The Legal Status Divide among the Children of Immigrants

Roberto G. Gonzales & Stephen P. Ruszczyk

Over the past thirty-five years, federal immigration policy has brightened the boundaries of the category of undocumented status. For undocumented young people who move into adulthood, the predominance of immigration status to their everyday experiences and social position has been amplified. This process of trying to continue schooling, find work, and participate in public life has become synonymous with a process of learning to be "illegal." This essay argues that despite known variations in undocumented youths by race, place, and educational history, undocumented status has become what Everett Hughes called a "master status." The uniform set of immigration status–based exclusions overwhelms the impact of other statuses to create a socially significant divide. The rise, fall, and survival of the Deferred Action for Childhood Arrivals program, a policy offering qualified youths a temporary semilegal status, have underlined how closely access and rights hew to the contours of contemporary immigration policy.

S tudies of immigrant incorporation – also called assimilation and acculturation – have long been important to our understanding of the processes through which immigrants and their children adapt to American society. More recently, as the experiences of today's immigrants diverge considerably from those of European immigrants of the twentieth century, scholars have noted that immigrant incorporation does not play out evenly among different immigrant groups and that, for some, it does not follow a uniform and positive trajectory.[1] For those immigrants who are undocumented, incorporation prospects are daunting.

Increased enforcement at the U.S.-Mexican border has stemmed long-established patterns of circular migration,[2] leading to increased numbers of settled migrants who are long-term stayers.[3] Today, nearly one in four immigrants in the United States lack legal status. And about one in nineteen U.S. workers are undocumented.[4] These immigrants have grown roots in their communities where they are also raising families. Nearly half of all undocumented immigrants today are parents of minors and more than 16.5 million people live in mixed-status households with members of varying immigration statuses. Among the children of un-

documented immigrants, more than 4.5 million are native-born citizens, while 1.1 million are also undocumented (more than that number are now young adults who have been in the United States since childhood).[5]

Over the last thirty-five years, immigration policy and enforcement practices have diminished noncitizens' rights and have made neighborhoods and public spaces fertile ground for detention and deportation. As a result, immigration policy has become increasingly consequential in shaping how a larger share of immigrant youth adapt, come of age, and experience life in the United States.[6] Today, more than ever before, the legal status divide is at the crux of what differentiates how the children of immigrants experience everyday life.

To be sure, undocumented immigrants are not a monolith. There is great diversity in their origins and their experiences in the United States, the latter shaped by family background, place of residence, race, and educational level. These varying contours inform the experience of young people growing up under the condition of illegality. However, even when considering the impacts of these other social identities, undocumented status stands out as the primary factor in undocumented young people's everyday lives and their long-term trajectories. It has become, in the words of sociologist Everett Hughes, a "master status."

I n 1965, the Hart-Celler Act ushered in our contemporary era of immigration. It eliminated national-origin quotas and created new family and skilled-worker preference categories for entry. These changes opened up immigration from previously restricted countries in Asia, yet also established caps on immigration from the Western Hemisphere. As sociologist Douglas Massey and demographer Karen Pren have argued, migration from Latin American countries surged *in spite of* the new system, which changed the auspices under which they arrived: increasingly as undocumented migrants.[7]

As the children of this post-1965 wave of immigrants began to come of age, old debates about assimilation and belonging took a different form as many questioned the applicability of the canonized account of assimilation theory to contemporary immigrants.[8] In particular, scholars pondered whether changing contexts and the racial and educational characteristics of these immigrants influenced the pace *or* direction of their incorporation.

Recognizing growing stratification within the United States, scholars have sought to identify different pathways of immigrant incorporation.[9] To that end, they focused on the interplay between human-level variables and structural and contextual considerations in examining how and why immigrants fare differently. Immigration status, racial discrimination, and economic climate were thought to shape the children of immigrants' likely paths. To be sure, the effects of racial exclusion have endured over generations for groups such as Mexican Americans.[10] But with increasing efforts to restrict opportunities for undocumented immi-

grants, and a racialized enforcement regime, immigration status rapidly emerged as a driver of immigrant incorporation.[11]

Over the last thirty-five years, growing restrictions have intensified the negative impact of undocumented status. Fewer pathways to legal status and citizenship have trapped undocumented immigrants and their children in a legal limbo, while U.S. policy has increasingly stripped their access to social welfare programs. Coinciding with the incremental erosion of rights has been the creation of what former Director of Immigration and Naturalization Services Doris Meissner and her colleagues have called the "formidable deportation machine."[12] This new "machinery" has not only focused on removing undocumented immigrants apprehended at the U.S.-Mexican border, but it has also extended its reach to the country's interior. Increased staffing for the U.S. Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) along with increased integration between local law enforcement and ICE under 287(g) agreements and the Secure Communities program have created an immigration dragnet wherein enforcement actions have increasingly resulted from information gathered during local criminal justice and traffic enforcement, snaring immigrants for improper lane changes and countless other noncriminal offenses.[13]

Between 1997 and 2012, the U.S. government carried out more than twice the total number of all deportations from the United States prior to 1997.[14] In 2013 alone, the United States deported a record 438,421 immigrants.[15] In fact, during the Obama presidency, more than three million immigrants were removed from the country.

Taken together, the restriction of rights and ramped up enforcement efforts have had far-reaching effects across a greater number of people, including young people.[16] Deportations of parents and spouses have left a huge emotional and economic void in family life while creating undue hardship for children left without their parents and for families struggling to make ends meet without the economic contributions of the deported family member.[17] What's more, fears of deportation have had particularly negative effects on the health and well-being of children growing up.[18] For undocumented immigrants who arrived as children, these developments have contributed to their lives becoming increasingly difficult as they reach adolescence and young adulthood.

Undocumented status is generally perceived as a condition affecting only adult migrants. But a growing body of research strongly suggests that living in a mixed-status family and possessing undocumented status as an adolescent and young adult negatively impacts a range of experiences, both in everyday life and along longer trajectories.[19]

Within mixed-status families, undocumented parents confront a wide range of barriers in their day-to-day lives. They have trouble accessing health insurance or opening a bank account. Fear of deportation makes them less likely to apply for their citizen children's food stamp and health care benefits even when eligible. Undocumented status often prevents families from accessing urgently needed services from the very institutions intended to benefit immigrant families. These children – both the foreign- and American-born – grow up in impoverished households with limited supports. Such experiences of disadvantage unique to undocumented status have particularly strong effects on childhood development, health and well-being, and academic performance; effects not experienced by other children of immigrants.[20]

But for those children who lack legal status themselves, growing up undocumented erects multiple barriers along their adolescent and adult trajectories that widen the divide among the children of immigrants. Owing to the 1982 Supreme Court decision in *Plyler v. Doe*, they are legally integrated into K–12 schools.[21] As such, they develop identities and accumulate Americanizing experiences alongside American-born citizen peers. Childhood thus constitutes a period of integration, as their school experiences allow them to develop feelings of belonging to the United States as well as expectations and life aspirations rooted in American culture.[22]

It is not until adolescence that undocumented youth embark on the "transition to illegality," beginning with the startling realization that rites of passage corresponding to their life stage are closed off to them.[23] At the time when friends are obtaining driver's licenses, seeking after-school jobs, and beginning the college application process, undocumented youth come to realize how lacking lawful immigration status will prevent them from participating in these defining rites of passage and will ultimately thwart their attempts at developing their desired adult lives. Characterized by confusion, frustration, and vulnerability, this critical developmental stage is a major "turning point" away from normative developmental trajectories, producing a "jolting shift" in their self-perceptions and compelling them to make adulthood transitions within similar social confines as their undocumented parents.[24]

For most undocumented young people, knowledge of their immigration status renders educational pursuits both financially unrealistic and unprofitable. Exclusions from federal financial aid make it difficult for most undocumented youth to finance their higher education. Further, just as they experience a shrinking of access, their familial and financial responsibilities increase, forcing them into a series of difficult decisions regarding work and travel. While some young people respond to these changes through resistance, finding new strength to push for their goals despite these barriers,[25] others become disillusioned and lower their aspirations.[26]

Access to educational supports, critical services, and extrafamilial adult mentors can mean the difference between successful college transitions and an early entry into low-wage employment and illegalized daily lives.[27] Those undocumented youth who manage to make successful transitions to postsecondary education – a very small proportion – are able to delay aspects of the transition to illegality by avoiding low-wage work and remaining in supportive community and institutional contexts. However, college-going undocumented young people are not immune from stigmatization, immigration status–related threats, family responsibilities, financial concerns, or fears of deportation. These factors compel many to stop out and delay their educational plans.[28] Ultimately, without access to work authorization, college-educated undocumented young people face the same limited and limiting job prospects after graduation and enter a low-wage workforce even less prepared and more vulnerable than their peers who left school long before them.[29] They, like their more modestly achieving counterparts, engage in a process of "learning to be illegal."[30]

Yet, like other groups, undocumented immigrants are not homogenous. The effects of illegality are, predictably, stratified by other demographic characteristics, such as race, social class, and place of residence.[31] Research has shown that Black and Latin American–origin men, for example, are disproportionately targeted for deportation.[32] Perceptions of illegality are often informed by race.[33] Research on undocumented young people across racial and class backgrounds has uncovered differential experiences across diverse racial and country of origin groups. For lighter-skinned young people and those from higher social class backgrounds, the stigma of being undocumented may be tempered, particularly at younger ages.[34] These young people who possess a "phenotypic passport" experience fewer negative interactions with authorities and less fear of deportation.[35]

Additionally, the experience of undocumented status can vary widely across geographies. Congressional gridlock over immigration policy spanning the last two decades has moved immigration lawmaking to states, counties, and municipalities. This local lawmaking has led to an "uneven geography" of immigration policies and practices across the country, ranging from integrative to exclusionary.[36] Whereas some states have opened up access to broader inclusion, offering undocumented immigrants eligibility for driver's licenses and in-state tuition at public universities, others have adopted a more restrictive stance by attempting to criminalize unauthorized presence and exclude undocumented immigrants from public universities.[37]

Indeed, the places where immigrants settle, whether areas with well-established infrastructures or new destinations that are less developed, play an important role in structuring access to public transportation, critical services, and opportunities to participate in community life. Traditional gateways offer immigrants social, economic, educational, and legal assistance from vast community-

based networks, but high costs of living can add strains to everyday life. Meanwhile, immigrants in new rural destinations may have an easier time finding employment and affordable housing but encounter a "constellation of rural disadvantage"[38] that includes widespread poverty, limited opportunities for stable employment, underdeveloped social service and educational infrastructures, and lack of public transportation.[39]

These observations underscore a growing reality that even among a group assumed to be uniformly disadvantaged, key differences in the geographical settings where they grow up can play an important role in shaping diverging experiences. Nevertheless, federal policies – in particular, the limited opportunities to legalize one's status – inhibit the effect of inclusionary state policies. In analyzing recent attempts in Colorado to improve postsecondary access for undocumented students through state legislation, sociologist Lisa Martinez argues that while these important local reforms have created some opportunities for young undocumented people, legal limitations at the federal level leave them in holding patterns that delay or impede their access to higher education and upward mobility.[40]

To be sure, the burgeoning scholarship on undocumented young people has begun to expose the various layers of stratification structured by race and place. But does stratification and difference render illegality any less consequential?

The "master status" concept theorized by Hughes posits that the placement of people in certain social categories powerfully constrains the characteristics attributed to them by other categories.[41] In other words, individuals possess a variety of status traits that shape a range of outcomes, including social mobility, personal identity, and treatment by others. However, some characteristics are more prominent and, hence, overshadow other social categories to emerge as the predominant attributes in one's identity and experiences. In the long term, the master status casts a shadow over those defined by it, oftentimes freezing them in this definition.

Due to the intersecting nature of inequalities in the United States, there has been some debate over whether one particular trait dominates all others or if it is a constellation of traits that interacts with each other and at different places, times, and spaces, any one of these different traits becomes more or less consequential.

In childhood, as youths participate in mainstream spaces, some social boundaries may be permeable and "blurred."[42] As undocumented youths move into adulthood and out of mainstream spaces, however, they are increasingly likely to encounter a wide range of "bright boundaries" that make unauthorized status an exemplar of a master status.[43] The vast majority of undocumented immigrants have lived in the country, have contributed to the U.S. economy, and have participated in their communities for more than a decade. As such, they enjoy, and have struggled for, spaces of belonging, building cultural citizenship in the process.

Yet their legal designation and identity shape how they are treated and perceived, deepening the divide between them and their legal counterparts.[44]

Social construction casts those possessing unauthorized status as criminal and immoral. As a result, a set of social resources are withheld from them. Per U.S. employment law, they cannot work legally. They are ineligible to vote. They also cannot serve in the military or enroll in most work-readiness programs. They are excluded from a growing range of social entitlement programs and have limited access to health care and social services. They cannot access driver's licenses in most U.S. states. They are ineligible for federal financial aid and a wide range of federally funded postsecondary supports. They can be detained and removed from the country at any time. In addition, setting up bank accounts, applying for credit cards or loans, and accessing state identification is either impossible or extremely difficult.

In short, undocumented migrants live within a context that views their unauthorized status as a crime and frames them as a threat to American society and the rule of law.[45] The negative discourse about immigrants – in particular, those from Latin America – is rooted in economic and cultural concerns.[46] On the one hand, they are perceived as taking jobs, seats in college, and scarce health care and social service resources from American citizens. On the other, they are seen as cultural invaders threatening an American way of life.[47] This discourse has been associated with a growing pattern of hate crimes and physical violence against immigrants that has also restricted their everyday routines and interactions with institutions.[48]

Nonetheless, undocumented immigrants live in a society that is patterned by numerous forms of stratification and inequality. Historically, immigration and race have been intimately intertwined. It is impossible to tell the story of immigration to the United States without retelling accounts of discrimination, exclusion, and expulsion.[49] To that end, immigration scholarship has highlighted the salience of other traits such as race, class, gender, and place of residence in shaping experiences and opportunity.

More recently, in studies of undocumented immigrant youth, scholars have advocated for an intersectional lens, suggesting that multiple social locations work together to structure advantage and disadvantage.[50] Building on earlier work that sees systems of oppression as overlapping and producing specific marginalization where multiple systems intersect,[51] sociologists Zulema Valdez and Tanya Golash-Boza note that for working-class undocumented Mexican university students, unauthorized status, social class, and family educational history coconstruct their experience of higher education.[52] Similarly, Laura Enriquez, in posing the question, "a master status or a final straw?" suggests that other social locations, like race and school tracking, "set the stage" for educational disadvantage.[53] In this conceptualization, undocumented status emerges as the "final straw" that pushes marginal-

ized young people to leave school. These recent works rightfully demonstrate the interaction between various statuses to shape opportunity and disadvantage.

So, is undocumented status one of a number of overlapping statuses that work together to limit the experiences of undocumented young people? Or is it a master status? According to Hughes, while master status is the central status that establishes one's overall position in society, some statuses could be master statuses in certain situations or until the presence of a more dominant status renders them subordinate. Take, for example, race and gender. While in most situations, being a physician or belonging to the middle class may override most other traits in one's identification, race and gender will often supersede these statuses in the larger society. Therefore, the master status concept does, indeed, allow for the possibility of a master status to be the dominant status in one situation but not necessarily all others.

Hughes also introduced the notion of *auxiliary traits*, a set of complementary attributes often associated with a master status. He noted that statuses have both a primary trait – which marks insiders within the group from outsiders who are not part of it – and a set of complementary traits. So, for example, the physician, who has fulfilled certain educational and training requirements, is licensed to practice medicine.[54] Here, the medical license is the primary trait. Related, the doctor might possess certain auxiliary traits, like being upper-middle-class, White, and male. These traits are often associated with physicians. But it is a possibility that some people who possess the master status may lack some of these expected auxiliary characteristics. One might be a physician, but also be from a racial minority group and/or be female.

These examples highlight the nuanced and flexible understanding of the master status concept. Accordingly, a status can be dominant in one situation but become subordinate in another (and vice versa). And within any given status, there is a great deal of heterogeneity within associated statuses that yield different types of stratification within groups. Hence, the master status concept and seemingly more nuanced perspectives regarding intersectionality and stratification are not mutually exclusive, and therefore not in tension.[55] To be sure, undocumented immigrants are diverse in both race and class. They may occupy various positions within the U.S. education system that differently structure educational attainment. Their racial and ethnic backgrounds may make them targets for discrimination and enforcement measures or allow them to pass as citizens. And some become undocumented through an unauthorized entry and others by overstaying a visa. Regardless of their race, national origin, class background, mode of entry, or educational attainment, they face a uniform set of exclusions and withheld resources and opportunities that create a socially significant divide. It is not that they don't experience other forms of inequality – they do. But even in overlapping contexts, illegality takes precedence. As Susan Coutin warns,

> Even if this space is in some ways subversive, even if its boundaries are permeable, and even if it is sometimes irrelevant to the individuals' daily lives, [it] can be deadly. Legal nonexistence can mean being detained and deported, perhaps to life-threatening conditions. It can mean working for low wages in a sweatshop or being unemployed. It can mean the denial of medical care, food, social services, education and public housing. And it can mean an erasure of rights and personhood … .[56]

Social-legal positionality changed for certain undocumented young people in 2012 when President Barack Obama implemented the Deferred Action for Childhood Arrivals program, commonly known as DACA, an administrative policy that offers temporary protection from deportation and work authorization to certain eligible young people.[57] While not a legal pathway to citizenship, this change offered an estimated 1.9 million eligible young people the potential to transform their developmental pathways and reduce the legal barriers to broader participation in U.S. society and, at least partially, delay the transition to illegality. In addition to DACA's provisions, many states have passed other legislation, helping DACA beneficiaries access essential benefits like driver's licenses and Medicaid. By 2018, more than 814,000 young people had been granted DACA status.

Over the course of the program's eight years, DACA has allowed its beneficiaries better opportunities to support themselves and their families. DACA has enabled young people to access better-paying jobs, health care, driver's licenses, and the means of establishing credit through bank accounts and credit cards.[58] Many have improved their living arrangements, purchased new cars, and enrolled their children in day-care programs. They have also experienced enhanced feelings of security, belonging, and overall well-being.[59] As a result, these new opportunities have provided beneficiaries increased social mobility.[60]

DACA has also helped beneficiaries launch careers by enrolling in new education and workforce training programs and gaining valuable on-the-job training.[61] In many states, DACA has provided beneficiaries with educational opportunities and resources otherwise unavailable to undocumented immigrants not covered by DACA, such as access to in-state tuition and professional licenses for specialized vocations.[62] As a result, these developments have created a new divide between DACA beneficiaries and their undocumented counterparts and family members who do not possess DACA status.

But has it allowed young people to bridge the divide with their American-born and citizen counterparts? As a semilegal status, DACA has limited inclusionary power. Due to DACA's temporary and partial nature, it ultimately falls short in endowing its beneficiaries with durable forms of membership and any long-term certainty about their place in U.S. society. As an administrative policy, DACA does not provide a pathway to citizenship, it does not override exclusions from federal financial aid, it places limits on occupations its beneficiaries can pursue, and it still

leaves open the door to deportation. And DACA beneficiaries remain connected to family members, romantic partners, and friends who do not qualify for DACA. Their fates are ultimately impacted by their loved ones' vulnerability.[63] Taken together, these limitations underscore a persistent divide between DACA beneficiaries and their documented peers.

The evidence from DACA, a "liminally legal status" that does not endow full and permanent rights, signals trouble ahead in the twenty-first century. While there is general consensus regarding the "bright boundaries" of unauthorized status, there is recognition that growing numbers of migrants around the globe possess statuses beyond the dichotomous categories of citizenship.[64] Increasing numbers of migrants occupy statuses that are temporary, uncertain, and nonlinear.[65] Sociologist Cecilia Menjívar has observed that those possessing liminal statuses often live in a state of legal limbo that can persist indefinitely, sometimes never leading to citizenship or other forms of formal integration.[66] While they enjoy certain rights and privileges, their "precarious" status places limits on a range of activities. For example, precarious immigration statuses are often accompanied by precarious access to public services. In addition, while these liminally legal immigrants are sometimes able to renew their status and the benefits that come with them, a period of nonrenewal (due to lengthy processing times or denial) can push them out of status, even if temporarily, resulting in potential job loss, bureaucratic hurdles, and stress. They may also be subject to deportation for relatively minor offenses, due to legislation in recent years that has expanded the grounds for deportation.

Ultimately, the durability of statuses like DACA is called into question precisely because the tension between access and exclusion, between belonging and vulnerability, that characterizes their daily experience remains unresolved.[67] While the ability to experience temporary and partial integration into the U.S. economy and society is significant, it cannot fully counter the master status nature of illegality.

In 2017, the Trump administration moved to terminate DACA. Following the termination, it was promptly challenged in the courts, yet the United States Citizenship and Immigration Services stopped accepting new applications. The U.S. Supreme Court heard oral arguments on November 12, 2019, and ruled five-to-four against the Trump administration in June 2020, narrowly avoiding a reversal of the progress beneficiaries have made over the last eight years. On December 7, 2020, the Department of Homeland Security announced it would accept initial applications for the first time in three years. Still, this short history exposes the program's fragile nature and its limits in providing long-term stability and rights for its beneficiaries. It also throws into doubt whether liminally legal policies like DACA can override the master status nature of undocumented status.

ABOUT THE AUTHORS

Roberto G. Gonzales is Professor of Education at the Harvard Graduate School of Education and Director of the Immigration Initiative at Harvard. He is the author of *Lives in Limbo: Undocumented and Coming of Age in America* (2015) and *Undocumented Migration* (with Nando Sigona, Martha C. Franco, and Anna Papoutsi, 2019) and editor of *Within and Beyond Citizenship: Borders, Membership and Belonging* (with Nando Sigona, 2017).

Stephen P. Ruszczyk is Assistant Professor of Sociology at Montclair State University. He has written for such journals as *Journal of Ethnic and Migration Studies*, *American Behavioral Scientist*, and *Metropolitics*.

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