Educating "Everybody Else's Children:"
Immigration and Education Policy in Arizona and Alabama

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"We don't have the money in America to keep paying for the education of everybody else's children from around the world."
-Mo Brooks, Alabama Congressman, October 6, 2011

Introduction

American nativism – the "intense opposition to an internal minority on the grounds of its foreign (i.e., 'un-American') connections" – is nothing new (Higham 1988: 4). John Higham, author of a seminal history of nativism in the United States, traces the genesis of the nation's seemingly ubiquitous anti-immigrant sentiment to the end of the nineteenth century. During that period, a potent combination of anti-Catholicism, anti-radicalism, and "racial nativism" yielded an "aggressive patriotism…critical of the foreign born" (Sanchez 1997: 1019). This "aggressive patriotism" reached its acme during World War I, "when a vision of national unity and solidarity excluded notions of ethnic diversity and tolerance" (Bodnar 1990: 80). As a corollary to this popular anti-immigrant sentiment, legislative hostility, manifest primarily in highly restrictive immigration laws, also characterized this period.

Some seven decades later, in 1997, George Sanchez, a scholar of Chicano history, warned that "signs…point to a resurgence of nativism unparalleled in this country since the 1920s" (1013). He cited the passage of California's Proposition 187, which prohibited undocumented immigrants from receiving virtually any public benefits, as the forbearer of a "new nativism." While immigrants in the United States represent myriad home nations, this new nativism positioned the figure of the undocumented Mexican immigrant at the center of its restrictionist narrative (Nill 2012). Sanchez went on to suggest that a resurgence of anti-immigrant feeling "is likely to be reflected in American politics and society for quite some time to come" (1997: 1027). Fifteen years later, Sanchez's predictions seem alarmingly prescient. Since he wrote in the wake of Proposition 187, similar measures emerged in other states with

large immigrant populations, federal legislation restricted immigrants' access to public benefits, and the "English-Only" movement gained momentum.

The past five years, in particular, have witnessed a spate of virulently anti-immigrant state-level legislation, distinguished by provisions so restrictive as to make Proposition 187 seem lax. While this legislation purports to affect all immigrants, particularly the undocumented, debates about and rationales for the policies have tended to focus on immigrants from the United States' southern neighbor, Mexico. The authors and supporters of these policies herald their intention to so drastically diminish undocumented immigrants' quality of life as to prompt "self-deportation." Notably, these laws frequently include measures related to educational access of immigrants and their children, especially the undocumented. Schools constitute the primary institutional context in which children are socialized: students learn not only about American history, but also, both implicitly and explicitly, about where they and their families fit into American society and life. How might restrictionist immigration laws shape the educational experiences of immigrant children and children of immigrants?

Restrictionist policies seem to deliver a clear lesson to these students about belonging in the United States. At the level of higher education, for example, policymakers openly erect barriers to educational access, implementing sweeping bans on undocumented students within public university systems. In the realm of public primary and secondary schooling, where the Supreme Court has deemed such a ban unconstitutional, artful efforts to discourage enrollment of undocumented children through burdensome registration procedures, as well as measures intended to preclude the teaching of inclusive curricula, instead take precedence. These trends prompt questions about how immigration and education policy intersect in states with

legislatures dominated by anti-immigrant lawmakers, and where tensions around immigration prove especially fraught.

In this paper, I examine recent immigration-related policy in two states, Arizona and Alabama, in an effort to understand the laws' overall goals, as well as their implications for educational access for immigrant children and children of immigrants, particularly the undocumented. My analysis focuses on the implications of this legislation for Latinos; as will be described later in this paper, the supporters and authors of the laws under study tend to conflate immigrants, the undocumented, Mexicans, and Latinos into a single entity. The legislation thus disproportionately affects Latinos, often regardless of nativity or citizenship status. With respect to the states under study, while the recent rash of aggressively nativist state-level immigration laws afforded me a rather expansive selection of policies to explore, I selected Arizona and Alabama because they represent a revealing cross-section of immigration and education policy. Legislators in both states have passed highly restrictive state immigration laws; indeed, Arizona pioneered this trend. With respect to education policy, Alabama lawmakers integrated measures attempting to restrict undocumented students' access to public K-12 and higher education directly into their immigration bill. Legislators in Arizona adopted a different approach, concurrently passing a controversial ban on ethnic studies. Taken together, the two states afford insight into the varied ways in which nativist education and immigration policy can intersect. In analyzing policy from each state, I focus on the following questions:

- According to the laws' language and statements of their supporters, what does each state's set of policies seek to accomplish with respect to educational access for immigrants and children of immigrants, particularly the undocumented?

- How might these laws affect the way citizenship is understood and developed within public schools?

My analysis necessarily proves exploratory, rooted in the text of the legislation under study, as well as statements of the laws' authors and supporters. I do not empirically test, for example, whether the self-concept, identity, or conceptions of citizenship of schoolchildren in Alabama and Arizona have changed in the wake of the passage of restrictionist legislation. However, this preliminary analysis does seek to establish a foundation for future empirical work in this vein.

Before delving into each state's policies, I first establish context for the literature and analysis that follows by reviewing data related to recent demographic shifts in the United States, as well as educational outcomes of Latino[1] youth. I then examine scholarly literature on citizenship, focusing in particular on the construction and development of citizenship within immigrant communities and public schools. To provide a historical framework for the analysis that follows, I then summarize pertinent developments in contemporary federal- and state-level immigration policy, including legislation and judicial decisions specific to educational access for immigrant children. Thereafter, I analyze relevant legislation from each state in light of the questions set forth above. Ultimately, I synthesize the analyses to contend that, in both Arizona and Alabama, state policy reinforces the conflation of Latinos, Mexicans, immigrants, and the undocumented into a single, threatening group situated outside the bounds of American civic identity. While each state's policies would differently affect educational access for immigrant

[1] The use of the category "Latino" – a pan-ethnic label and constructed racial category – in this paper is admittedly imperfect (Bashi 1998). The use of the term reinforces popular conceptions of Latinos as a homogeneous group, and lacks specificity with respect to national origin, as well as nativity and citizenship status. However, this paper contends with immigration policy authored and supported by state legislators in Arizona and Alabama. These policies overwhelmingly affect immigrants from Latin America. Furthermore, as will be shown, these legislators tend to conflate Mexicans, Latinos, immigrants, and the undocumented into a single, amorphous category. As such, in the service of establishing a reasonable shorthand for referring to the target populations of this legislation, I rely on the term "Latino" here.

children and children of immigrants, both flout the role of public schooling in developing citizenship, instead conceiving of certain students as undeserving of the social rights of citizenship, particularly education.

Demographic Shifts and Educational Outcomes

Demographic Shifts

While this paper focuses on educational implications of state-level immigration policy, the targets – and ramifications – of the legislation under study likely extend beyond first-generation immigrants, affecting whole groups linked with immigration in the popular imagination, particularly Latinos. As such, in this section, I establish context for the subsequent analysis by considering demographic shifts and educational outcomes among Latinos as a group, while also distinguishing data specific to the foreign-born and undocumented wherever possible. Critically, any discussion of demographic shifts in the United States should take note of 1965, the year in which Lyndon B. Johnson signed into law the Immigration and Nationality Act Amendments (Alfred 2003: 621). Before the 1960s, most immigrants to the United States came from Europe; the Amendments dramatically affected both the makeup and size of migration flows into the United States (Alfred 2003: 621). The laws eliminated national origin quotas, which had sought to preserve the racial and ethnic domination of Northern and Western European people in the United States, while also shifting immigration policy's focus to family reunification and attracting migrants with certain job skills (Alfred 2003: 621). In stark opposition to previous decades of migration patterns, since the passage of this law, over 80 percent of newcomers have hailed from Asia and Latin America (MacDonald 2004: 277).

In keeping with these trends, the Pew Hispanic Center reports that, in 2011, enrollment of Latinos in public schools reached new heights. Specifically, "for the first time, one-in-four (24.7%) public elementary school students were Latinos" (Fry & Lopez 2012: 4). In the same vein, among all public primary and secondary public schoolchildren, including pre-school students, "a record 23.9% were Hispanic in 2011" (Fry & Lopez 2012: 4). According to other work by the Pew Hispanic Center, most Latino students are of Mexican origin (69%), followed

by Puerto Rican (9%), Dominican (3%), Salvadoran (3%), and Cuban (3%) (Fry & Gonzalez 2008: 3). Significantly, an extremely high proportion of Latino students are born in the United States: 84 percent (Fry & Gonzalez 2008: 3). Foreign-born Latino students are, however, more likely than their native-born counterparts to live in "new" or "emerging" Latino states, like Alabama (Fry & Gonzales 2008: 3). With respect to future growth, the Census Bureau projects that the Latino school-age population will increase 166 percent by 2050 to some 28 million, while the non-Latino school-age population will increase a comparatively minor four percent, to 45 million. If these projections hold true, in 2050, there will be more Latino than non-Latino school-age children in the United States. This growth in the nation's Latino population constitutes a marked shift in its demographic landscape, and provides useful context for interpreting the motivations – and hysteria – undergirding the legislation later discussed.

While obtaining reliable information about undocumented students or parents proves difficult, it is worthwhile to consider available data about the size, growth, and makeup of this population, as much of the legislation under study specifically targets undocumented immigrants. According to the Pew Hispanic Center,[2] as of March 2010, approximately 11.2 million undocumented immigrants lived in the United States – nearly four percent of the national population (Passel & Cohn 2011). Of these 11.2 million people, eight million were in the workforce, comprising around five percent of the national labor force (Passel & Cohn 2011). This population figure is roughly similar to that of 2009, holding steady after a two-year decline from a peak of twelve million in 2007 (Passel & Cohn 2011). According to demographers Passel and Cohn, this decline appears attributable to a decrease in the number of undocumented

[2] To calculate these figures, researchers at the Pew Hispanic Center employed a multi-stage method: using Current Population Survey data, they first subtracted the legal foreign-born population from the total adjusted foreign-born population, and used the residual as the source of information regarding undocumented immigrants (Passel & Cohn 2011). Estimates are subject to uncertainty as a result of sampling and other forms of error.

immigrants from Mexico, from seven million in 2007 to 6.5 million in 2010 (Passel & Cohn 2011). With respect to ethnicity and national origin, 81 percent of the nation's undocumented population is Latino; immigrants from Mexico comprise the largest group of unauthorized immigrants, at 58 percent of the total undocumented population (Passel & Cohn 2011). (This presence likely contributes to the popular construction of undocumented immigrants as inevitably Mexican.) In sum, the undocumented population in the United States proves substantial, albeit smaller now than in recent years.

Furthermore, it appears that, regardless of formal citizenship status, many undocumented individuals have made the United States home for their families, although these patterns have registered unevenly across states. According to the Pew Hispanic Center, in 2009, 350,000 children were born to at least one undocumented parent, accounting for eight percent of all births in the United States that year (Passel & Cohn 2011). Of these 2009 parents, 61 percent – three-fifths – arrived before 2004, 30 percent arrived between 2004 and 2007, and nine percent arrived between 2008 and 2010. These figures suggest that many undocumented parents have been in the United States for some time when they have children here. With respect to geographic dispersal, in turn, California is home to the most undocumented immigrants of any state, followed by Texas (Passel & Cohn 2011). The above-described decline since 2007 in the overall undocumented population has registered particularly strongly in certain states: namely, Colorado, Florida, New York, Virginia, Arizona, Nevada, and Utah (Passel & Cohn 2011). Interestingly, however, a reverse trend has manifested in certain West South Central States, such as Louisiana, Oklahoma, and Texas (Passel & Cohn 2011). Concentrations of undocumented immigrants thus appear to be shifting unevenly across the states.

Educational Outcomes

How is the growing population of Latino students faring academically? Educational achievement among Latinos varies in relation to a range of factors, but, overall, "the educational performance of [Latino] students has generally lagged behind the performance of White students" (Hemphill & Vandemann 2011: 1). Compared to blacks and whites, "Hispanics have the lowest levels of educational attainment, highest dropout rates, and highest illiteracy rate," and these disparities have proven persistent over time (Perez & de la Rosa Salazar 1997: 53). With respect to student achievement, according to standardized tests, fourteen percent of Latino fourth-graders are reading at "proficient" levels (Casas & Ryan 2010: 5), and Latino students are twice as likely as their white counterparts to score at below basic levels on those exams (Darder et al 1997: xii). In relation with these trends, dropout rates are also high among Latino students, registering at 28 percent for the group overall, and at 44 percent for foreign-born students (Casas & Ryan 2010: 5). With respect to higher education, despite increasing Latino enrollments at this level, the proportion of Latino students enrolled in college remains low (Darder et al 1997). Just 33 percent of Latinos aged 18 to 24 are enrolled in school, as compared to 42 percent of all young adults in that age group (Lopez 2009: 3). As such, in the aggregate, academic achievement levels among Latinos in the United States prove relatively low.

Developmental psychologists Casas and Ryan suggest that discrimination against Latinos, structural economic factors, language barriers, and non-Latinos' resistance to incorporating Latinos into the United States all contribute to these adverse educational outcomes (2010: 5). Significantly, survey data suggests that Latinos overwhelmingly recognize the importance of educational attainment: a 2009 study by the Pew Hispanic Center found that 89 percent of Latino young adults say a college education is important for success in life (Lopez 2009: 2). However, only half of those respondents – 48 percent – said they themselves plan to

obtain a college degree, as compared to sixty percent of the general population (Lopez 2009: 2). The same survey asked 16- to 25-year-old respondents who cut education short during or right after high school why they did so. In support of the arguments of Casas and Ryan, 74 percent of respondents attributed ending their education prematurely to the need to support their family (Lopez 2009: 2). Other cited reasons included poor English skills, dislike of school, and not needing more education for their chosen careers. Ultimately, these trends, regardless of their cause, bear real economic consequences for Latinos: "under-education and a concentration in low-skilled, low-wage work…have…resulted in disproportionately high poverty rates for Latinos and their families" (Perez & de la Rosa Salazar 1997: 51). Indeed, despite "strong attachment to the labor face," Latinos are two-and-a-half times as likely as non-Latinos to live in poverty (Perez & de la Rosa Salazar 1997: 51).

Educational outcomes among Latinos appear to vary based on nativity and citizenship status. Overall, without regard to citizenship status, twenty-nine percent of immigrant Latinos aged 18 to 25 say they plan to obtain a Bachelor's degree, whereas sixty percent – twice as many – of native-born Latinos say so (Lopez 2009: 2-3). Pew Hispanic Center data suggests that foreign-born students tend to shoulder heavier financial burdens than their native-born counterparts; additionally, there are more mothers among the foreign-born population, and more people sending remittances home. These trends indicate that foreign-born students may contend with more significant financial or home obligations than their native-born peers (Lopez 2009: 2-3). With respect to the undocumented student population, specifically, educational attainment rates are generally lower for this group than for their counterparts with papers. Around one-quarter of undocumented individuals between the ages of 25 and 64 have attended college or earned a college degree, as compared to 61 percent of United States-born adults and 54 percent

of legal immigrants (Passel & Cohn 2009: 11). Approximately 7,000 to 13,000 undocumented immigrants enroll in college after high school, but the ultimate likelihood of completing a degree is slim (Passel 2003: 2). Taken as a whole, these trends suggest that public schools – and the policies that govern them – have significant strides to make in supporting academic achievement and educational attainment among Latino students.

Citizenship, Immigration, and Schooling

Citizenship, for all its legal codification, is "not a unitary concept:" according to legal scholars Gordon and Lenhardt (2007), the term connotes a range of ideas "that may coexist or not map evenly on to each other" (2500). Those connotations include immigration status, nationality, forms of political participation, entitlement to substantive benefits, and elements of individual or group identity (Gordon & Lenhardt 2007: 2500). In this section, I explore these disparate – but, in some cases, overlapping – conceptions of citizenship. I first consider formal citizenship, which refers to a legally-designated status that "distinguishes members of a society from outsiders" (Gordon & Lenhardt 2007: 2494). I then review more complex renderings of citizenship, which encompass elements of identity, belonging, and contested rights, and emphasize the "realization by individuals and groups of genuine participation in the larger political, social, economic, and cultural community" (Gordon & Lenhardt 2007: 2494). Significantly, these contemporary theories of citizenship indicate that, even when one possesses formal citizenship status, race, ethnicity, and other factors can all complicate the full realization of citizenship. Conversely, "denial of legal status does not preclude…access to the social rights of full citizens" (Del Castillo 2002: 19). After exploring these traditional and contemporary theories of citizenship, I ask how these theoretical perspectives apply to immigrant communities, as well as to the development of citizenship and civic identity in public schools. In the final section, I synthesize the previously-reviewed literature to consider the role of public schools in developing citizenship and civic identity among immigrant children and children of immigrants.

Traditional Theories of Citizenship: Universally Realized Rights

"Traditional" theories of citizenship link membership and rights, such that community membership implies entitlement to certain rights, and vice versa (Flores 2003). Sociologist T.H. Marshall's seminal *Class, Citizenship, and Social Development* defines citizenship as "a status

bestowed on those who are full members of a community" (1998: 102). For Marshall, citizenship status, at least when realized in its ideal form, yields genuine equality: "all who possess the status are equal with respect to the rights and duties with which the status is endowed" (1998: 102). Those rights are comprised of three essential components: civil/legal, political, and social (Ladson-Billing 2005: 69). Civil/legal citizenship relates primarily to individual freedoms, such as freedom of speech, religion and thought, as well as physical liberty and the right to own property (Del Castillo 2002: 15). In keeping with the premise that citizenship status necessarily yields equal rights, Marshall contends that civil/legal rights are equally ascribed regardless of an individual's economic or social status (Marshall 1998). Political citizenship, in turn, entails exercising rights: the ability to participate in "collective goal attainment" through both governmental and extra-governmental processes, such as voting, assembling, lobbying, and petitioning (Marshall 1998: 94). Lastly, social citizenship entails access to the resources and capacities that permit social welfare and mobility – healthcare, education, and employment opportunities, for example (Marshall 1998, Ladson-Billing 2005; Ono & Sloop 2002). Notably, according to Marshall, "the institutions most closely connected with [social citizenship] are the educational system and the social services" (1998: 94). In sum, Marshall delineates three essential elements of citizenship: the civil/legal, the political, and the social.

Despite his theoretical commitment to the equality afforded by citizenship rights, Marshall recognized that "on-the-ground" experiences of citizenship might not reflect the full realization of abstract egalitarian ideals. In fact, he characterizes citizenship as "the architect of legitimate social inequality," articulating a relationship between the acquisition of education – a right of social citizenship – and inequality (1998: 35). Specifically, Marshall relates education, occupation, and social status, claiming that "through education in its relations with occupational

structure, citizenship operates as an instrument of social stratification" (1998: 93). Education affords its beneficiaries augmented social status, and this "status…is carried out into the world bearing the stamp of legitimacy, because it has been conferred by an institution designed to give the citizen his just rights" (Marshall 1998: 109). Marshall thus finds that the logic of social rights naturalizes and perpetuates existing stratification, and that the exercise and experience of social citizenship may map unevenly onto different social groups.

Contemporary Theories of Citizenship: Confronting Inequality

Scholars have critiqued Marshall's foundational work for failing to grasp more complex facets of citizenship; as anthropologist Renato Rosaldo writes, "one needs to distinguish between the formal level of theoretical universality [of citizenship] from the substantive level of exclusionary and marginalizing practices" (1997: 27). That is, Marshall's work too readily takes for granted the notion of "full membership," obscuring the reality that such membership proves inaccessible, or only partly accessible, to certain members of society. While Marshall does acknowledge the relationship between formal citizenship and social inequality, contemporary scholars have explored in greater depth the range of factors that might "compromise the universal exercise of citizenship" (Goldring 2011: 511). Legal scholars, for example, focus on the "failure of the United States to fulfill the promises made to its citizens of color," and also "[explore] the shifting parameters of national citizenship in the context of global and massive migration" (Gordon & Lenhardt 2007: 2494). These scholars tend to hold that globalization and increasingly international flows of capital, people, and ideas render the notion of a singular civic or national identity untenable (Ladson-Billing 2005; Kymlicka 1995). As such, contemporary theoretical work tends to recognize citizenship rights as unevenly experienced relative to social

status, and also conceives of citizenship of as an *active* process of claiming rights, rather than "passive acquisition of an arbitrary and limited set of rights" (Flores 2003: 87).

Expanding this notion of citizenship as dynamic, critical theorist Lauren Berlant contends that definitions of citizenship "are always in process…continually being produced out of a political, rhetorical, and economic struggle over who will count as 'the people' and how social membership will be measured and valued" (Berlant 1997: 20). In this vein, political scientist William Flores (2003) contends that the efforts of excluded groups to gain full societal membership prove an enduring theme throughout the history of the United States (87). Rosaldo (1997) elaborates on this history of exclusion and dissent:

> In the beginning, the U.S. Constitution declared that citizens were white men of property…[T]he stipulation can also be read the other way around: that is, the Constitution disenfranchised men without property, women, and people of color. These exclusions derive from discrimination based on class, gender, and race. In the long run, these forms of discrimination defined the parameters of dissident traditions that have endured into the present (29).

According to Rosaldo, systematic "forms of discrimination" effectively set the terms of social conflict within the United States, with excluded and marginalized peoples – the poor, women, people of color – struggling to claim new rights and carve out new modes of civic participation, thus asserting a mode of citizenship distinct from that theorized by Marshall.

Flores further draws out the connection between citizenship and participation, noting that, as groups struggle to claim new rights, such as dual language ballots, "these new rights not only extend participation but reframe [its] context…in terms of the needs of new citizen groups" (2003: 88). Critically, Flores emphasizes the contested nature of these processes, suggesting that "incorporation of new citizens" – through groups claiming new rights – "can produce frustration if rights are curtailed, denied, or unevenly distributed" (2003: 87, citing Turner 1991). As suggested by the subsequent discussion of state-level policy, as Latinos increasingly assert their presence in the United States through participation in political, economic, and social life, their

rights are often vigorously "curtailed and denied" through an impressive array of state processes, fomenting further struggle. In sum, from this perspective, citizenship, unlike a mere status or designation, constitutes a dynamic practice that entails ongoing negotiations with the state and other forms of political authority (Goldring 2011: 511-512).

Contemporary theory thus allows for a rendering of citizenship that extends beyond Marshall's three elements of the civil/legal, political, and social. While these factors capture the dimensions of formal citizenship, they prove too static to accommodate the realities of "incorporation of new citizens into the polity," affording little attention to struggle, to discontent, to the creation and claiming of new rights. In recent years, scholars have conceived of an additional dimension of citizenship: *cultural* citizenship, or the "cultural practices and beliefs produced out of negotiating the often ambivalent and contested relations with the state…[which] establish[es] the criteria of belonging within a national population and territory" (Ong 2000: 738). Cultural citizenship thus constitutes the various processes by which groups define themselves, form communities, and claim space and social rights (Flores & Benmayor 1997; Flores 2003: 89; Rosaldo 1987; Rosaldo and Flores 1993). Individual members of these groups may be afforded formal citizenship rights that they can access as necessary (even if these rights are not fully realized), and also count themselves as members of groups mobilizing to secure new rights and privileges (Ladson-Billing 2005). As such, cultural citizenship and formal citizenship can, but need not, exist concurrently. Ultimately, cultural citizenship entails the struggles – both quotidian and consciously organized – of members of marginalized groups to construct a distinct social space in which they can freely move and speak. The practice and experience of this form of citizenship is dynamic, "shaped by dominant conceptions of who 'belongs' and who does not, and where," as well as efforts to shift those boundaries (Goldring 2011: 512).

Citizenship and Immigrant Communities: Circumscribed Rights

How is citizenship constructed for the nearly 39 million immigrants living in the United States (Batalova & Terrazas 2012)? Are immigrants afforded full citizenship rights, as envisioned by Marshall, or are they subject to the "exclusionary and marginalizing practices" described by Rosaldo? To take on this question, it serves to first consider dominant conceptions of American identity: what exactly it means to be a citizen of the United States, and where immigrants are situated relative to that civic identity. Political scientists Fraga and Segura (2006) hold that there are three coexisting, if often clashing, "myths of [American] civic identity:" individual liberalism, democratic republicanism, and ascriptive inegalitarianism (280; Smith 1997). Individual liberalism celebrates individual rights, free markets, and limited government – familiar and oft-invoked concepts (Fraga and Segura 2006). Democratic republicanism, in turn, emphasizes the nation's collective fate, formed through participatory political processes (Fraga and Segura 2006). Ascriptive inegalitarianism, lastly, deploys the law to define "who is in the body politic and who is excluded:" that is, who constitutes a "true" American (Fraga and Segura 2006). These three traditions jointly influence which groups and interests are deemed "legitimate" elements of American identity.

Given these competing, if overlapping, notions of American civic identity, "implications of immigration for national politics include debates on the concepts of membership, [and] on…who…the social contract extend[s] to and who is excluded" (Reimers 2006: 283). During the mid-twentieth century, the prevailing immigration discourse in the United States depicted the nation as a "land of opportunity" for those willing and able to migrate (Ono & Sloop 2002: 26). In keeping with the tenets of individual liberalism, notions of meritocracy underpin this narrative: the "willing and able" migrate and endure great struggle in the service of improving their lot in life and ultimately realizing the "American dream." Successes are hard-won, earned

as a result of grueling work. Democratic republicanism also figures into this account: engaging with the nation-state through participatory processes like voting constitutes a central element of immigrants' incorporation into American society.

However, since the mid-1990s, this discourse has shifted: notions of a "land of opportunity" have lost their cachet, while the national conversation about immigration increasingly focuses on the just allocation of finite resources. In the spirit of the "ascriptive inegalitarian" myth of civic identity, immigration discourse now heavily emphasizes issues of membership: who's in, who's out (Ono & Sloop 2002: 26). According to education scholar Fernando Reimers, increased cultural exchanges and conflict can prompt such a "narrowing" of citizenship (2006: 283). Indeed, as noted in the introduction, this most recent "narrowing" does not lack precedent: "new migrants have always been treated with suspicion because of any number of socially defined characteristics associated with their deviance, including race, gender, religion, ethnicity, sexuality, and class" (Ono & Sloop 2002: 44). Yet, as sociologist Thomas Epsenshade (1995) notes, such "ascriptive inegalitarian" treatment of immigrants inevitably clashes with the spirit of individual liberalism: "Americans have long held conflicting attitudes toward immigrants and immigration[, as we] pride ourselves in being a 'nation of immigrants,' and yet many tend to view recent waves of immigrants with skepticism if not outright hostility" (202). Fraga and Segura (2006) reconcile this paradox by contending:

> The evolution of [American] national identity has often depended on both exclusion and inclusion…, identifying a group for exclusion from…full citizenship because of its perceived threat to national interests while…calls are made for the inclusion of other groups to be added to the aggregation of interests that comprise the national interest (280).

As such, for Fraga and Segura, hostility toward (certain) immigrants constitutes an essential element of American civic identity, for the construction of the nation hinges on systematic exclusion of some new groups in favor of others.

Which groups are "added to the aggregation of interests that comprise the national interest," and which are relegated outside the bounds of American civic identity? Sociologists find that "group threat" shapes perceptions of who represents the national interest. Understanding group threat requires linking individual and social processes: through socialization, individuals acquire cultural attitudes and definitions, which predict their attitudes toward those they perceive as different (Citrin, Reingold & Green 1990: 1134). Cultural objects – language, race, religion – "are embedded in the social system and solidify the concept of a unique 'American' identity by giving citizens a reference for their identity" (Keogan 2002: 234). Ono and Sloop (2002) situate these cultural objects in American history:

> Because of the importance of Anglo-Saxon Protestantism in the early definition of the United States as a nation-state, immigration of non-Anglos and non-Protestants was often seen as a threat to coherent nation-state identity, the destabilization of what makes 'America' 'America' (44).

"Group threat" refers to this fear of compromising national identity: dominant group attitudes toward minority groups are influenced by fears that minorities will be favored or otherwise gain social power (Wilson 2001: 485).

Perceptions of group threat tend to take on two forms: cultural and economic fears. With respect to cultural anxieties, social psychologists Marcelo and Carola Suarez-Orzoco identify four specific fears bound up with the notion that immigrants fundamentally differ from Americans, and possess outsized influence on American society. Specifically, these "cultural threat" fears are: too many immigrants are coming in and controls have failed to contain them; new immigrants are culturally unlike their predecessors from Europe; new immigrants do not want to assimilate the way their predecessors from Europe did; and immigrants contribute disproportionately to crime (Suarez-Orozco 1995: 26-28). Additionally, from a perspective that regards immigrants as an economic threat, immigrants are assuredly a drain on resources, moving to the United States solely to abuse public services and exhaust economic infrastructure

(Alfred 2003: 640).[3] These perceptions prove especially pertinent to understanding policy initiatives that ban undocumented immigrants' access to public services; proponents of these policies often cite the need to preserve scarce resources (Holley-Walker 2011; Ono & Sloop 2002). Unsurprisingly, the condition of the national economy significantly influences perceptions of immigrants and related attitudes about access, citizenship, and public services (Palmer & Davidson 2011: 4). In sum, group threat accounts for a variety of negative sentiments toward immigrants.

Critically, the Suarez-Orozcos call out this fear as "irrational and paranoid in nature," and suggest that perceptions of just who belongs to the feared group may be highly skewed (Suarez-Orozco & Suarez-Orozco 1995: 38). They elaborate:

> We call it 'paranoid fear' when group fear is laced with paranoid content. A person or group is singled out as the cause of another group's unbearable tensions…and accused of possessing unacceptable traits (such as savagery, primitivism, or aggression). The disparaged group that is singled out as the cause of unbearable anxieties then becomes a target of further self-righteous hatred and aggression. (Suarez-Orozco & Suarez-Orozco 1995: 38)

Paranoia thus begets persecution. Given the irrational nature of this fear, perceptions of who belongs to the "disparaged group" are often skewed, such that various (sometimes, but not always, overlapping) groups – immigrants, Mexicans, Latinos, undocumented immigrants – are collapsed into a singular "Other" (Nill 2012). Rosaldo holds that, as a consequence:

> By a psychological and cultural mechanism of association all Latinos are thus declared to have a blemish that brands us with the stigma of being outside the law…[and] we always live with that mark indicating whether or not we belong in this country is always in question. (1997: 31)

This conflation of Latinos with undocumented immigrants reinforces the irrational fear that Latinos are somehow inassimilable, and also speciously implies that all Latinos in the United

[3] Contrary to this perception, research generally finds that immigrants come to the United States to find jobs and reunite with family, and that they pay taxes, create jobs, and engage in entrepreneurial activity and consumer spending (Alfred 2003: 640). There is also broad agreement among economists that immigration yields small but positive impacts on the average wages of native-born workers, because new workers add to the labor supply, while also consuming goods and services, thereby creating more jobs (Shierholz 2010).

States are immigrants (Nill 2012; Rosaldo 1997). Critically, these perceptions of economic and cultural threat shape national attitudes with respect to immigration (Palmer & Davidson 2011; Garcia & Bass 2007; Wilson 2001). As a result, in the realm of policy, fears of "disparaged groups" are often "articulated in legislation…to regulate immigration" (Ono & Sloop 2002: 44).

The "ascriptive inegalitarian" myth of American civic identity thus depicts immigrants as outside of American society, and, as a consequence, effectively denies immigrants full citizenship. Even for those immigrants who possess formal citizenship status, equal realization of legal, political, and social rights may be circumscribed through policy that targets "disparaged groups," as well as through informal discriminatory practices. In light of the previous section, however, it serves to recall citizenship's multiple dimensions. Contrary to the restrictive constructions of the ascriptive inegalitarian perspective, work on cultural citizenship reminds us that citizenship practice can encompass dynamic, active struggles for new rights, and that individuals can and do move across multiple civic identities. Ladson-Billings (2005) argues that societal responses to these multiple identities "either binds people to or alienates them from the civic culture" (73). Clearly, "ascriptive inegalitarian" conceptions of civic identity fall in the latter camp.

Citizenship and Schooling: Teaching Rights

Having explored dimensions of citizenship and civic identity for immigrants in the United States, I turn to a related question: How do schools shape conceptions of and develop citizenship, particularly among immigrant children and children of immigrants? Recall that Marshall framed education as a right of social citizenship; he also regarded citizenship development as an essential element of schooling (Marshall 1998: 100). For Marshall, through public education, the state seeks to "stimulate the growth of citizens in the making," and the

adult citizen bears the fruits of his right "to have been educated" (Marshall 1998: 100). Educational philosopher John Dewey also recognized the school's role in forming democratic community (Dewey 1920: 75). The "democratic community" of Dewey's writing "was inherently and naturally bound within the contours of the nation-state," such that Dewey's democratic project "was aimed explicitly at the *formation* of the nation; Americanism was defined in terms of a conjoint experience of living and learning together in an open, plural, and egalitarian manner" (52). Dewey, like Marshall, thus recognized citizenship development as a fundamental element of public education.

Yet, citizenship development does not comprise the exclusive, or even the primary, goal of schooling; as education historian David Labaree describes, three distinct and often contradictory educational goals comprise the overarching purposes of schooling (1997). Specifically, these goals are: democratic equality, social efficiency, and social mobility (Labaree 1997: 41). These three perspectives differ in the extent to which they conceive of education as a public or private good, and as to whether they seek to prepare students for political or market roles (Labaree 1997). The aim of democratic equality – that is, of preparing young people for democratic citizenship – aligns with Marshall's and Dewey's conceptions of the school as a site for citizenship development. Social efficiency, in turn, entails preparing young people to adopt "useful" economic roles as adults, reflecting the ethos of human capital theory, which emphasizes the importance of education, among other inputs, in shaping individual lifelong productivity and earnings. Lastly, the aim of social mobility, which celebrates meritocracy and individual opportunity, frames education as a commodity that serves to "provide individual students with a competitive advantage in the struggle for desirable social positions" (Labaree 1997: 42). According to Labaree, all three goals prove inherently political "in that all are efforts

to establish the purposes and functions of an essential social institution" (Labaree 1997: 42). As such, democratic equality does not prove the sole aim of schooling; indeed, other goals, operating in the service of preparing young people to adopt market roles, compete with it.

Labaree contends that, currently, social mobility, with its emphasis on individual opportunity and education as a vehicle for generating competitive advantage, is the predominant goal of American public education. However, Ladson-Billing posits that, even when curricula are not explicitly geared toward citizenship development, *all* education constitutes citizenship education. Because every society works to socialize its youth into the prevailing social system, public schooling both implicitly and explicitly teaches students what it means to grow up in that system (Ladson-Billings 2005: 70). If the primary goal of public schooling is the realization of social mobility, this emphasis inculcates into students certain essential ideas: the existence of meritocracy and the importance of individual opportunity, for example. According to Ladson-Billing, this socialization process works when society guarantees young people that participation in the educational system will yield a certain "payoff," and delivers on that promise (2005: 70). However, honoring that promise proves difficult when "education has come to be defined as an arena that simultaneously promotes equality and adapts to inequality" – just as national identity hinges on both inclusion and exclusion (Labaree 1997: 41). If one accepts Ladson-Billing's characterization of all education as citizenship education, how does the inequality inscribed into public education affect the experiences of immigrant students and children of immigrants, as well as their conceptions of citizenship?

Citizenship, Schooling, and Immigrants: Learning One's Place

In keeping with Labaree's contention that aims of democratic equality historically characterized public education, "one of the main purposes of public schools in the United States

has been to Americanize the diverse immigrant peoples that have arrived on its shores voluntarily or who have become members through colonization or annexation" (MacDonald 2004: 1). Efforts to harness education as a means to incorporate new immigrants into American society entailed explicit attempts to impart American civic identity and ideals to newcomers. At the same time, in the spirit of Ladson-Billing's argument, public schools implicitly taught immigrants where they would be situated within the social hierarchies of their new home. As such, at the turn of the twentieth century, public schools' citizenship education developed a dual focus: "socializing American children and assimilating immigrant children into the mainstream culture as quickly as possible" (Field 1997: 140).

Examining patterns of schooling in the Southwestern United States affords insights into how public schools sought to "Americanize" Mexican children through both linguistic and cultural transformation. After formerly Mexican territories were proffered to the United States under the Treaty of Guadalupe-Hidalgo, schools played a central role in "facilitating Anglo-American dominance of the new territories" (Moll & Ruiz 2009: 364). Specifically, through the early 1930s, "Americanization was the primary objective of the education of Mexican children" (Gonzalez 1997: 158). Even after that period, Americanization remained an important subtext in the education of students of Mexican descent; transforming language and culture was thought to be a critical means of incorporating these students into American society. Historian Gilbert Gonzales captures the contours of "education for citizenship" among those children whose parents or communities fell outside the bounds of formal or substantive citizenship:

> Assimilation…involved not just the elimination of linguistic and cultural differences, but of an entire culture that assimilation advocates deemed undesirable. Americanization programs assumed a single homogenous ethnic culture in contact with a single homogeneous modern one, and the relationship between the two was not that of equals. (1997: 163)

This assimilation process, rooted in nativist assumptions about Mexican culture, thus entailed efforts to transform students' linguistic and cultural practices.

Indeed, "Americanization programs…tended to reinforce stereotypes of Mexicans as dirty, shiftless, lazy, irresponsible, unambitious, thriftless, fatalistic, selfish, promiscuous, and prone to drinking, violence, and criminal behavior," inspiring curriculum that emphasized the abandonment of students' home language and culture (Gonzalez 1997: 163). Several colleges and universities created special courses focused on the effective instruction of Mexican children, emphasizing the teaching of American traditions and "way[s] of living;" school districts also led trainings on this topic (Gonzalez 1997: 164-165). The California State Department of Education went so far as to recommend coursework including visits to "American" homes, for Mexicans would then know "what is normally done in a kitchen or bedroom" (Gonzalez 1997: 166). Furthermore, during this period, education policymakers conflated language and culture, forcing the conclusion that "assimilation could not be realized until Spanish was eliminated" (Gonzalez 1997: 167). (This philosophy persists today in the guise of the "English-only" movement.) Scholars refer to this approach to education as "subtractive schooling," as it divests students of their primary linguistic and cultural resources, all while creating social distance between their knowledge and the world of academic knowledge (Valenzuela 1999).

While systematic "Americanization" programs in this form no longer exist, students continue to absorb lessons about their place in American society. Ong identifies school as one of several critical "institutional contexts in which subjects learn about citizenship," and as an environment in which newcomers are assessed "within given schemes of racial difference…and economic worth" (Ong 1996: 739). In this vein, Stacey Lee, an educational anthropologist, writes, "One of the first lessons that immigrant students learn about life in the United States

concerns the existence of the racial hierarchy that places Whites at the top of the heap" (Lee 2002: 233). Lee contends that non-white immigrant students learn that whites are viewed as the only "real Americans" (Lee 2002: 233). In this way, "whiteness/middle classness [becomes] the unspoken yet pervasive norm against which others [are] judged" (Lee 2002: 242). In this way, schools do offer a civic education of sorts: one that insinuates to non-white students their place in the American racial hierarchy.

Lee holds that these lessons in racial and economic hierarchy need not persist: "public schools…have the opportunity to welcome and integrate immigrant and second-generation students into U.S. culture…[and] (re)construct definitions of *America* and *Americans* that reflect the [nation's] diversity" (2002: 244). As a corollary, education policy can also serve – or subvert – the aim of welcoming and serving newcomer students. Scholarship on incorporation of immigrants into the United States suggests that "incorporation is largely a function of the opportunities and barriers immigrants encounter in the host society, as opposed to simply the level of skills…or cultural attitudes they allegedly bring with them" (Gouveia 2005: 25). National and local policies that shape immigrants' context of reception thus prove critical to removing barriers for immigrants and their children. Recall Ladson-Billing's argument (2005) that societal responses to multiple identities "either [bind] people to or [alienate them] from the civic culture" (73). Will American schools, and the policies that guide them, bind or alienate immigrant and second-generation students?

Recent Developments in Immigration Policy

Post-1965: The Return of Restrictionism

This section frames the policies under study in recent shifts in rhetoric and policy related to immigration, citizenship, and education. In the wake of the extraordinary shifts in immigration patterns ushered in by the Immigration and Nationality Act of 1965, restrictive immigration policies have increasingly proven central to structuring migrant experiences in the United States (De Genova and Ramos-Zayas 2003: 5). The (relatively) recent influx of immigrants from Latin America has inspired backlash crystallized in policy that restricts immigrants' access to services, space, and the nation itself – policy intended to circumscribe immigrants' realization of full citizenship status (MacDonald 2004: 276). Historian MacDonald finds that "changing attitudes toward immigrants, particularly undocumented immigrants, during the 1980s and 1990s contributed to their educational, social, and economic marginalization" (2004: 279). I describe the policy efforts contributing to that marginalization in this section.

Securing the Right to Education: *Plyler v. Doe*

In 1982, a landmark Supreme Court case, *Plyler v. Doe*, secured the right to education for all children in the United States, regardless of nativity or immigration status. At issue in *Plyler* was a Texas statute that withheld state funding for the education of undocumented students, and concurrently permitted school districts to ban undocumented students from enrolling if their families did not pay for schooling (Pabón López 2012: 3). Prosecutors charged that the statute violated the Equal Protection Clause of the Fourteenth Amendment (Pabón López 2012: 3). The Supreme Court ruled against the State of Texas, thereby guaranteeing undocumented children's access to a free public primary and secondary education in the United States (Palmer & Davidson 2011: 2). In its decision, the Court recognized education as "perhaps the most important function of state and local governments," positing that "it is doubtful any child may

reasonably be expected to succeed in life if he is denied the opportunity of an education" (*Plyler v. Doe*, 1982). The Court also acknowledged children's lack of control over their immigration status; "there could not be a rational justification for penalizing the children for their presence in the country" (Pabón López 2012: 4). Ultimately, citing both the importance of educational attainment and children's inability to control their citizenship status, the Court concluded that denying undocumented children access to free public education "imposes a lifetime of hardship on a discrete class of children not accountable for their disabling status" (*Plyler v. Doe*, 1982).

Notably, the Court also found that denying education to undocumented students could be considered "rational" if it furthered a substantial state goal, but held that any potential benefits for Texas paled in comparison to the potential costs of implementing the law (Pabón López 2012: 3). In its decision, the majority wondered "precisely what the State hopes to achieve by promoting the creation and perpetuation of a subclass…surely adding to problems and costs of unemployment, welfare and crime" (*Plyler v. Doe*, 1982). While the Court recognized that the state may have had an interest in mitigating the perceived economic effects of undocumented migration, it also found that the statute in question failed to remedy that issue. To the contrary, the policy neither succeeded in stemming unauthorized immigration or in improving the quality of public education. Furthermore, the court held, "any money which the state saved as a result of its refusal to educate these children was insubstantial compared to the future cost of unemployment, welfare, and crime instigated by the denial of an education to a subset of the population" (*Plyler v. Doe*, 1982).

In sum, the Supreme Court's decision in *Plyler v. Doe* marked the first time the Court clearly stated that undocumented persons are protected under the Equal Protection Clause of the Fourteenth Amendment (Pabón López 2012: 3). Practically speaking, the decision also secured

the right of undocumented children to access public primary and secondary schooling in the United States (Palmer & Davidson 2011). (It did not, however, ensure access to or eligibility for postsecondary education (Palmer & Davidson 2011).) Since 1982, the ruling has remained in force, largely undisturbed (Olivas 2007: 39). Notably, however, both Chief Justice John Roberts and Justice Samuel Alito have previously stated that they consider *Plyler* to have been wrongly decided; these views surfaced during their nomination hearings (Olivas 2007: 39). Furthermore, since the ruling, the Mexican American Legal Defense Fund has filed several dozen actions to enforce *Plyler*, combatting, for example, school board actions requiring that students have social security numbers, requests for driver's licenses to identify parents, separate schools for immigrant children, and other policies designed to identify citizenship status or otherwise single out undocumented children (Olivas 2007: 39). Ultimately, *Plyler* remains a landmark case with respect to educational access for undocumented immigrant children.

Backlash: Education and Immigration Policy through the 1990s

In the decades after the *Plyler* ruling, local, state, and federal lawmakers mounted efforts to restrict both immigration and the legal and social rights of immigrants, often in the arena of education. In 1994, Californians voted into law perhaps the most notorious of these legislative efforts, Proposition 187. The bill's scope extended well beyond education, seeking to bar undocumented persons from receiving *any* public benefits with the exception of emergency medical care (Johnson 1998: 201). The law did, however, include language pertaining specifically to education. Putting schools in the uncomfortable position of enforcing federal immigration law, Proposition 187 provided for California school districts to verify the immigration status of children enrolled in public schools, and report to authorities if they found any student, parent, or guardian to be in violation of federal immigration law (Alfred 2003; Lee

& Ottati 2002). The bill also set its sights on higher education, attempting to bar undocumented students from attending public colleges in the state. Proposition 187 garnered significant public support, passing with 59 percent of the vote, and even winning the support of 25 percent of Latino voters (Del Castillo 2002; Johnson 1998). Despite this apparent wellspring of public sentiment in favor of the bill, a federal judge invalidated the law on the grounds that the federal government holds exclusive powers to regulate immigration, and, furthermore, that the state could not deny undocumented immigrants any public services fully or partially funded by the federal government. The judge also found that denying K-12 public education to undocumented children and young people constituted a violation of *Plyler* (Alfred 2003: 625).

During this period, similar efforts to restrict undocumented immigrants' access to public services, including education, also surfaced at the federal level. In 1996, Republican Congressman Elton Gallegly introduced an amendment to an immigration bill that would have authorized states to legally deny undocumented children public education – effectively, a legislative attempt to override *Plyler* (Alfred 2003: 627). Although the amendment passed in the House, after pronounced opposition from President Clinton, the Senate abandoned the proposal (Alfred 2003). The same year, the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) and the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) ensured that the guarantee of education established by *Plyler* would expire after high school, and that immigrants would be eligible for few, if any, federal benefits. Specifically, PRWORA restricts states from allowing undocumented students to qualify for federal financial aid or student loans to cover their schooling expenses (Alfred 2003: 617). The law also dramatically changed *all* immigrants' eligibility for public services, regardless of citizenship status. Today, most legal immigrants are only eligible for emergency medical

assistance and some limited state and local means-tested public benefits programs. Pursuant to PRWORA, undocumented immigrants are only eligible for emergency assistance means-tested programs (Alfred 2003: 627).

IIRIRA, in turn, included education provisions, as well as broader restrictions on eligibility for citizenship. Specifically, the law prohibits states from charging in-state tuition rates to undocumented immigrants unless they provide such rates to all non-resident students and agree to report students to federal immigration authorities upon discovery (Alfred 2003). States have the option to override this law, and several have enacted legislation in this vein, including Texas, California, New York, Washington, Illinois, New Mexico, Nebraska, Connecticut, and Utah (Alfred 2003: 639). Furthermore, differing interpretations of the law's language have yielded a diverse range of state-level eligibility policies with respect to in-state tuition for undocumented students (Drachman 2006: 95). Nonetheless, while federal law (and, by and large, state law) does not prohibit undocumented students from attending college, "access to postsecondary education [remains] severely constrained by federal laws that prevent undocumented students from receiving financial benefits" (Drachman 2006: 91).

In sum, the 1990s witnessed the passage – and attempted passage – of a range of restrictionist legislation, a substantial portion of which focused on issues of educational access for undocumented immigrants. However, at least in the realm of K-12 education, since *Plyler*, school districts have generally been discouraged from taking any actions that could create a "chilling effect" in public primary and secondary education (Pabón López 2012: 8). Currently, ten states have guidance in place that instructs schools not to collect information about immigration status, and Pennsylvania has a state statute in effect that prevents school districts

from inquiring as to a student's status. With respect to higher education, however, consensus has seemed to be moving in the opposite direction. Law professor Danielle Holleywalker observes:

> Most of the debate over undocumented students and higher education has centered around the question of whether undocumented students should be able to pay in-state or out-of-state tuition. In recent years, the debate has gone beyond tuition and some states have passed legislation banning all undocumented students from applying to public colleges and universities (2011: 357).

This movement toward more severe restrictions on access to higher education also characterizes the trajectory of immigration policy from 2000 on, as suggested in the below section.

The Battering Ram: The Aggressive Pursuit of Attrition through Enforcement

In 2001, the attacks on the World Trade Center prompted immediate and profound concern for border security (Johnson 2011). Ironically, just days before September 11 of that year, Vicente Fox, then-President of Mexico, "had a highly visible, successful trip to Washington" focused on the joint development of an "initiative that would either 'legalize'…undocumented immigrants….or regularize their status through a formal, *de jure* guest worker program" (Flores & Chapa 2009: 93). However, in the wake of the attacks, the prospect of legalizing or otherwise regularizing the status of undocumented immigrants was rendered both low-priority and a political impossibility (Flores & Chapa 2009). In the subsequent decade, as comprehensive immigration reform failed to emerge as a federal political priority, state and local governments began developing their own policy strategies to respond to increased immigration (Johnson 2011).

Specifically, throughout the past decade, legislators in several states passed bills modeled on a strategy termed "attrition through enforcement" (ATE). ATE is a "comprehensive immigration-control strategy [intended] to drive away the [undocumented] population" through stepping up enforcement of existing laws and creating "incentives" for immigrants to "self-deport" (Waslin 2012: 2). ATE thus seeks to both reduce immigration and deny undocumented

immigrants all the rights – legal, political, and social – bound up with citizenship. The Center for Immigration Studies (which brands itself with the slogan "Low immigration, pro-immigrant"), elaborates:

> The purpose of attrition through enforcement is to increase the probability that illegal aliens will return home without the intervention of immigration enforcement agencies. In other words, it encourages voluntary compliance with immigration laws through more robust interior law enforcement (Waslin 2012: 3).

In the same vein, Numbers USA, a self-proclaimed "immigration reduction organization" affirms that "there is no need for taxpayers to watch the government spend billions of their dollars to round up and deport illegal aliens; they will buy their own bus or plane tickets back home if they can no longer earn a living here" (Waslin 2012: 2). Immigration restrictionists have used the term "attrition" since at least 2003, and the Center for Immigration Studies first articulated ATE as a coherent strategy in 2005 (Waslin 2012).

As ATE has gained traction, restrictionist policy has become increasingly prominent at the state level, albeit, as of yet, to little practical effect. State laws have passed that expand detention and deportation, deny benefits, and place restrictions on access to drivers' licenses among undocumented immigrants, all with the aim of "discourag[ing] the settlement of illegal aliens and…mak[ing] it more difficult for [undocumented people] to conceal their status" (Waslin 2012: 3). Ironically, despite the intent of ATE to reduce the presence of undocumented immigrants in the United States, the strategy appears to have yielded little in the way of attrition. Indeed, a July 2011 study by the RAND Corporation found that, despite improved economic conditions in Mexico and a worsened economic environment in the United States, *fewer* Mexican immigrants returned to Mexico in 2008 and 2009 than in the two years before the recession (Waslin 2012: 3). As such, while ATE regulations have become increasingly common, "self-deportation" *en masse* appears to not yet have been realized.

Constitutionally, immigration lies under the purview of the federal government; efforts to impose the power of state law in this arena have thus faced myriad legal challenges. The federal government filed suit against restrictionist laws passed in Arizona, Alabama, South Carolina, and Utah, rooting their legal challenge in the Constitution's "Supremacy Clause," which deems federal law the "supreme law of the land" (Johnson 2011). In these cases, the Department of Justice contends that state laws intrude on federal power to regulate immigration (Johnson 2011). The *legal* debate about this issue thus centers on relative state and federal powers over immigration, while the *public* debate – and the laws under study – hinges on adjudicating the civil rights of immigrants and Latinos (Johnson 2011). That is, these laws seek to determine whether immigrants will be permitted to realize all the legal, political, and social dimensions of citizenship theorized by Marshall. Meanwhile, the groups behind ATE have "created a web of federal and state legislative proposals that seek to reduce illegal immigration by making it difficult…for unauthorized immigrants to live in American society" (Waslin 2012: 2).

Gathering Force: Growing Policy Networks and the Expanding Reach of ATE

ATE is the brainchild of several interlinked national immigration restriction organizations, including the aforementioned Center for Immigration Studies (CIS), the Federation for American Immigration Reform (FAIR), and Numbers USA (Waslin 2012). Numbers USA and CIS have led efforts to implement attrition through enforcement in federal policy, while FAIR and its legal arm, the Immigration Reform Law Institute (IRLI), have aggressively pursued state-level policy (Waslin 202: 4). FAIR, founded in 1979, is arguably the largest and most important national restrictionist organization in the United States. Its legal operations center, IRLI, describes itself as "work[ing] to design and promote state and local legislation that enables communities to effectively address problems resulting from illegal immigration" (Waslin 2012: 4). The Southern Poverty Law Center has labeled FAIR a "hate

group," and the organization lies at the epicenter of the founding and funding of several anti-immigrant groups that advance ATE, such as State Legislators for Legal Immigration (Waslin 2012: 4). Significantly, IRLI's chief legal counsel is Kris Kobach, Kansas' Secretary of State and a prominent legal scholar whose work undergirds much contemporary anti-immigrant legislation. Kobach, and the groups with which he is associated, tend to favor major restrictions on all immigration, even mass deportation, yet also characterize ATE as a "kinder, gentler alternative to the harsh, expensive, and unworkable strategy of mass deportation" (Waslin 2012: 2).

Despite the ostensible "kindness" of the ATE strategy, some legal scholars characterize ATE as exemplifying a decidedly aggressive approach to achieving policy dominance: the "battering ram strategy." This term describes efforts to "harness states and localities in order to challenge federal policies" (Orbach et al 2011: 1163). The states and localities "propel the ram forward, hammering the federal walls according to the target and general plan;" the force of the ram increases as more states and localities join the campaign (Orbach 2011: 1163). Indeed, according to Michael Hethmon, IRLI's general counsel, the restrictionist movement decided to target specific "vulnerable" states where anger over loss of state services and concern about a growing immigrant population could work to their advantage (Waslin 2012: 4).

What is the "general plan" of the organizations and individuals that promulgate ATE? Policymakers at IRLI and other restrictionist organizations recognize that the state and local measures they advocate will inevitably face legal challenge; in fact, they purposefully deploy these laws in the service of fomenting an eventual Supreme Court showdown over state authority to enforce immigration laws (Waslin 2012). Waslin aptly summarizes this strategy as: "use…states as laboratories for increasingly harsh immigration laws, and then charge the same states to defend those laws in court, all the while leaving a wake of devastation in their paths"

(2012: 5). Critically, legal scholar Orbach emphasizes that the driving force behind the battering ram is "private lawmakers" – organizations like FAIR, CIS, and Numbers USA. As Orbach readily points out, unlike public policymakers, "private lawmakers are not accountable to the public, can act entirely in the shadows, and are not subject to direct funding restrictions" (Orbach 2011: 1167). As will become apparent in the subsequent discussion of the legislation under study, "despite concerns regarding expertise, accountability, and the influence of private interests, state legislatures frequently endorse bills drafted and proposed by private lawmakers" (Orbach 2011: 1167). In sum, the private organizations and individuals that promote ATE encourage state legislatures to adopt their draft legislation, targeting states where tensions around immigration run especially high.

Kris Kobach: Chief Purveyor of ATE Strategy

Kris Kobach – chief legal counsel to IRLI, Kansas' Secretary of State, and former professor of law at the University of Missouri-Kansas City Law School – is undoubtedly the highest-profile and most vocal advocate of ATE (Olivas 2007, Waslin 2012). In addition to his work advancing attrition through enforcement, Kobach enthusiastically supports ridding the Constitution of its birthright citizenship provision, the "Citizenship Clause" of the Fourteenth Amendment (Lacey 2011). He has also sought to bar undocumented students from higher education on the basis that the ability to attend college is a "pull-factor" in immigration, and that granting undocumented students tuition benefits costs the state millions of dollars (Kobach 2008: 165). With respect to the development of ATE strategy, Kobach worked at the Department of Justice under Attorney General John Ashcroft, contributing substantially to the federal immigration agenda during his time there (Waslin 2012: 4). Kobach was, for example, involved in the drafting of a White House Office of Legal Counsel opinion stating that state and local police have the "inherent authority" to arrest immigrants for civil violations of immigration law –

a dramatic departure from opinions previously issued by the OLC (Waslin 2012: 4). He also pioneered "mirror image" theory, which "proposes that states can enact and enforce criminal immigration laws based on federal statutes," a proposition that has influenced several state legislatures (Orbach 2011: 1166). Indeed, much of Kobach's legal scholarship has centered on arguing in favor of a greater state role in immigration enforcement. Kobach is a central figure in the restrictionist movement, and continues to aggressively pursue this agenda at the state and local levels. Notably, he openly acknowledges his role in writing and defending the Arizona and Alabama laws discussed here (Waslin 2012).

Setting the Stage: Arizona and Alabama

In this context of a coherent, strategic effort to render life in the United States virtually impossible for undocumented immigrants, I find that the restrictionist laws passed in Alabama and Arizona warrant particular examination. Both possess unmistakable elements of attrition through enforcement strategy, and both integrate educational access into their legislation, albeit in distinct ways. As such, these laws provide ample source material to inform the questions at issue:

- According to the policies' language and statements of their supporters, what does each state's set of policies seek to accomplish with respect to educational access for immigrants and children of immigrants, particularly the undocumented?
- How might these laws affect the way citizenship is understood and developed within public schools?

Arizona: Immigration Restriction and Ethnic Studies Bans

Contextualizing Arizona: A Locus of the Battering Ram Strategy

This section provides background with respect to the creation and passage of SB 1070, Arizona's pioneering immigration restriction bill, as well as related curriculum legislation, HB 2281 (the state's so-called "ethnic studies ban"). Arizona is frequently characterized as a "ground zero" of the national immigration debate. Approximately two million Latinos live in the state, representing thirty percent of the total population; one-third of the Latino population is foreign-born (Pew Hispanic Center 2010). According to the Pew Hispanic Center, in 2008, nearly 500,000 undocumented immigrants resided in Arizona, and nearly all, some 94 percent, were from Mexico (2010). As a corollary to these figures, around ten percent of Arizona's labor force is undocumented (Pew Hispanic Center 2010). A 2008 poll found that a large majority of Arizonans indicated they were "mildly frustrated" to "angry" about the "current immigration situation" (Nill 2012: 37). Events in 2010 appear to have galvanized this frustration. In March of that year, Robert Krentz, a prominent rancher, was murdered; at the time, there was no suspect, apparent motive, or proof of the murderer's country of origin or immigration status (Nill 2012: 41). Nonetheless, based on comments of then-Attorney General Terry Goddard, it appears that the murderer was a drug cartel operative or smuggler (Nill 2012: 41). Advocates of restrictionist legislation leveraged this incident to conflate undocumented immigration with criminality and lawlessness, and ultimately to develop support for SB 1070, a law that sought to realize the goals of attrition through enforcement (Nill 2012: 42).

SB 1070: Attrition through Enforcement as State Policy

SB 1070, the object of much polemic since its passage in 2010, explicitly seeks "to make attrition through enforcement the public policy of all state and federal government agencies in Arizona" (SB 1070 §1). The aforementioned Kris Kobach authored the bill; then-State Senator

Russell Pearce sponsored it (Nill 2012; Waslin 2012). The law passed 35 to 21 in the state's House of Representatives on a party line vote, and won approval in the State Senate by a 17 to 11 vote (Nill 2012: 38). Governor Jan Brewer signed the bill into law in April 2010 (Nill 2012: 37). Within months of its passage, the Department of Justice filed suit against Arizona, challenging SB 1070 on the grounds that it was "preempted by federal law and therefore violates the Supremacy Clause of the US Constitution," and that it "interferes with the federal government's ability to exercise prosecutorial discretion based on diplomatic and foreign policy concerns" (*Arizona v. US* 2010: 1; Nill 2012: 39). The DOJ filed suit in July 2010; that same month, just one day before the law was to go into effect, a federal district court judge issued a preliminary injunction against several of its provisions, saying, "The United States is likely to succeed on the merits in showing that…[the enjoined provisions] are preempted by federal law," and the United States "is likely to suffer irreparable harm" in the absence of an injunction (Bolton 2010: 4).

After a round in the Ninth Circuit Court of Appeals, the Supreme Court heard the case in June 2012, and upheld the law's central provision; however, other legal challenges to the law remain unresolved. In its June decision, the Court unanimously sustained the law's centerpiece – the so-called "show me your papers" provision, described further in the following section. However, the Court also left the door open to further legal challenges, and rejected measures that would have subjected undocumented immigrants to criminal penalties for activities like seeking work (Liptak 2012). Concurrently, an advocacy group called Friendly House, the American Civil Liberties Union, and several other groups have filed a suit, *Friendly House v. Whiting*, which claims that SB 1070 "will cause widespread racial profiling and will subject many persons of color – including countless US citizens, and non-citizens who have federal permission to remain in the US – to unlawful interrogations, searches, seizures, and arrests" (Nill 2012: 49). As such,

rather than attempting to overturn the law on the basis of the Constitution's Supremacy Clause, the litigants contend that SB 1070 violates the Equal Protection Claus, holding that the bill was "enacted with the purpose and intent to discriminate against racial and national origin minorities, including Latinos, on the basis of race and national origin" (Nill 2012: 50). While the ultimate fate of the "show me your papers" provision remains indeterminate, it stands for the time being – and the Court's decision may encourage the passage of similar legislation in other states.

HB 2281: The "Ethnic Studies Ban"

Just two months after the passage of SB 1070, Arizona's state legislature voted into law HB 2281, the "Prohibited Courses; Discipline; Schools Law." HB 2281 hinges on a seemingly innocuous proposition: "public school pupils should be taught to treat and value each other as individuals and not be taught to resent or hate other races or classes of people" (A.R.S. §15-111). This ostensibly neutral policy declaration obscures the controversy that preceded its enactment: while HB 2281 applies to every public school in Arizona, it arose almost entirely from controversy surrounding a single program, the Tucson Unified School District's Mexican American Studies Program. Since 2006, Arizona state leadership and TUSD have been entrenched in a protracted power struggle centered on the appropriateness of the District's Mexican American Studies curriculum. That year, Chicana labor activist Dolores Huerta reportedly told an assembly of Tucson High School students that "Republicans hate Latinos" (Lundholm 2011: 1042). The incident garnered substantial media coverage, and Arizona's then-Superintendent of Public Instruction, Thomas Horne, responded by arranging for Margaret Garcia Dugan, his deputy, to speak at the same high school (Lundholm 2011; Sagara 2006). During Garcia Dugan's presentation, about seventy students took off their overshirts to display t-shirts emblazoned with slogans such as "English only is anti-Latino," a reference to a ballot measure supported by Garcia Dugan that significantly curtailed bilingual education in Arizona

(Tucson Citizen 2006). Most of these students stood during the speech, some with their backs to Garcia Dugan and their fists in the air (Tucson Citizen 2006, Lundholm 2011). The standing students walked out silently when asked to leave (Tucson Citizen 2006).

These events figure heavily into Horne's "Open Letter to the Citizens of Tucson," published in two Arizona newspapers in June 2007 (Horne 2007; Lundholm 2011). In the letter, Horne chastises the protesting students, claiming that "in hundreds of visits to schools, I have never seen students act rudely and in defiance of authority, except in this one unhappy case" (Horne 2007: 2). He goes on to urge TUSD to eliminate the Mexican American Studies Program, contending that it "teaches a kind of destructive ethnic chauvinism" – embodied by the actions of the protesting students – "that the citizens of Tucson should no longer tolerate" (Horne 2007: 2). In the wake of the publication of Horne's letter, Tucson's school board not only opted to maintain the Mexican American Studies Program, but also advocated for its expansion (Bodfield 2009). In February 2010, Arizona State Representative Steve Montenegro introduced HB 2281 into the State's House of Representatives (Lundholm 2011). Debate in the House focused almost exclusively on TUSD's Mexican American Studies Program (Lundholm 2011: 1043). In May 2010, the Republican-controlled legislature passed the bill (Orozco 2011: 819).

That year, John Huppenthal, Arizona's current Superintendent of Public Instruction (Horne is now the state's Attorney General), undertook an inquiry into the legality of TUSD's program, engaging a private consulting company to audit its curricula and practices. The company concluded that no part of the Mexican American Studies Program violates HB 2281, ostensibly a victory for TUSD (Lundholm 2011). However, Huppenthal proceeded to issue his own conclusions, stating that the program does in fact violate the law, as its courses "repeatedly reference white people as being 'oppressors'" and "present only one perspective of [history], that

of the Latino people being persecuted" (Lundholm 2011: 1044, 1058). TUSD appealed the finding; hearings occurred in November 2011, but the judge ruled in favor of the State of Arizona. A separate suit, filed on behalf of eleven TUSD teachers against the State Board of Education, is also pending (Martinez 2010). Today, the Mexican American Studies Program is no longer in operation, and HB 2281 remains in full force and effect.

Attrition through Enforcement Meets a Curriculum Crackdown

This section describes key elements of both SB 1070 and HB 2281, informing the analysis of the laws that follows. SB 1070 – or the "Support Our Law Enforcement and Safe Neighborhoods Act" – is a landmark piece of restrictionist legislation, and a template for the Alabama bill described in the following section. As noted above, the law's language explicitly highlights its intent to make attrition through enforcement the law of the land; its declarations also indicate that the law seeks to "discourage and deter the unlawful entry and presence of aliens and economic activity by persons unlawfully present in the United States" (SB 1070, 2010). While much of the law has been found unconstitutional, the sheer scope of its original intent proves quite impressive. As drafted, the law broadens immigration enforcement powers of local police, requiring law enforcement to check the immigration status of anyone they encounter during a lawful stop or arrest and of anyone booked into custody (Nill 2012; Waslin 2012). Specifically, the provision provides:

> For any lawful contact made by a law enforcement official or agency…where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person (SB 1070, 2010).

Significantly, the law does provide that race, color, and national origin cannot be used to determine "reasonable suspicion" of unlawful presence in the United States (Nill 2012: 50).

While this "show me your papers" provision remains in full force and effect, several other sections of the law were ultimately deemed unconstitutional. These provisions include the authorization of warrantless arrests for civil immigration violations where "probable cause" exists that an individual has committed a crime that "makes the person removable from the United States" (Waslin 2012: 35). The law also attempted to create several new state crimes and penalties, such as making it a criminal act for unauthorized immigrants to solicit or perform work, or to fail to carry immigration registration documents (Nill 2012; Waslin 2012). Furthermore, pursuant to the provisions of SB 1070, if Arizona residents believe police are not enforcing immigration laws, they can sue police officers (Nill 2012: 38). In sum, while the Supreme Court's decision suppressed much of the original intent of SB 1070, a key provision – the "show me your papers" requirement – remains in effect.

As for HB 2281, the law's text leaves some uncertainty with respect to its scope and exactly what – if anything – it bans. According to the law, no public school in Arizona may offer any course that:

1. Promote[s] the overthrow of the United States government.
2. Promote[s] resentment towards a race or class of people.
3. [Is] designed primarily for pupils of a particular ethnic group.
4. Advocate[s] ethnic solidarity instead of the treatment of pupils as individuals. (A.R.S. §15-112)

This language broadly construes prohibited courses, relying on vague concepts such as "resentment" and "the treatment of pupils as individuals." Indeed, the term "ethnic solidarity" "is unique to the Arizona Revised Statutes and the entire U.S. Code," lending some difficulty to its consistent legal interpretation (Lundholm 2011: 1043). Further complicating legal analysis, the law provides that it not be construed to prohibit courses that include the history of any ethnic group and are open to all students, or courses that discuss "controversial aspects" of history (A.R.S. §15-112). Nonetheless, if the State Board of Education or Superintendent of Public

Instruction finds a school to be in violation of the law, the school can lose up to ten percent of its funding – this threat prompted the dismantling of TUSD's Mexican American Studies Program.

The Battering Ram in Arizona: Implications

In this section, I first consider how recent state-level restrictionist legislation attempts to affect educational access for immigrant children and children of immigrants. I then ask how this legislation seeks to alter or inform the construction of citizenship in Arizona public schools. In terms of implications for educational access, SB 1070 lacks some of the more pernicious elements of the Alabama law considered in the following section. Where Alabama clearly attempts to create barriers to educational access for undocumented students, Arizona's attrition through enforcement law makes no mention of education; indeed, the term does not appear once in the text of the bill. However, in light of the literature set forth above, it serves to consider how the passage of SB 1070 – and its (partial) upholding by the nation's highest court – affects the primary institutional context in which children are socialized: the public school.

As described in the literature review, federal, state, and local policies shape the context of reception for immigrants, and thus prove critical to removing barriers and fostering opportunity for immigrants and their children. These same policies can also operate in the service of "binding" young people to – or alienating them from – American civic culture. In general, attrition through enforcement legislation comports with and furthers "ascriptive inegalitarian" notions of American civic identity, deploying policy to define "who is in the body politic" and who is out (Fraga and Segura 2006). This conception of citizenship and civic identity relies on traditional understandings of citizenship as "a status bestowed on those who are full members of a community," and substantially constricts the boundaries of that community (Marshall 1998: 102). As such, SB 1070 fosters a "narrowing" of citizenship, creating barriers for undocumented

children – or children of undocumented parents – to access the civil/legal, political, and social rights fundamental to realizing full citizenship.

Indeed, faced with the question of "who will count as 'the people' and how social membership will be measured and valued," Kobach and the Republican legislators who voted in favor of SB 1070 respond by attempting to criminalize every element of an undocumented person's life (Berlant 1997: 20). In doing so, the author and supporters of the bill appeal to the irrational fear and panic surrounding (certain) immigrants in the United States described by the Suarez-Orozcos. According to the Suarez-Orozcos, these fears tend to arise when "ascriptive inegalitarian" conceptions of civic identity predominate, for the very basis of this identity demands an "out-group" against which to define social membership. Attrition through enforcement strategies, including those espoused by Arizona legislators, thus alienate undocumented immigrants from American civic culture, situating them outside the bounds of American civic identity and denying them any of the legal, political, or social rights theorized by Marshall as fundamental to realizing full citizenship.

The law also likely disaffects other Latinos, who, given the bill's reliance on law enforcement's interpretations of "reasonable suspicion" that a person might be undocumented, may also feel targeted by the law. Recall that the Suarez-Orozcos posit that irrational fear and paranoia engender persecution of "disparaged groups" – and other groups associated with the disparaged. How does one "reasonably" establish suspicion about a person's immigration status? The Suarez-Orozcos emphasize that perceptions of who belongs to a "disparaged group" may be skewed, such that various categories – immigrant, Mexican, Latino, illegal – may be collapsed into a singular "Other," with decided inattention to the reality that not all immigrants are illegal, or Mexican, or Latino, and that other permutations of those terms also fail to universally hold

true (Nill 2012). This tendency to collapse Latinos, Mexicans, immigrants, and the undocumented into a single, vaguely threatening, entity ensures that, in practice, SB 1070 will perpetuate and legitimize the persecution of anyone conceived of as belonging to the "disparaged group," regardless of their actual citizenship status.

In this policy context – openly hostile to undocumented immigrants, and with little apparent sensitivity to the fact that not all Latinos are immigrants, nor are all immigrants undocumented – HB 2281 emerges as a striking innovation (of sorts) in Arizona educational policy. In keeping with individual liberalism and aims of social mobility, the bill emphasizes the primacy of the individual, framing a commitment to individualism as diametrically opposed to the aims of ethnic studies programs. Specifically, the law states that public school students "should be taught to…value each other as individuals, and not be taught to resent or hate other races or classes of people" (A.R.S. §15-111). The language of the law thus insinuates that the only alternative to celebrating individualism is the teaching of ethnically-rooted resentment or hate. Furthermore, in Horne's 2007 "Open Letter to the Citizens of Tucson," he argues that TUSD's Mexican American Studies program advocates "ethnic solidarity *instead of* the treatment of people as individuals" (Horne 2007: 1, emphasis added). Horne thus also suggests that individualism necessarily proves opposed to the work of ethnic studies programs, which, from his perspective, apparently serve exclusively to promote "ethnic solidarity." As discussed in the literature review, the social mobility function of public schooling emphasizes realizing individual opportunity based on one's merit. In the same vein, the individual liberal myth of American civic identity posits the importance of individual rights. Horne's statement and the law he supports thus construct ethnic studies as necessarily divergent from the "American" ideals of

social mobility and individual liberalism, both ideological frameworks that honor the primacy of the individual.

Furthermore, HB 2281, with its specious conflation of ethnic studies and the teaching of resentment and hatred, suggests not only that ethnic studies flouts individualist ideals, but that the only alternative to individualism is the teaching of hate. Horne's letter affirms this conception of ethnic studies as inherently violent with his censure of TUSD's "destructive ethnic chauvinism" (Horne 2007: 2). Both Horne's letter and the law thus extend their critique of ethnic studies programs to suggest that, by failing to promulgate individual liberalism, ethnic studies programs *necessarily* beget hatred and resentment. The specter of violence is writ large in both texts; in suggesting that ethnic studies programs promote hate, the law and letter frame ethnic studies pupils as potential threats to dominant social groups, reflecting and perpetuating the irrational fear and paranoia described by the Suarez-Orozcos. From the perspective of both Horne and the authors of HB 2281, ethnic studies programs do not – and, indeed, cannot – subscribe to an individualism-based ideology they embrace and wish to uphold. They thus vilify ethnic studies programs as subversive and violence-inflected.

Ultimately, both HB 2281 and Horne's commentary construct ethnic studies as necessarily in conflict with dominant ideology, and seek to enforce a normative curricular message; HB 2281 thus reinforces the exclusionary intent of SB 1070. In doing so, this legislation proves reminiscent of the previously described historical attempts to "Americanize" immigrant children, with its implicit assumption that children learning from a non-normative curriculum must necessarily be learning anti-American lessons. HB 2281 thus promulgates "subtractive schooling," divesting students of cultural resources in the service of preserving a unitary curricular message (Valenzeua 1994). As such, the law reinforces the message of SB

1070 about citizenship and belonging in Arizona, constructing all "ethnics" – but especially Latinos – as not only outside the boundaries of the citizenry, but also as threats to the preservation of the prevailing "American" way of life. Furthermore, given the law's transparent intent to rid Arizona's public schools of curricula that subverts or disrupts dominant narratives about American history, while the law does not explicitly seek to restrict educational access of immigrants, it does circumscribe access to more inclusive curricula – the type of curriculum that might frame "ethnic" students as entitled to the same rights afforded their white counterparts. Ultimately, taken together, SB 1070 and HB 2281 serve to restrict access to inclusive curricula within Arizona public schools, and, furthermore, depict Latinos – not just immigrants, and not just the undocumented – as excluded from American civic identity, and thus unentitled to the rights bound up with citizenship.

Alabama's "Taxpayer and Citizenship Protection Act"

Contextualizing HB 56: Background and Goals

Alabama's staunchly restrictionist HB 56 lays out its ideological premise in its opening paragraphs, which hold, "The State of Alabama finds that illegal immigration is causing economic hardship and lawlessness in this state and that illegal immigration is encouraged when public agencies…provide public benefits without verifying immigration status" (Act No. 2011-535 § 2). The law "builds on the controversial Arizona law but goes considerably further," including provisions related to public primary and secondary education, higher education, and general state- and municipal-level immigration enforcement (Johnson 2011). These provisions are detailed in the following section, and then analyzed in light of the citizenship literature previously presented. However, before delving into the law's provisions, it serves to provide more detail about its genesis, supporters, and overarching strategy.

HB 56 passed in June 2011, about a year after Arizona's SB 1070 was voted into law, in a state where just three percent of the total population is foreign-born (Pabón López et al 2012; Waslin 2012). In keeping with the general thrust of attrition through enforcement strategy, the bill's co-sponsor, Republican State Senator Scott Beason, explained that HB 56 "was not designed to go out and arrest tremendous numbers of people;" rather, "most folks in the state illegally will self-deport and move to states that are supportive of large numbers of illegals coming to their state" (Waslin 2012: 6). Alabama's US Senator Jeff Sessions also affirmed the "attrition" aims of the law, describing the departure of Latino immigrants from the state as a "rational response" to HB 56 (Waslin 2012:8). Indeed, Alabama Congressman Mo Brooks, when asked about the law's "unintended consequences," characterized the departure of immigrants and reduction in school attendance as "*intended consequences* of Alabama's legislation with respect to illegal aliens," going on to note, "We don't have the money in America to keep paying for the

education of everybody else's children from around the world" (Waslin 2012: 7, emphasis added). Supporters of the law thus appear to embrace the strategy and aims of attrition through enforcement.

Furthermore, the law's education-related provisions – which focus on collecting data about the population of undocumented students enrolled in Alabama's public primary and secondary schools – constitute a strategic effort to gather data thought to be necessary to challenge the Supreme Court's decision in *Plyler v. Doe* (Johnson 2011). In *Plyler*, the Court held that the "record in no way supports that exclusion of undocumented children is likely to improve the overall quality of education in the State" (*Plyler v. Doe*, 1982). The data collection mechanisms described in HB 56, and further detailed in the following section, are intended to gather evidence of the pernicious effects of undocumented students on the overall quality of public education, evidence that the Court previously found lacking (Pabón López et al 2012: 9). Notably, however, at least some legal scholars predict that this data would be insufficient to overturn *Plyler*, given the other social and economic costs of *not* educating undocumented students (Pabón López 2012).

In the wake of the passage of HB 56, the US Department of Justice, civil rights groups, and a group of clergy have filed lawsuits in federal court against the State of Alabama (Pabón López et al 2012: 13). Lower court activity has addressed two of the major legal challenges, upholding the bulk of the law, but also striking down several provisions (Johnson 2011; Pabón López 2012). Specifically, lower courts upheld immigration status checks by local police (Johnson 2011). They also upheld reporting requirements for local school districts, although that provision has, as of August 2012, been deemed unconstitutional by the Eleventh Circuit Court of Appeals (in late November, the Eleventh Circuit also refused to rehear the case) (Pabón López

2012: 17). The Eleventh Circuit also enjoined the barring of undocumented students from public colleges and universities, although this enjoinment occurred only because, likely due a drafting oversight, the law's definition of aliens not lawfully present in Alabama included refugees and asylum seekers, contradicting federal law (Pabón López 2012: 14). Furthermore, a provision of the law that makes it a crime to knowingly "conceal or harbor" an undocumented person was invalidated on "pre-emption grounds" – that is, it illegally interferes with areas of law under the auspices of the federal government (Pabón López 2012: 15). Nonetheless, the Eleventh Circuit did deem two central provisions – a "show me your papers provision" akin to that of the Arizona bill, and making it a felony for undocumented persons to enter into "business transactions" with the state – constitutional, and they remain in full force and effect. All told, the "ultimate fate of the law remains unknown" (Waslin 2012: 6).

The Beason-Hammon Alabama Taxpayer and Citizenship Protection Act

The provisions of HB 56 prove quite sweeping; unlike Arizona, the authors of HB 56 integrated language about educational access directly into the immigration-focused bill. Section 8 of HB 56, for example, addresses higher education, providing that any undocumented student "shall not be permitted to enroll in or attend any public postsecondary education institution in this state," nor receive any kind of public financial aid (Act No. 2011-535 § 8). With respect to public primary and secondary schooling, in turn, the bill calls for the implementation of a system for "accurate measurement" of the undocumented population in Alabama public schools (as noted above, the Eleventh Circuit ultimately found this proposed system to be unconstitutional). As drafted, however, the legislation justifies the need for this system as follows:

> Because the costs incurred by school districts for the public elementary and secondary education of children who are aliens not lawfully present in the United States can adversely affect the availability of public education resources to students who are United States citizens or are aliens lawfully present in the United States, the State of Alabama determines there is a compelling need for the State Board of Education to accurately measure and assess the population of students who

> are aliens not lawfully present in the United States, in order to forecast and plan for any impact that the presence such population may have on publicly funded education in this state (Act No. 2011-535 § 2).

As such, according to the bill's language, reporting requirements are intended to facilitate "forecasting and planning" for the impact of undocumented students on Alabama's public education system.

Section 28 of HB 56 thoroughly delineates the process by which the "population of students who are aliens not lawfully present in the United States" shall be measured (Act No. 2011-535 § 28). At the time of a student's enrollment in public school, the school is to determine whether that student was born outside of the United States, or whether he or she is the child of an undocumented immigrant. Notably, Section 28 also provides for the school to concurrently determine whether the student is qualified for assignment to an ESL class or "other remedial program" (Act No. 2011-535 § 28). To specify the nativity status of the child, HB 56 calls for the use of the child's birth certificate (the language leaves it unclear how this document would yield clear information about the nativity status of the parent). For students born outside of the United States, parents must submit an official determination or declaration of legal status with respect to their child. Without that declaration, the school is to presume that the student is an "illegal alien."

Section 28 also establishes a reporting process for sharing this information with the state. Schools are to submit an annual report aggregating data with respect to the number of citizens, legal resident aliens, and aliens "believed to be unlawfully present" enrolled at the school, as well as the number of students participating in ESL programs. Based on this data, schools are expected to "analyze and identify the effects upon the standard or quality of the education provided to students who are citizens of the United States residing in Alabama that may have occurred, or are expected to occur in the future, as a consequence of the enrollment of students"

who are undocumented (Act No. 2011-535 § 28). Additionally, schools must include an analysis or itemization of the costs to the state of providing instruction, materials, meals, and activities to undocumented students. The law provides that specific student information be kept confidential unless schools receive a "waiver of confidentiality" from the state's Attorney General; however, aggregated data can be shared with the federal government.

In addition to establishing these (since invalidated) procedures for monitoring and reporting a school's undocumented population, HB 56 also contains a wealth of immigration enforcement provisions reminiscent of Arizona's SB 1070, some of which merit particular attention for the sweeping restrictions they impose. As in the case of Arizona, while the Eleventh Circuit ultimately threw out many of the more radical provisions contained in HB 56, the sheer scope of the law's original intent warrants examination. For example, in a sort of "anti-sanctuary" clause, Section 13 sought to extend the law's reach beyond undocumented individuals, making it a crime to "conceal, harbor, or shield…an alien from detection in any place in [Alabama]…including any building or means of transportation, if the person knows…the alien has come to, has entered, or remains in the United States in violation of federal law" (Act No. 2011-535 § 13). The same section also sought to make it a crime to "encourage" someone known to be undocumented to reside in Alabama, and prohibits the "knowing" transportation of undocumented aliens "in furtherance of the unlawful presence of an alien in the United States" (Pabón López 2012: 6). (This provision, later invalidated by the Eleventh Circuit Court of Appeals, could have inadvertently criminalized the actions of teachers, school administrators, and bus drivers who interact regularly with undocumented students or parents.) Section 5(f) of the law, furthermore, requires employees of the State of Alabama – including those employed in public schools – to report any violations of the Act (Pabón López et al 2012:

5). In sum, Alabama's HB 56 contains a range of provisions intended to render daily life virtually unlivable for undocumented people and their families.

Bright Lines: Citizenship and Public Schools in Alabama

Unlike in Arizona, Alabama's HB 56 attempted to integrate education-related policy directly into its restrictionist immigration legislation, transparently seeking to deny undocumented students access to public higher education, while also imposing substantial barriers to undocumented children's enrollment in public schools. With respect to educational access, it serves to note that, the day in October 2011 when HB 56 went into effect, thousands of schoolchildren were reported absent from schools across the state (Waslin 2012: 2). Indeed, some 2,285 Latino students – 75 percent of the state's total Latino school population – were absent from schools across Alabama the Monday after implementation (Waslin 2012: 6). The work of investigative journalists indicates that, at least in the immediate wake of the law, many immigrant families confined themselves to their homes, fearful of driving children to school, getting groceries, or seeking medical attention (Waslin 2012: 6). As such, Section 28 of HB 56, although it was eventually invalidated by the Eleventh Circuit Court of Appeals, arguably yielded a "chilling effect" on the attendance and enrollment of undocumented children – or children of undocumented parents – in Alabama public schools.

While HB 56 does not attempt to explicitly bar undocumented children, or children of undocumented parents, from public schools (which would be unconstitutional in light of *Plyler v. Doe*), the law did seek to introduce substantial barriers to school enrollment for immigrant families, all in the service of gathering data to ultimately support the overturning of *Plyler*. In addition to attempting to ban undocumented students from public higher education in the state, the circuitous "registration process" delineated in Section 28 would surely have imposed

substantial barriers to families registering their children in public school. Not only would family members undoubtedly be wary of revealing their citizenship status, but the process also would have introduced burdensome bureaucratic barriers to school enrollment, like obtaining a notarized affidavit or declaration of a child's citizenship status. Additionally, given the law's intent to render daily life virtually impossible for undocumented people, the upheld restrictionist elements of HB 56 will likely impede students' day-to-day access to school by reducing the mobility of undocumented persons living in Alabama. In sum, HB 56 sought to present significant barriers to educational access for undocumented children and children of undocumented parents.

Ultimately, restricting access to education – one of the essential social rights of citizenship, according to Marshall – dovetails with the general thrust of attrition through enforcement strategy: imposing so many barriers to basic quality of life as to encourage "self-deportation." Marshall contends that social rights constitute the "resources and capacities that permit social welfare and mobility" (1998: 94). In seeking to render educational access so difficult, Alabama's legislators attempted to deny undocumented residents those "resources and capacities" that would afford them both "social welfare and mobility" (1998:94). In keeping with the argument of Ono and Sloop (2002) that perceptions of group threat are often "articulated in legislation put in place to regulate immigration" (44), when Alabama legislators took up the question of "who will count as 'the people,'" their response etched bright lines onto the body politic, separating Alabama's foreign-born population from other residents (Berlant 1997: 20).

In view of these explicitly-rendered boundaries, how might HB 56 alter or inform the construction of citizenship in Alabama public schools? Where Arizona's HB 2281 attempts to enforce assimilation and a singular notion of American identity, the authors of HB 56 instead

sought to rely on systematic exclusion of those they have ostensibly determined to be inassimilable. As previously established, Alabama's law seeks to create substantial barriers to accessing public primary, secondary, and higher education for undocumented students and children of undocumented parents. Furthermore, it attempted to erect these barriers in the service of laying the groundwork for legally denying undocumented children education through the reversal of the *Plyler* decision. Here, Mo Brooks' comment that Alabama lacks the funds to finance the education of other people's children from "all around the world" proves salient. This statement reflects the ascriptive inegalitarian emphasis on the "just" allocation of finite resources and, as a corollary, the notion that immigrants constitute a drain on national economic resources and infrastructure (Alfred 2003). This perception of economic threat resonates with the contemporary emphasis on social mobility in public education: if schools serve primarily to "provide individual students with competitive advantage in the struggle for desirable social positions," it naturally follows that outsiders who pose an economic threat would be denied access to schooling (Labaree 1997: 42). In contrast with Arizona, this logic yields an ironic reversal of perverse historical attempts to "Americanize" immigrant children: supporters of HB 56, rather than attempting to force assimilation onto a population they regard as irreversibly removed from "American-ness," opt to drive them from the United States altogether.

Ultimately, as in the case of Arizona, the specter of "group threat" posed by immigrants – particularly the undocumented – yields persecution, and thus will surely shape the educational experiences of Latinos in Alabama. As discussed by the Suarez-Orozcos, this persecution extends not just to undocumented immigrants, but also touches the lives of Mexican-Americans, Latinos, and other immigrants living in Alabama, given the tendency to collapse these groups into a single category. Furthermore, drawing on Ladson-Billing's notion of *all* education as

citizenship education, this persecutory policy sends a resounding message to Alabama's undocumented children and children of undocumented parents: you are not welcome here. This lesson in exclusion echoes a popular imagination that constructs undocumented people as necessarily criminal – and fails to seek out distinctions between and among all immigrants, the undocumented, Latinos, and Mexicans. As such, HB 56 seeks to ensure that the schoolchildren of Alabama – and their parents – are keenly aware of who will be welcomed in the state's public schools, and reinforces the "unspoken yet pervasive norm" of "whiteness/middle classness" (Lee 2002: 242). By reinforcing irrational conceptions of immigrants, especially the undocumented, as threats to American civic culture, the authors and supporters of HB 56 adopt an ascriptive inegalitarian notion of American identity, and firmly situate Latinos outside the bounds of "American-ness."

A Way Forward: Neo-Nativism versus Cultural Citizenship

In this paper, I asked how citizenship will be understood and developed in public schools when laws like those in Arizona and Alabama conflate Latinos, undocumented status, and immigrants, and as Kris Kobach and the policy networks that promulgate his legal scholarship develop increasingly restrictive immigration policy. At first blush, the answer seems disheartening: this legislation, and its authors and supporters, perpetuate an unapologetically nativist stance toward immigrants in the United States, entrenched in notions of citizenship as a status that can be arbitrarily bestowed or denied. Specifically, state law in both Arizona and Alabama reinforces the conflation of Latinos, Mexicans, immigrants, and the undocumented into a homogeneous, threatening group outside the bounds of American civic identity. While each state's policy would differently affect educational access for immigrant children and children of immigrants, both flout the traditional role of public schooling in developing citizenship, instead identifying these students as un-American and therefore unentitled to the social rights of citizenship.

In this context, considering cultural citizenship proves relevant – even hopeful. Recall that cultural citizenship theorists frame citizenship as an active process of claiming rights, rather than the "passive acquisition of an arbitrary and limited set of rights" (Flores 2003: 87). Even as policies like those of Alabama and Arizona seek to dramatically restrict the rights and privileges afforded to immigrants – especially the undocumented, and especially Latinos – volumes could be written on the dynamic activist work that seeks to reverse the trajectory of these laws. In refusing to be silenced, activists, especially undocumented activists, deploy a civic identity that defies the nativist restrictions imposed by the regulations voted into law in Arizona and Alabama. Recall Rosaldo's contention that systematic "forms of discrimination [define] the parameters of dissident traditions:" this wave of neo-nativist legislation, in its transparently

discriminatory and anti-immigrant fervor, establishes the basis for struggle around who will ultimately be afforded access to the United States' body politic. These struggles exemplify *cultural* citizenship practice, in which groups define themselves, form communities, and claim space and social rights, seeking to transform their relationship to the state.

The outcome of the recent presidential and congressional elections also suggests the beginnings of a backlash against neo-nativism, rooted in the resistance and political action of immigrants and their children. Republican presidential candidate Mitt Romney, who claimed loyalty to attrition through enforcement policies throughout the campaign, performed terribly with Latino and Asian-American voters. Indeed, some 71 percent of Latino voters opted for Barack Obama, as did 73 percent of Asian-American voters (NBC News). The ensuing media coverage of the "Latino vote" and the GOP's "demographic problem," if a bit histrionic in tenor, nonetheless suggests the possibility of a marked shift in the right's approach to issues of immigration policy. Indeed, within days of the election, House Speaker John Boehner indicated that comprehensive immigration reform would be a priority in 2013, a dramatic reversal of his former position ("There is not a chance that immigration is going to move to the Congress," circa 2010) (Llorente 2012). Where neo-nativist policy networks fit into this ostensibly transformed landscape remains ambiguous: will IRLI or FAIR adjust their policy strategies to accommodate a revisionist conventional wisdom on the right, or will they continue to advance restrictionist legislation at the state and local levels in an effort to countervail federal forces?

And, what does all of this mean for schooling? In this paper, I have reviewed myriad strategies deployed by state policymakers to erect barriers to educational access, or access to more inclusive curricula. Ladson-Billing contends that "all education is citizenship education," and educational policies in the spirit of Alabama's and Arizona's relay an unfailingly clear

lesson about who will be afforded access to an American identity, and the various rights of citizenship bound up with it. But this curriculum of sorts need not persist: a shift away from exclusionary educational policy in favor of inclusion and egalitarianism could help reverse these insidious teachings. Recall Lee's proposition that "public schools…have the opportunity to welcome and integrate immigrant and second-generation students into US culture…[and]…(re)construct definitions of *America* and *Americans* that reflect [the nation's] diversity" (2002: 242).

However, the form such curriculum should take warrants consideration. While this paper does not focus specifically on curriculum development, it invites an array of questions about what inclusive social studies and civic education curricula might look like. Tucson Unified School District's Mexican American Studies Program may be one viable model, but some have argued that the program, with its emphasis on a single ethnic group, lent itself to unnecessary political vulnerability. Curriculum focused on the diverse experiences of multiple immigrant groups could protect against charges of "ethnic chauvinism" like those levied by Horne. Furthermore, in *Subtractive Schooling,* Valenzuela (1999) contends that schools devalue all "things Mexican" across the curriculum, both formally and informally, suggesting that the mere addition of a progressive social studies course will do little to reverse informal teaching about students' value and ascribed place within the social hierarchy. From this view, "(re)constructing definitions of *America* and *Americas*" demands systemic efforts to confront and upend inequities embedded within public education – efforts including, but extending well beyond, curricular reform. Ultimately, schools remain the primary institutional context in which children are socialized. Will we promise young people relegation to the outskirts of American life, or will we allow for a more inclusive understanding of American civic identity within public schools?

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