



**Woodrow Wilson
International
Center
for Scholars**

Mexico Institute

Arizona's Legislative-Imposed Injunctions: Implications for Immigrant Civic and Political Participation

Anna Ochoa O'Leary

Mexican American Studies and Research Center

University of Arizona

Tucson, AZ

Research Paper Series on Latino Immigrant Civic
and Political Participation, No. 2

January 2009

www.wilsoncenter.org/migrantparticipation

Arizona's Legislative-Imposed Injunctions: Implications for Immigrant Civic and Political Participation

Anna Ochoa O'Leary*
Binational Migration Institute
Mexican American Studies & Research Center
University of Arizona

Abstract

Arizona provides a unique contemporary context for understanding how civic and political participation for immigrants and migrants is jeopardized. In the mid 1990s, Arizona's border with Mexico emerged as a major migration corridor, but, since 9/11, it has also been the focus of national attention in part because of a highly politicized debate over immigration reform and border security. It is in this context that Arizona's legislative injunctions targeting immigrants have been carried out. The outline of legislative acts summarized here provides a framework for understanding emerging structural limitations to the civic and political participation of immigrants, and by extension, to that of the broader Latino population. It is argued that such emerging institutional limitations foster the proliferation of attitudes that sharpen social divisions by promoting intolerance, fear, and discrimination. Consequently, such attitudes contribute to the suppression of immigrant and migrant civic and political participation and threaten the livelihood and well being of all Latino communities.

I. Introduction

Arizona provides a unique context for understanding how civic and political participation for immigrants and migrants¹ is jeopardized. Since the mid 1990s, Arizona's border with Mexico has garnered national attention as a major migration corridor, and more recently, it has been the focus of media reports and images depicting the border as a lawless wasteland, rampant with drug runners, welfare benefits-seeking migrants, criminals, and violence (Inda 2006; Wilson 2000). An outgrowth of this perception has been the highly charged debate over immigration reform and the politically-driven demands for increased border enforcement. Compounded by the development of post 9/11 fears,² congressional proposals for immigration reform were introduced in the U.S. Congress throughout 2005. These have led to a steady hardening of border enforcement tactics that have been known to increase the risks to migrants (Huspeck, Martinez, and Jimenez 1998; O'Leary 2008; Rubio-Goldsmith, McCormick, Martinez, and Duarte 2006). Notable civic and political responses to these proposals consisted of mass rallies in 2006, as millions gathered in hundreds of cities across the country, in what has been characterized as the largest civic mobilization since the civil rights era (Fraga, Gracia, Hero, Jones-Correa, Martinez-

Ebers and Segura, forthcoming). However, this highly visible civic and political participation by immigrants and their allies has been followed by repressive political and social backlash which threatens to further exclude Latinos from the social fabric of the United States. (Kilty and Vidal de Haymes 2000).

For example, in Arizona alone, about 37 immigration-related bills flooded the second regular session of the 47th Arizona State Legislature in the spring of 2006 (O’Leary 2007, Appendix). These were but a fraction of the over 500 anti-immigrant state bills that were introduced the same year across the United States, many of which replicated established federal immigration enforcement responsibilities (Harnett 2008). Harnett (2008) reports that a year later (in 2007), the number of bills dealing with immigrants tripled to 1,562, as every state in the union considered some form of immigration regulation. Although debates over immigration are not new (Hagan and Rodriguez 2002), recent state and municipal responses to the “broken” U.S. immigration policy (Harnett 2008, p. 366) can be understood as a negative backlash that further disenfranchises immigrants from full civic and political participation, not only through legal, legislatively mandated means, but also through “frenzied” political rhetoric and misinformation that influences social perceptions (Kilty and Vidal de Haymes 2000; Mazón and Weinberg 2005). In this way, legislation targeting immigrant populations gained popular support. Indeed, anti-immigrant political rhetoric not only constructs structural legal barriers to greater immigrant civic and political participation in tangible ways, but also strengthens informal obstacles by inviting fear-mongering, suspicion, and racism, thus sharpening social divisions (Mazón and Weinberg 2005). Hence, Arizona’s legislative history is important to the investigation of the effects of contemporary legislative injunctions on immigrant political and social integration. Contained within this history is the public discourse that frames the popular understanding of immigration (and thereby immigrants) as a “problem,” and the rationale for the hundreds of legislative responses that have mushroomed in local and state legislatures across the nation.

In assessing the potential consequences of Arizona’s climate on immigrant political and civic participation, legislative actions taken in 2004-2007 have been selected for discussion. These have been chosen from a barrage of legislative acts proposed during these years, tactics Inda (2006) dubs “anti-citizenship technologies” that can be traced to the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). According to Inda (2006, p. 24), IIRIRA worked to incapacitate “troublesome, unethical beings” by formally restricting, and

containing how they manage their existence. Latinos have responded politically to such technologies in a variety of ways, ranging to very public, direct political engagements, to those that are less so.

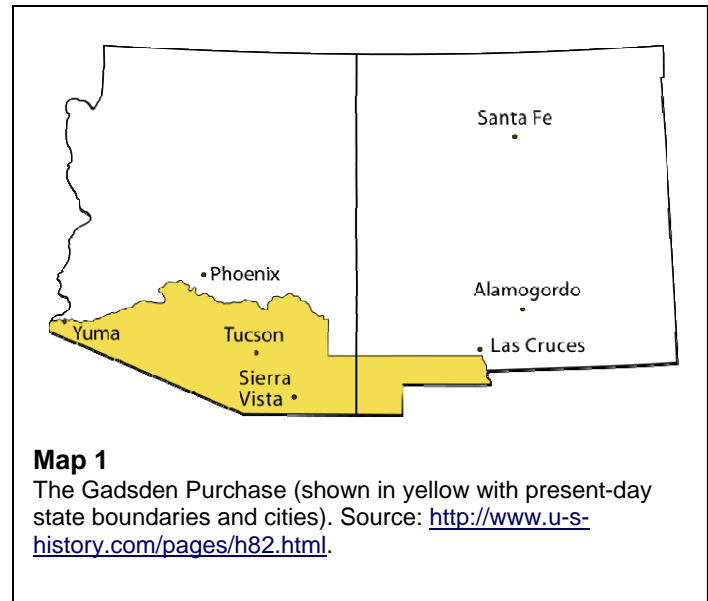
The extent of Latino immigrant involvement also reflects an expansive array of political activities by hybridized group forms. Ayón (2006) argues that the fusion of immigrant/non-immigrant categories in political processes is rooted in earlier struggles for U.S. civil and human rights, and deep-seated relational ties between immigrants to permanent U.S. residents. Indeed, inherent within the U.S. Latino population is this historical amalgamation of social groupings (U.S. born, foreign born, naturalized citizens, non-citizens, dual citizens, undocumented, mixed-status³), all with overlapping ties and interests that have only recently become more “visible” (Bada, Fox, and Selee 2006). The blurring of distinct categories of political actors has also become even more so with changes in Mexico’s legal framework that extends naturalization and citizenship rights to eligible U.S.-citizens of Mexican heritage—birthright and naturalized. U.S.-Mexico dual nationals today may vote in the elections of two countries,⁴ and are more likely to turn out to vote than their single-national counterparts according to Jones-Correa (2001a). In fact, dual citizenship has a small but positive effect on naturalization as U.S. citizens and in this way encourages the incorporation of new immigrants into the U.S. polity (Jones-Correa 2001b).

Changes in Mexico’s legal framework that allows U.S.-Mexican dual nationality come on the heels of the growing presence of Mexican immigrants in the United States (Alarcón 2006, Jones-Correa 2001b). For years, they lobbied heavily for increased political participation from abroad and came to wield growing economic leverage by way of campaign contributions, remittances and investments in their country. The political pressure exerted from the “bottom-up” forced Mexican policy makers to come to terms with its emergence as a nation of emigrants and come up with ways to empower their compatriots as they contended with anti-immigrant legislation such as Proposition 187 in California (Alarcón 2006). The eventual reforms that led to absentee voting in 2006 are credited to these lobbying efforts, led by a growing number of migrant-formed/migrant-led clubs (“*clubes*”) known as “home town associations” (HTAs) in California as in other parts of the nation. Although HTAs were primarily organized to help fund community and social projects in sending communities (Rivera-Salgado 2006), Alarcón sees them as political catalysts. Ultimately they provided the social mechanisms by which the Mexican government was able to reach out to its communities abroad through the creation of

the Advisory Council of the Institute of Mexicans Abroad, in 2003 known as the (known as CC-IME by its initials in Spanish).⁵ This advisory body aims to coordinate efforts of Mexican nationals, Mexican-Americans and Mexican-Canadians, keep the Mexican Government apprised of the experiences of Mexican nationals living abroad, and to help identify and analyze and propose alternatives to improve their lives. In meeting this goal, CC-IME has increasingly taken on political roles in both the United States and Mexico.

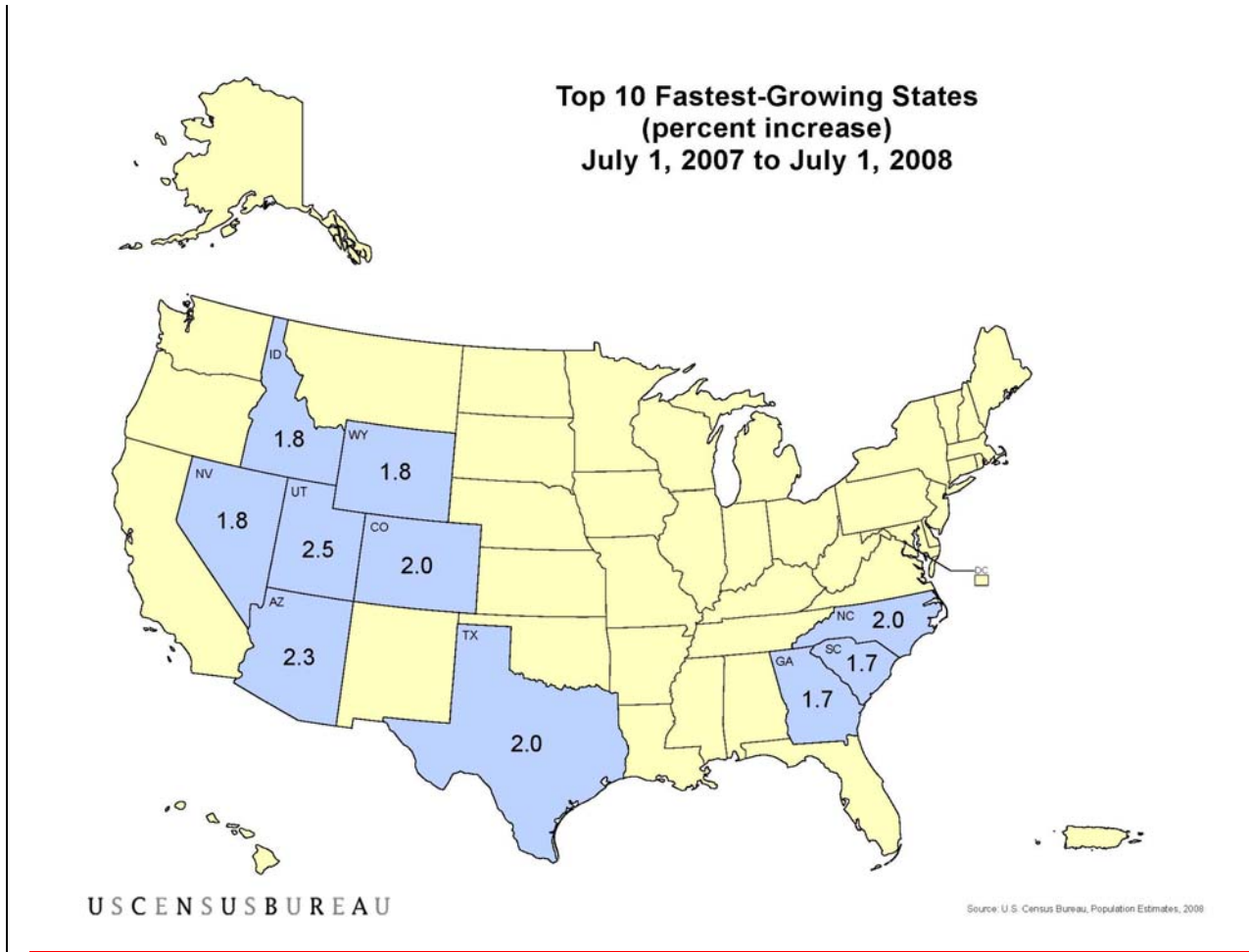
In Tucson, Arizona, the relatively recent emergence of six HTAs in 2008⁶ is related to the development of the CC-IME and programs intended to strengthen loyalties between Mexican nationals and communities of origin (Alvarado 2009). Their relative absence from the political scene that agitated for greater political enfranchisement may be attributed to the region's history and the historically strong social and economic networks between cross-border populations, which have, to a

large degree, sheltered Mexican immigrant populations in southern Arizona from social or economic isolation. First, it is important to note that the southern part of Arizona where Tucson is located was incorporated into the United States in 1853 by the Gadsden Purchase (Treaty of La Mesilla), and with it, former Mexican populations were also incorporated (see Map 1). In 1930, Arizona's had the largest percentage of Mexican heritage population (26.21 percent) compared to the other border states. At this time California's Mexican heritage population was 6.84 percent (Acosta, n.d.). These census records also indicate that the U.S. born Mexican heritage population was very much established in Tucson, in particular, where 95 percent of all the Mexican heritage population was born in Arizona. (Acosta, n.d.). In this way, the long-standing presence of Mexican-origin populations in southern Arizona confounds conventional notions for establishing social-spatial orders based on national boundaries and immigration policies. This history is ignored with the shift of immigration enforcement responsibilities from the U.S. Department of Justice to the Department of Homeland Security (DHS) in 2003—a repositioning that conflates



the problem of immigration regulation with counterterrorism. This paradigm shift is thus asynchronous with the social development of the border region and the historical patterns of movement and exchange patterns of those who have for decades, through all manners of cross-border intercourse, created spaces simultaneously shared by all genres of Latino origin populations (U.S. born, foreign born, citizens, non-citizens, undocumented). Said otherwise, the region’s populations’ daily interaction and discourse have long reflected strong and normalized connections with immigrants—as employees, neighbors, co-workers, or family—and thus follow and maintain those spatial-social orders defined by history rather than more recent efforts to divide social spaces along dichotomous (immigrant and non-immigrant) lines.⁷

A second explanation for the recent development of HTAs is related to the Arizona’s

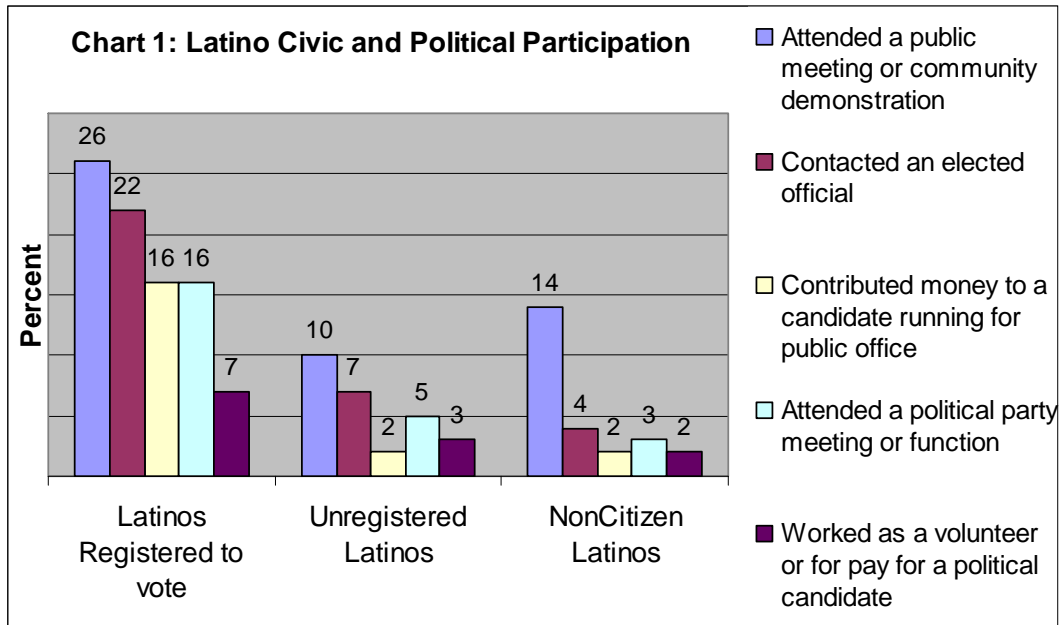


recent shift from migrant corridor to migrant destination. In a recent U.S. Census report Arizona is included in a list of “new” destination states, along with Massachusetts, Virginia, North Carolina, Georgia, Nevada, Oregon, and Washington (see also Map 2). Light and von Scheven point out that these new settlement destinations have demonstrated notable “shock and political

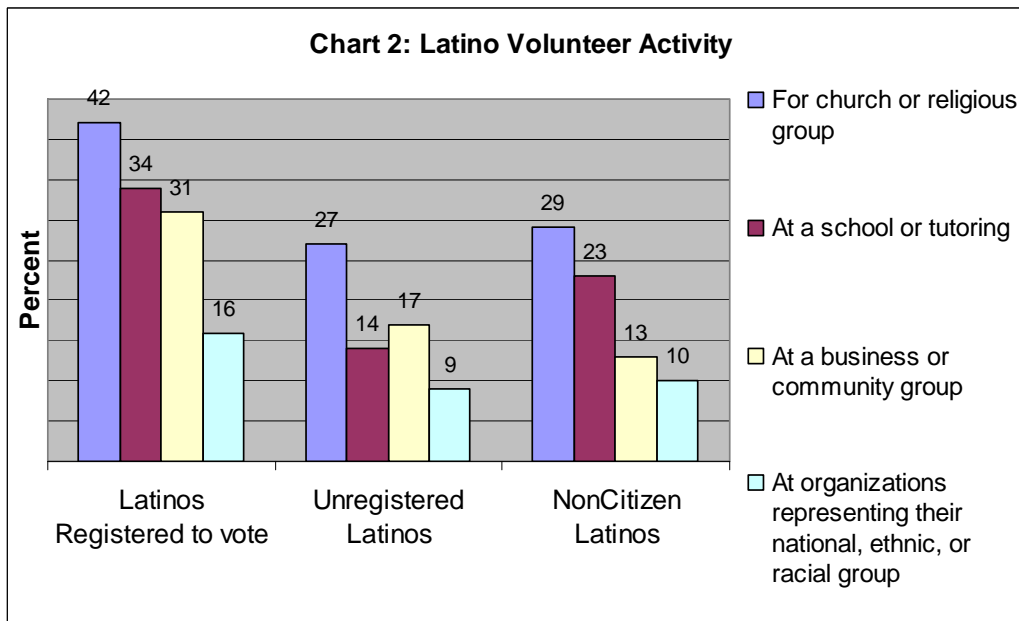
intolerance” towards Mexican immigrants (Light and von Scheven 2008, p. 705). It follows, then, that migrant HTAs in Arizona may have only recently emerged in response to similar intolerance.

While voting and running for public office are perhaps the most recognized form of political and civic engagement, there are other ways that immigrants and migrants exert political agency (See charts 1 and 2). These include attending public meetings, taking part in demonstrations, contacting elected officials or donating to political causes (Montoya 2002; Pew Research Center/Kaiser Family Foundation 2004). Although non-citizen Latinos are less likely to participate in political activities (Leal 2002), they also engage in activities that can influence political outcomes, such as signing petitions and wearing buttons with political messages. Less-direct political activities include voicing concerns to registered voters (Leal 2002), social networking, and volunteering to help mobilize communities (Verba, Schlozman, and Brady 1995). In 2006 both citizens and non-citizens mobilized nation-wide political demonstrations over immigration reform using this wide range of civic strategies, both direct and indirect.⁸ A broader view of political and civic participation thus recognizes that many Latino families consist of individual members who have different legal status: citizen, non-citizen legal residents, or undocumented and are, therefore, constrained in different ways. A broader view is thought to be useful for thinking about the future of Latino political participation as younger Latino generations—sons and daughters of current immigrants—are inspired by the examples of others (Pew Research Center/Kaiser Family Foundation 2004). Finally, a broader view of political and civic participation privileges the power of alternative “visions” that have been historically necessary for collective action that can ultimately lead to greater democracy (Fox 2005). For example, membership in organizations based on ethnic, racial, or translocal identity, or values such as responsibility or obligation to community can advance the development of civic and political voice and greater capacity to make claims from institutions. Fundación Mexico,⁹ in Tucson, Arizona is an example, which has established the FM Fund to grant scholarships to immigrant university students who live in Arizona. Consequently, through community based organizations individual actors (regardless of citizenship) gain experience from activities such as coalition-building, collaboration, outreach, and consciousness-raising that are fundamental to exercising civic rights even when these rights are formally denied or limited (Fox 2005). The following discussion of the selected Arizona legislative actions thus includes an

exploration of the social implications for inhibiting immigrant political and civic participation in the broadest sense.



Source: Pew Research/Kaiser Family Foundation (2004)¹⁰



Source: Pew Research/Kaiser Family Foundation (2004)

II. The Onslaught Begins: Prop 200 “Arizona Taxpayer and Citizen’s Protection Act”

Arizona’s post immigration policy debate was framed by post 9/11 politics. Almost overnight, apprehension about immigrants and all those perceived to be non-“American” became

the scapegoats for the failure of the United States to anticipate the 9/11 attacks (Hines 2002). Consequently, efforts to “protect” the nation’s borders and its peoples from those who would do them harm were emboldened, through increased enforcement, surveillance, and criminal prosecution of undocumented immigrants. As Mary Romero (2007) states,

... [T]he growing popularity of recent initiatives emerging at the state level must be considered within the federal context of government responses to the 9/11 attacks, which have conflated the terms alien immigrant and criminal.

Thus, the onslaught of legislative anti-immigrant propositions in Arizona’s state legislature began in the spring of 2004, in part advanced by efforts of a right-wing group called “Protect Arizona Now” (PAN) to gather signatures to put Proposition 200¹¹ on the November ballot. Commonly referred to as “Prop 200,” the ballot measure evolved from accusations that immigrants sought to fraudulently subvert the electoral system and amended the state's laws to require applicants to show proof of citizenship to register to vote. In addition, Prop 200 would require agencies administering state and local public benefits to verify applicants' immigration status and charge state employees with reporting to federal authorities applicants for public benefits whose legal status made them ineligible. Failure to do so would be punishable as a misdemeanor.

At first, the campaign to gather ballot signatures appeared weak. However, \$50,000 of economic support by the national anti-immigration group, the Washington, DC-based Federation for American Immigration Reform (FAIR), bolstered PAN’s efforts (Veranes and Navarro 2005). Intense popular opposition ensued but PAN achieved the required number of



Defeat 200 headquarters, Tucson, Arizona

signatures and in November 2004, Prop 200 was presented to Arizona voters for approval. The community organization that led opposition to the proposal, “Defeat 200,” consistently maintained, through months of campaigning, that the real purpose and intent of Prop 200 was to spread misleading information and fear that “illegal aliens were voting,” and helping to determine policy that was advantageous to them.¹² In the words of Margot Veranes and Adriana Navarro (2005), two leaders of Defeat 200, Prop. 200’s most far-reaching impact was “one of widespread fear and intimidation...” and constituted “a modern-day poll tax” that historically

keeps low-income people and communities of color from voting. However, in spite of these efforts, the measure passed and Arizona became one of over 20 states in the nation that have since passed restrictive voter identification laws.

Prop 200 and the Undermining of Latino Civic and Political Participation

After Prop 200 was passed, the burden of proof of eligibility was placed on the voter. Before Prop 200, voter registration was more accessible because the burden of obtaining evidentiary standards (how voting eligibility is determined) was on the state. The impact of this shift in the burden of proof on civic and political participation was examined recently by the U.S. Supreme Court. In April, 2008, the Court considered *Crawford v. Marion County Election Board*, a case filed by the American Civil Liberties Union (ACLU) against Indiana's new voter identification law. Without any evidence that in-person voter impersonation was a problem in the state, much less a crisis, Indiana adopted one of the most restrictive photo identification requirements in the country, requiring government-issued photo identification every time a person voted. The ACLU represented a group of plaintiffs who argued that in the absence of any evidence of voter fraud, the law placed an unconstitutional burden on the right to vote (ACLU 2008). Although the Indiana voter ID law was upheld, a review of the dissenting legal opinion by Justice Souter (Legal Information Institute 2008) explains how such laws could undermine civic and political participation. Justice Souter, joined by Justice Ginsburg, wrote that Indiana's voter restriction placed "non trivial burdens on the voting right of tens of thousands of the State's citizens... and a significant percentage of those individuals are likely to be deterred from voting," and that in the case of Indiana, the state had bowed to "abstract interests," referring to the absence of any real evidence of a history of voter fraud. In writing the dissenting opinion, Justice Souter added that the burdens of traveling, work time lost, or getting and paying for transportation and fees are "disproportionately heavy for, and thus disproportionately likely to deter, the poor, the old, and the immobile." Souter added:

The upshot is this. Tens of thousands of voting-age residents lack the necessary photo identification. A large proportion of them are likely to be in bad shape economically... [W]e would ignore reality were we not to recognize that this system falls with unequal weight on voters ... according to their economic status.

As in the case of Indiana, Arizona had no history of in-person fraudulent voter impersonation (Crawford 2008). Justice Souter wrote that justice might be better served by addressing easier-to-document cases of voter fraud, such as absentee-ballot fraud, (which had

been a documented problem in Indiana), registered voters voting more than once, voting by felons and other disqualified individuals, vote buying; or ballot-stuffing, ballot miscounting, voter intimidation, or any other type of corruption on the part of officials administering elections. As such, these issues as well as the issue of common human error, were left untouched by the decision. He also referred to research by Justin Levitts (2007) that finds voter fraud by impersonation is “unlikely” and “irrational” and not worth it for individuals acting alone. Voter fraud by in-person voter impersonation was also ineffectual: it was already severely penalized if an imposter was caught, and if left undetected, it yielded at most one incremental vote. Led by Defeat 200, in 2004 opponents of Arizona’s Prop 200 had also argued that undue burden of proving eligibility was placed on the elderly, working poor, disabled, and on Arizona’s ethnic and linguistic minorities (Latinos and Native Americans), leaving them with a diminished voice in matters that most concerned them. Four years after its enactment, news reporters Renee Feltz and Stokely Bakash devoted a summer to researching how effective Prop 200 had been in preventing voter fraud and were unable to draw any conclusions (Crawford 2008).

Perhaps more than any other minority in the United States, the Latino population has the most to lose by new state laws that place additional burdens on voter registration. As Jones-Correa (2001a) points out, changes in the “rules of the game” (voter registration or residence requirements, election laws) have a negative impact on voter turnout (Jones-Correa 2001a, p. 45). Those most likely to be affected are those with less education, less social and economic resources because they are less able to overcome the additional expense (in terms of time and material costs) required in navigating the “maze” of bureaucratic system. Said otherwise, changing the rules of the game thus selects for some while leaving others out. Institutional barriers in this way work to disenfranchise Latinos, just as they did to blacks in the South. Today, the Latino population is the largest minority group in the United States., with 43.2 million persons in 2006, and projected to comprise 25 percent of the total U.S. population by 2050 (Fraga et al. n.d.). According to Kilty and Vidal de Haymes (2000), the majority of the Latinos are U.S. citizens, 62 percent by birth and 7 percent as naturalized citizens. Although not of strategic importance in terms of the total electorate until recently, 85.6 percent of the entire Latino population is under the age of 18, and this demographic characteristic will predictably make them the recipients of political overtures in years to come (Fraga et al. n.d.).

To be sure, for Latinos, many immediate and extended family members are not citizens. However, *all* are still subject to the same laws that will ultimately affect their livelihood.¹³ For example, a recent study shows immigration authorities behave more violently towards barrio residents who exhibit more Mexican ethno-racial characteristics than those with more Anglo characteristics, and that neither citizenship, nor class, nor education level offer much protection from this mistreatment (Goldsmith, Romero, Rubio-Goldsmith, Escobedo, and Khoury 2009). Not surprisingly, Latinos, more so than their non-Latino counterparts, tend to oppose immigration enforcement measures. Indeed, a Pew Research Center study (2007)¹⁴ reports that three quarters (75 percent) of the nation's Latinos disapproved of workplace raids; 79 percent preferred that local police not take an active role in identifying undocumented immigrants, and more than half (55 percent) disapproved of states checking for immigration status before issuing driver's licenses. By contrast, non-Latinos are much more supportive of all these policies, with a slight majority favoring workplace raids and a heavy majority favoring driver's license checks (Pew Research Center 2007). Latinos also generally see undocumented immigrants as a plus – both for the Latino community itself and for the U.S. economy in general. In this manner, Latino political views suggest an alternative vision for the United States, which in part may explain xenophobic tendencies to further exclude them from civic and political life in the United States.

Deepening the Social Divide: Discrimination as an Aftermath of Prop 200

As mentioned above, Prop 200 was premised on misinformation about immigrants subverting the electoral process. In much the same way, widespread myths about immigrant use of healthcare programs helped to garner support for Prop 200's provisions to increase restrictions on Latino access to healthcare. King (2007) lists these myths as:

- U.S. public health insurance programs are overburdened with immigrants.
- Immigrants consume large quantities of limited healthcare resources.
- Immigrants come to the United States to gain access to healthcare services.
- Restricting immigrants' access to the healthcare system will not affect American citizens.
- Undocumented immigrants are "free-riders" in the American healthcare system.

Upon his review of Prop 200's provisions once it became law, Arizona Attorney General Terry Goddard's interpretation of the proposition's language specified "public benefits" and limited the restrictions to programs covered by Title 46 of the Arizona Revised Statutes to welfare benefits, domestic violence services, elder abuse prevention, and other services for the

elderly. The Mexican American Legal Defense and Education Fund (MALDEF) subsequently filed a complaint against the law on behalf of a number of plaintiffs, contending that it preempted federal law, which governs matters of immigration. The plaintiffs also argued that because the phrase "state and local benefits that are not federally mandated" is not defined, Prop 200 could still deny benefits that the federal government provides for legal resident immigrants. The plaintiffs also argued that eligible children might not receive public benefits because their undocumented parents would be afraid to apply, or be denied services altogether. Indeed, public debate and confusion about Prop 200 seemed to create a "chilling effect" (Ferreira-Pinto 2005) that discouraged many Latinos from applying for and using community services, including healthcare, because of the possible negative consequences associated with immigration enforcement practices. Based on these arguments, United States District Judge David C. Bury granted a temporary restraining order preventing implementation of the law. However, at the hearing held to render judgment, Judge Bury affirmed the law's constitutionality and lifted the restraining order that had been in place while a decision was made. After the ruling, Governor Janet Napolitano directed state agencies to implement Prop 200 immediately. However, it is important to consider that while many immigrant families may indeed be entitled to public services, there is also considerable probability that among them is family member who may not be. Therefore, to avoid additional scrutiny, even those who are eligible for public services may hesitate to participate in healthcare entitlement programs (Ferreira-Pinto 2005).

Prop 200 also discourages civic and political participation by creating formal mechanisms of discrimination by agency administrators, as well as by producing generalized negative perceptions of immigrants as negligent and incapable of taking care of themselves (Inda 2006). These negative perceptions produce social divisions

...between active citizens and anti-prudential, unethical subjects, between a majority who can and do secure their own well-being through judicious self-promotion and those who are judged incapable of managing their own risks: the criminals, the underclass, the homeless, the vagrants, the truly disadvantaged. And this is a very much a racialized division: the subjects most often deemed irresponsible – African American, Latinos, Native Americans, Asian Americans—are those whose phenomenal/cultural characteristics serve to distinguish them from the dominant “white” population.” (Inda 2006:18)

Indeed, according to a Pew Research Center report (Pew Research 2007), Latinos in the United States are feeling a range of negative effects from the increased public attention over illegal immigration and stepped up enforcement measures. In her article, Michelson (2001) also argues

that notable political events that shift public attention to immigration issues succeed in altering the “national mood” towards immigrants. This national mood is perceived as discriminatory and exclusionary by Latinos themselves who are more often than not citizens and legal residents. Her examination of major political events includes the voter approval of California’s Proposition 187 in 1994, which like Arizona’s Prop 200, was aimed at restricting access to public benefits by undocumented immigrant populations. In part, due to the media attention these proposed measures received and the public anti-immigrant rhetoric they aroused, such events work to influence public opinion about immigrants resulting in greater fears among various Latino groups (Mexican-American and Chicano populations, legal immigrants and their second- and third- generation children) of being discriminated.¹⁵ Among the negative effects reported by immigrant groups are difficulty finding work or housing; difficulty using government services or traveling abroad, and the increased likelihood of being asked to produce documents to prove their immigration status (Pew Research Center 2007). Conversely, fears of discrimination experienced by these groups appear to subside when the focus on immigrants is eliminated, such as when Proposition 187 was ruled unconstitutional (Michelson 2001). In 1996, the public gaze again targeted immigrants in the United States with the National Personal Responsibility and Work Opportunity Reconciliation Act. At that time, the national mood again produced fears of discrimination among Latino groups (Michelson 2001), again largely brought about by perceptions that immigrants are “irresponsible” (Inda 2006).

To be sure, two years after Prop 200 was approved by Arizona voters, Governor Janet Napolitano signed Arizona HB 2448 “AHCCCS eligibility for services” law which amended section 36-2903.03 of the Arizona Revised Statutes related to the indigent healthcare system, known as the Arizona Health Care Cost Containment System (AHCCCS). The bill, signed on April 26, 2006, replicates the provisions already contained in the federal 1996 Personal Responsibility and Work Opportunity Reconciliation Act, which among other things put a five-year ban on eligibility for federally funded public benefits programs for recent legal immigrants. The 1996 act had already affected Medicaid eligibility in other parts of the United States and in Arizona’s AHCCCS program. Arizona’s Prop 200 also obligates state employees to verify the immigration status and eligibility of applicants through the alien verification system administered by the U.S. Department of Homeland Security. AHCCCS receives federal, state and county funds to operate, including some money from Arizona’s tobacco tax. The program in

Arizona operates through various agencies, depending on the category of service. For example, pregnant women, families and children generally enter AHCCCS by way of the state's Department of Economic Security. The blind, aged or disabled who receive Supplemental Security Income enter through the Social Security Administration. Eligibility for programs like KidsCare (medical insurance for children of low-income households) and long term care and Medicare cost sharing are handled by AHCCCS itself. Each eligibility group has its own income and resource criteria.

Conventional wisdom holds that the lack of healthcare and healthcare access has a negative impact on all facets of life: from economic productivity and educational attainment to the prevention of crime and the spread of disease. However, healthcare and healthcare access is a particular problem for Latino populations. Latinos are more likely to be engaged in high-risk occupations, such as construction and farm labor. Latinos are also likely to face obstacles to access caused by poverty and the lack of culturally competent and Spanish language proficient medical service providers (Hayes-Bautista 2002). Latinos also have low rates of health insurance coverage (Brown and Yu 2002, King 2007) because of its cost and limited access to employer-based health insurance (EBHI). In spite of the fact that a very small percentage of Latinos are unemployed—having reached a historic low of 4.9 percent at the end of 2006 (Pew Research Center 2008)—lack of EBHI significantly contributes to Latinos' limited access to healthcare. Many Latinos work in Latino-owned businesses, which cannot afford to offer EBHI to their employees. The prevalence of Latinos' lack of coverage is also due to the type of jobs they hold. A disproportionate number of Latinos work in formal and informal service sector jobs (as janitors, domestics, and care-givers), construction, and food service occupations and are, therefore, more likely to be employed part-time, temporarily, or seasonally, making them ineligible for EBHI. Even when they are eligible for EBHI, such occupations and the low wages they earn are not enough to pay their portion of cost sharing health insurance plans (Brown and Yu 2002). Many Latinos are thus unable to meet their most basic healthcare needs—regular check-ups, routine immunizations, and necessary medications—and are more likely to rely on a hospital emergency room as their usual source of care (King 2007).

To date, there is no evidence that Prop 200 resulted in significantly less voter fraud at the polls (Crawford 2008) or savings in the cost of the affected public benefit programs. However,

the inflammatory anti-immigrant rhetoric and resulting exclusionary tactics it unleashed proved to be just the beginning of deepening social divisions.

III. 2005: The Nativist Agenda Takes Off

In 2005, close to 30 bills were introduced into Arizona's 46th legislative session. By now, it was clear that the legislature was dominated by a nativist agenda and was moving towards the progressive criminalization and marginalization of immigrants, regardless of what effect punitive measures would have on the broader social contexts that included families (and in particular the children of immigrants), work environments, education, and civic and political life. A nativist perspective distinguishes between those who consider themselves native to a country and those considered immigrants. In the United States, nativism has a long history, emerging from 19th century politics against those immigrants perceived to represent cultures (most notably nonwestern European and Chinese) that were markedly different from the American (Ngai 2004, Zolberg 2006). Since 9/11, nativism has assumed new meaning with the debate on immigration policy reform, border enforcement, and a focus on immigrant targets from Latin America, especially those from Mexico (Johnson 1997). Among some of the laws that were passed during this session were House Bill 2259 (Aggravating factors; Immigration law violation), signed into law by Arizona Governor Janet Napolitano on April 18, 2005, which made it an aggravating factor for sentencing under Arizona's felony statutes if, at the time of the offense, the defendant was in violation of federal immigration laws. House Bill 2539 and Senate Bill 1372 (Human trafficking violations) were also signed into law by the governor on March 14, 2005. This law, commonly referred to as the "Anti-Coyote Law," defined and prescribed penalties for unlawfully obtaining the labor or services of a person, sex trafficking, trafficking of persons for forced labor or services, and smuggling of human beings. House Bill 2592, the work center prohibition law, also passed in 2005. This law prohibits a city, town or county from constructing and maintaining work centers (day labor sites) "if any part of the center is to facilitate the knowing employment of an alien who is not entitled to lawful residence in the U.S." These bills served to further frame the immigration phenomenon as a "problem" that merited attention by legislative action through whose debate and implementation were fostered attitudes that conflated immigrants with criminal activity. The public discourse thus helped expand the emergent popular perception of

criminal to include the “unlawful” event of residing and working in the United States without proper documentation.

Two other bills were introduced and although they failed to pass in 2005, revised versions were considered again in the subsequent legislative sessions and were later passed. The first of these (House Bill 2030 “Public Programs, Citizenship”) was premised on the misrepresentation of Latinos as welfare-seeking intruders. It directed the electorates’ attention to immigrants’ access to public programs and although it was vetoed by Arizona’s governor on May 20, 2005, it was reintroduced and passed in 2006. This bill requires employees of the Department of Economic Security to verify an applicant’s immigration status with the Department of Homeland Security’s Secure America with Verification and Enforcement (SAVE) program before providing services. The following agencies are affected:

- Department of Economic Security (DES) – adoption services and all welfare programs
- Department of Education (DOE) – the family literacy program and adult education
- Universities and Community Colleges – students without legal status would not be eligible for in-state tuition rates, and would not be eligible for any tuition waivers, scholarships, or other state-funded tuition assistance benefits.
- Arizona Health Care Costs Containment System (AHCCCS)

Senate Bill 1167 (English as Official Language) was also vetoed by the governor on May 9, 2005. However, it was proposed again and passed in 2006. Like its 1988 predecessor, Arizona’s “English Only” law requires all official actions to be conducted in English. However, it allows a representative of the government to communicate unofficially through another language, as long as official action is conducted in English. Public safety and emergency medical personnel are excluded from this requirement. The law now also provides residents or businesses protection from civil action arising from any injury that is caused from not being able to comply with the law.

IV. 2006-2007: Education Access and Employer Sanctions

Proposition 300

Two legislative propositions that had failed to become law in 2005 and aimed at eliminating the historical motives that have been known to drive immigration—education and employment—were reintroduced in 2006. These ultimately passed. The first of these, commonly referred to as “Prop 300” (Official title: Senate Concurrent Resolution 1031) affected adult

education programs and immigrant students' access to institutions of higher learning, becoming effective in 2007. The adult education provisions restricted eligibility for state-funded services offered by the Arizona Department of Education (ADE) Division of Adult Education. Adult education programs were targeted because of the perception that largely Spanish-speaking undocumented immigrants were taking English classes. The law now limits state-funded programs in school districts and other institutions and agencies to provide adult education services only to "...United States citizens, legal residents or persons otherwise lawfully present in this country." Prop 300 also prohibits adults who are not citizens or legal residents of the United States from receiving child care assistance from the Arizona Department of Economic Security (DES).¹⁶ Thus, on one hand, English became the official language, which structured impediments (legal and cultural) to conducting official business in Arizona, while on the other hand, obstacles to learning English were also created.

Prop 300 also restricted access to public higher education. Previously, students only had to prove local residency to qualify for in-state tuition rates at Arizona's colleges and universities and for state financial aid or assistance for education. Now, college bound students in Arizona are restricted in a number of ways even though before Prop 300 was passed, such students may have been eligible for federal financial aid. The law's points are clear:

- A person who is not in this country lawfully may not be classified as an in-state student or resident for community college or state university tuition purposes.
- A state university or community college student who is not in this country lawfully is not entitled to financial assistance paid with state funds.
- A person who is not a citizen or legal resident of the United States or who is without lawful immigration status is not entitled to classification as an in-state student or entitled to classification as a county resident.

No provisions were made for the effect that these restrictions would have on the children of undocumented immigrants who have resided in the United States for most of their lives and had already completed most if not all of their schooling in the United States.

The Impact of Laws Restricting Immigrant Access to Education

Like many other Arizona propositions in recent years, Proposition 300 emerged from public frustration over the failure of the federal government to reform the current immigration system. Opponents have pointed out that restricting access to education will not reduce the rate

of immigration, as those proposing the change have argued. In fact, such initiatives fly in the face of Arizona's need for an educated workforce and its ability to create new jobs. Limiting access to public education encourages the growth of a permanent underclass, which ultimately will sap the state's economic strength. Critics of Prop 300 argue that instead, students who have succeeded academically in U.S. high schools and qualify to attend an institution of higher education should be supported for their achievements rather than punished for their immigration status (which is often not their own doing). The benefits of such a policy are exemplified by the robotics team at Carl Hayden High School that was made up of undocumented students who in 2004 took first place in a prestigious national competition and in 2005 placed second. Opponents of this law have further argued that it requires state and school personnel to become *de facto* immigration police without the training or authority to request and examine visa permits and identify those in this country without proper documentation. Such policies, in absence of adequate funding for training, invite racial profiling and discrimination. Similarly, the provision scrutinizes parents or other caretakers who are now required to be legal residents or citizens to apply for childcare assistance, presumably so they can work or attend school. The law thus relegates these parents and their children to a permanently disadvantaged status. In this way punitive measures drain resources that are much more damaging in more ways than one. Conventional logic places education at the root of upward economic mobility and such a law only aggravates a widening gap between rich and poor.

A recent article in the Arizona Daily Star (Avalos 2008) reports that since Prop 300 went into effect, many undocumented students have had to give up their dream of attaining higher education. Although many students have received their education in U.S. public schools, their already financially strapped households are now forced to contend with the prospects of finding additional funds to pay college tuition as non-residents pay as much as four times the amount as in-state resident students. Several private donors and several community-based organizations have made efforts to raid funds to help students caught in the middle of the harsh measures. For example, the Tucson Hispanic Chamber of Commerce and Fundación Mexico (also a Tucson-based organization) strive to raise funds to help deserving students, but it is estimated that thousands of students will be negatively affected (see Table 1).

Table 1: Total number of students not entitled to classification as in-state students in Tucson area institutions of higher learning because they are not U.S. citizens or legal residents or are without lawful immigration status

	Pima Community College	University of Arizona
June 2007	321	877
January 2008	1,214	119
June 2008	951	83

Source: Alvarado (2008)

As Table 1 shows, in January 2008, the number of students affected dropped drastically at the University of Arizona (UA) while dramatically rising at Pima Community College (PCC). PCC Dean of Instruction Ricardo Castro-Salazar (2008) explains that Prop 300 forced students at the UA to choose PCC as an alternate to continue their education, due to the difficulty in paying the higher out-of state tuition costs at the UA relative to that of PCC. At the UA, upon learning that an applicant for admission is a non-citizen, administrators provide the applicant with a list of requirements for admission and instructions for obtaining a student visa. However, to obtain the visa, students need to return to their country of origin, resulting in fewer applicants, and, therefore, diminishing numbers of those affected at the UA. Those who do stay, are those who are able to pay the higher tuition rate, those who are already registered and for the meantime do not need to fulfill this visa requirement, or those who will reduce the number of credit hours per semester to afford tuition costs. Conversely, because students may be seeking a lower-cost higher-education alternative, more applied to and attended PCC. Thus, in January of 2008, PCC had a drastic rise in the number of students affected by Prop 300 because they found it more affordable. As suggested by the June 2008 figures, with the recession, it appears that those attempting to attend PCC will also be dissuaded.

Arizona’s Employer Sanctions Law

Since the 2002 U.S. Supreme Court decision in *Hoffman Plastic Compounds v. National Labor Relations Board (NLRB)*, the legal rights of undocumented workers have been progressively eroded. The ruling in this decision centered on how upholding an illegally terminated undocumented worker’s right to back pay encouraged the violation of existing immigration laws. Since then, several individual states have side-stepped this decision and opted for upholding the rights of workers to recover lost wages as a result of work-related injuries regardless of their legal status.¹⁷ However, legislation in other states, such as Arizona’s Legal

Arizona Workers Act (commonly known as the “Employers’ Sanctions Law”), has shifted in the direction of fewer workers’ rights, representing a growing trend among states and localities to take a more aggressive role in regulating immigration through punitive measures. For example, Colorado, Georgia, and Oklahoma have passed laws that prohibit employers and/or contractors who provide services to the state from knowingly employing an unauthorized worker. As previously mentioned, in 2005, the Arizona legislature passed a law prohibiting a city, town or county from constructing and maintaining day labor sites if they in any way facilitated the employment of individuals residing in the United States without authorization. In 2006, the Arizona legislature also unsuccessfully proposed House Bill 2588 to amend section 23-901 of the Arizona Revised Statutes (ARS), relating to workers' compensation. In this proposed amendment, the definition of “employee,” “workman,” “worker,” and “operative” would have been amended to exclude “... any person who is not a citizen or national of the United States and who is unlawfully present or unlawfully residing in the United States.” At the time that House Bill 2588 was proposed, ARS 23-901 did not qualify "employee", "workman", "worker" and "operative" by authorization to work. These laws and propositions threaten conventional practices and laws protecting all workers by targeting immigrants for differential treatment.

Until such legislative measures were introduced, Arizona employment statutes had not formally excluded undocumented immigrants from engaging in the legal process for bringing charges against unfair treatment by their employers. The state’s Wage and Hour Division of the Department of Labor, for example, makes no distinction between a worker’s legal status and has an established process to help victims of wage theft to recover their earnings. This has facilitated the filing of claims by mistreated workers by community organizations such as the Coalición de Derechos Humanos in Tucson, Arizona, which dedicates much of its work to helping immigrant workers navigate the legal mechanisms that exist to protect all workers, including undocumented employees, from the unscrupulous acts of their employers (O’Leary 2007).¹⁸ Because many day laborers believe that avenues for compelling their employers to abide by fair employment practices are closed to them, the work by such community based organizations have assumed new importance.

Coalición de Derechos Humanos

The Coalición de Derechos Humanos (Human Rights Coalition) has a long history of fighting for immigrant/migrant rights on the U.S.-Mexico border. This work has helped establish

its credibility and trust among immigrant communities in the Tucson area and throughout the region and the nation. Though re-organized in 1992, core members of this organization have been instrumental in the fight for human rights along the border since the mid-70's, beginning with El Concilio Manzo, Tucson Ecumenical Council Legal Assistance (TECLA) and La Mesilla Organizing Project. Its final form as the Coalición de Derechos Humanos (CDH), recognizes the need for a broader human rights framework in the fight for immigrant/migrant rights. The very public and highly visible efforts on behalf of the immigrant community go back to the summer of 1976, when the Concilio Manzo, under the leadership of the subsequent founders of CDH¹⁹ (Guadalupe Castillo, Isabel Garcia, José Matus, and Raquel Rubio-Goldsmith), led the efforts to bring charges against the Hannigan rancher family (the father and two sons) for the torture of three migrants who crossed their ranch in the Douglas, Arizona, area. Demonstrations, boycotts, forums, radio campaigns, and lawsuits were organized as the Hannigan ranchers went through legal processes. A few years later, in 1981, the organizers of what is now recognized as a fledgling immigrant-rights movement, mobilized community members to demand justice for a young migrant worker who alleged he was chained to a toilet by another Arizona rancher, W.M. Burris, Jr., then again in 1982 against Cochise County Sheriff Jimmy Judd, a former Border Patrol Agent, following a confrontation between sheriff's deputies and an African-American religious community. The confrontation led to the killing of two members of the religious community. On July 4, 1986, 20 members of the Civilian Material Assistance group (formerly known as Civilian Military Assistance (CMA) and well-known for their support of Nicaraguan contras), attacked and terrorized 15 Mexican migrants, using them as targets in their training. The group again mobilized and pressured governmental authorities to bring criminal charges, with information generated in large part by their efforts, and then used by federal prosecutors to bring charges against CMA leader, Tom Posey. Although investigation into alleged collaboration between the CMA, and local border patrol officials were eventually dropped, a televised segment of "The Phil Donahue" Show featured Posey who admitted that CMA had received maps and other intelligence from the U.S. Border Patrol during the weeks before their assault on migrants.

Community Education and Mobilization

Later work by the CDH included organizing education and public awareness campaigns about immigrant rights and increased militarization of the U.S.-Mexican border. Events were organized around the case of Border Patrol Agent Michael Elmer, who shot in the back and

killed Darío Miranda Valenzuela, a migrant attempting to cross the U.S.-Mexico border in June 1992. With public pressure brought to bear, Elmer was charged with first degree murder, the first time an agent has been so charged.²⁰ Beginning in March 1999, CDH organized public education campaigns to counter the work of other border region vigilantes²¹ and hate groups, which have worked to promote a climate of fear and violence in the border region. As a result, the organization receives hundreds of calls throughout the year, the majority of them regarding some form of abuse, whether by an employer, landlord, business or private parties, and governmental agencies (particularly the Border Patrol). Documentation of immigrant/migrant abuse, often done in collaboration with other organizations,²² such as the American Friends Service Committee (AFSC) and No More Deaths, both faith-based organizations, have been presented before congressional subcommittee hearings,²³ national and state civil rights commissions, Mexican legislative and executive offices, international and national NGOs, and the U.N. commission on migrant rights.²⁴ Its reports have been made public in community forums and published by America's Watch and Amnesty International and on its website at www.derechoshumanosaz.net. More recently, in July 2008, CDH hosted a community screening of the *PBS* documentary, "The Ballad of Esequiel Hernandez" (PBS.org 2008). The documentary traces the events surrounding the killing of a Mexican-American teenager in 1997 in Redford, Texas by a four-man unit of the U.S. Marines, part of Joint Task Force Six, which was the first known joint domestic operation between the Department of Defense and the Department of Justice to combat drug trafficking on the U.S.-Mexican border. Initially charged with murder, the Marines who shot the youth, allegedly mistaken for an immigrant drug-runner from Mexico, were released from all criminal liability in a Grand Jury proceeding in Presidio, Texas. The screening was followed by a panel discussion of community leaders and nationally renowned author and social commentator David Bacon.

Photo 1



Photo by KAT RODRIGUEZ/CDH

In December of 2008, the four workers shown here came into the bi-weekly Abuse Clinic at CDH to seek assistance with a labor abuse case. The men worked for an independent contractor doing plastering and stucco for several months at various locations in Tucson, Arizona. The workers complained that the employer was consistently late with their pay, and that he owed them a range of \$336 - \$2,880, for a combined total of \$5,252. The money was owed to them for a range of time--from several months to a few weeks—causing a wide range of problems for the men. After attempting to mediate with the employer, who acknowledged that he owed the workers but said that he didn't have the money to pay them, the CDH staff member discussed options with the workers. They eventually decided that the best recourse was to make a formal complaint with the Arizona State Labor Department.

With increased anti-immigrant sentiment in recent years, the primary challenge for CDH has been balancing the needs of a growing immigrant population with support and referral services and shrinking funding dollars. Its cost-saving strategies rest primarily on increasing its number of volunteers to help provide direct help and referrals to other agencies for assistance. It formed a Legal Justice Network of attorneys who are willing to accept immigration-related cases. CDH also provides service-learning opportunities for university student interns (including University of Arizona law students), who are interested in gaining experience in immigrant-advocacy activities. When Proposition 200 was placed on the ballot in 2004, CDH's work increased in importance. Immigrant community members, concerned about what they were hearing in the news, began to come into the abuse clinic even before the initiative became law. Two of the cases that came through the abuse clinic became plaintiffs in a lawsuit by the Mexican American Legal Defense Fund.

Photo 2



Photo by KAT RODRIGUEZ/CDH

One of the workers lost his apartment for not being able to pay his rent. The others were having trouble supporting their families. The workers had heard that the employer intended only to pay workers who had work authorization “papers” and that he was planning on calling the Border Patrol to turn in the others.

Photo 3



Photo by KAT RODRIGUEZ/CDH

The CDH staff member, Kat Rodriguez, assisted the workers in filling out the complaint form, and provided them a statement that detailed her conversations with the employer. This process has been fairly successful in helping workers recover wages owed to them, with hundreds to thousands of dollars recovered each year (Rodriguez 2008).

Other examples of its immigrant-rights advocacy work include an annual Día de los Muertos Pilgrimage, an eight-mile walk held in October to remember those who have lost their lives on the border; and in May, its annual Migrant Trail, a 75-mile walk that begins on the border in Sasabe, Arizona, and ends 75 miles in Tucson, Arizona. The Migrant Trail walk takes

about a week to complete and by their undertaking this walk in Arizona's warm spring weather, participants declare solidarity with migrants who are making the dangerous journey through the Arizona desert. New collaborative efforts have centered on a March 18, 2008, incident when a Tucson Panda Express restaurant was raided and eleven people were arrested. The seven men and four women were charged with taking the identity of another person—a 2005 law that made it illegal to use a fake ID to get a job. The business, however, was not charged under Arizona's new employer sanctions law, despite having 11 employees suspected of working without proper authorization. All but three workers were deported to Mexico. The three remaining in the United States are the only ones allowed to remain there pending their immigration court date, and because of family ties in Tucson, including U.S.-born spouses and children, they are seeking cancellation of their deportation order. In an effort to bring attention to the disruption of families and lives due to the raid, the Panda Express Eleven organized a public awareness campaign. CDH has publicly supported this campaign and in November 2008, together with other community organizations, No More Deaths, Samaritans, and Luz Social Services, hosted an open forum where the Panda Express workers shared their experiences with the wider community.

Photo 4



Photo by MELISSA TAN/Tucson Citizen

Omar Espino-Lara was one of 11 employees of a midtown Panda Express charged with of identity theft after a raid on the restaurant in March 2008. The 25-year-old Tucson area Sunnyside High School graduate had just been appointed manager. In November of 2008 he told his story at a public forum hosted by several community groups at the Tucson Armory Park Senior Center

A response to the pervasive anti-immigrant climate has been a renewed interest in helping members of the immigrant community initiate citizenship applications. In 2007-2008, CDH organized five citizenship fairs. The goals of these fairs are to facilitate the road to citizenship for legal permanent residents who qualify. The fairs are undertaken in collaboration with the Arizona Immigration Lawyers Association (AILA), who provide the immigration attorneys who volunteer their time training over 100 volunteer processors and interpreter, to help with filling out the 10-page application which may be overwhelming. Due to the increased anti-immigrant (and particularly anti-Mexican) sentiment in Arizona, CDH outreach strategy is to partner with other community organizations such as Catholic Social Services and the local Spanish broadcast media (such as Univision and Telemundo) to encourage qualified residents to take steps toward acquiring full rights as citizens such as voting, petitioning for family members, and fully participating in American society (see sample flyer). In July 2007, the cost for the citizenship application process went from \$400 to \$675. As a result the number of applicants at the fairs decreased significantly (see Table 2).

Table 2: Coalición de Derechos Humanos Citizenship Fairs 2007-2008

Dates	Number assisted
February 3, 2007	60
May 13, 2007	130
November 10, 2007	50
March 29, 2008	25
October 25, 2008	40
TOTAL	305

Contending with Arizona’s Employers’ Sanctions Law

On January 1, 2008, Arizona’s employers’ sanctions law went into effect. Proposed in 2007, the law targeted businesses that "intentionally" or "knowingly" employed unauthorized immigrants and largely replicated reforms to immigration laws regarding employment of unauthorized workers provided in the 1996 Immigrant Responsibility and Immigrant Reform Act. Under the Arizona law *any* employer who employs unauthorized workers, not just those who provide services to the state, could have their business licenses suspended for up to 10 days and be put on probation. A second offense could lead to a revocation of the license. The new law also requires that all employers in Arizona check the employment eligibility of those hired after January 1 through E-Verify, formerly known as the Basic Pilot Program. E-Verify is an online federal database through which employers can check whether or not an individual is authorized to work in the United States. Use of the E-Verify system by employers is voluntary under federal law but under the new Arizona law, participation is mandatory for hiring new employees after

January 1. It is estimated that of approximately 150,000 employers in Arizona, only about 9,000 employers currently have signed up for E-Verify.

Opponents of the Sanctions law have argued that such measures do not contribute to solving the issue of migration and that such a measure assumes that migration is a matter of free choice, and therefore, is avoidable. Furthermore, this law ignores the contributions that migrants make to the U.S. economy and society, an omission that can be used to gain public support for such propositions. It ignores, for example, recent studies that document the contribution to the U.S. economy by Latino workers, many of whom are undocumented. Despite average low wages, low education, and the denial of many of the social benefits entitled to other U.S. workers, an estimated 7 million undocumented immigrant workers in the United States are now providing the U.S. economy with a subsidy of as much as \$7 billion a year (Porter 2005). In addition to consumer related taxes that undocumented immigrants pay while living in the United States, undocumented workers have contributed to Social Security and Medicare by way of wage deductions. Porter (2005) reports that these contributions added up to about 10 percent of last year's surplus, which is the difference between what the U.S. government currently receives in payroll taxes and what it pays out in benefits. Finally, recent research from the University of Arizona's Udall Center Immigration Program (Gans 2008a) shows that regardless of their legal status, immigrants make a significant contribution to Arizona's economy. Using an economic simulation model, the study's researchers tallied the fiscal costs and benefits of immigrants in Arizona's economy for 2004, finding that the total state tax revenue attributable to immigrant workers was nearly \$2.4 billion (\$860 million for naturalized citizens plus \$1.5 billion for noncitizens, a majority of whom are likely to be undocumented) balanced against estimated fiscal costs of about \$1.4 billion, for a positive net impact of about \$940 million. In Arizona, approximately 90 percent of the total undocumented population is thought to be actively engaged in the workforce (Thunderbird, The American Graduate School of International Management 2003) and those who do not qualify for a readjustment of their legal status will predictably be driven deeper underground by the law's enforcement provisions.

In September 2008, Prop 200 was challenged in the 9th Circuit Court of Appeals where, without dissent, a three-judge panel rejected claims by business groups, employers, and immigrant rights advocates that the law infringed on the rights of the federal government to control immigration and that Arizona state lawmakers acted illegally in requiring employers to

check the immigration status of all new workers through E-Verify. Judge Mary Schroeder, writing for the panel of judges, defended the ruling by pointing out that federal law reserves the power of states to decide a company's "fitness to do business" based on its hiring practices (Fischer 2008a). At the time of the ruling, no Arizona employer had been charged with violating the law. However, a year after the law's implementation, the law has been largely unused and only 5.6 percent of the total firms in the state have signed up to use E-Verify (Gans 2008b). This latter study is only a preliminary study and with a handful of viable cases still unresolved. Furthermore, any statement of the law's effectiveness in deterring the employment of undocumented immigrants is clouded by the 2008 economic downturn.

While the long-term economic impact of the law on Arizona's economy is in doubt, there are historic indications that many will suffer the social ramifications of its implementation. This includes increased policing by employers, which may invite the resurgence of racial profiling, on newcomers whose cultures are increasingly perceived as problematic (Hagan and Rodriguez 2002; Zolberg 2006, p 451). There is also some anecdotal evidence to suggest that the law is having a negative economic impact: workers are being laid off, employers are abandoning plans to expand their businesses in Arizona, and the shifting of some agricultural operations to neighboring states and even to Mexico. Finally, many workers—discouraged by the climate of fear and distrust that the law has produced—are leaving the state (Mexican Consulate Office, Tucson, personal communication). However, these reports remain anecdotal and inconclusive in light of the latest U.S. Census Bureau report (U.S. Census Bureau, 2008) showing Arizona to be the second fastest growing state in the nation (see map) with an "explosion" in the number of Arizona residents who are foreign born (Fischer 2008b).

V. Conclusion

Many of Arizona's legislative acts targeting immigrants, similar to those in other states, have been passed in response to Congress's inability to enact comprehensive immigration reform. However, many of these acts duplicate, parallel, and even conflict with laws that are already in place at the federal level to regulate immigration: laws determining who can vote, who has access to public health benefits and education, and who can work. The enactment of the laws and legislative acts proposed and implemented by state and local policymakers that are intended to deter immigration thus prompt the question: If federal laws already provide the mechanisms by which the aforementioned aspects of immigration are regulated, what purpose do they serve?

A useful discussion for understanding how the proposal and the enactment of non-federal laws transcend mere regulation of immigrant activity, including their civic and political participation, is contained within Harnet's (2008) examination of recent municipal ordinances in Hazleton, PA. She argues that legal mandates at local and state levels aimed at regulating who can be present in the United States are preempted by federal laws regulating immigration. Under U.S. law, only the federal government can regulate immigration. Thus, the duplication of laws already in existence singles out immigrant communities, and in particular, Latinos, by focusing attention on dichotomous notions of who belongs and who does not. Although much of the political rhetoric questioning immigrant rights began long before the 9/11 World Trade Center tragedy, progressive institutional limitations placed on the civic and political participation of immigrants stem from the idea that U.S. citizens need protection from noncitizens. The language adopted by some of the legislation (Arkansas "Protect Arkansas Now" paralleled Arizona's Prop 200, "Arizona Taxpayer and Citizen's Protection Act") and their proponents (e.g. Protect Arizona Now/PAN) is evidence of the attempt to convey this sentiment. However, many of the federal laws that are currently in place not only protect citizens but *all* persons. Arizona's state legislative acts are thus also preempted by federal laws and in principle challenge constitutionally protected rights intended to protect all, not just U.S. citizens.

For example, one of Hazleton's anti-immigrant ordinances prohibits landlords from renting to potential tenants over the age of 18 who fail to complete an "occupancy permit application," which requires the production of identification and proof of the applicant's U.S. citizenship and/or legal residency (Harnet 2008). Upon review of this ordinance, a number of persons under 11 categories of lawfully present immigrants under federal law are omitted. Making unlawful individuals that the federal government considers lawfully present conflicts with federal law and because both legal and undocumented immigrants are affected, the ordinance has been held invalid. Another of Hazleton's ordinance, the "Illegal Immigration Relief Act Ordinance" (similar in principle to the Legal Arizona Workers Act") prohibits the hiring of unauthorized workers. In 1986, the U.S. Congress already enacted the Immigration Reform and Control Act (IRCA) which created a system for regulating the employment of immigrants and already includes employer sanctions for those who knowingly hire undocumented workers. Thus, IRCA will likely preempt Hazleton's and Arizona's ordinances,

especially in view of the fact that the “ultimate sanction” under Arizona’s and Hazelton’s laws—closing a business—is harsher than the civil fines stipulated by IRCA (Harnet 2008).

State laws regulating voting also duplicate federal laws, and, as such, serve to create and maintain social divisions. For regulating voting, in 1965 the U.S. Congress passed comprehensive voting rights legislation with the National Voting Rights Act (VRA). The VRA challenged racially discriminatory electoral practices that relied on intimidation, poll taxes, and Jim Crow laws in parts of the country, and in the South in particular, to disenfranchise minority populations. The act was reauthorized in 2006. The provisions of this act already limit the right of voting to citizens of the United States, making redundant Arizona’s Prop 200, the state law that requires additional voter identification to prove a potential voter’s right to vote. However, as many have argued, in the face of any evidence that non-citizen voting is a problem, such a law only serves to create suspicion and distrust; reducing and dichotomizing categories of individuals into those who are entitled and those who are perceived as not. Consequently, such attitudes foster distrust of immigrants and contribute to the suppression of immigrant and migrant civic and political participation that can ultimately threaten the livelihood and well being of all Latino communities.

Harnet (2008) also raises the issue of how anti-immigrant ordinances may violate due process that is guaranteed by the 14th Amendment of the U.S. Constitution. This amendment forbids states from depriving “any person of life, liberty or property, without due process of law.” It is important to note that this amendment applies to “persons,” and not just citizens or legal residents. As such, the deprivation of due process in which immigrants, because of their legal status, may be erroneously deprived of such rights, may also affect family members who are entitled to certain rights based on the categories of lawful residence, or citizen or noncitizen children. In such cases, Hazelton’s “Tenant Registration Ordinance” may not only deprive shelter for immigrants who are unlawfully present, but also of her/his family members who may not be. It is important to note the parallel of Hazelton’s anti-immigrant ordinance requiring proof of citizenship with the need to provide proof to access Arizona’s healthcare system. The health restrictive provisions of Arizona’s Prop 200 also potentially and erroneously deprive immigrants of rights affecting family members who *are* unquestionably entitled to certain rights under any of the categories of lawfully present immigrants under federal law. The federal Personal Responsibility and Work Opportunities Reconciliation Act of 1996 already stipulates who

qualifies for healthcare access. Thus, the only purpose Arizona's Prop 200 law appears to serve is to bring in line Arizona's healthcare access policy in line with federal regulations. However, by making entitlement the center of public debate, politically charged rhetoric proliferates discriminatory tendencies as Michelson's (2001) research demonstrates. Indeed, negative, nativist responses coalesced around the use of public resources by immigrants during California's debate over Proposition 187 in 1986 in which immigrants were presented by the media as a public "burden" (Wilson 2000), and continue to taint policy decisions today (Associated Press 2009). Notably overshadowed are facts about immigrant contributions to Medicare and Social Security that subsidize social services including those for a progressively aging U.S. population. Similar to California's Proposition 187, Arizona's Prop 200 fails to consider that by the time immigrant settlement patterns congeal, social networks and extended family support systems consist of both foreign and U.S. born members, who by nature of their affiliation with new arrivals, are systematically and institutionally deprived of constitutionally protected rights. It is in this process of making immigrants "visible" that state and local ordinances—anti-citizenship technologies—replicate patterns of discrimination and exclusion that threatens all types of civil and political participation.

* Anna Ochoa O'Leary currently teaches and conducts research at the Mexican American Studies and Research Center (MASRC) of the University of Arizona. She is affiliated with the Binational Migration Institute, an association of scholars dedicated to the study of how immigration enforcement affects Latino populations regardless of legal status. She is also a member of several community-based groups and professional organizations that reflect her research interest in immigration/migration studies: the Arizona Border Rights Foundation, Coalición de Derechos Humanos, and Fundación México., and chair of the Committee of Refugee and Immigrants, which is part of the Society for Urban, National, Transnational/Global Anthropology of the American Association of Anthropologists. In 2006 she received a Fulbright Scholarship for research of migrant women's encounters with immigration enforcement agents, "Women at the Intersection: Immigration Enforcement and Transnational Migration on the U.S.-Mexico Border," and in 2009, she begins her term representing the Tucson Consular area in Mexico's Consejo Consultivo, an advisory board organized by Mexico's Instituto de los Mexicanos en el Exterior (IME), to promote the rights and interests of Mexican nationals living abroad.

WORKS CITED

- Acosta, Salvador. N.d. *Demographic Characteristics of Tucson's 1930 Mexican Population*. Unpublished Masters thesis. University of Arizona
- Alarcón, Rafael. (2006). Hacia la construcción de una política de emigración en México.” In *Relaciones Estado – diáspora: aproximaciones desde cuatro continentes*. Tomo I. Carlos González Gutiérrez (Ed.) México: Instituto de los Mexicanos en el Exterior, Secretaría de Relaciones Exteriores y Miguel Angel Porrúa. Available at: http://www.ime.gob.mx/investigaciones/bibliografias_ime.htm. Accessed February 3, 2009.
- Alvarado, Mariana (2009). Mexico Has Money Ready for Expatriate Investment. *Arizona Daily Star*, April 2, 2009, p. A-12.
- Alvarado, Mariana (2008). Law Shuts Out Some Students. *Arizona Daily Star*, August 10, 2008, p. B-1,4.
- Associated Press (2009). Communities to Cut Health Care for Illegal Immigrants. *Arizona Daily Star*, March 16, 2009, p.
- Ayón, David R. (2006). Mexican Migrants and Mexican Americans/Latinos: One Agenda or Two? In *Invisible No More: Mexican Migrant Civic Participation in the United States*. Xóchitl Bada, Jonathan Fox, and Andrew Selee (Eds). Washington, DC: Wilson Center/Mexico Institute.
- ACLU (2008) ACLU Disappointed With Supreme Court's Voter ID Decision. Available at <http://www.aclu.org/votingrights/gen/35049prs20080428.html>. Accessed July 18, 2008.
- Brown, E. Richard and Hongjian Yu (2002). Latinos' Access to Employment-based Health Insurance. In *Latinas/os: Remaking of America*, Edited by Marcelo M. Suarez-Orozco and Mariela M. Páez, Berkeley CA and London: University of California Press: 236-253.
- Castro-Salazar, Ricardo (2008) Personal Communication.
- Crawford, Amy (2008) Hispanic Panic: GOP Stokes Fears of 'Illegal' Voters. The Independent October, 2008. Available at <http://news21blog.org/2008/10/07/update-on-arizona-fears-of-latino-voter-fraud-lead-to-massive-disenfranchisement/>, Accessed December 26, 2008.
- Davidson, Miriam. (2000). Rodney King of Sonora, in *Lives on the Line: Dispatches from the U.S.-Mexico Border*. University of Arizona Press. 80-17.
- Ferreira-Pinto, João B. (2005). Impact of Arizona's Proposition 200 Final Report for the US-Mexico Border Health Commission. Unpublished manuscript, El Paso: Border Planning and Evaluation Group.
- Fischer, Howard. (2008a). "9th Circuit Upholds Law on Employer Sanctions" *Arizona Daily Star*, September 18, 2008, p. A1, A4.

- Fischer, Howard. (2008b). "Arizona Immigrant Numbers up Sharply" *Arizona Daily Star*, September 23, 2008, p. A1, A4.
- Fox, Jonathan (2005). Unpacking "Transnational Citizenship" *Annual Review in Political Science* 8: 171-201.
- Fraga, Luis, John Garcia, Rodney Hero, Michael Jones-Correa, Valerie Martinez-Ebers, and Gary Segura (forthcoming). *Making It Home: Latino Lives in America*. Temple University Press.
- Gans, Judith (2008a). "Immigrants in Arizona: Fiscal and Economic Impact." Udall Center Immigration Policy Program Report. Available at <http://udallcenter.arizona.edu/immigration/index.php>. Accessed December 25, 2008. Tucson, Arizona.
- Gans, Judith (2008b). "Arizona's Economy and the Legal Arizona Workers Act." Udall Center Immigration Policy Program Report. Available at <http://udallcenter.arizona.edu/immigration/index.php>. Accessed December 25, 2008. Tucson, Arizona.
- Goldsmith, Pat, Mary Romero, Raquel Rubio-Goldsmith, Miguel Escobedo, and Laura Khoury. (2009). Ethno-Racial Profiling and State Violence in a Southwest Barrio. *Aztlán: A Journal of Chicano Studies*, 34(1): 93-124.
- Hagan, Jacqueline and Nestor Rodriguez. (2002). Resurrecting Exclusion: The Effects of 1996 U.S. Immigration Reform on Communities and Families in Texas, El Salvador, and Mexico. In *Latinos/os: Remaking America*, Marcelo M. Suarez-Orozco and Mariela M. Páez, (Eds.) Los Angeles and London: UC Press: 190-201.
- Harnet, Helen M. (2008). State and Local Anti-Immigrant Initiatives: Can They Withstand Legal Scrutiny? *Widener Law Journal*, 17: 365-382.
- Hayes-Bautista, David E. (2002). The Latino Health Research Agenda for the Twenty-first Century" in *Latinas/os: Remaking of America*, Edited by Marcelo M. Suarez-Orozco and Mariela M. Paez, Berkeley CA and London: University of California Press: 215-235.
- Hines, Barbara. (2002). So Near Yet So Far Away: The Effect of September 11th on Mexican Immigrants in the United States. *Texas Hispanic Journal of Law and Policy* 8 (37): 37-46.
- Huspeck, Michael, Roberto Martinez, and Leticia Jimenez. (1998). "Violations of Human and Civil Rights on the U.S.-Mexico Border 1995 to 1997: A Report." *Social Justice*, 25 (2): 110-130.
- Inda, Johnathan Xavier. (2006). *Targeting Immigrants: Government, Technology, and Ethics*. Malden MA: Blackwell Publishing.

- Johnson, Kevin (1997). The New Nativism: Something Old, Something New, Something Borrowed, Something Blue. in *Immigrants Out! : The New Nativism and the Anti-Immigrant Impulse in the United States*. Juan F. Perea (ED), NY: New York University Press: 165-189.
- Jones-Correa, Michael. (2001a). Institutional and Contextual Factors in Immigrant Naturalization and Voting. *Citizenship Studies* 5 (1): 41-55.
- Jones-Correa, Michael. (2001b). Under Two Flags: Dual Nationality in Latin America and Its Consequences for Naturalization in the United States. *International Migration Review*, 35 (4): 997-1029
- Kilty, Keith M. and Maria Vidal de Haymes. (2000) Racism, Nativism, and Exclusion: Public Policy, Immigration and the Latino Experience in the United States. *Journal of Poverty* 4(1/2): 1-25.
- King, Meredith L. (2007). Immigrants in the U.S. Health Care System: Five Myths That Misinform the American Public. Center for American Progress. Available at http://www.americanprogress.org/issues/2007/06/immigrant_health_report.html. Accessed July 21, 2008
- Leal, David L (2002). Political Participation by Latino Non-Citizens. *British Journal of Political Science*. 32: 353–370
- Legal Information Institute. (2008). Crawford v. Marion County Election Board. Available at <http://www.law.cornell.edu/supct/html/07-21.ZS.html>. Accessed July 18, 2008
- Levitte, Justin (2007). The Truth about Voter Fraud. Brennan Center for Justice at New York University School of Law. Available on line at: <http://www.immigrationpolicy.org/index.php?content=fc080724>. Accessed July 25, 2008
- Light, Ivan and Elsa von Scheven. (2008). Mexican Migration Networks in the United States, 1980-2000. *International Migration Review* 42 (3): 704-728.
- Mazón, Alexis and Piper Weinberg. (2005). “Prop 200 passes in Arizona Making Anti-Immigrant Racism Law on the Border” Network News, 10-12. Available at http://www.nnirr.org/news/net_news/summer_2005.pdf. Accessed August 8, 2008
- Mexican Consulate Office. (2008) Tucson, Personal Communication
- Michelson, Melissa R. (2001). The Effect of National Mood on Mexican American Political Opinion. *Hispanic Journal of Behavioral Sciences* 23(1): 57-70.
- Montoya, Lisa J. (2002). Gender and Citizenship in Latino Political Participation. In *Latinas/os: Remaking of America*, Edited by Marcelo M. Suarez-Orozco and Mariela M. Paez (Eds.). Berkeley CA and London : University of California Press: 215-235.

- Ngai, Mae M. (2004) *Impossible Subjects: Illegal Aliens and the Making of Modern America*. Princeton University Press.
- O'Leary, Anna Ochoa. (2008). Close Encounters of the Deadly Kind: Gender, Migration, and Border (In)Security, *Migration Letters*. Forthcoming October, 2008.
- O'Leary, Anna Ochoa. (2007). Petit Apartheid in the U.S.-Mexico Borderlands: An Analysis of Community Organization Data Documenting Workforce Abuses of the Undocumented. *Forum on Public Policy On-Line* (Winter 2007) available at: <http://www.forumonpublicpolicy.com/papersw07.html#crimjus>. Accessed August 8, 2008.
- PBS.org (2008). The Ballad of Esequiel Hernandez, available at: <http://www.pbs.org/pov/pov2008/ballad/>. Accessed April 4, 2009.
- Pew Hispanic Center/Kaiser Family Foundation. (2004). National Survey of Latinos: Politics and Civic Engagement" Available at <http://pewhispanic.org/reports/report.php?ReportID=33>. Accessed July 25, 2008.
- Pew Research Center (2007) National Survey of Latinos: As Illegal Immigration Issue Heats Up, Hispanics Feel a Chill. Available at <http://pewhispanic.org/reports/report.php?ReportID=84>. Accessed July 25, 2008
- Pew Research Center. (2008). Latino Labor Report 2008: Construction Reverses Job Growth for Latinos. Available at <http://pewhispanic.org/reports/report.php?ReportID=88>. Accessed July 25, 2008.
- Porter, Eduardo. (2005). Illegal Immigrants Are Bolstering Social Security with Billions, *New York Times*, available at: NYTimes.com. Accessed April 5, 2005.
- Rivera-Salgado, Gaspar. (2006). Mexican Migrant Organizations. In *Invisible No More: Mexican Migrant Civic Participation in the United States*. Xóchitl Bada, Jonathan Fox, and Andrew Selee (Eds). Washington, DC: Wilson Center/Mexico Institute, 5-8.
- Rodriguez, Kat. (2008). Personal communication.
- Romero, Mary (2007) Anti Immigrant Backlash Post 9/11 Unpublished Manuscript available at: http://www.yorku.ca/robarts/projects/canada-watch/post_bush/pdfs/Canwatchpercent20Romeropercent20final.pdf. Accessed July 19, 2008.
- Rubio-Goldsmith, Raquel, M. Melissa McCormick, Daniel Martinez, Inez Magdalena Duarte. (2006). The "Funnel Effect" and Recovered Bodies of Unauthorized Migrants Processed by the Pima County Office of the Medical Examiner, 1990-2005. Report submitted to the Pima County Board of Supervisors, October 2006. Washington D.C: Immigration Policy Center Brief, available at http://www.aifl.org/ipc/policybrief/policybrief_020607.pdf. Accessed 2/18/07.

- Sifuentes, Edward (2007). Religious leaders offer sanctuary to illegal immigrants.” *New York Times*, Wednesday, May 9, 2007. Available at: http://www.nctimes.com/articles/2007/05/10/news/top_stories/1_02_505_9_07.txt (accessed December 22, 2008).
- Staton, Jeffrey K., Robert A. Jackson, Damarys Canache. (2007). Dual Nationality Among Latinos: What Are the Implications for Political Connectedness? *Journal of Politics*, 69 (2): 470-482
- Stolle, Dietlind; Marc Hooghe, and Michele Micheletti. (2005) Politics in the Supermarket: Political Consumerism as a Form of Political Participation. *International Political Science Review*, 26(3): 245-269.
- Thunderbird, The American Graduate School of International Management. (2003). Economic Impact of the Arizona-Mexico Relationship. Research Report Available at <http://portal.sre.gob.mx/phoenix/pdf/MexicoArizona.pdf>. (Accessed February 27, 2006.)
- U.S. Census Bureau. (2008). “Utah is Fastest-Growing State” Press Release. Available at <http://www.census.gov/Press-Release/www/releases/archives/population/013049.html>. Accessed December 27, 2008.
- Valenzuela, Abel Jr., Nik Theodore, Edwin Meléndez and Ana Luz Gonzalez. (2006). On the Corner: Day Labor in the United States, unpublished manuscript UCLA Center for the Study of Urban Poverty. Available at: www.sscnet.ucla.edu/issr/csup/index.php or www.uic.edu/cuppa/uicuid. (Accessed February 16, 2006.)
- Veranes, Margot and Adriana Navarro (2005). Anti-Immigrant Legislation in Arizona Leads to Calls for a State Boycott Americas Program, Center for International Policy (CIP) Available at <http://americas.irc-online.org/am/727>. Accessed July 18, 2008.
- Verba, Sid, Kay Lehman Schlozman, and Henry Brady. (1995). *Voice and Equality: Civic Voluntarism in American Politics*. Cambridge, MA: Harvard University Press.
- Wilson, Tamar Diana. (2000). Anti-immigrant Sentiment and the Problem of Reproduction/Maintenance in Mexican Immigration to the United States. *Critique of Anthropology*, 20(2) 191-213.
- Zolberg, Aristide R. 2006. *A Nation by Design: Immigration Policy in the Fashioning of America*. Cambridge MA: Harvard University Press.

¹ In this paper, the concept “immigrant” is used in a deliberate way to refer to persons who come to a country to take up permanent residence. Within the context of the United States, the more narrow designation of “migrant” as a person who moves from place to place to work can be incorporated into the former category of immigrant in view of border enforcement policies that have disrupted ancient patterns of circular migration in the classic sense by making it more difficult for migrants to move across political boundaries. Due to the policies making border crossing more

difficult, former migrants are forced to assume more lengthy stays in the United States, that are pseudo permanent in character, making them immigrants in the absence of any intention to reside permanently.

² For a comprehensive discussion of how the militarization of the border and the heightening of the terror of border crossing are related to the development of anti-immigrant sentiment, see Wilson (2000).

³ “Mixed status” refers to social units such as families in which members vary in terms of their legal and resident status; e.g. a family with U.S.-born children who may have one or more siblings or parent who do not have legal resident status)

⁴ Legally, a “dual national” defines a person as member of two particular states), facilitating the operation of business, employment, and residency transactions between the two (Alarcón 2006; Staton, Jackson, and Canache 2007). Citizenship, on the other hand, refers to a member’s rights and obligation within a national polity such as voting or holding office (Jones-Correa 2001, p. 998). In the United States, a “citizen” and “national” are regarded as synonymous as only nationals (by birthright or naturalization) are automatically entitled to citizenship rights and obligations. Rarely, if ever, is an American citizen referred to as an American national. Rather, Americans are seen as citizens (entitled to citizenship rights) or non-citizens (e.g. resident aliens, foreigners, and therefore *not* entitled to citizenship rights). In contrast, in Mexico, “nationals” and “citizens” are not synonymous. There are legal distinctions establishing who belongs (“nationals”), their obligations to the state (education, military service, and public welfare) and their citizenship rights at 18 (to political enfranchisement, economic integration and military service. (See the official website of the office of the Mexican presidency, Presidencia de la Republica at <http://www.presidencia.gob.mx/mexico/?contenido=15003> for the specific delineation of these two separate categories). The Mexican government thus draws a clear distinction between the nationality and citizenship and with changes to its laws in 1997, dual nationals are entitled to both national membership *and* citizenship rights (Jones-Correa 2001, p. 1010).

⁵ Members of this advising body are elected for three year terms by community members in consular areas in the United States and Canada. <http://www.ime.gob.mx/ccime/ccime.htm>

⁶ The materials prepared for the community election of the CC-IME advisor for the Tucson Consular area revealed for the first time in its list of participating community organizations the following regional association “clubes”: the Asociación de Sinaloences en Arizona, Club de Oriundos de Sonora, Club de Santanenses en Arizona, Club Gradados San Isidro, Club Átil Punta de Flecha, and Club Esperanza de Bacamuchi.

⁷ For example, the Sanctuary movement of the early 1980s was a religious and political movement of approximately 500 congregations primarily located on the U.S.-Mexico border that aimed to provide sanctuary to refugees of the civil strife in Central America. As a result, in 1985 16 Tucson-area activists were charged with alien smuggling. This movement has been succeeded in the 2000s by the “New Sanctuary Movement” (Sifuentes 2007) that aim to shelter immigrants in danger of deportation.

⁸ Somewhat less researched is consumer behavior that may have political objectives. These less direct forms of civic engagement, such as the buying or boycotting of products and services for political and ethical reasons, can be used by both citizens and non-citizens alike to promote widespread messages of political significance (Stolle, Hooghe, and Micheletti 2005).

⁹ See www.fundaciónmexico.org.

¹⁰ Pew Hispanic Center/Kaiser Family Foundation “2004 National Survey of Latinos: Politics and Civic Engagement” The Pew Hispanic Center and the Kaiser Family Foundation bear no responsibility for the interpretations offered, or conclusions made based on analysis of the Pew Hispanic Center/Kaiser Family Foundation 2004 National Survey of Latinos: Politics and Civic Engagement data.

¹¹ Official title: Arizona Taxpayer and Citizen’s Protection Act

¹² Conceivably, unsubstantiated suspicions that ineligible Hispanic voters were subverting the electoral system gained ground with the bitter loss of Republican Bob Dornan to moderate Democrat Loretta Sanchez for the 46th District congressional seat of the California legislature in 1996. Although the district had always leaned Democratic,

it became even more Democratic after with more Hispanics moving into the district throughout the 1990s. Although Sanchez won by 984 votes, Dornan contested the election, alleging that many votes were cast by non-citizens. Although a Republican-controlled congressional investigation did find that 624 votes were indeed cast by non-citizens, these ballots were not enough to deny Sanchez' victory and her place in history as the first American of Mexican heritage to represent Orange County in Congress. For years, however, Dornan continued to argue that illegal voter registration of non-citizens was decisive in Sanchez's victory.

¹³ According to the Pew Research Center report (2004), Hispanic registered voters are far more concerned about education than the general public, ranking it as their number one issue. Interest in other domestic issues, the economy and health care, rate almost as highly as education among Latinos.

¹⁴ The Pew Hispanic Center bears no responsibility for the interpretations offered, or conclusions made based on analysis of the Pew Hispanic Center 2007 National Survey of Latinos.

¹⁵ For a thorough discussion on Latino perceptions of and experiences with discriminated, see chapter 4 in Fraga et al. (n.d.)

¹⁶ A particularly insidious stipulation of Prop 300, a third component that received little attention during the election of November, 2006, was that in addition to addressing eligibility requirement for education, the proposition also restricts eligibility for child care assistance to parents, guardians and caregivers.

¹⁷ *Celi v. 42nd Street Development Project, Inc.* (2004) and *Sanango v. 200 East 16th Street Housing Corporation and Balbuena v. IDR Realty.*

¹⁸ Valenzuela and his colleagues (Valenzuela et al. 2006) report that because of the predominance of the hiring of undocumented workers by the construction industries, these workers suffer a high incidence of wage theft and insults and abuses by employers. Wage theft is the most common violation of employee rights reported among the 2,660 day laborers surveyed in the Valenzuela et al. study, with half of all day laborers surveyed reporting at least one instance of wage theft within the two months of being surveyed. Another 28 percent of those surveyed reported having been insulted or threatened by their employers.

¹⁹ Like many civic groups in the Tucson area that are primarily composed of Latinos, members reflect the general population demographics of the area and can trace familial or generational ties to Mexico. In Pima County, Arizona, where Tucson is located, about 26.9 percent of the total native population is identified as Latino/Hispanic in origin. Latinos/Hispanics, however, make up the greater share (67.1 percent) of the total Foreign Born in Pima County, of which 50.6 are naturalized citizens and 76.6 are non-citizens. It is also notable that of all of Pima County's foreign born, 62 percent of are of Mexican origin (Source: U.S. Census Bureau 2005-2007 American Community Survey, 2008).

²⁰ Despite the overwhelming evidence including testimony from the agency and other agents, Elmer was subsequently tried and acquitted twice. For details, see the chapter by Davidson (2000), "Rodney King of Sonora." However, largely due to the actions of CDH and the application of the Victim Bill of Rights, Elmer was held in custody until his acquittal and the family of the victim was able to obtain a substantial settlement.

²¹ The work of the CMA encouraged the formation of other anti-immigrant vigilante groups, such as the Minutemen, Concerned Citizens of Cochise County, American Border Patrol, Ranch Rescue, and the Civil Homeland Defense.

²² In August of 2006, CDH, together with the National Network for Immigrant and Refugee Rights, and the Rights Working Group, organized a national public hearing, "Communities on the Line: The Impacts of Militarization and Impunity." The hearing, was held at Armory Park Center- Ballroom. U.S. Congressman Raúl Grijalva and other community leaders received testimony on the impact of immigration and border enforcement strategies from a human rights, Indigenous, environmental, and economic/labor perspectives. The event brought together communities from border and non-border regions to speak out on the effects that immigration policing and more than twelve years of border militarization are having on the rights, livelihood, services, and health of migrants, refugees, working people and communities of color in the United States. Participating organizations include: American Civil Liberties Union of Arizona, AFL-CIO, Alianza Braceroproa, Casa Maria, Center for Biological

Diversity, Defeat 200, Defenders of Wildlife, Fundación México, No More Deaths, Promotoras de Derechos Humanos- Tucson, Sky Island Alliance, Womens International League for Peace and Freedom.

²³ See the report compiled by No More Deaths at www.nomoredeaths.org.

²⁴ In April of 2007, CDH hosted a visit from a Special Rapporteur on the Human Rights of Migrants, Dr. Jorge Bustamante. The purpose of his visit was to monitor and report on the human rights situations of immigrant detainees in the United States, both documented and undocumented.