notions of U.S. Citizenship: The Contributions of Mexican Americans

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University of San Francisco

**CHALLENGING NOTIONS OF U.S. CITIZENSHIP:  
THE CONTRIBUTIONS OF MEXICAN AMERICANS**

A Thesis Presented to  
The Faculty of the College of Arts and Sciences  
Master's Program in International Studies

In Partial Fulfillment  
Of the Requirements for the Degree  
Master of Arts in International Studies

by  
Tracy Kirby  
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## CHAPTER 1

*“At the turn of the twenty-first century, with the global realignments after the end of the cold war and rapid dominance of neoliberal policies in both northern and southern countries, immigrant Latino/as face particular obstacles in claiming their rights and gaining recognition as contributing members of U.S. society.”<sup>1</sup>*

### **INTRODUCTION**

The United States has always been a nation of immigrants, in which the idea of “citizenship” has had very strong intrinsic values, and has divided those who “have it” from those who “don’t,” since the first legal construction of such categories in 1790. Longstanding contradictions, characterized by ceremonies awarding citizenship to some and laws of exclusion, deportation, and forced removal for others, have embodied U.S. approaches to citizenship, and created a dichotomy between “citizen” and “alien.” I would like to initiate a discussion and reformulation of what it means to be a citizen in the United States, and more importantly what it means for those who do not have access to this title and the privileges that go along with it.

Formally, citizenship designates the legal status of membership of a nation state, with a singular nationality and corresponding rights and duties. Beyond the basic legality, and national “identity,” the term also connotes a sense of belonging and agency, with citizens participating in and contributing to the political, cultural and economic affairs of a community. Due to this legalistic premise, citizenship has always carried an exclusive connotation or binary logic of “either/or.” A person residing in the country is thought to be either in or out, citizen or “illegal,” member or stranger. However, there is a large

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<sup>1</sup> Coll, Kathleen M. *Remaking Citizenship: Latina Immigrants & New American Politics*. (Stanford: Stanford University Press, 2010.) 5.

population that lives legally in the United States while still being categorized as “alien” and continually excluded despite legal resident status. Partly because of this dichotomous boundary, and because of the continuing competition over private and public goods, such as land, employment and public services, immigrants have often been looked on as people who came to America to take advantage of “our” resources and seek personal economic advancement, rather than engaging in community affairs and contributing to the well-being of “our” civil society.

My goal is to intervene in the policy discussion about immigration, interrogating the arbitrary distinction between citizen and immigrant, in which many millions who are active in their community are denied access to citizenship and all that it entails. This thesis will demonstrate how the ideas of the U.S. nation and citizens have been continually reshaped through migration and the encounter between peoples in every walk of life, from work, education, and social life to the legal and political realm. And in addition, how foundational social categories of “citizen” and “alien” are being transformed by economic globalization. Across the history of American citizenship, noncitizens have pressed for representation. In doing so, they have reshaped notions of citizenship itself.<sup>2</sup>

I will focus specifically on Mexican immigrants in the United States, examining the role of this politically and economically underrepresented and non-status group; and especially the positive role they play in communities across the U.S. through their participation in labor, education, culture and the body politic. My goal is to provide a more comprehensive view of citizenship that values the contribution of both documented

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<sup>2</sup> Buff, Rachel Ida. *Immigrant Rights in the Shadow of Citizenship*. (New York: New York University Press, 2008.) 3.

and undocumented immigrants to U.S. society. “Those of us engaged in struggles for immigrant rights need to interrogate citizenship, particularly U.S. citizenship, as the principle means of internal colonization and the organization of global inequalities that have triggered the unprecedented migration of people across the globe.”<sup>3</sup>

### *COMPETING NOTIONS OF CITIZENSHIP*

Interest is high surrounding issues of citizenship; the term has taken on multiple meanings, with scholars and political analysts competing to define it among a wide variety and range. As it stands, citizenship is a major link connecting various policy arenas such as labor, education, and migration, with politicians, church leaders, academics, captains of industry, and social movements all stressing its importance. It is because of this importance and contested meaning that I feel now is an ideal time to initiate a discussion and reevaluation of U.S. citizenship, with the goal of finding a means to affirm the contributions of the Mexican population living in U.S. society.

My project’s aim is not to disregard the system of citizenship that has long been in place, as I acknowledge the function of citizenship as a framework for political life. Rather, my goal is to show how citizenship has been a highly debated notion and practice, by examining the construction and contestation of this “status” through a historical review. Then, through an examination of policy relating to two U.S. programs, I will demonstrate how these notions of citizenship have excluded a huge population who have been living, working, and participating in daily life. Careful analysis of this concept, and of its historical practice can help scholars understand the exclusionary discourse and practice, while also highlighting alternative ways to construct citizenship based on inclusion. My purpose is to break away from the limitations and constrictions of

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<sup>3</sup> Buff., 2.

exclusionary definitions, and demonstrate the validity of a more commodious and flexible definition of citizenship.

“The idea of citizenship has become a terribly overworked concept in social, political, and legal thought over the last decade and a half. It is now invoked to represent so many different practices and institutions and experiences that it ceases to be meaningful and useful. It is the overly casual, and even promiscuous, use of the term, together with the habit of unconsciousness about its multiple meanings and their implications, that is responsible for all the confusion.”<sup>4</sup>

As Seyla Benhabib and Judith Resnik note above, citizenship has become a plastic term, with multiple meanings. In an attempt to remedy this problem, this project will carefully explicate the meaning of “citizenship,” which I then apply to two longitudinal case studies of specific U.S. policies and their impact on Mexican immigrants. Case study research provides a means to understanding complex issues and can add strength to what is already known through previous research. I use this method to investigate the contemporary phenomenon of citizenship within its real-life context, in hopes of identifying the people who are included and excluded by these policies.

The guiding questions throughout my research will be: What is citizenship? What are its component values? What does it entail in the United States? Who has this “status?” And more importantly, who does not? What does it mean for those individuals who are seeking the rights of citizenship? Lastly, where do the acts of citizenship take place? And where should they take place?

My second chapter examines the work of key scholars who have sought to define “citizenship” and “what it entails.” In order to address these problems, I have outlined contemporary concepts of U.S. citizenship. I trace the European classical construction of

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<sup>4</sup> Benhabib, Seyla, and Judith Resnik. *Migration and Mobilities: Citizenship, Borders, and Gender*. (New York: New York University Press, 2009) 146.

citizenship and the tension between “members” and “outsiders,” exploring how this phenomenon impacted the creation and evolution of citizenship in the United States. I then examine the characteristics frequently associated with the concept, highlighting both inclusionary and exclusionary aspects.

T.H. Marshall used a sociological rights-based framework to demonstrate the inclusive components commonly associated with citizenship, and I begin with his work. Expanding on notions of membership, political scientist Richard Bellamy added the dimension of participation to the debate: through being a member of a political community and participating in the making of its collective life, individuals should enjoy the right to pursue their lives on fair terms; by stressing the importance of participation in civil society as a prime criterion for citizenship. Russell J. Dalton also outlined four categories of citizenship that result in a “good” citizen, such as participation, autonomy, social order and solidarity.

My own interest in citizenship began with my studies of Mexican-American immigration. Investigating immigrants’ exclusion from formal citizenship status, and the consequences of this on their daily lives in the United States, sparked questions of whether or not the U.S. approaches to citizenship were contributing to inclusive notions of politics or practices of systematic discrimination. Few scholars, until recently, have explored the exclusionary aspects embedded in the nature of citizenship. Ediberto Roman’s work details how a legal construct that is linked with ideas of equality among those within a given community has also included an exclusionary side that has not been discussed in depth.



Linda Bosniak has also begun to rethink the inclusionary and exclusionary dimensions of citizenship. “If citizenship is treated as the highest measure of social and political inclusion, can people designated as noncitizens as a matter of status be among the universe of the included?”<sup>5</sup> The common answer to this question is no, “citizenship is only for citizens,” but as a review of Linda Bosniak’s work will demonstrate, the answer is more complicated.

The shift to a neo-liberal global framework, with the resulting changes in the role of the nation state, and the growth of massive global migration, has contributed to changing notions of citizenship. Seyla Benhabib and Judith Resnik argue that we must understand the role of mobility, together with the importance of place, in order to better define citizenship. This requires breaking away from the assumption that citizenship is a bilateral relationship between the individual and the state. Bosniak suggests that citizenship is becoming increasingly denationalized, with new forms of citizenship that exceed the national, developing to replace it. Locating conceptions of citizenship beyond the boundaries of the state provides a beneficial framework for interpreting and reevaluating citizenship in relation to migration, more specifically Mexican immigration to the United States.

#### *IMMIGRATION POLICY IN THE U.S.: TWO CASE STUDIES*

There have been very few attempts to expand, amend, or redefine citizenship in the United States, and especially, to be more inclusive of those people for whom the status has been continuously denied. One way to understand the contested nature of citizenship is to shed light on examples of failed programs that have sought to bring about changes in what

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<sup>5</sup> Bosniak, Linda. *The Citizen and The Alien: Dilemmas of Contemporary Membership*. (Princeton: Princeton University Press, 2006), 3.

it means to be a U.S. citizen. In support of a reevaluation of contemporary citizenship, I have chosen two case studies that reveal the extant notions of citizenship as well as exclusionary practices.

The Bracero Program (1942-1964) was a contract labor program first established to bring in farm workers from other countries to provide relief for labor shortages in the United States during wartime. This program granted temporary legal status for migrant workers, the majority of whom came from Mexico. However, their rights to reside in the U.S. were tied to the economic interests of the U.S. agricultural industry, and frequently taken away when the economic tides turned. Vast numbers of individuals, both documented and undocumented, were either deported back to their country of origin, or left feeling isolated and criminalized in the country they had begun to call home. I will look at the history and development of this program along with the dynamics and effects it had on all parties involved; and then, after the termination of the program what became of the thousands and thousands of Bracero and migrant workers. This program was an opportunity for fully addressing and reconstructing what it meant to be a citizen in the United States; the program failed to recognize the undeniable labor contributions to the U.S economy of immigrants during this period. The contradictory message that Mexican workers, Mexican Americans, and all other Americans, received throughout the program, was that Mexican labor was wanted and needed, but that Mexicans were in no way welcome as citizens in the United States.<sup>6</sup>

This contradictory rhetoric that emerged during the Bracero years found appeasement in the alteration of immigration law. An attempt to compromise among

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<sup>6</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bracero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), 40.

conflicting notions, led to the passage of the Immigration Reform and Control Act (IRCA) in 1986. The law included amnesty provisions for undocumented immigrants who met certain criteria. The legalization provision aimed to grant US citizenship for undocumented immigrants who could prove they had lived in the United States continuously for at least the previous ten years. Special rules regarding undocumented migrants and seasonal workers recognized the circular migration trends that predominated.<sup>7</sup> However in conjunction with the legalization provision, IRCA also increased enforcement of the U.S. border and sanctioned special operations to arrest and deport undocumented immigrants. The result was the social construction of “illegality” in which immigrants were blamed and punished for all the complex relations of “illegal” immigration.

The demand for a legalization of status for all undocumented immigrants regardless of their date of entry emerged during the debate leading up to the passage of IRCA.<sup>8</sup> Groups like the United Farm Workers began to identify with the struggle for securing immigrant rights and called for total amnesty. Other groups like *La Hermandad* and the Center for Autonomous Social Action (CASA) held the position that legalization would only be viable if total amnesty was coupled with the unequivocal right to US citizenship.<sup>9</sup> Since then, in the post 9/11 era, where immigrants face restricted rights and reduced civil liberties, relentless activists have continued the movement for amnesty and helped widen it across the entire United States.<sup>10</sup>

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<sup>7</sup> Mize, 93.

<sup>8</sup> Mize, 85.

<sup>9</sup> Mize, 85.

<sup>10</sup> Mize, 85.

The second policy I evaluate is the more recent proposed DREAM Act. Whereas the Bracero Program brought and legalized agricultural migrants to work in the United States, the DREAM Act seeks to provide a path to citizenship for a specific age group of individuals who are already residing in the U.S. The Act culminated from the lobbying and advocacy of a coalition of national groups interested in remedying the historical systematic discrimination against Mexican immigrants. First introduced in Congress in 2001 and in every subsequent year, the DREAM Act would grant undocumented students under the age of 35 “conditional” permanent residency status for a period of six years if they meet certain criteria, such as schooling, or military enrollment, and then the possibility to gain legal permanent resident status. The DREAM Act responds to calls for a process that would allow immigrant young adults an opportunity to gain legal status in the United States. Although the DREAM Act would create an unprecedented opportunity for many to gain citizenship, it aids only a small portion of a huge population that deserves recognition in U.S. society, leaving the rest of the population criminalized, separated, and underrepresented.

Analyzing these two programs will deepen our understanding of how notions of citizenship have been developed, and then institutionalized. The Bracero Program demonstrates the contradictory way in which citizenship was negotiated based on the economic needs of corporate America, and not the workers on the farms, nor the wider U.S. polity. The contradictions of the Bracero Program, and the growth of Mexican workers residing in the U.S., have led to immigration advocacy and the re-visioning of notions of citizenship. Alternatively, the DREAM Act demonstrates how advocates are attempting to negotiate a wider, more inclusive notion of citizenship, whose definition is

nonetheless narrowed to those fortunate enough to participate in higher education or military service. Both programs show how citizenship has been viewed over time, over space, and through negotiations between the state, corporate actors, and social movements.

And finally, I will close by comparing and contrasting the two programs in relation to citizenship and their inclusionary and exclusionary notions. I will also address present research that strives to reformulate the concept of citizenship at the turn of the twenty-first century, and the movements of people demanding consideration as citizens in their own right.

## CHAPTER 2

“For some, the issue has been citizenship as entitlement, where the question has been how the material benefits of property can be more equitably distributed, in recognition of the dignity of human life. For others, the issue has been citizenship as need; how to provide people with the resources thought to be necessary for effective human agency. For yet others, the issue has been citizenship as admission: how can groups suffering the prejudice against some kind of social stigma have the stigma removed and be admitted to the human world that everyone else lives in? And still for others, the issue has been citizenship as self-government, where the question has been how to widen the opportunities for popular participation in political life.”<sup>11</sup>

Citizenship presents two faces. Within a nation state, it stands for inclusion and universalism, but to those outside, citizenship means exclusion. The work of T.H. Marshall, Richard Bellamy, and Russell J. Dalton seek to provide categories of inclusion often associated with classical constructions of citizenship, whereas, Ediberto Roman and Linda Bosniak portray the injustices concealed by our discourse of citizenship. In addition, the work of Seyla Benhabib and Judith Resnik focus the discussion of citizenship in relation to migration and pave the way for Linda Bosniak’s critique of post-national citizenship and the emergence of new forms of citizenship located outside the nation-state.

### **COMPETING NOTIONS OF CITIZENSHIP**

Citizenship has emerged as a major contemporary link connecting policy arenas that range from welfare, labor markets and education to national politics, international relations and migration. “Citizenship provides the link because it brings within its orbit

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<sup>11</sup> Shafir, Gershon. *The Citizenship Debates*. (Minneapolis, University of Minnesota Press, 1998) 75.

three fundamental issues, how boundaries of membership within a polity and between polities should be defined; how the benefits and burdens of membership should be allocated, and how the identities of members should be comprehended and accommodated.”<sup>12</sup> Through the millennia, the term has acquired multiple meanings. Types of citizenship proliferate continuously, from dual and transnational citizenship, to corporate citizenship and global citizenship.<sup>13</sup> The sheer variety and range of such different uses of citizenship can make it hard to work towards a definition.

In initiating a discussion on citizenship, it is important to first examine the components commonly associated with and seen as crucial to citizenship practices.

“No single definition can adequately capture the complex, multidimensional character of citizenship as a general legal status, unitary institution, or fixed delimited set of practices. The forms and meanings of citizenship vary broadly according to their context; their social, political, and cultural links; and the interests and identities of those engaged with them. The definition of citizenship is not simply an analytical or empirical matter; it is also a deeply normative and political matter.”<sup>14</sup>

Any definition of citizenship always involves choosing between conceptual alternatives, each including its own particular merits and limitations.<sup>15</sup>

Aihwa Ong and Renato Rosaldo are two scholars who have teased out the analytic frame of “cultural citizenship” to describe the process through which a subordinated group of people arrives at a common identity, establishes solidarity, and defines a common sense of interest.<sup>16</sup> Their use of this concept allows us to see the notion of citizenship rights as defined by the cultural foundations and practices of the people

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<sup>12</sup> Aleinikoff, T. Alexander, and Douglas Klumsmeyer. *Citizenship Today: Global Perspectives and Practices*. (Washington D.C.: Brookings Institution Press, 2001) 1.

<sup>13</sup> Bellamy, Richard. *Citizenship: A Very Short Introduction*. (New York: Oxford University Press, 2008) 1.

<sup>14</sup> Aleinikoff, T. Alexander, and Douglas Klumsmeyer. *Citizenship Today: Global Perspectives and Practices*. (Washington D.C.: Brookings Institution Press, 2001) 9.

<sup>15</sup> Aleinkoff, 9.

<sup>16</sup> Coll, Kathleen M. *Remaking Citizenship: Latina Immigrants & New American Politics*. (Stanford: Stanford University Press, 2010), 5.

themselves, in their own philosophical and political terms, rather than by legal constructs.<sup>17</sup> In actuality, in the U.S., certain groups of citizens though formally entitled to full legal political rights, are recognized neither as first-class citizens nor as contributors to the vernacular meanings of citizenship. As Ong argues, “cultural citizenship” is a “process by which rights are claimed and expanded...the manner in which groups claim cultural citizenship may very well affect a renegotiation of the basic social contract of America. So-called new citizens—people of color, recent immigrants, women, gays, and lesbians— are not only ‘imagining’ America: they are creating anew.”<sup>18</sup> Whatever the specific language or emphasis, however, the core values of citizenship are increasingly linked to the enjoyment of economic rights in the political community.<sup>19</sup>

### **INCLUSIONARY NOTIONS**

In 1949, in a series of lectures, the British Sociologist T.H. Marshall opened up a new debate over citizenship by producing a theory that owes a great deal to modern industrial experience.<sup>20</sup> Marshall analyzes the expansion of the rights of citizens as a process of incorporating new groups into society.<sup>21</sup> He details how, new rights make the possession of previous rights more effective, and the addition of such rights can bring

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<sup>17</sup> Coll, 5.

<sup>18</sup> Coll, 8.

<sup>19</sup> Benhabib, Seyla, and Judith Resnik. *Migration and Mobilities: Citizenship, Borders, and Gender*. (New York: New York University Press, 2009) 129.

<sup>20</sup> Barbalet, J. M. *Citizenship: Rights, Struggle, and Class Inequality* (Milton Keynes: Open University Press, 1988).

<sup>21</sup> Marshall, T.H., “Citizenship and Social Class”, in *Class, Citizenship, and Social Development: Essays by T.H. Marshall*, ed. Seymour Martin Lipset. (Chicago: University of Chicago Press, 1964), 92-93.



together groups previously separated by legal barriers or social customs.<sup>22</sup> Therefore, according to Marshall, each time citizenship is expanded it becomes stronger and richer.

“The expansion of citizenship is connected with the incorporation of new groups into the state, a concept that has only been touched upon so far but now has been introduced into the center of the citizenship debates.”<sup>23</sup> Simultaneously, argues Marshall, “the expansion of rights is part and parcel of the process of democratization, of the attainment by the lower classes, specifically the working class, of the modern rights originally fashioned by the upper classes for themselves.”<sup>24</sup>

Marshall, in his work entitled “Citizenship and Social Class”, discusses three components or aspects of citizenship: the civil (equality before the law), the political (the right to suffrage), and the social (the welfare state).<sup>25</sup> *Civil rights* are the rights necessary for individual freedom that became apparent in the eighteenth century.<sup>26</sup> *Political rights* originated in the nineteenth century and ensured the participation in the exercise of political power as for example, a voter, or representative.<sup>27</sup> Later, in the twentieth century, the *social rights* of citizenship emerged, which was Marshall’s original conceptual contribution to the theory of citizenship.<sup>28</sup> These rights are described by Marshall as, “the right to share to the fullest in social heritage and to live the life of a civilized being according to the standards prevailing in society.”<sup>29</sup> “Though the subject of some debate, Marshall’s rights-based framework is consistent with laudable aspects of

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<sup>22</sup> Shafir, Gershon. *The Citizenship Debates*. (Minneapolis, University of Minnesota Press, 1998) 13.

<sup>23</sup> Shafir, Gershon. *The Citizenship Debates*. (Minneapolis, University of Minnesota Press, 1998) 13.

<sup>24</sup> Shafir, 14.

<sup>25</sup> Roman, Ediberto. *Citizenship and Its Exclusions: A Classical, Constitutional, and Critical Race Critique*. (New York: New York University Press, 2010) 7.

<sup>26</sup> Marshall, T.H., “Citizenship and Social Class”, in *Class, Citizenship, and Social Development: Essays by T.H. Marshall*, ed. Seymour Martin Lipset. (Chicago: University of Chicago Press, 1964), 92-93.

<sup>27</sup> Marshall, T.H., 92-93.

<sup>28</sup> Marshall, T.H., 92-93.

<sup>29</sup> Shafir, Gershon. *The Citizenship Debates*. (Minneapolis, University of Minnesota Press, 1998) 14.

the classical construction of citizenship, and his framework is the starting point for most critiques of the concept.”<sup>30</sup>

“The strength of Marshall’s and the social democratic approach is that they go beyond the conventional idea that membership in a community is predominantly a political matter. Marshall’s theory is at once legal, political, and socioeconomic, and since it is also historical, it introduces into the study of citizenship the element of social change that was missing from the more one-dimensional and static normative approaches.”<sup>31</sup>

Three linked components of citizenship emerge from Political Scientist Richard Bellamy’s (2008) analysis: “membership of a democratic political community, the collective benefits and rights associated with membership, and the participation in the community’s political, economic, and social processes—all of which combine in different ways to establish a condition of civic equality.”<sup>32</sup> Membership or belonging, the first component outlined, focuses on who is a citizen, which also naturally determines who is not.<sup>33</sup> The second component, rights, is frequently seen as the defining criterion of citizenship.<sup>34</sup> Citizenship is considered to be the most basic of all rights, “the right to have rights.” The third component, participation, entails aspects such as voting, waged work, and partaking in social practices.<sup>35</sup> Bellamy sees citizenship as the combination and linking of membership, rights, and participation. He induces that through being a member of a political community and participating in the making of its collective life, individuals

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<sup>30</sup> Roman, Ediberto. *Citizenship and Its Exclusions: A Classical, Constitutional, and Critical Race Critique*. (New York: New York University Press, 2010) 7.

<sup>31</sup> Shafir, Gershon. *The Citizenship Debates*. (Minneapolis, University of Minnesota Press, 1998) 13.

<sup>32</sup> Bellamy, Richard. *Citizenship: A Very Short Introduction*. (New York: Oxford University Press, 2008) 12.

<sup>33</sup> Bellamy, 13.

<sup>34</sup> Bellamy, 13.

<sup>35</sup> Bellamy, 14.

enjoy rights to pursue their lives on fair terms with others.<sup>36</sup> And as a result of his analysis, he formulates the following definition of citizenship:

“Citizenship is a condition of civic equality. It consists of membership of a political community where all citizens can determine the terms of social cooperation on an equal basis. This status not only secures equal rights to the enjoyment of the collective goods provided by the political association but also involves equal duties to promote and sustain them- including the good of democratic citizenship itself.”<sup>37</sup>

Russell J. Dalton (2009) outlines four categories of citizenship that result in a “good” citizen: participation, autonomy, social order and solidarity. Participation is a prime criterion for defining citizenship. Beyond voting, participation includes being active in social, volunteer, and political organizations, and being involved in civil society. Autonomy, related to participation, implies that “good” citizens should be sufficiently informed about the government to exercise a participatory role.<sup>38</sup> The “good” citizen should participate in democratic deliberation and discuss politics with others, and ideally understand the views of others.<sup>39</sup> Social Order is the third category that represents the acceptance of state authority as part of citizenship. It entails obeying the law, not evading taxes, a willingness to serve in the military, and a commitment to reporting a crime one may have witnessed. And lastly, solidarity is a fourth category of citizenship that plays into the idea of social citizenship. This idea represents the belief that a “good” citizen includes the concern for other and offers support to those less fortunate than themselves.<sup>40</sup>

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<sup>36</sup> Bellamy, 14.

<sup>37</sup> Bellamy, 17.

<sup>38</sup> Dalton, Russel J., *The Good Citizen: How a Younger Generation is Reshaping American Politics*. (Washington D.C.: CQ Press, 2009) 25.

<sup>39</sup> Dalton, 25.

<sup>40</sup> Dalton, 27.

## **EXCLUSIONARY NOTIONS**

Ediberto Roman and Linda Bosniak agree that citizenship is commonly portrayed, and generally viewed, as the most desired of conditions and legal status an individual can attain, invoking the belief that citizens experience full inclusion in a society. Roman articulates that contemporary citizenship is a commonly held status throughout the world, including rights, duties, and civic identity; it is also considered to define the relationship between the individual and the state.<sup>41</sup>

Roman argues that few legal scholars until relatively recently, have explored the idea that there may have been ancient constructions of citizenship that endorsed different levels of membership in various societies. “Those who have engaged in thoughtful examinations of the full scope of the ancient writings have not examined the impact of levels of membership on the historical development of Western constructions of democracy.”<sup>42</sup> Roman strives to trace the classical construction of citizenship and the tension between members and outsiders, exploring how this phenomenon had its impact on the creation and evolution of citizenship in the United States. A construct that is universally associated with notions of equality among those within a society, Roman points out, also included an exclusionary side, which has not been adequately discussed.<sup>43</sup>

Citizenship, as previously discussed, entails aspects of full membership, belonging, and inclusion. Yet this membership has historically, been exclusive as well as misleading for those who do not fit within the unwritten requirements established by

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<sup>41</sup> Roman, Ediberto. *Citizenship and Its Exclusions: A Classical, Constitutional, and Critical Race Critique*. (New York: New York University Press, 2010) 5.

<sup>42</sup> Roman, 7.

<sup>43</sup> Roman, 7.

those with the status.<sup>44</sup> “Thus the paradoxical nature and dialectic of citizenship” states Ediberto Roman “embody both a norm of universal inclusion and one of exclusionary particularism.”<sup>45</sup> Therefore, the exclusionary aspect of the construct of citizenship becomes a central component of the construct, defining the insiders, defines the outsiders.<sup>46</sup> Consequently, the concept of citizenship implies a dialectic between the inclusion of a membership group and the exclusion of nonmembers of the group.<sup>47</sup>

Struggles that contest the meaning and substance of citizenship are crucial to its history and essential to the topic’s continued relevance.<sup>48</sup> Law Professor Linda Bosniak describes two ways we view citizenship: internally and externally. Internally, it is understood to “designate the nature and quality of relations among presumed members of an already established society,”<sup>49</sup> or more commonly explained as the inclusion and incorporation of “everyone.” The majority of scholarly work on citizenship has taken place within this inward-looking framework.<sup>50</sup>

There is also another approach to citizenship, which takes into account the community’s boundaries. Rather than focusing on the internal life of the community, this approach looks to its edges, and the way in which that community, often a nation-state, is constituted and maintained.<sup>51</sup> In normative terms, boundary-focused citizenship is understood to denote not only community belonging but also community exclusivity

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<sup>44</sup> Roman, 4.

<sup>45</sup> Roman, 4.

<sup>46</sup> Roman, 4.

<sup>47</sup> Heater, Derek. *Citizenship: The Civic Ideal in World History, Politics, and Education*. (Manchester University Press, 1990), 291.

<sup>48</sup> Aleinikoff, T. Alexander, and Douglas Klumsmeyer. *Citizenship Today: Global Perspectives and Practices*. (Washington D.C.: Brookings Institution Press, 2001) 9.

<sup>49</sup> Bosniak, Linda. *The Citizen and The Alien: Dilemmas of Contemporary Membership*. (Princeton: Princeton University Press, 2006) 2.

<sup>50</sup> Bosniak, 2.

<sup>51</sup> Bosniak, 2.

and closure.<sup>52</sup> Bosniak calls for a conversation between the inward-looking and boundary approaches to citizenship, with the purpose of highlighting the problems of inclusion and exclusion that are implicated by the concept.

Bosniak examines the contested meanings of citizenship that contribute to recent debates over “postnational interpretations” of citizenship. Bosniak argues that the common portrayal of citizenship as the most desired of conditions has created a habit of “citizenship romanticism” that tends to obscure the more pressing challenges that the concept poses.<sup>53</sup> “These challenges derive from citizenship’s basic ethical ambiguity;”<sup>54</sup> the contradiction between the conveyed state of belonging or inclusion that is premised on a conception of community that is bound and exclusive. “Citizenship as an ideal is understood to embody a commitment against subordination, but citizenship can also represent an axis of subordination itself.”<sup>55</sup> The divided nature of the concept of citizenship, according to Bosniak, also implicates core issues of political and social theory; it allows people to focus primarily on exclusionary aspects and questions of *who has it*.

“In the United States, as in other liberal democratic societies, status noncitizens are, in fact, not always and entirely outside the scope of those institutions and practices and experiences we call citizenship. Indeed, many of citizenship’s core attributes do not depend on formal citizenship status at all but are extended to individuals based on the facts of their personhood and national territorial presence.” The experiences of being a citizen and enjoying citizenship, it turns out, are not always aligned as a practical matter; status noncitizens are the subjects of what many call citizenship in a variety of contexts.”<sup>56</sup>

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<sup>52</sup> Bosniak, 2.

<sup>53</sup> Bosniak, 1.

<sup>54</sup> Bosniak, 1.

<sup>55</sup> Bosniak, 1.

<sup>56</sup> Bosniak, 3.

Linda Kerber agrees that the state is still defined by its borders. Inside those borders are citizens and subjects, legal permanent residents, refugees, and undocumented immigrants. “It has become essential to a state’s identity that it be able to distinguish between those who belong— and are vulnerable to taxation and conscription— and those who do not.”<sup>57</sup>

### **CITIZENSHIP AND MIGRATION**

Political Scientists Seyla Benhabib and Judith Resnik define citizenship in relation to migration. They look at the importance of mobility, together with the importance of place, as it results in questions of immigration and citizenship becoming both pressing and contested in countries around the world,<sup>58</sup> especially the United States. “A simplistic presumption is that citizens residing in a given nation-state are in a reciprocal relationship with that country, recognized as members entitled to rights, protection, material support and political loyalty. Noncitizens—lumped together into an undifferentiated whole—sit outside that circle of rights and obligations.”<sup>59</sup>

Central to the discussion of migration, is the concept of citizenship, which is defined as, “a legal, an economic, and a cultural event, denoting official recognition of a special relationship between a person and a country.”<sup>60</sup> Included in this political contract are obligations of protection as well as guarantees against deportation, expatriation, and denationalization. “Historically, citizenship has been transmitted or acquired through different methods, of which four— *jus soli*, *jus sanguinis*, a mix thereof, and

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<sup>57</sup> Benhabib, Seyla, and Judith Resnik. *Migration and Mobilities: Citizenship, Borders, and Gender*. (New York: New York University Press, 2009) 84.

<sup>58</sup> Benhabib and Resnik, 1.

<sup>59</sup> Benhabib and Resnik, 2.

<sup>60</sup> Benhabib and Resnik, 2.

naturalization— are common around the world.”<sup>61</sup> *Jus soli*, more commonly known as “birthright citizenship,” means that a person born within the borders of a state’s territory has the right to citizenship without any further inquiry.<sup>62</sup> *Jus sanguinis* bases the inheritance of citizenship rights on the citizenship status of one or both parent’s not territorial claims.<sup>63</sup> A third form combines these two concepts requiring that an individual be born in a given state and that either or both parents be citizens or long term legal residents.<sup>64</sup> The fourth, naturalization, is the acquisition of citizenship by migrant foreigners. The criteria for acquiring this status varies widely and can impose hurdles, such as years of residency, marriage to a national, demonstration of knowledge and/or commitment to the country one wishes to gain status in; and renunciation of an affiliation to another country (not all countries demand this).<sup>65</sup>

“The assumption that citizenship is a singular, bilateral relationship between the individual and the state is deeply embedded in our understanding of the concept”.<sup>66</sup> It is a model common to both classical Greek as well as modern nationalists thinking on the topic. If the nation-state completely satisfies the individual’s requirement for a political identity, then it would seem that there “can be neither need of nor room for the complications of other relationships for the enjoyment of rights, the discharge of duties and the expression of loyalty in the political sphere.”<sup>67</sup> Yet there are, and to a certain extent always have been, such complications. Therefore, unless we accept the validity of a more commodious and flexible definition of citizenship, we will be denying the

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<sup>61</sup> Benhabib and Resnik, 2.

<sup>62</sup> Benhabib and Resnik, 3.

<sup>63</sup> Benhabib and Resnik, 3.

<sup>64</sup> Benhabib and Resnik, 3.

<sup>65</sup> Benhabib and Resnik, 3.

<sup>66</sup> Heater, Derek. *What is Citizenship?* (Cambridge: Polity Press, 1999), 115.

<sup>67</sup> Heater, 115.



evidence of the concept's history, constricting its theoretical investigation, and inhibiting its practical development.

### **GLOBALIZATION AND NEW NOTIONS OF CITIZENSHIP**

Political Scientists Alexander Aleinikoff and Douglas Klumsmeyer in their examination of global practices and perspectives of citizenship, synthesize the work of Linda Bosniak as she deconstructs the notion of citizenship in relation to the nation-state. Most talk of citizenship, she asserts, has concerned two questions: who is entitled to enjoy citizenship, and what does citizenship entail for its holders?<sup>68</sup> But more often than not, most analysts tend to ignore another set of questions that are equally essential: where does citizenship already take place and where *should* it take place.<sup>69</sup> “The reason these questions have been largely disregarded is that citizenship has been conventionally assumed to be a national enterprise; it has been assumed to be an institution or a set of social practices situated squarely and necessarily within the political community of the nation-state. Given this assumption, there has not seemed to be much of anything to talk about.”<sup>70</sup>

In recent years, the presumption that citizenship is inherently related to the nation state has come under increasing challenge.<sup>71</sup> Scholars from a wide variety of disciplines have begun to acknowledge that citizenship is in fact, taking on non-national forms, and some political activists have promoted conceptions of citizenship that locate it beyond the

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<sup>68</sup> Aleinikoff, T. Alexander, and Douglas Klumsmeyer. *Citizenship Today: Global Perspectives and Practices*. (Washington D.C.: Brookings Institution Press, 2001), 237.

<sup>69</sup> Aleinikoff and Klumsmeyer, 237.

<sup>70</sup> Aleinikoff and Klumsmeyer, 237.

<sup>71</sup> Aleinikoff and Klumsmeyer, 237.

boundaries of the institutions of the state.<sup>72</sup> “The common theme in this emerging discourse is that exclusively nation-centered understandings of citizenship are unduly parochial in this period of intensive globalization. Citizenship is said to be increasingly denationalized with new forms of citizenship that exceed the national developing to replace it.”<sup>73</sup>

These new forms have been described in many ways; some have spoken of the emergence of *transnational citizenship*, others, have articulated notions of the development of *global citizenship*.<sup>74</sup> These emerging formulations have been commonly dismissed by conventional political thought, that hold the nation-state as the natural and therefore inevitable location of citizenship, and as a result these views of citizenship as outside the context of the state, have been ruled simply incoherent.<sup>75</sup> “Nevertheless, today it is undeniably a part of our political common sense to think of citizenship in national terms. Still does that mean that citizenship cannot possibly take on anything *other* than a national form in the current period, that it has not done so already, or that it should never do so?”<sup>76</sup>

Bosniak states that any debate over the merits of the idea of denationalizing citizenship is a debate about the meaning of citizenship first and foremost.<sup>77</sup> To assume the questions can be answered categorically is to assume that citizenship’s meaning is

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<sup>72</sup> Aleinikoff and Klumsmeyer, 237.

<sup>73</sup> Aleinikoff and Klumsmeyer, 238.

<sup>74</sup> Soysal, Yasemin Nuhoglu. *Limits of Citizenship: Migrants and Postnational Citizenship in Europe*. (Chicago: University of Chicago Press, 1994).

<sup>75</sup> Arendt, Hannah. *Men in Dark Times*. (New York: Harcourt, Brace and World, 1968).

<sup>76</sup> Aleinikoff, T. Alexander, and Douglas Klumsmeyer. *Citizenship Today: Global Perspectives and Practices*. (Washington D.C.: Brookings Institution Press, 2001), 238.

<sup>77</sup> Bosniak, Linda. “Citizenship Denationalized”. *Indiana Journal of Global Studies* 7(2) (2000): 447-510.

static, as T.H. Marshall so dutifully explained, when it fact, it is anything but fixed.<sup>78</sup> “Citizenship is one of those core political concepts whose conventional meaning has been subject to constant struggle and renegotiation. Much of what is struggled *over* are questions of how far the term properly extends, in what circumstances it is appropriately employed, and who is entitled to claim it.”<sup>79</sup>

“The various articulations of the denationalization idea—postnational citizenship, transnational citizenship, and global citizenship—are not necessarily interchangeable, and none of them is defined in any clear way in the emerging literature.”<sup>80</sup> The common use of these terms tend not to refer to an alleged collapse of the nation-state system as to a specific moment in time when national forms of public life have plainly lost their assumed authority and predominance.<sup>81</sup> Bosniak offers a specific approach to the denationalization concept, “as an idea that expresses the claim that the nation-state is becoming decentered as the locus of our collective institutional and affiliative lives.”<sup>82</sup>

Several theorists of citizenship have proposed organizing schemas to help make sense of the increasingly difficult citizenship debate. Linda Bosniak reduces these formulations down to four understandings of citizenship, which provide a very beneficial means to interpret citizenship in relation to immigration. Citizenship, firstly, is commonly used in a legal sense to define the formal status of membership in a political community. Secondly, in returning to the work of T.H. Marshall, the term is used to refer to the individual’s possession and enjoyment of fundamental rights in society. In the civic

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<sup>78</sup> Aleinikoff, T. Alexander, and Douglas Klumsmeyer. *Citizenship Today: Global Perspectives and Practices*. (Washington D.C.: Brookings Institution Press, 2001), 238.

<sup>79</sup> Aleinikoff and Klumsmeyer, 239.

<sup>80</sup> Aleinikoff and Klumsmeyer, 240.

<sup>81</sup> Aleinikoff and Klumsmeyer, 240.

<sup>82</sup> Bosniak, Linda. “Citizenship Denationalized”, *Indiana Journal of Global Studies* 7(2) (2000): 447-510.

republican tradition, citizenship is the state of being actively involved in the life of a polity. And lastly, in cultural terms, the phrase is invoked to refer to an experience of identity and solidarity that a person maintains in collective or public life.<sup>83</sup>

Because the concept of citizenship is subject to various understandings, no single empirical answer is available to the question of whether citizenship has begun to take a “postnational” form. Bosniak does not argue that citizenship has in fact become “postnational,” however; she does articulate a just case. Her position is that “ a reasonable case can be made that all the various practices and experiences that we conventionally associate with citizenship do, in some respects, exceed the boundaries and jurisdiction of the territorial nation-state. ”<sup>84</sup>

The postnationality claim, she insists, is more convincing when citizenship is understood as the enjoyment of certain rights. The claim seems possible here because the various rights associated with citizenship in this tradition, are no longer exclusively guaranteed at the nation-state level. “The international human rights regimes that have taken shape in the post-World War II period are designed to implement standards for the treatment of individuals by states. These standards, which encompass civil, political, social, and cultural rights, serve as an alternative source of rights, one that transcends the jurisdiction of individual nation-states.”<sup>85</sup> Naturally, there are limits to the human rights system, but it remains true that the rights commonly associated with citizenship are no

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<sup>83</sup> Aleinikoff, T. Alexander, and Douglas Klumsmeyer. *Citizenship Today: Global Perspectives and Practices*. (Washington D.C.: Brookings Institution Press, 2001), 241.

<sup>84</sup> Aleinikoff and Klumsmeyer, 241.

<sup>85</sup> Aleinikoff and Klumsmeyer, 242.

longer entirely constrained by nation-state boundaries, and according to Bosniak, it seems reasonable to describe this development as an incipient form of postnational citizenship.<sup>86</sup>

The claim that citizenship is becoming postnational is also convincing when citizenship is approached as a form of political activity. “Increasing numbers of people are engaged in democratic political practices across national boundaries in the form of transnational social movements, including those of environmentalists, feminists, human rights workers, and trade unions.”<sup>87</sup> Some no doubt argue that such activity cannot be described in the language of citizenship, “since citizenship can be meaningfully practiced only within a distinct institutional context: that of the political community, by which is meant a formal, organized, territorial based community with some degree of sovereign self-governance.”<sup>88</sup> In response to such criticism, Bosniak draws on the rich, antistatist conception of the political— notions that urge the acknowledgement of citizenship and its practices in the economy, and various locations such as, the workplace, the neighborhood, professional associations, and even in the family.<sup>89</sup> “In this understanding, citizenship is practiced in the realm of civil society and not merely the state, often by way of the ‘new social movements.’”<sup>90</sup>

Postnational citizenship takes this approach a little further by examining political practices in the domain of what some have begun to call “global civil society.”

“There seems to be no a priori reason that such activity cannot be described in the language of citizenship. Furthermore, transnational political activity arguably fulfills the normative criteria of republican and participatory democratic conceptions of citizenship well. It is robust and

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<sup>86</sup> Bosniak, Linda. “Citizenship Denationalized”, *Indiana Journal of Global Studies* 7(2) (2000): 447-510.

<sup>87</sup> Aleinikoff, T. Alexander, and Douglas Klumsmeyer. *Citizenship Today: Global Perspectives and Practices*. (Washington D.C.: Brookings Institution Press, 2001), 243..

<sup>88</sup> Aleinikoff and Klumsmeyer, 243.

<sup>89</sup> Bosniak, Linda. “Citizenship Denationalized”, *Indiana Journal of Global Studies* 7(2) (2000): 447-510.

<sup>90</sup> Aleinikoff, T. Alexander, and Douglas Klumsmeyer. *Citizenship Today: Global Perspectives and Practices*. (Washington D.C.: Brookings Institution Press, 2001), 243.

engaged and reflects a ‘commitment to the common good and active participation in public affairs’. The difference is simply that the notions of common good, as well as public domain involved, are drawn more expansively than they usually are within the tradition.”<sup>91</sup>

With respect to citizenship in regards to its identity and solidarity aspects, Linda Basch and Nina Schiller have argued that people maintain crucial identities and commitments that transcend national boundaries.<sup>92</sup> “This includes not merely the identifications and solidarities that may develop among members of transnational social movements, but also the experience of migrants who live in various diasporic and other **cross-national communities**.”<sup>93</sup>

The overall argument Bosniak sets out to make is that citizenship does not have an empirical nature or objective meaning.<sup>94</sup> The term is used to demonstrate a variety of institutions and social and political practices in ways that are sometimes in opposition of one another. To determine whether citizenship is indeed becoming denationalized, as some scholars and activists claim, Aleinikoff and Klumsmeyer suggest we ought to determine whether the practices and institutions standardly designated by the term exceed the bounds of the nation-state. “By this measure, the denationalization claim seems entirely plausible, although...it varies in its power and persuasiveness according to the discourse of citizenship at issue.”<sup>95</sup>

Thus the question: Is citizenship beyond the nation something worth aspiring to? In some cases, it is easy enough to argue that in certain circumstances “a decoupling of

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<sup>91</sup> Aleinikoff and Klumsmeyer, 243.

<sup>92</sup> Basch, Linda, Nina Glick Schiller, and Cristina Szanton Blanc. *Nations Unbound: Transnational Projects, Postcolonial Predicaments, and Deterritorialized Nation-States*. (Toronto: University of Toronto Press, 1994).

<sup>93</sup> Aleinikoff, T. Alexander, and Douglas Klumsmeyer. *Citizenship Today: Global Perspectives and Practices*. (Washington D.C.: Brookings Institution Press, 2001), 243.

<sup>94</sup> Aleinikoff and Klumsmeyer, 243.

<sup>95</sup> Aleinikoff and Klumsmeyer, 244.

citizenship from the nation-state will support principles of social justice and democratic equality (however precisely these are defined).”<sup>96</sup> From the perspective of a person concerned with ensuring human rights, it is undeniably a good thing that those rights commonly associated with citizenship are being guaranteed at the international level, because naturally, it means that more people are likely to “enjoy more human rights protection more of the time than under an exclusively national rights regime.”<sup>97</sup>

“Citizenship as status, as rights, and political activity are all fundamentally grounded in experiences of collective identification with and attachment to others...Further, it is only in this context that political and legal theorists have explicitly and systematically addressed the question of where citizenship should be located.”<sup>98</sup> Throughout history, the issue of the location of citizenship commitments and identities has been looked at in the context of the constant debate between supporters of cosmopolitanism and patriotism.<sup>99</sup> The place to begin is with the fact that nationalism is deeply exclusionary.

“The very act of normatively privileging identification with and solidarity toward fellow nationals presumes the existence of a class of non-national others who are necessarily excluded from the domain of normative concern. Some outsiders are located outside the national territory: some reside within it, as aliens or foreigners. In either case, the question arises as to why the people with whom we happen to share formal nation-state membership and territory should be the objects of our identification and solidarity more than others with whom we are joined through other affiliative ties.”<sup>100</sup>

Ultimately, the question worth discussing is whether or not citizenship is indeed becoming denationalized or if the idea of citizenship is so closely tied to the hegemony of

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<sup>96</sup> Aleinikoff and Klumsmeyer, 245.

<sup>97</sup> Aleinikoff and Klumsmeyer, 245.

<sup>98</sup> Aleinikoff and Klumsmeyer, 247.

<sup>99</sup> Aleinikoff and Klumsmeyer, 247.

<sup>100</sup> Aleinikoff and Klumsmeyer, 248.

nation-centered thinking that it will resist redefinition in denationalized terms. “In that case, an alternative rhetorical strategy would be to argue not that citizenship is moving beyond the nation-state, but that we are moving *beyond citizenship* altogether. For now, however, the idea of citizenship is sufficiently flexible and open and resonant to make its refashioning worth the fight.”<sup>101</sup>

Bosniak concludes that if any lesson can be drawn from this discussion, it is this: “citizenship is as much an idea as it is a set of institutions and social practices. Paying attention to how we think about citizenship can cast new and useful light on the institutions and practices that the term is conventionally used to designate. Evolving conceptions of the idea both reflect and help to shape the political and social worlds we inhabit. All our efforts to redescribe citizenship matter deeply; there is a great deal at stake.”<sup>102</sup>

### *SYNTHESIS*

By presenting a variety of literature, I have sought to show how citizenship has over time, been described both in terms of inclusionary and exclusionary notions, with the hope of identifying the gap in the research about exclusionary notions that demands further study. Over the next two chapters, I will take these inclusionary and exclusionary concepts and apply their characteristics to two U.S. policies in hopes of highlighting where Mexican immigrants and Mexican Americans stand in relation to citizenship practices in the U.S.

Important themes begin to emerge from the work of scholars outlined in the inclusionary section. Frequently seen as the defining criterion of citizenship, rights, as

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<sup>101</sup> Aleinikoff and Klumsmeyer, 249.

<sup>102</sup> Aleinikoff and Klumsmeyer, 249.



described by both T.H. Marshall and Richard Bellamy plays an influential role in the citizenship debate. This notion of “the right to have rights” can also be described in terms of exclusion and who does not have “the right to have rights”, like the Mexican immigrants and the Mexican Americans described in the next two chapters.

Membership or belonging is another characteristic used by Bellamy to describe U.S. citizenship. By being a member, one receives the collective benefits and rights that come with the status, but what does being a member actually entail? Does it include living, working, and participating in civil society? If these are the characteristics wouldn't the Mexican immigrants and Mexican Americans documented in the upcoming chapters be considered citizens?

Participation as well, is an inclusionary notion used by both Bellamy and Russell J. Dalton to define citizenship in the United States. It includes being active in social and volunteer organizations, voting, waged labor, and being involved in civil society. However, these notions that have become crucial to the United States' understanding of citizenship practices, are being challenged and redefined by Mexican immigrants and Mexican Americans living in the U.S., through their role in labor, education, civic participation, and community involvement. Other categories such as autonomy, social order, and solidarity as shown by Dalton, also include characteristics vital to understanding inclusionary and exclusionary notions of citizenship. I feel by applying these categories as a framework to the two case studies, it becomes increasingly clear that immigrants documented or not, fit directly into some is not all of these inclusionary categories while still being excluded and denied recognition of their contributions.

Migration and new notions of citizenship as well, play a key role in interpreting the following case studies. Because of the consistent flow of people from Mexico to the U.S., citizenship is constantly being challenged and reshaped with new forms emerging that locate it beyond the nation-state. It is important to acknowledge the people in the next two chapters who are being included and excluded from formal citizenship status and how this process is being negotiated by various actors, for example, the nation-state, the people themselves, employers, labor organizations, university officials, and various immigrant rights groups.

## CHAPTER 3

### **MEXICANS IN THE U.S.: A CASE STUDY OF SELECTIVE EXCLUSION**

European societies have followed the pattern set by the ancient Greek world concerning the citizenship construct. From the classical Greek period to the Renaissance, influential European theorists along with politicians have acclaimed the virtues and necessity of equal citizenship within a democracy. “Though the dominant discourse focused on equality, the practice of granting citizenship was far more exclusionary. The pattern was practiced with zeal in the United States’ development of the construct.”<sup>103</sup> In fact, very little of the discourse on citizenship questions the concept of equality, let alone accepts that there exist differentiated levels of membership, or subordinated social or ethnic groups.<sup>104</sup>

“American citizenship has unfortunately been used as a tool for including Caucasians and excluding African Americans, indigenous people, and other non-Whites. For instance, the legal doctrines created over a century ago to maintain African American slave status and to deport and exclude legal immigrants still maintain inferior citizenship status for millions of United States citizens, such as the inhabitants of this country’s island colonies and the indigenous people of the land.”<sup>105</sup>

The history of the Mexican and Mexican American communities highlights the possibility that not all members within the United States are considered equal, despite recognition of their formal membership, citizenship. Undeniably, Mexican Americans are a group whose treatment under the law is suspect; Their theoretical inclusion as

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<sup>103</sup> Roman, Ediberto. *Citizenship and Its Exclusions: A Classical, Constitutional, and Critical Race Critique*. (New York: New York University Press, 2010) 83.

<sup>104</sup> Roman, 83.

<sup>105</sup> Roman, 83.

subordinates arose during the same period as the first use of the planetary powers doctrine and was similarly based on racist and nativist perspectives.<sup>106</sup>

“Latino and Latina immigrant workers have long experienced a revolving door of immigration in the United States—reminding them that in times of economic prosperity, legal and undocumented entrants are welcomed, but during times of economic instability or perceived political upheaval, Mexican immigrants as well as U.S. citizens of Mexican descent are unwelcomed.”<sup>107</sup> U.S. citizens of Mexican descent have often been victimized by deportation efforts aimed at Mexican immigrant workers. For example, during the deportation raids associated with Operation Wetback, Mexican American and other Hispanic American citizens were also arrested; this phenomenon has left Mexican American U.S. citizens in a “constant status resembling both alien and citizen, and this paradox is far from new for the Mexican descendents residing in the United States.”<sup>108</sup>

Mexican workers have often been invited to become part of U.S. society when domestic economic demand called for such efforts. When the circumstances changed, their status as outsiders became all too prominent. “The treatment of Mexican immigrants is explored here to highlight the almost schizophrenic way this society has treated this immigrant group—at times inviting them to join us only to throw them out when the circumstances changed.”<sup>109</sup> As Linda Bosniak has looked at in depth, the treatment of immigrants highlights the flows of borders but is also inconsistent with “the liberal ethos of democratic inclusiveness.”<sup>110</sup> By looking at the history of such a practice, a tension is

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<sup>106</sup> Roman, 131.

<sup>107</sup> Roman, 132.

<sup>108</sup> Roman, 133.

<sup>109</sup> Roman, 133.

<sup>110</sup> Roman, 133.

illustrated between the democratic ethos of inclusion, paired with the recurrent economic demands, against the fears of foreign influx into U.S. society.<sup>111</sup>

Looking back to the mid-1800's, American society welcomed Mexicans for a variety of reasons, and their importance to the workforce increased. As David Gutierrez explains, by the 1920's, Mexican immigrants and Mexican-American workers dominated the unskilled and semi-skilled sectors of the regional labor market.<sup>112</sup> During this period of economic growth, individuals of Mexican descent were welcomed, but as soon as the economy took a turn, these vulnerable inhabitants were attacked and ousted.<sup>113</sup> "Along with the immigrants, U.S. citizens of Mexican descent were also victims of American fickleness, and many were either made to feel unwelcome or were in fact repatriated, despite their legal status as U.S. citizens."<sup>114</sup>

The domestic policy of opening the U.S. to Mexican immigrant workers and then repatriating them along with U.S. citizens of Mexican descent was repeated throughout the twentieth century. Compelling examples can be seen through examining the guest worker program from 1917-1921 and the Bracero Program that lasted from 1942-1964. As a result of the Bracero Program, many Mexicans moved north within Mexico, closer to the U.S. border. However, as the United States terminated the Bracero Program, entry was locked. As a result, immigration issues became pressing as the United States did not want Mexicans in the country, but many Mexican still crossed the border unlawfully.<sup>115</sup>

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<sup>111</sup> Roman, 133.

<sup>112</sup> Gutierrez, David G. *Walls and Mirrors: Mexican Americans, Mexican Immigrants, and the Politics of Ethnicity* (University of California Press 1995), 19.

<sup>113</sup> Gutierrez, 19.

<sup>114</sup> Roman, Ediberto. *Citizenship and Its Exclusions: A Classical, Constitutional, and Critical Race Critique*. (New York: New York University Press, 2010) 133.

<sup>115</sup> Roman, 136.

In reference to the previously stated example, during the Cold War era and its resulting xenophobia, the United States created “Operation Wetback” to oversee the presence of Mexicans in the United States. This program occurred during a period of heightened “fear” of noncitizens.<sup>116</sup>

“As in the Cold War era during the 1950s, the most recent tension between labor demands and governmental reactions to Mexican and other Latino immigrants arose during the beginning of the twenty-first century. Shortly after the terrorist attacks of September 11, 2001, an increased fear of outsiders resulted in increased attention to our borders and consequently in increased scrutiny of this country’s immigration policy. With the renewed fear of the foreigner highlighted by the non-American backgrounds of the perpetrators of the 9/11 attacks, more and more pundits and politicians began using emotionally charged terms and catch phrases such as the ‘immigration invasion’.”<sup>117</sup>

Roman asks why such outlandish attacks against the people of Latino ancestry have not provoked mass outrage and scorn. “Why in this day and age are such shameful attacks not only rejected but in many respects either quietly or publicly applauded? Are Latino and Latina citizens of the United States, along with their families, which are often from the countries where the attacks are focused, less deserving of respect? Are these people less deserving of dignity? If racist statements are made against Asians or Black people, would they become acceptable if the focus of the particular attacks is not citizens?”<sup>118</sup>

Roman put it perfectly when he asked, “Is it not time for Latino people, other people of color, and like minded Whites to call for an end to the intolerably racist and largely inaccurate attacks? More important to point out, the tenor of current debate confuses the masses, conflates legitimate concerns over the impact of immigration on

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<sup>116</sup> Garcia, 229-231

<sup>117</sup> Roman, Ediberto. *Citizenship and Its Exclusions: A Classical, Constitutional, and Critical Race Critique*. (New York: New York University Press, 2010) 136.

<sup>118</sup> Oppenheimer, Andres. “Time to Hit Back Against Anti-Latino Bigotry,” *Miami Herald*, July 22, 2007, available at <http://www.miamiherald.com/421/v-print/story/178206.html>

local and state economies, and unfairly polarizes both sides of the immigration debate.”<sup>119</sup> The history of subordinating would-be citizens within a democracy is related directly to the larger theme of the lack of coherence to this country’s decisions concerning the appropriate measure for membership.<sup>120</sup> The unfounded attacks against people of Latino ancestry have led to a demonization of this group and invoked a marker or stigma of presumptive “illegal” immigrant.<sup>121</sup> “The psychological impact of such stigma is profound and must be addressed and rectified”.<sup>122</sup>

### **THE BRACERO PROGRAM**

In order to truly understand the nature of citizenship it is crucial to shed light on contemporary examples of programs that sought to bring about changes to what it means to be a U.S. citizen. There have been few attempts to expand, amend, or redefine citizenship in the United States, to be more inclusive of all the people with whom the status has never been extended to. One such program, granted legal status for migrant workers, on a temporary basis, when it was economically in the best interest of the U.S., and took it away when economic tides turned. These individuals the majority who came from Mexico were either deported back to their country of origin, or left feeling isolated and criminalized in the country they had began to call home.

Mexican labor migration to the United States has ebbed and flowed throughout history because of the dialectical process of attraction and repulsion.<sup>123</sup> Since World War

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<sup>119</sup> Roman, Ediberto. *Citizenship and Its Exclusions: A Classical, Constitutional, and Critical Race Critique*. (New York: New York University Press, 2010) 144.

<sup>120</sup> Roman, 145.

<sup>121</sup> Roman, 145.

<sup>122</sup> Roman, 145.

<sup>123</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bacero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), XXXIII.

I, Mexicans, Mark Reisler has written, are “always the laborer, never the citizen.”<sup>124</sup> This central contradiction has continually unfolded in patterns of Mexican labor recruitment and deportation.<sup>125</sup> The first mass migration from Mexico was provoked by the push of the Mexican Revolution (1910) and the multisided civil war, “which displaced hundreds of thousands but was not fully codified into a well-defined state sanctioned process until WWI. On the US side, the demand for labor to fill the gaps left by men leaving to fight in the war effort led to the development of the first Bracero era.”<sup>126</sup> The Bracero Program is one of the most well-know examples of Mexican immigration to the U.S. for the purpose of labor; however, the relationship between the two countries with regards to labor precedes the contract labor program. In actuality, it was a pre-existing pattern of Mexican migration for the purpose of labor that actually prompted the creation of the program itself.<sup>127</sup>

Before the United States created the Border Patrol in 1924, citizens in Mexico and the United States were able to move freely between the two countries without difficulty.<sup>128</sup> Mexico was not subject to the country quotas finally established in the National Origins Act that controlled immigration in the United States before 1965, and Mexican immigration reached significant proportions during the 19<sup>th</sup> and early 20<sup>th</sup> century.<sup>129</sup> “These Mexican migrants compensated for the labor shortages caused by the restrictions on immigrants from Europe and Asia. More importantly, for understanding the Bracero

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<sup>124</sup> Mize, XXXIII.

<sup>125</sup> Mize, XXXIII.

<sup>126</sup> Mize, XXXIII.

<sup>127</sup> Morgan, Kristi L. "Evaluating Guest Worker Programs in the U.S.: A Comparison of the Bracero Program and President Bush's Proposed Immigration Reform Plan." *Berkeley La Raza Law Journal* 15.2 (2004): 126.

<sup>128</sup> Samora, Julian & Patricia Vandel Simon, “A HISTORY OF THE MEXICAN AMERICAN PEOPLE” 136 (1977).

<sup>129</sup> King, Desmond. “MAKING AMERICANS: IMMIGRATION, RACE, AND THE ORIGINS OF THE DIVERSE DEMOCRACY” 227-35 (2000).



Program, they mitigated the labor shortage caused by America's involvement in WWI. Simply put, Mexican immigrants became a source of valuable, cheap labor."<sup>130</sup>

The United States government, and in particular the Herbert Hoover administration, recognized the unique relationship between Mexico and the United States that facilitated a northward labor migration.<sup>131</sup> Hoover, a member of the cabinet as Food Administrator during the first Bracero era, was one of the politicians who encouraged a policy of recruiting Mexican immigrants to fill United States labor shortages. He called for unrestricted migration from Mexico; he felt the US government should lift restrictions that would hinder long-term and sustained labor migration. "However all that changed with the onset of the Great Depression, which put an end to economic growth."<sup>132</sup>

"The first scapegoat identified by US citizens and the Hoover Administration was the so-called horde of unwanted Mexican laborers who were said to be taking jobs from 'real' Americans."<sup>133</sup> When the Great Depression plagued the United States, Mexican immigrants began to pay a price for the quota exemptions and free migration they had enjoyed.<sup>134</sup> During this period, large numbers of people were unemployed and after 1935 were aided, at least in part, by a public welfare system.<sup>135</sup> When officials in cities that housed large immigrant populations decided that it would be cheaper to send Mexican immigrants back to Mexico rather than attempt to support them with social welfare, they

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<sup>130</sup> King, 231.

<sup>131</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bacero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), XXXIV.

<sup>132</sup> Mize, XXXV.

<sup>133</sup> Mize, XXXV.

<sup>134</sup> Morgan, Kristi L. "Evaluating Guest Worker Programs in the U.S.: A Comparison of the Bracero Program and President Bush's Proposed Immigration Reform Plan." *Berkeley La Raza Law Journal* 15.2 (2004): 126.

<sup>135</sup> Samora, Julian & Patricia Vandel Simon, "A HISTORY OF THE MEXICAN AMERICAN PEOPLE" 136 (1977).

urged the federal government to establish a system of repatriation.<sup>136</sup> Hundreds of thousands of Mexican immigrants and Mexican-American citizens were sent back, and immigration from Mexico virtually ceased during the 1930s.<sup>137</sup>

“The US embarked upon its largest repatriation campaign ever to be experienced by an immigrant group with little to no legal precedent and relative impunity... Mexicans regardless of their legal status were rounded up in the major destination points such as Los Angeles, El Paso, Detroit, Chicago, and all points in between. The repatriation campaigns led to the forced and voluntary removal of 1 to 2 million Mexicanos, and the nativist sentiment had found a new target: the Mexican population residing in the US.”<sup>138</sup>

The same migrants that had been so actively encouraged to work in the US and to establish long-term residency under Hoover, were then forced to leave when the economy took a downturn. Mexicans, regardless of citizenship status were targeted to leave the country and were first to blame for the emerging economic woes.<sup>139</sup> “The mass repatriation of Mexicans made it perfectly clear to all that their status and rights in the US would be tenuous during bust times, essential during boom times, and eminently politicized at all times. Nowhere is this dialectic more prominently on display than during the period of the Bracero Program, 1942-1964, and Operation Wetback.”<sup>140</sup>

### **ENTER BRACEROS**

Early in 1940, vegetable and cotton growers in California, Texas, and Arizona raised alarm about impending labor shortages. Similar to concern raised in the post WW1 period, farm employers in several Southwestern states in 1941 formally requested

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<sup>136</sup> Samora, 137.

<sup>137</sup> Samora, 137.

<sup>138</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bacero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), XXXV.

<sup>139</sup> Mize, XXXV.

<sup>140</sup> Mize, XXXV.

permission to import Mexican workers to cultivate and harvest crops, however, all requests were denied.<sup>141</sup> The following year, with the United States entrance into WWII, the official attitude toward Mexican contract labor began to change abruptly. Informal negotiations with Mexico had been ongoing, but on April 4, 1942, the two countries entered into a bilateral agreement upon which the wartime Bracero Program was based.<sup>142</sup>

Resistant at first, Mexican President Manuel Avila Camacho (1940-1946) agreed to negotiate once he realized the potential of the program. “Not only would the Braceros be Mexico’s contribution to the war effort; the program also enabled his administration to reframe the independent northward exodus of hundreds of men to Mexico’s domestic and diplomatic benefit.”<sup>143</sup>

The compromise that was worked out in 1942 served as the blueprint for subsequent agreements. These agreements established that Braceros were not to be paid less than domestic employees doing the same work, and not less than thirty cents an hour.<sup>144</sup> In addition, Braceros were to be permitted to elect representatives to discuss complaints with their employers, as long as these discussions did not involve attempts to upgrade the terms of the contract, which were non-negotiable.<sup>145</sup> Ultimately, Mexico allowed only men and those over the age of eighteen to join the program. The bilateral agreement guaranteed that those chosen would meet physical standards for farm-work, live in sanitary housing, have access to medical care, have paid roundtrip transportation (guaranteed under Mexican law), and be paid the prevailing wage for the crops they picked (guarantees not accorded

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<sup>141</sup> Halsell, Grace. *The Illegals*. (New York: Stein and Day, 1978), 8.

<sup>142</sup> Calavita, Kitty. *Inside the State: The Bracero Program, Immigration, and The I.N.S.* (New York: Quid Pro Books, 1992), 20.

<sup>143</sup> Cohen, Deborah. *BRACEROS: Migrant Citizens and Transnational Subjects in the Postwar United States and Mexico*. (Chapel Hill: The University of North Carolina Press, 2011), 22.

<sup>144</sup> Poulantzas, Nicos. 1969. “The Problem of the Capitalist State.” *New Left Review*, Vol.58 (Nov-Dec): 67.

<sup>145</sup> Calavita, Kitty. *Inside the State: The Bracero Program, Immigration, and The I.N.S.* (New York: Quid Pro Books, 1992), 20.

to U.S. domestic farm workers).<sup>146</sup> Negotiators rejected a proposal to allow wives and children to accompany male migrant workers, in fear that it would encourage permanent emigration.

On September 29, 1942, five hundred farm workers from different parts of Mexico arrived in Stockton, California. Brought in by the United States government and delivered to California growers, these Mexican workers were the first chapter of a wartime emergency program designed to fill the declared labor shortage in agriculture.<sup>147</sup> “Over the next twenty-two years, in what turned out to be the largest foreign worker program in U.S. history, five million ‘Braceros’ were contracted to growers and ranchers in twenty-four states.”<sup>148</sup> The term “Bracero,” translated as “arm-man,” describes the function these Braceros were to play in the agricultural economy.

“The Bracero Program was born and raised on administrative powers, not just power in the INS but of all government agencies that participated in Bracero operations. What came to be called the Bracero Program was in fact a series of programs initiated by administrative fiat, subsequently endorsed by Congress, and kept alive by executive agreement whenever foreign relations or domestic politics threatened their demise.”<sup>149</sup>

The current, almost total, reliance by the United States on Mexican nationals (legal, undocumented, and contracted) to fulfill agriculture jobs can be traced back to its origins in the Bracero Program.

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<sup>146</sup> Cohen, Deborah. BRACEROS: Migrant Citizens and Transnational Subjects in the Postwar United States and Mexico. (Chapel Hill: The University of North Carolina Press, 2011), 22.

<sup>147</sup> Calavita, Kitty. Inside the State: The Bracero Program, Immigration, and The I.N.S. (New York: Quid Pro Books, 1992), 1.

<sup>148</sup> Calavita, 1.

<sup>149</sup> Calavita, 1.

## **THE UNOFFICIAL PHASES OF THE BRACERO PROGRAM**

The Bracero program had three unofficial phases, each with varying conditions: 1942-1947 (World War II), 1948-1951 (interim), and 1951-1964 (Korean War and beyond).<sup>150</sup> The first phase was marked by significant Mexican government input into the operations of the program, and a true bargaining position between the two governments in the bilateral labor agreement.<sup>151</sup> During the first phase, men were recruited under the bilateral agreement that operated initially under the auspices of the 1917 Immigration law and then Public Law 45. The U.S. government was the Bracero's employer of record and mediated between U.S. growers and the Mexican government.<sup>152</sup> This measure was intended to anticipate problems that earlier migrants had faced. This era was marked by a higher degree of cooperation between the two governments, but this positive relationship was not extended to the treatment and fulfillment of promises to the workers.

The second phase operated under a series of United States executive orders in the place of an international agreement. This occurred because the Mexican government refused to enter into another agreement until the U.S. government acknowledged certain problems and remedied them. Migrants, still coming, worked directly with growers without U.S. governmental oversight; and in turn, the number of complaints increased dramatically.<sup>153</sup> This phase constituted a shift in policy from mass legalization to mass repatriation.<sup>154</sup> Approaches like Operation Wetback, to be discussed later in depth,

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<sup>150</sup> Cohen, Deborah. BRACEROS: Migrant Citizens and Transnational Subjects in the Postwar United States and Mexico. (Chapel Hill: The University of North Carolina Press, 2011), 22.

<sup>151</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bracero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), 31.

<sup>152</sup> Cohen, Deborah. BRACEROS: Migrant Citizens and Transnational Subjects in the Postwar United States and Mexico. (Chapel Hill: The University of North Carolina Press, 2011), 23.

<sup>153</sup> Cohen, 23.

<sup>154</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bracero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), 32.

represented a serious breakdown in bilateral relations and the great lengths at which the U.S. government committed itself

“to both securing a workforce for US growers and dealing with ‘illegal invasion’. Rather than putting a stop to illegal migration, the INS agents who found undocumented workers were authorized to contract or legalize them as Braceros at the US work sites where they were already working. The bureaucratic regulations of the Bracero Program were applied *ex post facto* to legalize illegal workers.”<sup>155</sup>

Legalization was the process by which undocumented Mexicans who had been in the United States for a limited number of weeks were given Bracero contracts, usually to work with the employer where they were already currently employed, without the worker having to return to Mexico and undergo the normal screening process.<sup>156</sup>

The third phase began with the Korean War and a subsequent tightening of the United States labor market. As a result, it brought the U.S. government back to the negotiating table and allowed for the Mexican Government to re-impose certain conditions, in particular, the condition that the U.S. stand in as the Bracero’s official employer.<sup>157</sup> This final phase represented both the program’s mass scale along with the contradictions that eventually led to its demise: “The principal contradiction was between the desire for immigrants as a source of labor and the abhorrence of immigrants by the Anglo population.”<sup>158</sup> Of the total contracts issued during the lifespan of the program, approximately 72 per cent were issued in this third phase between 1955 and 1964.<sup>159</sup>

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<sup>155</sup> Mize, 32.

<sup>156</sup> Mize, 32.

<sup>157</sup> Cohen, Deborah. BRACEROS: Migrant Citizens and Transnational Subjects in the Postwar United States and Mexico. (Chapel Hill: The University of North Carolina Press, 2011), 22.

<sup>158</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bacero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), 32.

<sup>159</sup> Garcia, Juan Ramon. *The Mass Deportations of Mexican American Undocumented Workers in 1954*. (Greenwood Press 1980), 57-59.

Each phase had different contract lengths. During the first phase, men signed six-month contracts, but in the second phase, when competition for jobs was at its peak, contracts were only authorized for forty-five days. With such a limited amount of time, Braceros often barely earned enough to make the trip worthwhile. Growers attempted to suppress complaints and delay the programs' impending demise by authorizing contracts for a period of eighteen months.

### **LIFE AS A BRACERO**

“The Bracero Program was the first and largest formal guest-worker program initiated by the US government at the behest of the agribusiness and railroad sectors. It was clearly a message to the Mexican government and its people that Mexicans were wanted in the US to do the dirty and difficult work that US citizen's abstained from doing themselves. At the very time the program was in full gear, the US government initiated a border enforcement and repatriation program, dubiously dubbed 'Operation Wetback', which sent the contradictory message that the US in fact did not want Mexicans toiling on its soil.”<sup>160</sup>

Social scientists study migration at its most basic level, which looks at factors of attraction and repulsion or the push and pull model of migration. For Mexican immigrants recruited to work in the U.S., these push-pull factors (higher paying jobs, better living conditions, education) are rooted within the “contradictory dialectic of the US tendency to rest consumption practices squarely on the backs of Mexican laborers even as many disdain the Mexicans who reside there.”<sup>161</sup>

The Bracero Program is extremely important in analyzing existing migrant streams and constructing new streams to the United States.<sup>162</sup> The large scale of the program

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<sup>160</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bracero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), 1.

<sup>161</sup> Mize, 1.

<sup>162</sup> Mize, 2.

meant that temporary workers or in this case Braceros were frequently herded more like cattle than people through the processes of migration, recruitment, transportation, housing, boarding and work.<sup>163</sup> Though certain guarantees were placed on the individual work contracts, the testimony of former Braceros shows that contracts were rarely, if ever, enforced on behalf of workers' rights. The Bracero Program was highly successful in creating a readily exploitable workforce but rarely protected the paltry rights accorded to workers.<sup>164</sup>

Deciding to migrate to the United States was the first step to becoming a Bracero. Once in labor camps, Bracero's lives were thoroughly managed and subject to intense surveillance.<sup>165</sup> Scholars confirm that the living conditions of a Bracero were similar to that of a military barracks and mess halls. But these were not soldiers, they were guest workers hired to do a job. Unlike other laborers in the US, Braceros were not allowed private lives, and if they lodged a complaint about negative treatment, they risked reprisal in the form of deportation.<sup>166</sup>

### **UNDOCUMENTED IMMIGRATION AND CONFLICTING PRESSURES**

“The Bracero Program in this period was complemented by an informal, implicitly sanctioned system of illegal farm labor.”<sup>167</sup> In the midst of negotiations and renegotiations between the United States and Mexico for contract labor, the undocumented immigrant population in the U.S. continued to increase significantly. The proportion of

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<sup>163</sup> Mize, 3.

<sup>164</sup> Mize, 3.

<sup>165</sup> Mize, 5.

<sup>166</sup> Mize, 5.

<sup>167</sup> Calavita, Kitty. *Inside the State: The Bracero Program, Immigration, and The I.N.S.* (New York: Quid Pro Books, 1992), 32.



undocumented immigrants rose dramatically during the early 1950's; in 1950 there were 458,215 undocumented Mexican immigrants and 67,500 Braceros.<sup>168</sup> Concerns began to arise about these numbers; in response, in 1954 "Operation Wetback" an official, government authorized plan was designed to seek out undocumented immigrants and return them to Mexico. Roadblocks were constructed, trains and neighborhoods combed, and local police were instructed to detain "suspected" undocumented immigrants and turn them over to Border Patrol agents.<sup>169</sup> Any person apprehended was then bussed to central Mexico to make it difficult to re-enter the United States. "With the undocumented alien or 'wetback' problem stifled, and the governments of Mexico and the U.S. in effect forcing migrant workers to participate in the Bracero Program, the program reached its height in the mid-and-late-1950's, as approximately 2.5 million Mexican Braceros came to the U.S. legally during this period."<sup>170</sup>

The increase in undocumented immigration was in part the side effect of Bracero policies. "The 'drying out' of illegal workers found in the United States and the preference given to illegal aliens for Bracero employment provided little incentive for aspiring Braceros to remain in Mexico until they were legally contracted."<sup>171</sup> Substantial evidence suggests that the increase in undocumented migration was not simply a byproduct of the Bracero Program, but was encouraged by INS enforcement policies.<sup>172</sup> "The Border Patrol was notoriously reluctant to apprehend and deport illegal farm workers during the harvest

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<sup>168</sup> Craig, Richard B. THE BRACERO PROGRAM: INTEREST GROUPS AND FOREIGN POLICY. 52-53 (1971), 125.

<sup>169</sup> Morgan, Kristi L. "Evaluating Guest Worker Programs in the U.S.: A Comparison of the Bracero Program and President Bush's Proposed Immigration Reform Plan." Berkeley La Raza Law Journal 15.2 (2004), 128.

<sup>170</sup> Craig, Richard B. THE BRACERO PROGRAM: INTEREST GROUPS AND FOREIGN POLICY. 52-53 (1971), 130.

<sup>171</sup> Calavita, Kitty. Inside the State: The Bracero Program, Immigration, and The I.N.S. (New York: Quid Pro Books, 1992), 34.

<sup>172</sup> Calavita, 34.

season or at other times of peak labor demand...this reluctance to detain illegal farm workers was not confined to the idiosyncrasies of regional enforcement. Instead, it seems to have been the official policy through much of the 1940s and early 1950s.”<sup>173</sup>

### **THE EFFECTS OF THE BRACERO PROGRAM**

A discussion of the effects of the Bracero Program on the U.S., the migrant worker, and Mexico can reveal the advantages and disadvantages to implementing a future guest worker program.<sup>174</sup> Problems with the Bracero Program were first expressed publicly in 1951, when President Truman reported that employer abuses and lax enforcement

“had contributed to terrible working and living conditions, that ineffective border control and the legalization policies of the Bracero Program had actually increased the number of undocumented aliens entering the U.S., and that the increase in Braceros and undocumented workers had depressed wages and undermined collective bargaining efforts by domestic farm workers.”<sup>175</sup>

“If the Bracero Program caused such ill effects, then what factors drove each country to continue exporting and importing immigrant workers? In other words, for whom was the program so valuable that it could win sufficient support for 22 years?”<sup>176</sup> As previously noted, the labor shortage created by World War II prompted the U.S. to look for a new and vast source of workers. Mexico’s proximity and previous settlement in U.S. territory made it the obvious choice. Braceros formed an efficient workforce for growers, and additionally, the Bracero Program helped promote a healthy agricultural

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<sup>173</sup> Calavita, 35.

<sup>174</sup> Morgan, Kristi L. "Evaluating Guest Worker Programs in the U.S.: A Comparison of the Bracero Program and President Bush's Proposed Immigration Reform Plan." *Berkeley La Raza Law Journal* 15.2 (2004), 130.

<sup>175</sup> Morgan, 131.

<sup>176</sup> Morgan, 131.

market in the United States.<sup>177</sup> “Finally, although not an economic advantage, the Bracero Program was a way the Immigration and Naturalization Service (I.N.S.) could control immigration in the face of powerful economic forces driving migration to the U.S. By securing the cooperation of growers who were hiring workers illegally, the I.N.S. could potentially solve the problem of increasing illegal immigration.”<sup>178</sup>

If overall the impact on individual workers was negative, migrant workers also retained certain benefits as participants in this program. For example, the Braceros earned more than what they would have earned in Mexico, and those workers who returned to Mexico were better able to sustain themselves and their families.<sup>179</sup> However, most contemporary writers argue that the effects of the Bracero Program on the worker overall were detrimental and that the advantage of earning a wage was far outweighed by the deplorable circumstances in which the worker found himself. In fact, one commentator described the plight of the Bracero as a “virtual state of physical and mental peonage.”<sup>180</sup>

The requisite conditions necessary for a successful guest worker program cannot be achieved without an in depth examination of the faults of the previous program. “Controlled immigration, alternative remedies for labor shortages, and protected rights for illegal and migrant workers, must be in place *before* an effective and legitimate guest worker program can be implemented.”<sup>181</sup> Ultimately, the relationship between the United States and Mexico has been and continues to be one where both nations have pushed and

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<sup>177</sup> Morgan, 132.

<sup>178</sup> Calavita, Kitty. *Inside the State: The Bracero Program, Immigration, and The I.N.S.* (New York: Quid Pro Books, 1992), 9.

<sup>179</sup> Hancock, Richard H. *The Role of the Bracero in the Economic and Cultural Dynamics of Mexico.* (Stanford: Stanford University Press, 1959), 29.

<sup>180</sup> Craig, Richard B. *THE BRACERO PROGRAM: INTEREST GROUPS AND FOREIGN POLICY.* 52-53 (1971), 15.

<sup>181</sup> Morgan, Kristi L. "Evaluating Guest Worker Programs in the U.S.: A Comparison of the Bracero Program and President Bush's Proposed Immigration Reform Plan." *Berkeley La Raza Law Journal* 15.2 (2004), 143.

pulled Mexican migrants from their homes to perceived opportunity and prosperity.<sup>182</sup> What these immigrants discover, however, is that they easily become entrenched in a system that exploits and abandons them.<sup>183</sup>

Currently, similar political and economic conditions exist that make the possibility of another guest program likely.<sup>184</sup> “NAFTA has opened up trade between Mexico and the U.S., so cooperation is at a level similar to that experienced during World War II and the Korean War, and the stable and profitable U.S. markets that have developed since the Bracero Program induces interdependence and interaction regarding immigration just as the war economies opened up room for cooperation on migration.”<sup>185</sup> While some may argue that favorable political and economic conditions exist that make the enactment of a temporary worker program possible because of trade agreements like NAFTA, the Bracero Program demonstrated that despite the proposed and actual benefits of a guest worker program, the detriments to participating countries and particularly to migrant workers are simply too great to risk trying it again.<sup>186</sup>

### **TERMINATING THE BRACERO PROGRAM**

In the end, the Bracero Program was phased out because of the United States liberal realignments that weakened the growers’ support in favor of the program.<sup>187</sup> First intra-agency struggles between the Department of Agriculture and the Department of Labor for

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<sup>182</sup> Morgan, 143.

<sup>183</sup> Morgan, 143.

<sup>184</sup> Bickerton, Maria Elena. Prospects for a Bilateral Immigration Agreement with Mexico: Lessons from the Bracero Program, 79 TEX. L. REV. 911 (2001).

<sup>185</sup> Bickerton.

<sup>186</sup> Morgan, Kristi L. "Evaluating Guest Worker Programs in the U.S.: A Comparison of the Bracero Program and President Bush's Proposed Immigration Reform Plan." Berkeley La Raza Law Journal 15.2 (2004), 144.

<sup>187</sup> Cohen, Deborah. BRACEROS: Migrant Citizens and Transnational Subjects in the Postwar United States and Mexico. (Chapel Hill: The University of North Carolina Press, 2011), 216.

control of the program, and second, the largest corporate sector employer of Braceros, cotton growers, by this time had found a technological solution to their labor requirements.<sup>188</sup> And lastly, “a coalition of religious, labor, and liberal activists decried the program as unjust and immoral, in a move that began to tarnish agriculturalists former sheen,” despite deft work by labor lobbyists. The coalition charged that foreign ‘slave labor’ was a ‘disgrace’ to the country’s democratic and ‘Christian’ values.”<sup>189</sup> How could a modern democracy like the United States, which recently played a foundational role in creating the United Nations (1945) in the name of freedom, support the abuse of foreign laborers?<sup>190</sup>

As a result of the Bracero Program and Operation Wetback, United States legislators became more aware of the need to address the immigration laws that determine who can legally enter the US and become permanent residents.<sup>191</sup> The 1952 McCarran-Warren Act was ultimately an extension of the 1924 Quota Acts that gravely restricted immigrants from Southern and Eastern Europe, blocked Asian immigration, and left Western Hemispheric migration unregulated except for establishing Border Patrol.<sup>192</sup>

There are currently two opposing views to this readjustment of immigration law. On one side, political leaders see the Immigration and Nationality Act (INA), as an advance in civil rights because it eliminated the discriminatory quota system. “Thus, it can be seen as part of the larger civil rights legislation that sought to remove *de jure*

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<sup>188</sup> Hawley, Ellis W. “The Politics of the Mexican Labor Issue, 1950-1965.” *Agricultural History* 40, no.3 (July 1966) 159-76.

<sup>189</sup> Hawley, 162.

<sup>190</sup> Cohen, Deborah. BRACEROS: Migrant Citizens and Transnational Subjects in the Postwar United States and Mexico. (Chapel Hill: The University of North Carolina Press, 2011), 217.

<sup>191</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bacero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), 38.

<sup>192</sup> Mize, 38.

discrimination from the laws governing US society.”<sup>193</sup> Alternatively, the law continued the legacy of marginalizing temporary workers by extending the ability of agricultural companies to employ immigrant labor on a temporary contract basis.<sup>194</sup> In certain aspects, the INA was a continuation of the Bracero Program. “What is not in dispute is that the emphasis on family reunification and skills-based criteria irrevocably changed the face of immigration, and Latin Americans and Asians were by far the major, yet unintended benefactors of the shifting criteria for admission and citizenship.”<sup>195</sup>

The final version of the new law included a preference system that contained seven ranked criteria for admission. The first five “operationalized the family reunification criteria,” the sixth, listed “skilled and unskilled workers in occupations for which labor is in short supply,” and the seventh, defined “refugees” as “conditional entrants.”<sup>196</sup> With the intention of ending discriminatory quotas, the major unintended result of INA was that subsequent applications for admission would be non-European and overwhelmingly Latin American and Asian.

One quiet provision within the INA was an extension of a temporary visa program. “The contradictions that gave rise to the Bracero Program did not end with the pronouncement of its death. From the ashes emerged the H-2A visa, a category specifically intended for seasonal agricultural workers with fewer additional provisions than the program.”<sup>197</sup> On the books, “growers were still accorded access to a temporary, foreign labor pool whenever domestic supply was deemed inadequate. The H-2 Program

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<sup>193</sup> Mize, 38.

<sup>194</sup> Mize, 38.

<sup>195</sup> Mize, 38.

<sup>196</sup> Mize, 39.

<sup>197</sup> Cohen, Deborah. BRACEROS: Migrant Citizens and Transnational Subjects in the Postwar United States and Mexico. (Chapel Hill: The University of North Carolina Press, 2011), 220.

was expanded in the 1986 Immigration and Reform and Control Act and in recent years has become a crucial aspect of labor recruitment for the dirty, dangerous, underpaid, and undesirable jobs that US citizens refuse to do.”<sup>198</sup> The contradictory message that Mexican workers received throughout the program was that their labor was wanted but they were in no way welcome as citizens in the United States.<sup>199</sup>

### **RE-CONFIGURING CITIZENSHIP**

“Even as the program altered the structure of agriculture on both sides of the border, it furthered a shift in concepts of citizenship and cultural belonging in both countries.”<sup>200</sup> Citizenship carried responsibilities; for individual white (male) citizens, citizenship was to be achieved through three traditional activities: military service, civic engagement, and labor.<sup>201</sup> Race too, was implicitly woven into citizenship both formally and culturally. “U.S. citizenship had, from the country’s founding, been delimited by race and was still circumscribed by it—legally and in practice—when the program ended.”<sup>202</sup>

Until the Civil War, the practice of slavery prevented Africans from the possibility of exercising formal privileges. During the mid-nineteenth century, as stated by historian Matthew Frye Jacobson, “the larger black/white racial schema shifted such that nationality (e.g., Irish, Italian, German) took on racial connotations, due to the massive immigration from countries outside northern Europe.”<sup>203</sup> Eventually, immigrants of European nationalities were considered to be “white” people and their national, formerly racial ties

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<sup>198</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bacero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), 39.

<sup>199</sup> Mize, 40.

<sup>200</sup> Cohen, Deborah. *BRACEROS: Migrant Citizens and Transnational Subjects in the Postwar United States and Mexico*. (Chapel Hill: The University of North Carolina Press, 2011), 42.

<sup>201</sup> Cohen, 43.

<sup>202</sup> Cohen, 45.

<sup>203</sup> Cohen, 45.

became ethnicities, thus uncoupling race from nationality for all Europeans.<sup>204</sup> “The uncoupling meant that immigrants from Europe could become Americans, where ‘American’ was synonymous with “white.”<sup>205</sup>

For Mexicans, U.S. citizens, residents and immigrants during this period, nationality was more tightly fused to race, “foreclosing national belonging by marking them as perennial foreigners regardless of actual citizenship, the label *Mexican* bore the weight of race”<sup>206</sup> whether or not they were of indigenous descent. Middle-class Mexican Americans understood all too well that U.S. citizenship was aligned with “whiteness.” Neil Foley, a historian describes how Mexicans fought for their rights during the middle of the century by asserting their rights not as citizens but as the (middle class) whites that they legally were, as a result of the 1848 accord that ended the U.S.-Mexico War. Braceros entering into this racial reconfiguration would find self-understanding reworked as they navigated obstacles arising precisely from their racial marking as Mexican.<sup>207</sup> Mexican and Mexican American farm workers faced similar obstacles. “Because growers largely controlled both their own self-depiction and that of their racialized farm worker employees, farm workers’ subjectivities were reshaped as they pressed to extricate themselves from a radical arrangement that a priori denied them recognition and respect as modern subjects.”<sup>208</sup> Being modern was a constituent component of U.S. cultural belonging, regardless of formal citizenship status.

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<sup>204</sup> Cohen, 45.

<sup>205</sup> Ngai, Mae M. “Braceros, ‘Wetbacks’, and the National Boundaries of Class.” In *Repositioning North American Migration History: New Directions in Modern Continental Migration, Citizenship, and Community*. (Rochester: University of Rochester, 2004).

<sup>206</sup> Ngai, *ibid.*

<sup>207</sup> Cohen, Deborah. *BRACEROS: Migrant Citizens and Transnational Subjects in the Postwar United States and Mexico*. (Chapel Hill: The University of North Carolina Press, 2011), 45.

<sup>208</sup> Cohen, 46.



The collectivist and individualist ideas reinforcing formal citizen responsibilities and privileges were woven into social practices, and these conceptions are vital to understanding the structures and practices of U.S. and Mexican citizenship.”<sup>209</sup> These concepts of the citizen were the lenses through which the Braceros would come to understand their

“place—or lack thereof—in the Mexican nation, the purpose of their migration, and the broader goals of the program for the Mexican state. These structures and practices of belonging and respect also shaped their relationship to the United States. Try as they might to achieve the respect and other benefits the program was held out as offering, they were denied such benefits by a priori exclusion. These structures and practices became the border they could never fully cross.”<sup>210</sup>

It is important to explore the key terms framing the debate over this program, how it was cast as an opportunity for Braceros and for the Mexican state, and how its framing simultaneously opened and closed doors as Braceros attempted to achieve their goal.<sup>211</sup>

“Agriculture occupied a central role, both figurative and literal, in configuring the formal and social citizenship of the nation’s proper protagonist and in deciding who was excluded from the status. These understandings, together with the promise of the modern, shaped the Bracero journey as a space of opportunity that brought about new subjectivities as it tore the state-citizen alliance in Mexico and furthered the Braceros’ claims for recognition vis-à-vis the Mexican state and the U.S. nation.”<sup>212</sup>

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<sup>209</sup> Cohen, 46.

<sup>210</sup> Cohen, 46.

<sup>211</sup> Cohen, 46.

<sup>212</sup> Cohen, 46.

**THE IMPACT OF THE BRACERO PROGRAM ON CITIZENSHIP AND MEXICAN AMERICANS**

“The consolidation of the United States’ international position in the aftermath of World War II exposed the disjuncture between its democratic rhetoric and the domestic experiences of non-whites, making urgent the need to portray citizenship as racially blind.”<sup>213</sup> This division, which helped shape political rhetoric from presidential administrations from Harry S. Truman through John F. Kennedy and Lyndon Johnson, provided a central point around which to mobilize toward ending discrimination and opening citizenship.<sup>214</sup> The result was an eruption of civil-rights organizations and worker activism over wages that had become stagnant over the course of the war.

A general question began to emerge, was America, as it had been represented during World War II, “a modern democracy in which all citizens had pulled together to defeat fascism? If so, would everyone reap the benefits of this global win?”<sup>215</sup> Were migrant workers to be included in the rewards? Or were they, despite legal status or citizenship, to remain excluded?

“Agricultural labor organization and strikes for recognition and protection of rights can be seen as early victories of Mexicans residing in the U.S. Mexican migrant workers organized in spite of countless attempts at marginalization and at relegating those of Mexican ancestry to the dustbins of, at best second-class citizenship if not total exclusion.”<sup>216</sup> In the period encompassing the 1930s and the World War II years,

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<sup>213</sup> Jenkins, J. Craig, and Charles Perrow. “Insurgency of the Powerless: Farm Worker Movements, 1946-1972.” *American Sociological Review* 42 (April 1977): 252.

<sup>214</sup> Chafe, William H. “America Since 1945.” In *The New American History*, edited by Eric Foner. Critical Perspectives on the Past. (Philadelphia: Temple University Press, 1997).

<sup>215</sup> Chafe.

<sup>216</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bracero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), 48.

“Mexican Americans initiated a labor and civil rights movement that was the precursor of the early civil rights movement of the postwar years, which formed the foundation of the modern Chicano movement.”<sup>217</sup>

The double exclusion facing Mexican laborers, based on race and immigration status, relegated most Mexican labor organizing actions to the mutual aid society model of community self-help.<sup>218</sup> “As a result, the most successful labor unions targeting Mexican workers have sought to overcome this exclusion through community unionism best evidenced by the actions of the UFW (Unified Farm Workers).”<sup>219</sup>

Many scholars such as Craig Jenkins have argued that as long as immigrants were vulnerable to deportation and other forms of workplace exploitation, they would be impossible to organize into viable unions.<sup>220</sup> “Nonetheless, despite the plethora of strikes against them—their grim prospects for unionization, vulnerability to discrimination, the surplus of immigrant labor, INS/ICE raids of workplaces, increasing difficulties of crossing the border, and the possibility of deportation—Mexican immigrants *have* continuously demonstrated their ability to organize themselves into ‘viable unions’.”<sup>221</sup>

The best recent example of this type of organizing was in the Los Angeles J4J (Justice for Janitors) campaign. Over the last 20 years, it has garnished major organizing successes, driven unique and creative strategies, and redefined how organized labor views

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<sup>217</sup> Vargas, Zaragosa. *Labor Rights are Civil Rights: Mexican American Workers in Twentieth-Century America*. (Princeton: Princeton University Press, 2007), 6.

<sup>218</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bacero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), 64.

<sup>219</sup> Mize, 65.

<sup>220</sup> Jenkins, Craig. The Demand for Immigrant Workers: Labor Scarcity or “Social Control”? *International Migration Review* 12: 529-30.

<sup>221</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bacero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), 64.

Mexican immigrant laborers.<sup>222</sup> Rather than a liability, community involvement was seen as critical to the union's victory by J4J organizers; one key leader of the janitors' movement recalled, "one of the major things for the campaign was community."<sup>223</sup> J4J contacted organizations that have been fighting for many different causes: housing, immigration, student organizations, and religious organizations, and the responses flooded in.<sup>224</sup>

"Immigrant workers relied heavily on ethnic networks for social support and for the necessities of everyday life like jobs and housing. Whereas these networks had been used in the past by contractors to recruit compliant immigrant janitors, the J for J campaign demonstrated that these social connections could also serve as resources for building solidarity."<sup>225</sup>

Therefore, not only was coalition building with local community organizations and local politicians critical to the campaigns success, but also so was using the informal social networks of these immigrant workers.

And the strategies and actions have continued in the form of a new *MOVIMIENTO* or movement. The Farm Labor Organizing Committee (FLOC) union in 2004, made history after a hugely successful mobilization effort was victorious in securing representation and a contract for more than 10,000 H-2A guest workers who labor on various farms. Networks again played a vital role in the creation of a "migrating union" The mainstream narrative of the movement stresses that immigrants want legalization, and state that you can trace the movement all the way back to 1968 and the creation of the Center for Autonomous Social Action (CASA). CASA since the start had a strong working-class and trade union association, that began organizing undocumented workers.

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<sup>222</sup> Mize, 65.

<sup>223</sup> Mize, 67.

<sup>224</sup> Mize, 67.

<sup>225</sup> Mize, 67.

Movement leaders see a direct connection between the organizing around the amnesty law of 1986 that legalized 3 million undocumented workers, to immigrant rights efforts in California, the struggle against Proposition 187 of 1994 (that attempted to deny health and education benefits to children of undocumented immigrants) and the monumental shift of the America's Union Movement or AFL-CIO in 2000, when it began to undertake immigrant organizing.

### *SYNTHESIS*

The Bracero Program demonstrates both inclusionary and exclusionary notions of citizenship practices in the United States. Mexican Braceros were brought to the United States and invited to become members of an agricultural labor force, living, working, and contributing to society and the economic stability of the U.S. They were lawfully given the right to be members of a community, while participating in the making of its collective life. They upheld social order and forged solidarity among other Braceros. While fulfilling these citizenship categories, Braceros were not valued, nor seen as contributing members of society. Instead the Bracero's were never granted their rights and they were constantly exploited as laborers. In the end, the program that began as a way to include the Mexican population as laborers, actually narrowed U.S. conceptions of citizens and contributed to exclusionary practices.

## CHAPTER 4

### FROM THE BRACERO TO THE DREAMERS

Mexican and other immigrant workers have learned a great deal from the Bracero program, and from the last five decades of mobilization in and outside their workplaces. As Ronald Mize writes, “Instead of justifying complacency by detailing the deleterious effects of economic and racial marginalization,”<sup>226</sup> it is important to offer a range of possible strategies and actions. Social justice movements offer considerable hope for bettering social relations by ending the historical pattern of exploiting Mexican workers to satisfy consumption needs of Northern America.<sup>227</sup>

The movement to regularize the status of undocumented immigrants has joined together various immigrant groups across the U.S. It not only brings the undocumented ‘out of the shadows of the law’ but also openly identifies the major contributions they make to contemporary US economy and society.<sup>228</sup> The struggle for immigrant rights focuses on the unjust laws targeting and criminalizing this current generation of immigrants while making it nearly impossible for them to regularize their status “and completely ignoring the transnational processes of migration that have been interrupted by a hypermilitarized border and backlogged naturalization applications.”<sup>229</sup>

Among the strategies are actions that target legislative reform, “but the scope of the issue is nowhere acknowledged nor addressed by piecemeal attempts at gains for

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<sup>226</sup> Mize, 235.

<sup>227</sup> Mize, 235.

<sup>228</sup> Mize, 85.

<sup>229</sup> Mize, 86.

particular groups meeting very specific criteria.”<sup>230</sup> The proposed DREAM Act would permit certain immigrant students who have grown up in the United States to become eligible for citizenship if they go to college or serve in the military. “The goal is to extend the reach of the judgment in *Plyer v. Doe* by making higher education available to undocumented children and moving the political rhetoric and policy discussion beyond restriction and redistribution by providing one, albeit quite limited and narrow, pathway toward legalization of citizenship status.”<sup>231</sup> Without the DREAM Act, the policy debate would remain one sided in favor of restriction and criminalization, or local attempts to resist these measures.

### **THE DREAM ACT**

To date, federal laws prohibit undocumented immigrants from living or working in the United States, yet provide limited routes for some to obtain legal permanent residence status.<sup>232</sup> Although there is a broad consensus that the U.S. needs to overhaul its immigration policies, with the ultimate goal of reducing the number of undocumented immigrants in the United States, competing views on how to do so have led to a political deadlock. Organizations such as America’s Voice, the Migrant Policy Institute, Service Employees International Union (SEIU), National Day Laborers Organizing Network, and a variety of others along with select government officials such as Senators Richard Durbin and Orin Hatch have strongly supported the proposed DREAM Act. But those who oppose enactment of the bill, like the American Legion, Immigration Policy Center, and a

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<sup>230</sup> Mize, 238.

<sup>231</sup> Mize, 238.

<sup>232</sup> "The DREAM Act Immigrant Access to Higher Education." Congressional Digest 89.9 (2010): 257.

majority of government officials like Senators Kay Hagan, Mark Pryor, and Ben Nelson have prevented the bill from passing.

“On one side are those who believe that immigration laws should be strengthened and unauthorized aliens should not be offered government benefits, especially in tough economic times. An opposing strategy would grant some type of legal status to undocumented immigrants who are contributing to the economy, such as agricultural workers, or those who have the potential to do so, such as students”.<sup>233</sup>

Access for undocumented students to date, has always been controlled in part by federal and state policies.<sup>234</sup> In 1982, *Plyler v. Doe* the United States Supreme Court case held that states could not discriminate against students enrolling in grades K-12 in public schools in the U.S. on the basis of their legal status. Although the 1982 decision entitles undocumented immigrants to a free education from kindergarten through high school, once they graduate they remain subject to deportation, and are unable to qualify for Federal student aid, enlist in the military, or work legally in the United States. Furthermore, a provision of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) prohibits States from granting unauthorized aliens education benefits on the basis of State residence, in other words, in-state tuition.<sup>235</sup> Although, undocumented students can apply to most colleges, they are not eligible for federal or state financial aid.

In the absence of federal guidelines for access to higher education, states have begun to create their own rules. As of 2009, ten states California, Illinois, Kansas, Nebraska, New Mexico, New York, Texas, Utah, Washington, and Wisconsin had developed policies allowing students who had graduated from in-state high schools to

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<sup>233</sup> *ibid.*, 257.

<sup>234</sup> Meiners, Erika R. et al. "Dreams Deferred and Dreams Denied." *Academe* 96.3 (2010): 28.

<sup>235</sup> Meiners, 28.



qualify for in-state tuition regardless of immigration status.<sup>236</sup> Four other states have laws that ban undocumented students from receiving in-state tuition (Arizona, Colorado, Georgia, and North Carolina), while two states (Alabama and South Carolina) ban undocumented students from attending community college at all. “Given that undocumented students do not have valid Social Security cards and cannot work legally in this country, or get federal or state financial aid, tuition at most four-year universities is financially prohibitive.”<sup>237</sup>

Comprehensive immigration reform has achieved little success because for a decade, proposed federal legislation has failed.

“The DREAM Act is a bipartisan legislation that addresses the tragedy of young people who grew up in the United States and have graduated from our high schools, but whose future is circumscribed by our current immigration laws. Under current law, these young people generally derive their immigration status solely from their parents, and if their parents are undocumented or in immigration limbo, most have no mechanism to obtain legal residency, even if they have lived most of their lives in the U.S.”<sup>238</sup>

First proposed in 2001 by Senator Orrin Hatch of Utah, and reintroduced in every subsequent Congress, legislation entitled the Development, Relief, and Education for Alien Minors Act, or DREAM Act, would allow undocumented students to qualify for in-state aid who have attended U.S. schools, met certain other conditions, and put them on a path to citizenship. The legislation would provide undocumented students who arrived in the United States before the age of sixteen, have lived in the country for at least five years, and demonstrate “good moral character” temporary residence for six years, during which time they must obtain at least an associates degree or complete two years of military

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<sup>236</sup> Erica R. Meiners, et al. "Dreams Deferred and Dreams Denied." *Academe* 96.3 (2010): 29.

<sup>237</sup> Meiners, 29.

<sup>238</sup> <http://www.nilc.org/immlawpolicy/dream/dream-bills-summary-2011-05.pdf>

service. After satisfying these requirements, immigrant youths could be eligible to receive permanent residency. But, those who do not meet the requirements would be subject to deportation.<sup>239</sup> Despite growing support, ten years later, the legislation has still not passed.

Each year, 65,000 undocumented students graduate high school without a clear direction forward. “The DREAM Act would mark a significant accomplishment in the struggle for civil rights and educational attainment for undocumented students...To fully comprehend the impact the DREAM Act would have, it is important to understand what this legislation entails.”<sup>240</sup>

The DREAM Act will give states the right to determine eligibility for in-state tuition. The act would effectively repeal a provision, Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), “which has deterred states from offering in-state tuition to undocumented students unless they offer the same benefits to all out-of-state students. In effect, elimination of this provision would allow individual states to determine eligibility requirements for higher education benefits, including in-state tuition.”<sup>241</sup>

The DREAM Act grants undocumented students a pathway to citizenship. The act will allow undocumented students who meet the following criteria to apply for “conditional” permanent residency status for a period of six years:

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<sup>239</sup> "The DREAM Act Immigrant Access to Higher Education." Congressional Digest 89.9 (2010): 257.

<sup>239</sup> Erica R. Meiners, et al. "Dreams Deferred and Dreams Denied." *Academe* 96.3 (2010): 29.

<sup>240</sup> Palacios, Moses. "THE DREAM ACT EXPLAINED." *Journal of College Admission* 206 (2010): 2.

<sup>241</sup> Palacios, 2.

- The student **must** have entered the country before the age of 16 and also been present in the country for a consecutive period of five years, immediately following the date of the enactment of the DREAM Act.<sup>242</sup>
- At the time the student applies for conditional permanent residency, the student **must** have been admitted to a two-or four-year institution of higher education or earned a high school diploma or general education development certificate (GED) in the United States.<sup>243</sup>
- The student **must** have no criminal background and demonstrate “good moral standing.”<sup>244</sup>
- The student **must** be under 35 years of age

During the six years of conditional permanent residency, in order for the conditional status to be lifted and amended to permanent, the student must satisfy one of the following:

- Earn a degree from a two-or four-year institution of higher education, or complete two years, in good standing, toward a higher education degree.<sup>245</sup>
- Serve two years in the armed forces and if discharged, have received an honorable discharge.<sup>246</sup>

The DREAM Act also provides protection from deportation and work authorization for students above the age of 12, enrolled in primary or secondary school. The student must meet the requirements for conditional permanent residency with the exception of high school graduation or admittance into an institution of higher education.<sup>247</sup> The DREAM

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<sup>242</sup> Palacios, 2.

<sup>243</sup> Palacios, 2.

<sup>244</sup> Palacios, 2.

<sup>245</sup> Palacios, 2.

<sup>246</sup> Palacios, 2.

<sup>247</sup> Palacios, 2.

Act also provides some higher education financial assistance. Undocumented students who are enrolled in institutions of higher education and meet the outlined requirements would be eligible for federal student loans and federal work-study programs.

### **POTENTIAL DREAM ACT BENEFICIARIES**

The Migration Policy Institute has analyzed and created a report aimed to provide policymakers and stakeholders with the information necessary to: “1) assess the number and other key characteristics of individuals who could gain conditional legal status under DREAM legislation based on their age, date of arrival in the United States, and length of residency; and 2) understand the barriers to achieving permanent legal status under the DREAM Act due to factors such as low educational attainment, poverty, and English proficiency.”<sup>248</sup>

According to the analysis of MPI, the DREAM law’s enactment would immediately make 726,000 undocumented youth and young adults eligible for conditional legal status; of these approximately 114,000 would be eligible for permanent legal status after the allotted six year period because they already have an associates degree. Another 934,000 potential beneficiaries are children under 18 who will eventually be eligible for conditional-status in the future, as long as they earn a U.S. high school diploma or obtain a General Education Development (GED) degree.<sup>249</sup>

“While slightly more than 2.1 million youth and young adults could be eligible to apply for legal status under the legislation, historical trends indicate that far fewer are likely to actually gain permanent (or even conditional) status, due primarily to the bill’s

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<sup>248</sup> Batalova, 1.

<sup>249</sup> Batalova, 1.

education attainment requirements.”<sup>250</sup> An estimated 38% of potential beneficiaries—825,000 people— would likely be granted permanent legal status under the DREAM Act’s education and military components, while as many as 62% would likely fail to do so.<sup>251</sup>

The study and analysis conducted by the MPI is based on “pooled March 2006-2008 Current Population Survey data that were augmented with legal status assignments to noncitizens.”<sup>252</sup> By using this data they developed estimates of how many individuals would be eligible to apply for legal status based on their age, length of residency, age when they arrived in the U.S., and their educational attainment.

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<sup>250</sup> Batalova, 1.

<sup>251</sup> Batalova, 1.

<sup>252</sup> Batalova, 2.

Table 1. Key Categories of Potential DREAM Act Beneficiaries

Age and Education Profile	Steps Needed to Gain Permanent Status
<p>Young adults (18 to 34) with at least an associate's degree</p> <p>and</p> <p>Adults (35 and older) with at least an associate's degree (<i>eligible under the retroactive benefits provision</i>).</p>	<ul style="list-style-type: none"> <li>* Already have met the educational requirements for <i>both</i> conditional <i>and</i> permanent statuses.</li> <li>* Will have to wait for six years to apply to adjust to permanent status.</li> <li>* Must satisfy the good moral character requirement.</li> </ul>
<p>Young adults (18 to 34) with a high school diploma/GED</p>	<ul style="list-style-type: none"> <li>* Already have met the educational requirements for conditional status (i.e., already have a US high school diploma or GED).</li> <li>* Must within the six-year conditional status period complete either a qualifying higher education degree, at least two years towards a bachelor's degree, or two years of military service.</li> <li>* Must satisfy the good moral character requirement.</li> </ul>
<p>Children under 18</p>	<ul style="list-style-type: none"> <li>* Will need to earn a US high school diploma/GED in order to obtain conditional status.</li> <li>* Must within the six-year conditional status period complete either a qualifying higher education degree, two years towards a bachelor's degree, or two years of military service.</li> <li>* Must satisfy the good moral character requirement.</li> </ul>
<p>Young adults (18 to 34) without a high school degree</p>	<ul style="list-style-type: none"> <li>* Currently ineligible for conditional legal status.</li> <li>* Will need to obtain a high school diploma/GED or be admitted to an institution of higher education in order to obtain conditional status.</li> <li>* Must within the six-year conditional status period complete either a qualifying higher education degree, two years towards a bachelor's degree, or two years of military service.</li> <li>* Must satisfy the good moral character requirement.</li> </ul>

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## **RELEVANT CHARACTERISTICS OF POTENTIAL BENEFICIARIES**

### *Gender*

The majority of potential beneficiaries of the DREAM Act are men, estimating a total of 1.2 million or 56%, while women total around 952,000 or 44%, however according to the study conducted by MPI, gender distribution varies across groups that were analyzed, depending on educational achievements.<sup>254</sup>

### *Region of Origin*

In the examination of beneficiaries region of origin, MPI found that an overwhelming majority of the 2.1 million potential DREAM Act eligible youth are from Mexico and other Latin American countries; 62% from Mexico, 11% from Central America, 11% from other Latin American countries, 1 in 10 are from Asia, and the remaining 7% are from Europe, Canada, Africa, and unspecified countries of birth.<sup>255</sup>

### *English Proficiency*

One of the most serious barriers to beneficiary's educational attainment is lack of English proficiency. Research suggests that there are more than 350,000 potential recipients (or 19%) who would need English language instruction.<sup>256</sup>

### *Income/Poverty Status*

Another significant obstacle on the path to education attainment is poverty. Extensive research demonstrates the negative impact of poverty on students' ability to

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<sup>254</sup> Batalova, 6.

<sup>255</sup> Batalova, 6.

<sup>256</sup> Batalova, 7.

concentrate, learn content, perform in school, and also the family's capacity to provide educational opportunities for their children.<sup>257</sup>

### **PRO AND CON ARGUMENTS**

#### *PRO:*

The DREAM Act responds to calls from immigrant activists, government supporters, and immigrant youth themselves, for a process that would allow undocumented immigrant young adults an opportunity to gain permanent resident status. The DREAM Act would create an unprecedented opportunity for many to step onto a path to permanent legal status, “a path that would require them to demonstrate either a significant investment in their human capital or service to the United States through membership in the armed forces.”<sup>258</sup> Though for many the goal of legal status would not become a reality, however, the enactment of the DREAM Act would allow a very significant number of youth with already substantial ties to the United States the possibility to become legal permanent residents.

Those in favor of the DREAM Act maintain that it is both fair and in the United States national interest to enable undocumented immigrant students who graduate from high school to continue their education. They emphasize that large numbers will be unable to do so unless they are eligible for in-state tuition. Advocates for these students argue that many of them were brought into the United States at a very young age and should not be held responsible for the decision to enter the country without proper documentation. “According to these advocates, many of these students have spent most of their lives in the

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<sup>257</sup> Glick, Jennifer E. and Michael J. White. “The Academic Trajectories of Immigrant Youths: Analysis Within and Across Cohorts,” *Demography* 40, no. 4 (2003): 759-83.

<sup>258</sup> Batalova, Jeanne and Margie McHugh. “Dream vs. Reality: An Analysis of Potential DREAM Act Beneficiaries. July 2010, 17. <http://www.migrationpolicy.org/pubs/DREAM-Insight-July2010.pdf>



United States and have few, if any, ties to their countries of origin. They argue that these special circumstances demand that the students be granted humanitarian relief in the form of LPR status.”<sup>259</sup> Many feel undocumented immigrants have earned an opportunity to seek citizenship.

One of the opposing arguments to the bill is fiscal. Republican opponents of the bill have continued to throw unsupported cost figures into the debate, but the nonpartisan Congressional Budget Office, or CBO, did the analysis and determined that the DREAM Act would reduce the deficit by \$2.2 billion over the next 10 years.<sup>260</sup> DREAM-eligible youths would also not be eligible for health care subsidies, including Medicaid, or other federal means-tested benefits like food stamps or Pell grants. “More importantly, the alternative of removing the 700,000 eligible kids would cost taxpayers \$16.2 billion over five years.”<sup>261</sup>

A commonly displayed misconception by opponents is that the DREAM Act would reward illegal behavior; however this program is not an amnesty program. Eligible youth would have to work hard to earn permanent residence status, and the earliest they could gain citizenship would be 13 years. Marshall Fitz argues, “Opponents grasp for moral high ground with this feeble contention. The dubious claim that providing a path to legal status somehow violates our commitment to the rule of law and standard fare for opponents of immigration reform. But this tired ‘anti-amnesty’ arguments lacks all resonance when applied to this population.”<sup>262</sup> Denying these youth the hope and

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<sup>259</sup> Bruno, Andorra. “Unauthorized Alien Students: Issues and ‘DREAM Act’ Legislation.” Congressional Research Service (2007): 6.

<sup>260</sup> Fitz, Marshall. “Myth vs. Fact: The DREAM ACT. No More Excuses on This Bill”. Center for American Progress (2010): 1. [http://www.americanprogress.org/issues/2010/12/dream\\_myths.html](http://www.americanprogress.org/issues/2010/12/dream_myths.html)

<sup>261</sup> Fitz, 1.

<sup>262</sup> Fitz, 2.

opportunity they deserve, as punishment for their legal status is not the answer. Enabling them to work hard and earn the privilege of citizenship is hardly “rewarding illegal behavior;” but condemning these youth to marginalization is shameful.

Adversaries of the Act, such as select Republican and Democrat senators, and organizations like the Immigration Policy Center, continue to argue that passing the DREAM Act would encourage more undocumented immigration, however, the bill has strict requirements that make “only a discrete one-time universe of individuals eligible for relief.”<sup>263</sup> When immigration reform of any kind is under consideration, the “magnet” excuse returns to the debate. To be clear, the DREAM Act is not a solution to the controversy over undocumented immigration, but it is also not a “magnet” for undocumented migration either, and according to the secretary of Homeland Security the DREAM Act will enable DHS to better focus its resources on criminals and security threats.<sup>264</sup>

To be eligible for relief under the DREAM Act, an individual must have come to the United States before the age of 16, and have resided in the United States for a period of more than 5 years from the date of the enactment of the bill. In addition, they must be under the age of 35 on the date of the enactment and they must prove that they have possessed good moral character from the time they arrived in the United States. “These types of strict requirements— particularly the mandatory number of years in the United States—ensure there will be no surge of undocumented immigrants at the border.”<sup>265</sup>

Another argument against the DREAM Act by Republican government leaders is the “chain migration” excuse. Opponents suggest that the United States’ immigration

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<sup>263</sup> Fitz, 2.

<sup>264</sup> Fitz, 2.

<sup>265</sup> Fitz, 2.

system authorizes sponsorship of extended family, “conjuring up hordes of great-aunts, step-uncles, and third cousins immigrating to the United States once the DREAM Act beneficiary gains legal status.”<sup>266</sup> The reality is that our immigration laws only permit sponsorship of permanent relatives, and the soonest these youths would be able to sponsor their spouses or minor children to come to the United States would be 10 years after enactment. They also, could not sponsor their parents or siblings until after they become United States citizens, which is a minimum of 13 years after gaining legal status. Moreover, if their parents or siblings were in the United States unlawfully they would be required to leave the United States for 10 years before becoming eligible for sponsorship.<sup>267</sup> A 23-year wait to bring your parents to the United States isn’t exactly the image portrayed by opponents in the media.

Throughout history, border security has often trumped comprehensive immigration reform, when in reality our border is currently more secure than ever. “A prevalent tactic designed to delay taking a position on immigration reform is the ‘sequence excuse’. ‘We have to secure our borders first’ has become the most common and perhaps least defensible talking point to prevent consideration on immigration-related legislation.”<sup>268</sup> In fact, the singular focus of United States immigration policies for the last nine years has been ramping up resources and implementing enforcement strategies. “There are exponentially more boots and barriers on the ground at the southern border, and it is more secure than ever in our history. We spend more than \$17 billion each year on our immigration enforcement agencies—a 70 percent increase over the last five years.

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<sup>266</sup> Fitz, 2.

<sup>267</sup> Fitz, 3.

<sup>268</sup> Fitz, 3.

And just six months ago we added another \$600 million in emergency funding.”<sup>269</sup> Therefore, with the borders “secure” it is a perfect opportunity to focus efforts on a beneficial non-enforcement program that cuts to the core of the immigration debate, and works at a solution that promotes progressive change.<sup>270</sup>

The DREAM Act has consistently been tabled for over a decade with the excuse that the United States has more pressing priorities facing the country. Yes, there is a new array of important issues facing the country right now requiring congressional attention, but one of these happens to be the DREAM Act. If as much concern was shown for the next generation as is for the millionaires being granted tax breaks, they would realize that this is an investment in future leaders, thinkers and entrepreneurs.<sup>271</sup>

The basic elements of the DREAM Act are straightforward, well understood, and have been considered countless times over the past decade. It has been introduced in every congress since 2001, it passed the Senate Judiciary Committee by a 16-3 vote in October 2003, and it passed the Senate Judiciary Committee again in 2006 as part of the McCain-Kennedy comprehensive bill, which passed the full Senate by 62-36 margin.<sup>272</sup>

“We have three basic options for addressing the situation confronting these young undocumented people: deport them to a country they barely know; preserve the status quo and consign these talented kids—who include valedictorians—to a hopeless future; or pass the DREAM Act and give them an opportunity to work hard and earn the privilege of citizenship. The first and second options are morally bankrupt and fiscally irresponsible. As mentioned earlier, deporting 700,000 youths whom the Congressional Budget Office has concluded would qualify for benefits under the bill would cost taxpayers about \$16.2 billion over five years.”<sup>273</sup>

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<sup>269</sup> Fitz, 3.

<sup>270</sup> Fitz, 3.

<sup>271</sup> Fitz, 3.

<sup>272</sup> Fitz, 3.

<sup>273</sup> Fitz, 4.

Preserving the status quo would be to accept system failure and allow these young students to remain unproductively on the margins of society. Both options run counter to America's economic interests and to core American values.<sup>274</sup> Passing the DREAM Act makes economic, practical, and moral sense. As Fitz argues, "Indeed, most but not all of the bill's opponents fear the politics around the bill more than they object to the substance. The tension between fear of the far right's backlash and what's right as a matter of policy and justice has driven them to evade the obligations of governance. The evidence of evasion lies in the transparent dissembling used to justify preventing a vote."<sup>275</sup> The American public strongly supports the DREAM Act and the time has come for Congress to deliver, this dream has waited far too long.

*CON:*

Those who oppose making undocumented immigrant students eligible for in-state tuition and legal status, emphasize that the students and their families are in the United States "illegally" and should be "removed" from the country. "They object to using United States taxpayer money to subsidize the education of individuals (through granting in-state tuition rates) who are in the United States in violation of the law. They further argue that it is unfair to charge undocumented immigrant students in-state tuition, while charging some U.S. citizens higher out-of-state rates."<sup>276</sup> More broadly, people in opposition argue that granting benefits to undocumented immigrant students rewards lawbreakers and, therefore, undermines the U.S. immigration system. In their view, the availability of

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<sup>274</sup> Fitz, 4.

<sup>275</sup> Fitz, 4.

<sup>276</sup> Bruno, Andorra. "Unauthorized Alien Students: Issues and 'DREAM Act' Legislation." Congressional Research Service (2007): 7.

benefits especially legal permanent resident status will encourage more “illegal” immigration to the country.<sup>277</sup>

It is hard to deny that the DREAM Act is a step in the right direction when it comes to a necessary reevaluation of U.S citizenship; however, it is also critical to examine the political context surrounding the DREAM Act in its current state. The DREAM Act has gained support not necessarily for the young people’s future it seeks to protect, but because it is seen as a “less” threatening approach to broader immigration reform. The DREAM Act only offers assistance to one particular age group, when there are hundreds of thousands of others who do not meet the designated DREAM Act criteria who still deserve an opportunity to gain status in the country they call home.

A criticism that has arisen by organizations as well as the immigrant youths, is the choice placed on young people to decide between higher education and military service if they wish to gain access to permanent resident status in the United States. Higher education is not a goal everyone strives to achieve. Therefore, if an undocumented immigrant youth hopes to gain citizenship, is their only option to attend college or enlist in the military? Not all American citizens are forced to choose between these two options in order to maintain their legal statuses, so why should this be the criterion enforced on those young adults who wish to become legally part of the nation they already call home?

The government has also began vilifying and criminalizing the parents of undocumented youth. The argument that has become predominantly used for passing the DREAM Act by political leaders, is that because undocumented students “didn’t choose to come to the United States and break the laws of this country” they shouldn’t have to pay for the “sins” or “illegal behavior” of their parents; It is not acceptable to allow legislation

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<sup>277</sup> Bruno, 7.

that will stand on and disrespect the struggle, sacrifice, and dignity of the parents of these students. We must not fall for or feed into the rhetoric that continues to criminalize individuals for pursuing a better life for their families.

Supporting this fight is part of a larger community struggle. Passage of the DREAM Act would definitely be a step forward in the struggle for Migrant Justice, but at what cost? “Strong movements that achieve greater victories are those that stand in solidarity with all the oppressed people of the world and never gain access to rights at the expense of other oppressed groups.”<sup>278</sup>

### *SYNTHESIS*

The proposed DREAM Act both enlarges and reduces notions of citizenship. It enlarges ideas of citizenship by aiming to incorporate a portion of the undocumented immigrant population into the U.S., through their participation in education or military service. However, it reduces notions of citizenship by only including a limited amount of a large population of immigrants who meet specific and sometimes unattainable criteria. The group of individuals discussed in this chapter, demonstrates both inclusionary and exclusionary notions of citizenship. Immigrant youth have become members of U.S. society, participating in civil society, forging solidarity with others, and contributing to the social order of their communities; and the proposed DREAM Act would officially give them the “right to have rights” if they pursue higher education or agree to serve in the military. Although, this narrow pathway to citizenship is inclusionary to some, it excludes a very large population from the attainment of formal legal status.

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<sup>278</sup> Ochoa, Raul Al-qaraz. “Letter to the DREAM Movement: My Painful Withdrawal of Support for the DREAM Act”. (2010): 1. <http://tucsoncitizen.com/three-sonorans/2010/09/18/letter-to-the-dream-movement-my-painful-withdrawal-of-support-for-the-dream-act/>

It is important to note the social actors involved in the debate over the DREAM Act in order to better understand the field of play of contention. Both political parties Democratic and Republican have played a huge role in the ongoing struggle to pass the bill through Congress. With Senators from both sides fighting for and against, and sometimes changing their positions at the last minute, the bill has been introduced each year for a decade, and never passed.

What has resulted from this political tug-of-war is an explosion of support for the bill from unions and immigrant advocacy groups. The support of various organizations and social movements has turned into a full-blown student movement, with college students many of them undocumented, staging sit-ins, rallies, and hunger strikes, and many of these students are publicly announcing their undocumented status to make a statement. As a result, these various social actors are continuing to negotiate and renegotiate what it means to be a citizen in the United States.



## CHAPTER 5

*“One way to undertake a historically rich inquiry into American citizenship is to investigate what citizenship has meant to those women and men who have been denied all or some of its attributes, and who ardently wanted to be full citizens.”*<sup>279</sup>

### CONCLUSIONS

My goal of this project has been to break away from the premise that citizenship is a process defined exclusively by the historically constituted legal institution of power politics and the state, in search of a more dynamic notion of citizenship that recognizes the participation and civic engagement of immigrants in the United States. Considered together, the topics of immigration and citizenship “stand at the center of contemporary debates over inclusion and exclusion— who really belongs and is a fully entitled member of U.S. society, and who is not.”<sup>280</sup>

“The history of citizenship, as many have shown, is the history of subordination and exclusion as much as it is the history of progressive incorporation and belonging. Whether this exclusion derives from illiberal regressive strands endemic to many national cultures or is inherent in liberal democracy itself, modern citizenship regimes have tolerated, and quite often concealed, some of the worst forms of social exclusion and injustice.”<sup>281</sup>

My project has sought to expose the various disjunctures between the political ideal and the social reality that characterize citizenship in the United States.

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<sup>279</sup> Shklar, Judith. *American Citizenship*. (Cambridge: Harvard University Press, 1991).

<sup>280</sup> Coll, Kathleen M. *Remaking Citizenship: Latina Immigrants & New American Politics*. (Stanford: Stanford University Press, 2010), 12.

<sup>281</sup> Bosniak, Linda. *The Citizen and The Alien: Dilemmas of Contemporary Membership*. (Princeton: Princeton University Press, 2006), 132.

“In contemporary nation-states, the ideal of citizenship associated with notions of individual, equal-rights-bearing political subjects coexists with pervasive social inequality and emergent social groups struggling to claim full membership as citizens.”<sup>282</sup> This raises the question of how citizenship might be reconfigured theoretically and practically to address exclusions from full citizenship and “new citizens” claims based on “class, race, gender, sexual preference, disability, and immigration status.”<sup>283</sup>

### *CASE STUDY ANALYSIS*

I chose to discuss the Bracero Program and the DREAM Act for my case studies because I felt they were two very different, but both very relevant expressions of citizenship practices in the United States. These two programs through labor, education, and military service had the opportunity to end the binary logic of citizen and “alien” and create a new social category that focused on people and their contributions to US society.

The Bracero Program encouraged able workers to come to the United States in order to satisfy the need for agricultural labor. These workers worked legally and became active contributors to U.S. society through labor as well as other daily practices like community organizing and participation in social activities. However, these same migrant that had been so actively encouraged to work in the United States and to establish long-term residency, were the same migrants who time and time again were forced to leave when the economy took a downturn. The mass repatriation and deportation of Mexican workers made it clear to all workers that their status and rights in the US would be tenuous during bust times, essential during boom times, and eminently politicized at all

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<sup>282</sup> Coll, Kathleen M. *Remaking Citizenship: Latina Immigrants & New American Politics*. (Stanford: Stanford University Press, 2010), 12.

<sup>283</sup> Hall, Stuart and David Held. Citizens and Citizenship. In *New Times: The changing face of politics in the 1990s*. (New York: Verso, 1989).

times,<sup>284</sup> establishing a pattern from WWI to the present where Mexican laborers are “always the laborer, never the citizen”.<sup>285</sup> As a result, Braceros represent a concrete example of exclusionary citizenship practices on behalf of the United States.

Where the DREAM Act serves as a similar vehicle to reevaluate citizenship practices, it differs from the Bracero Program because of the select population it hopes to assist. The Bracero Program actively brought workers from Mexico into the United States to satisfy labor concerns while repeatedly denying the workers stable, long-term formally recognized status. The DREAM Act however, focuses on a select population of young adults already residing in the United States. Congress has not yet passed the DREAM Act, but when and if they do, it will award temporary conditional legal status to a very limited population that meets specific criteria, and eventually provide a path to citizenship. These young adults will have to commit to completing two years of college or serving in the military if they hope to gain legal recognition as citizens in the United States.

My goal with these two case examples was to demonstrate that the limited attempts to reform citizenship are not sufficient. Focusing only on select contributions like labor, education, and military service in order to extend citizenship to a population contributing far more to American society is unjust. The undocumented population in the United States deserves the right to have more extensive opportunities to gain formal recognition than through the limited channels given to them historically; and these limited channels and inadequate programs have perpetuated the exclusionary binary system in place, and prompted the continuation of social movements fighting for immigrant rights.

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<sup>284</sup> Mize, Ronald L & Alicia C.S. Swords. *Consuming Mexican Labor: From the Bacero Program to NAFTA*. (Toronto: University of Toronto Press Incorporated, 2011), XXXV.

<sup>285</sup> Mize, XXXIII.

*THE NEW CIVIL RIGHTS MOVEMENT OF THE TWENTY-FIRST CENTURY*

A popular comparison links the upsurge of recent immigrant rights activism to the civil rights movements of the 1950s—1970s. “As the ‘Civil Rights Movement of the 21<sup>st</sup> Century,’ the contemporary immigrant rights gives voice to the disenfranchised and aims to reshape a national policy mired in antedated misconceptions and racialized inequalities.”<sup>286</sup> Similar to the African American civil rights movement, the immigrant rights movement has shed light and brought about awareness of global inequality in the struggle for national citizenship.<sup>287</sup> “And, also like the civil rights movement, the immigrant rights movement contends with the way in which transnational identities are delimited by the nation.”<sup>288</sup>

In forming movements dedicated to equality and justice, racialized and marginalized groups have crucially transformed the definition of citizenship, and staked their claim to equal citizenship and more so, to social power and cultural representation.<sup>289</sup> Both the civil rights and immigrant rights movements navigate the central issue of citizenship. “The contemporary immigrant rights movement takes place at a time of deep historical transition.”<sup>290</sup> As Saskia Sassen points out, foundational social categories such as “citizen” and “alien” are being transformed by economic globalization. For Sassen, “this transformation holds out the possibility of an emergent political subjectivity for those marginalized in the national order, like undocumented migrants.”<sup>291</sup> Monisha Das Gupta argues that national citizenship by its nature has never offered protection to undocumented

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<sup>286</sup> Buff, Rachel Ida. *Immigrant Rights in the Shadow of Citizenship*. (New York: New York University Press, 2008), 3.

<sup>287</sup> Buff, 4.

<sup>288</sup> Buff, 4.

<sup>289</sup> Buff, 4.

<sup>290</sup> Buff, 6.

<sup>291</sup> Sassen, Saskia. “The Repositioning of Citizenship: Emergent Subjects and Spaces for Politics”. *Berkeley Journal of Sociology* 46 (2002), 4-25.

workers and that the neoliberal states rely on their social and economic marginalization.<sup>292</sup> Das Gupta insists that the transnationalization of labor must come with the universal recognition of the rights of migrant workers.<sup>293</sup> “Immigrant rights’ advocates speak of ‘globalization from below,’ in which workers would migrate freely, transforming the definitions of citizenship itself as they do so, but national policies have tended to reinforce militarized borders and increasingly limited definitions of citizenship.”<sup>294</sup>

This contradiction not only affects migrant workers like the Braceros discussed in Chapter 3, but also generates a conflict between the lived experiences of these workers, their families, and their legal status. Rachel Ida Buff refers to these people as *denizens* (or residents), and looks specifically at students like the ones discussed in Chapter 4. According to Buff, this term stands for inhabitants of a place with established claims to rights in that place although they lack formal access to the full rights of citizenship.<sup>295</sup> “Deeply engaged in their communities, as residents, students, neighbors, and community members, these students have limited access to higher education and, therefore, to traditional pathways of immigrant mobility and community enhancement.”<sup>296</sup>

The historical evolution of citizenship in the United States has always entailed those who benefit from its protections and rights and those who do not. *Denizens* like Mexican immigrants, have long inhabited the nation without the benefit of political representation or cultural recognition.<sup>297</sup> “While citizenship confers official rights of

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<sup>292</sup> Das Gupta, Monisha. *Unruly Immigrants: Rights, Activism, and Transnational South Asian Politics in the United States*. (Durham: Duke University Press, 2006).

<sup>293</sup> Das Gupta, 2.

<sup>294</sup> Lavato, Robert. “Envisioning Another World: Integracion Desde Abajo”. *Nation* 282/9, March 2006, 22-26.

<sup>295</sup> Buff, Rachel Ida. *Immigrant Rights in the Shadow of Citizenship*. (New York: New York University Press, 2008), 302.

<sup>296</sup> Buff, 303.

<sup>297</sup> Buff, 303.

representation, its absence has not meant a historical lack of political subjectivity on the part of *denizens*. Instead, *denizens* have constantly challenged the boundaries of citizenship, in many cases expanding them and in other cases forcing the state to publicly articulate its justification for their ongoing exclusion.”<sup>298</sup> Throughout the history of American citizenship, *denizens* have fought for inclusion. In doing so, they have transformed the very notion of citizenship itself.

#### *THE STRUGGLE OF UNDOCUMENTED IMMIGRANTS FOR RECOGNITION*

In the spring of 2001, a legislative campaign, mounted by immigrants and their allies in Tennessee, won access for immigrants to a state-issued driver’s license. This feat questioned the meaning and expression of citizenship in the context of new Latino and Latina migration to the southeastern United States. This campaign fought successfully for access to a state-issued driver’s license for people who could not previously produce proof of lawful presence in the United States.<sup>299</sup> “The campaign and its aftermath should be of interest to those who believe that traditional ideas about citizenship and its attendant rights and duties need to be re-imagined for a global age.”<sup>300</sup>

The presence of low-wage immigrants in the North creates a space where the “contradictions of uneven development manifest in a particularly striking way; this space offers important learning opportunities for students of citizenship.”<sup>301</sup> Efforts like this movement, where transnational migrants struggle to improve their material and legal

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<sup>298</sup> Buff, 303.

<sup>299</sup> Ansley, Fran. “Constructing Citizenship Without a Licence: The Struggle of Undocumented Immigrants in the USA for Livelihoods and Recognition”. *Studies in Social Justice, Volume 4, Issue 2*, 2010, 165.

<sup>300</sup> Ansley, 165.

<sup>301</sup> Ansley, 166.

standings, happen at a site where traditional ideas of citizenship (national or territorial) come into sharp contradictions with the new dynamics of accelerating globalization.<sup>302</sup>

“Since they are being initiated by some of the people most directly and adversely affected by global dynamics, these efforts provide an opportunity for scholars to listen to how much people perceive and define the unprecedented problems they face, and to see what kind of solutions they have begun to pursue. Sometimes the most interesting of such efforts will be those that are just emerging and least shaped into demands that fit existing templates.”<sup>303</sup>

Another reason why these pro-immigrant campaigns are critical and worthy of study is that they raise important questions about who in the global economy has the “right to have rights” in the first place. “They press more of the native-born to consider the exclusionary, ‘fortress’ side of Northern citizenship in today’s world.”<sup>304</sup>

Today, we are in a period when the status of citizenship in the United States and the line between citizen and non-citizen is back in the spotlight, “and given the turbulent global conditions that presently prevail, the task of drawing and justifying such a line is likely to prove difficult in ways not felt before.”<sup>305</sup> It is because of this, that working for immigrants’ rights has become far more difficult but also much more important in the atmosphere that gripped the nation after September 11, 2001. The campaign in Tennessee to win and then defend immigrants’ access to driver’s license is a case in point.<sup>306</sup>

Despite the post-9/11 climate, pro-immigrant forces in Tennessee have succeeded in maintaining immigrant access to the driver’s license; several forces helped secure this access. “Perhaps the most basic contribution is that the Latina and Latino immigrants themselves, together with their transnational family and friendship networks, laid the

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<sup>302</sup> Ansley, 166.

<sup>303</sup> Ansley, 166.

<sup>304</sup> Ansley, 166.

<sup>305</sup> Ansley, 167.

<sup>306</sup> Ansley, 167.

basic foundation, without which nothing would have been possible.”<sup>307</sup> These low-wage immigrants have built relationships and created a multitude of potential patrons and allies. “There is no assurance that all immigrants’ rights movements in the USA will smoothly advance toward stronger rights, or that they will develop in ways that challenge rather than sustain existing power relations. But current campaigns for access to driver’s license are one part of a pre-legal, pre-institutional process that is helping incubate novel rights claims appropriate for the new economy.”<sup>308</sup>

The Tennessee driver’s license campaign is a significant example for studying citizenship and rights. It was part of a wider mobilization that continues today in the United States; one where undocumented immigrants, people with no standing as U.S. citizens or legal residents are striving to change the global landscape, demonstrate new models and inviting us to reinvent our own citizenship.<sup>309</sup> In many instances, those involved in the mobilizations are not claiming formal legal rights; they are attempting to win new, formally recognized rights for immigrants in specific contexts, such as access to higher education, and broader regularization of guest workers in agriculture.<sup>310</sup>

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<sup>307</sup> Ansley, 170.

<sup>308</sup> Ansley, 174.

<sup>309</sup> Ansley, 173.

<sup>310</sup> Ansley, 173.



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