

**LOSING HOPE...BUT NOT LOST HOPE: PERSISTENCE OF  
UNDOCUMENTED STUDENTS**

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**AUTHOR NOTE**

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**ABSTRACT**

This article presents a qualitative study of how undocumented students experience a unique dimension of legal oppression in the U.S. that results in diminishing their hope in a country that they consider their home. Throughout this study and with the use of a Critical Legal Studies perspective, the author interrogates the role that U.S. immigration law plays in creating hostile and, many times, hopeless scenarios for undocumented youth trying to receive an education. By identifying the ways that undocumented youth face both *de jure* and *de facto* detrimental consequences, this study demonstrates how a double layer of legal oppression is formed that is omnipresent in the minds and lives of undocumented students. It is argued that, as educators, it is important to comprehend that undocumented students live under the constant threat of legal enforcement as they traverse the U.S. educational system from K-12 through college. As classroom instructors, this unique dimension is not always apparent because we either do not know that someone is undocumented, or, unless we are undocumented, we do not sufficiently understand what it means to be undocumented. This article attempts to help better understand this experience through the voices of college-bound, undocumented youth from California and Arizona.

**Keywords:** undocumented students, critical legal studies, de jure & de facto oppression, hope

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**Introduction**

“There is no such thing as throw-away kids.” As a long-time educator, I have always held this to be true, and I teach it as well. This concept may be something that many educators believe but,

unfortunately, not all educators practice. Students in K-12 schools across the U.S. are still sent out of classrooms, expelled, and regulated as being the “bad kids” (Pyscher & Lozenski, 2014). When it comes to undocumented youth, they, too, are often disposed of. However, the portrayal of undocumented students is often two-sided. On the one hand, they are seen as resilient, even superhuman kids who, despite all their challenges, manage to achieve academically at the highest levels. On the other hand, they are referred to as lawbreakers because of their undocumented status; they are too-often treated and reminded that their presence is “illegal,” so they should be happy for whatever this country provides for them. In both views, they are considered different. In such an environment, it is not uncommon for anyone to begin losing hope. This article looks at undocumented students who have begun to lose hope -- but have not given up and are not lost to hope. The research question guiding this study was “How do the challenges of being undocumented affect undocumented students’ hopes and dreams?”

Undocumented students in the U.S. continue to experience a unique dimension of legal oppression. To classroom instructors, this unique dimension is not always apparent because we either do not know that someone is undocumented, or, unless we ourselves are undocumented, we lack sufficient understanding of what it means to be undocumented. For example, we may not understand why a high-achieving student who never has been in trouble with the law would fear seeing a police car or why a college-bound, low-income student would skip out on a FAFSA (Free Application for Student Aid) workshop that their friends are attending. Yet these are realities for undocumented students, which you will find in this article.

One of the unique challenges facing undocumented students in U.S. public schools is the persistent stigma of “illegality” that surfaces through various legal and public means (Abrego, 2011; Del Real, 2019; Yasuike, 2019). This form of legal oppression makes it difficult to hope and dream of a future. Yet many undocumented students continue to dream of a better tomorrow. Many have even taken on the identity of DREAMer -- A nod to the DREAM Act<sup>1</sup> but also a symbol of a group of people who still dare to dream for a better tomorrow despite their challenges. The idea that undocumented students still dream is good evidence of a resilient population. However, resilience is not enough. Educators can play a crucial role in supporting undocumented students’ transition from high school to college (Murillo, 2017). Educators can also knowingly, and unknowingly, deter those students from pursuing college.

The challenges of undocumented students are reduced (for some) by federal programs that show some compassion for these students’ plight, such as the Deferred Action for Childhood Arrivals (DACA)<sup>2</sup>. According to the Migration Policy Institute, there were 652,880 DACA recipients as of September 2019 (Deferred Action for Childhood Arrivals [DACA] Data Tools, 2019). However, many are left out because they are ineligible, or others chose not to apply because they simply did not trust that this program would continue. Furthermore, DACA is not a permanent solution. However, federal programs, even good ones, can shift depending on who is in the White House. For example, during the Obama administration and after considerable pressure from immigrant rights activists, DACA was implemented at the end of President Obama’s first term (Preston & Cushman, 2012). However, within one year of succeeding President Obama, President

Trump tried to eliminate the DACA program (Shear & Davis, 2017). Fortunately, the courts kept the program alive for current DACA recipients (Shear & Davis, 2017), but it was a stark reminder that without Comprehensive Immigration Reform (CIR), any protections for undocumented students will be temporary and dependent on the mood of the White House. Even students who benefited from DACA still encountered, and continue to encounter, scary, traumatic events in their daily lives and are limited in the careers they are legally eligible for, despite being DACA holders.

Lastly, the unity of police and ICE (referred to herein as “law enforcement”) working together intensifies a panopticon state of surveillance that undocumented students experience in spaces in and out of school. This unity or partnership is protected under INA section 287(g), which authorizes states to carry out immigration enforcement (Aleinikoff et al., 2020). Their experience of heightened suspicion and surveillance can lead undocumented students to leave school. The nexus of law enforcement surveillance and negative interactions with teachers can result in either losing hope or finding new resilience in determining whether to attend college. More importantly, undocumented students bring with them to school their experiences with law enforcement -- especially the fear and anxiety they experience. Hence, regardless of whether undocumented students have been held by police or immigration enforcement, there are constant reminders that legal enforcement is always waiting around the corner (so to speak) as many undocumented students move through the U.S. educational system. The result, at times, is a sense of losing hope but never losing it entirely. The purpose of this study is to examine how the discovery of interactions with law enforcement (perceived and actual) intersect with undocumented students’ hopes and dreams of getting a full education.

### **Review of relevant literature**

#### *Material Challenges*

The law is an important part of the social mindset and a large part of our social order. This is most evident when discussing undocumented students. One court case, *Plyler v. Doe*, perhaps more than any other, has made the biggest impact in defining the relationship between undocumented students and U.S. schools.

In 1977, a city ordinance governing several Texas school districts, specifically the Tyler Independent School District, claimed that undocumented students were placing an extreme financial burden on the state of Texas and that U.S. citizen and legal resident students were receiving a substandard education due to the costs of educating undocumented students (*Plyler v. Doe*, 1982).

The class action lawsuit that was filed eventually was argued at the U.S. Supreme Court. In a close 5-4 decision, the Supreme Court struck down this ordinance as being unconstitutional by citing the Equal Protection Clause in the Fourteenth Amendment to the U.S. Constitution. The Clause states, “...nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws” (*Plyler v. Doe*, 1982). Litigants arguing on behalf of *Plyler* claimed that undocumented students could not be considered “persons within its jurisdiction,” since undocumented students were in the

United States without authorization. The majority of the Court disagreed with this premise by stating that undocumented students were persons in the general sense and that the Fourteenth Amendment did not distinguish between authorized and unauthorized persons in any jurisdiction. The majority opinion of the Court also stated that undocumented students had no control of their current unauthorized status nor had any power to rectify it since they were minors brought here by their parents (*Plyler v. Doe*, 1982). Hence, *Plyler v. Doe* provided all students, including undocumented students, a public K-12 education in the United States. The *Plyler* decision was huge in its impact and reach since it provided a very powerful precedent that deterred any state from denying public education to undocumented students. But at the same time, given the close 5-4 decision, the case also reminded everyone in the country about the divisive issue of immigration in the United States. This divisiveness continues today.

### *Psychological Challenges*

Scholars have researched many aspects of the lives of undocumented youth in the United States, who are considered some of the most vulnerable and marginalized students on school campuses (Chavez, et al., 2007; Covarrubias & Lara, 2014; Green, 2003; Motomura, 2008; Negrón-Gonzales, 2013; Perez Huber & Malagon, 2007; Patler et al., 2021; Perry, 2006; Valadez et al., 2021, Velarde Pierce et al., 2021). Research has shown, through the voices of undocumented students themselves, that these students not only endure the same conditions as impoverished communities but face an added social barrier of “illegality” on their road to college (González, Plata, Garcia, Torres, & Urrieta, 2003; Green, 2003; Perez Huber & Malagon, 2007; Perez, 2009). It is this “illegality” that often imposes on these students what Suárez-Orozco and Suárez-Orozco (2001) call, “negative social-mirroring,” described in more detail below.

Immigration scholars Suárez-Orozco and Suárez-Orozco (2001), remind us that immigrant children enter the U.S. with positive attitudes toward education, but these positive attitudes cannot be maintained under repeated layers of hostility. These hostilities are repeatedly shown through what the authors call “negative social mirroring.” They (2001) write, “when these reflections are received in a number of mirrors including the media, the classroom, and the street, the outcome can be psychological devastation.” (p. 99) This psychological devastation shows up repeatedly for those of us who work with undocumented students; in my own research, the devastation is evident as many undocumented students have reported feelings of isolation and despair. Furthermore, this negative psychology can work against the motivation one needs to pursue an education because it attacks the individual’s self-worth, which is essential for self-motivation. Too often, this multiple crisis of mind results in students giving up their investment in education.

### *Legal Challenges*

Isolation can be both social and legal. A key component of social or legal isolation is when a person has been placed (or places oneself) outside a particular space -- including their schools, home, and communities -- due to the threat of punishment or as a form of punishment. Foucault (1995) discussed how even the threat of punishment was enough to be considered punishment:

The suspect, as such, always deserved a certain punishment; one could not be the object of suspicion and be completely innocent. Suspicion implied an element of demonstration as regards the judge, the mark of a certain degree of guilt as regards the suspect, and a limited form of penalty as regards the punishment. (p. 42)

Foucault reminds us of two things in the quote above. First, that becoming a suspect is sufficient to impose a layer of guilt and removal of innocence. Second, that the threat of punishment is a form of punishment. The impact of trying to teach and learn with a threat hanging over one's head due to immigration enforcement has general detrimental effects on all children, undocumented or not (Ee & Gándara, 2020). In the media and through immigration enforcement, undocumented people have been stigmatized as a suspect class and removal has been introduced as a form of punishment despite the state's denial that deportation is a form of punishment (López et al., 2019). Once aware of the dangers of being removed because of their immigration status, undocumented students recognize the importance of avoiding the authorities despite committing no crime.

A state of surveillance that Foucault describes above is evident in today's experience of undocumented students at the schools they attend. The "School-to-Deportation" pipeline is something that undocumented students must deal with, threatened by those who use it as a caution or a deterrent (Maloney et al., 2021). Maloney et al. explain how this establishes a continued sense of surveillance that undocumented students face at school. Further, the authors' findings describe how even the threat of law enforcement can have negative effects on undocumented students. This negative effect was especially true with cities with 287(g) partnerships that increase immigration enforcement because they have a negative effect on college-going rates for undocumented students (Bellows, 2021). The idea that sanctuary communities can counter these negative effects is not well supported, for even in communities classified as sanctuary cities or sanctuary states, the effect of this classification (sanctuary) makes small changes to higher education attainment by undocumented students (Corral, 2021). Corral discusses how sanctuary is insufficient and limiting because "sanctuary policies do not provide federal legal protections like DACA or lead states to subsidize tuition at public colleges and universities" (Corral, 2021, p. 11). Hence, the state of suspicion that undocumented students live under is threatening and detrimental to any hope that exists.

This brief review of key literature demonstrates that the challenges for undocumented students are legal, material, and psychological. Together, they undermine undocumented students' ability to receive a K-12 education and reach for a college education. Immigration enforcement, the threat of that enforcement (whether real or not) is sufficient to challenge and, in some cases, for undocumented students to lose hope to achieve a college education and a legitimate space in our society.

### **Theoretical Framework**

This work is informed, in part, by Critical Legal Studies (CLS). This field of study may be considered "dead as a doornail" (Stewart, 2020) by some of its founders, but it remains relevant to

this author. Critical Legal Studies presents the dialectic of indeterminacy about the virtue of law that it bestows on itself. CLS asks us to consider the larger context of the political landscape it resides in (Nesiah, 2021). This is certainly the case when examining U.S. immigration laws.

A nation-state will take as its right, the ability to regulate its own immigration policy -- who it allows in and who it doesn't. However, national immigration policy should be set within a broader international context that the nation-state has historically participated in. CLS complicates notions of rights, not against rights themselves, but rather

Grounds the assessment of any particular invocation and deployment of rights talk in strategic and politically anchored analysis of the particular legal terrain on which a struggle will be fought (Nesiah, 2021, p. 18).

This is the case of the United States. For example, if a country has a right to enforce its borders and make it impossible (and dangerous) to cross them, does it have any responsibility to those who die at the border? Further, for those who make it across the border and provide services to the host nation, does the criminal implications it bestows on those who crossed its border extend to those who have made a home here, often the only home they know? Last, how is this situated when we examine the historical and problematic nature of establishing borders especially through war and conquest? I have found Critical Legal Studies to be a useful lens in examining "the law as a political terrain" that it is.

Using CLS to theoretically ground my work and distinguish between *de jure* and *de facto* forms of oppression, gives me much help in analyzing my data. Having spent several decades working to helping students from marginalized communities go to college, I wanted to understand why the oppression that undocumented students felt differed from the oppression I saw other students from marginalized communities go through. I came to realize that, though students who are not undocumented but came from marginalized communities experienced real oppression, the law itself could be "taken to trial." That is, marginalized but not undocumented students had a chance to defend themselves using the legal system, while recognizing that institutional bias continues to persist against people of color, especially Brown and Black communities. Nonetheless, the opportunity to access legal aid, troubled as it is, was there. However, undocumented students had significantly fewer opportunities due to their unauthorized status in the United States; the law was explicitly *not* on their side. The law that makes it permissible to break up families by entering homes and removing hardworking parents from their children or removing children from their parents, is a law from which the undocumented had no recourse because it often operated within the letter of the law (*de jure*). This difference allows the adults in the lives of undocumented students -- including some of their teachers and counselors -- to maintain the *de jure* oppression these students live under.

Distinguishing between *de jure* and *de facto* is important because of the different ways that oppression operates within our legal system. According to the legal definitions, *de jure* is defined as "by right; by justice; lawful; legitimate" (Gifis, 1996, p. 134) while *de facto* is defined as "in fact; by virtue of the deed or accomplishment; in reality; actually" (Gifis, 1996, p. 131). Generally

speaking, *de facto* oppression exists today in various forms, but *de jure* oppression seems to be less visible in U.S. society. This is not the case when we examine the lives of undocumented people in the U.S. because immigration law requires the removal of those who are in the country without authorization, which means undocumented students face the constant, legal threat of removal. This is an example of *de jure* oppression. The law is also very much a part of the *de facto* oppression of undocumented students. For example, Arizona's SB1070 did not explicitly state that it would promote racial discrimination, but the effect of this bill resulted in racial discrimination against People of Color, especially Latinos, in the state of Arizona (Campbell, 2011). This effect became a policy of suspicion and doubt of those who were "suspected" of being in the country without authorization. Although *de facto* discrimination is not something explicitly written in the law, it is nonetheless related in its interpretation and eventual implementation, which is how unwritten policy is constructed and delivered. This combination of *de facto* oppression and the *de jure* oppression of removal creates a double layer of oppression for undocumented students. Both are systemic, both are harmful, and both derive from existing immigration law.

The suspicious environment that many undocumented immigrants live under is a product of our immigration legal structure that results in a caste system. Kevin Johnson (2007) wrote that

Lawful immigrants have fewer rights than citizens and undocumented immigrants even fewer. The denial of even more rights to undocumented immigrants relegates them to exploitation in the secondary labor market, with low wages and few legal protections. This operates to create a sort of racial caste system that cannot be reconciled with modern conceptions of liberty and equality (p. 92).

Though not written in the law, the exploitation of undocumented people that Johnson describes in the previous quote is produced by a *de facto* form of oppression, while the "denial of even more rights to undocumented immigrants" is effectively a form of *de jure* oppression given the limited opportunities of undocumented people to work with authorization and to attend U.S. colleges.

Unger (1983) discusses the importance of groups and individuals having the means to represent themselves in a democratic society regardless of their place in society. He cautions about the danger of removing these means:

Social oppression contributes to political isolation and defeat, which in turn reinforce oppression. A segment of the population then finds itself denied the substance of citizenship and right holding. This deprivation jeopardizes the legitimacy of the entire constitutional and social order (p. 606).

Unger's description of the recursive relationship between social oppression and political isolation depicts the cruel cycle experienced by disenfranchised, oppressed communities. This article focuses on how this oppression occurs based on immigration status -- specifically how this occurs as both *de facto* and *de jure*, and how this affects the treatment of undocumented students.

Lastly, this theoretical framework is also influenced by my own lived experience as a Chicano, son of Mexican immigrants, growing up in a predominantly immigrant community of Mexicanos and Chicanos in the barrio (neighborhood) of Boyle Heights in Los Angeles, California. Further, I am thoroughly committed to the college recruitment (outreach) of people of color given the structural racial inequality that has existed for too long. My involvement in outreach began in my first year in college, speaking at high schools and other colleges. I had just finished four years of service in the U.S. Army and my college experience seemed worlds away from the life I had lived as a soldier. This inspired me to work on trying to provide options other than the military, since my own experience in the Gulf War made me rethink my views of military service.

Taken together, CLS and my own positionality provided a lens through which I conducted my study. It combined experiential knowledge, not as an undocumented student but as a person with close ties to the undocumented community, and a theory (CLS) that provided a language for the unique situations of the undocumented.

### **Methods**

The data for this study comes from a larger mixed-methods study that examines the college matriculation of undocumented students (Del Razo, 2012). During the analysis of the larger study, findings were surfaced about the way law and law enforcement (local and federal) significantly influences undocumented students' daily lives. Hence, this study looks in depth at these phenomena. More important, it probes how law enforcement affected their ability to both be students and exist in a society with a constant legal threat.

### *Research Design*

The research design involved multiple steps. First step was to identify student data that mentions law enforcement (local or federal) and its effects (usually detrimental) on their college matriculation. This data mostly arose when the subjects were asked if safety was an issue for them and other undocumented students. Secondly, within that subset of data, it was further examined what of the law and/or law enforcement created a hostile environment for them as they pursued the possibility of going to college. Most students in that subset indicated that immigration enforcement was the primary concern for their safety and the safety of their families. Last, I chose exemplary profiles of students that address many fears of continuing their education and the persistent challenge of staying hopeful in the face of those fears, whether or not they ever became real.

### *Recruitment and Participant Demographics*

Participants were undocumented youth from California and Arizona. The site from which I recruited eight California subjects was from a community organization that I will call Opening the Gates of College (OGC)<sup>3</sup>, located in a southern city of Los Angeles County; the organization offers information and support to college-bound, undocumented students. The mission of OGC



was to provide a “safe space” that delivered academic and legal advice to undocumented students every semester (twice a year). The term “safe space” was used intentionally to highlight the importance that safety plays in the students’ lives. Through my own work with undocumented students, and through my preliminary findings in small pilot studies conducted before this study, I found that the issue of safety from immigration authorities due to their unauthorized presence was paramount in the lives of undocumented students and their families. The findings in this study confirmed as much.

Recruitment of Arizona students came from an email solicitation that utilized snowball methodology to place me in contact with these students. An ally and advocate in the state of Arizona forwarded my request to five of her students, who then agreed to be interviewed. I traveled to Arizona to conduct the interviews with these five students and remained in contact with them, via email, for follow-up interviews. Recruitment for the remaining California students needed for this study used the same recruitment strategy, and I traveled around Southern California collecting the interviews.

Table 1, below and from the larger study, provides general descriptions of the subjects. It gives their pseudonym (Name), gender, country of origin, the age at which they were brought to the United States (*no unaccompanied youth were included in this study*), the state they considered their state of residence, and their household size and income.

<b><i>CMUS (College Matriculation of Undocumented Students) Study</i></b>						
<b><i>General Descriptives of Subjects</i></b>						
<b><i>Table 1</i></b>						
<b>Name</b>	<b>Gender</b>	<b>Country of Origin</b>	<b>Age brought to the U.S.</b>	<b>State of Residence</b>	<b>Household Size</b>	<b>~Household Income</b>
Agusto	Male	Mexico	1 year old	California	6	\$20,000
Carmen	Female	Mexico	3 years old	Arizona	5	\$12,000
Susana	Female	Mexico	8 years old	Arizona	6	\$30,000
Sylvia	Female	Mexico	11 years old	California	5	\$10,000

### *Interviews*

My interviews were semi-structured and conducted according to Brinkmann & Kvale’s definition of interviews as conversations “where knowledge is constructed in the inter-action between the interviewer and interviewee” (Brinkmann & Kvale, 2014, p. 4). The conversation was allowed to develop, guided by the questions in my interview protocol. After interviewees gave oral consent, interviews were recorded and transcribed. The interview was often emotional and personal disclosures were shared.

Because this study is part of my bigger study, the interview protocol I developed and used asked many questions, such as “*Tell me what it’s like to be an AB540 student and attending*

*college.*” and “*What are some of the biggest challenges?*” However, the interview questions that generated the most data for this study were: “*Is safety an issue for you and other AB540 students? How would you define a “safe space”? Do you have a place like that at your school? Do you have a place like this outside of school?*” This question appears midway in my interviews with the undocumented students when, I assumed, a stronger sense of rapport had developed between the interviewee and myself.

I chose this interview data for this study because references to immigration enforcement surfaced across most of my data. The interview space that can be created between interviewer and interviewee can be a space of trust and vulnerability, where sharing of personal emotions and thoughts occur. I was fortunate to have experienced this space with my interviewees. This was partly because of my own positionality, described above in the theoretical framework section.

### *Analysis*

Coding, memo writing, and journal reflections were my main form of analysis, along with writing groups with peers and senior scholars in my department. The analysis was iterative, in that one form of analysis informed and guided other forms of analysis. For example, my freest form of written expression occurred when I wrote in my field journal. After spending a day or two away from my journal entry, I would return to it to determine whether that entry deserved closer analysis. If it did, I would expand it into an analytical memo that served as a bridge between my journal entries and the written findings that appear in the findings section below. Further, my memos generated codes for the study, and through the coding process, new memos arose. As Saldaña writes, “coding and analytical memo writing are concurrent qualitative data analytical activities” (Saldaña, 2015, p. 44); I confirmed this throughout the analysis portion of my study. I also employed first-cycle and second-cycle coding techniques as defined by Saldaña (2015); they are further described below.

I coded only my interview data and I used “initial coding” as first-cycle coding because it “creates a starting point to provide the researcher analytic leads for further exploration” (Saldaña, 2021, p. 149). Some of the codes I generated were “surveillance,” “fear,” “legal threats,” and “not fair,” which described how many undocumented students in my study felt about their current state of existence (and that of their families) in the United States. This “initial coding” was followed by second-cycle coding and categorization as a means of “reorganizing and condensing the vast array of initial analytic details” (Saldaña, 2021, p. 298). The categories formed from my codes were “losing hope,” “dehumanization,” and “legal oppression,” which led to some themes embedded in the following findings.

The themes constructed from my categories were normalized states of fear, fear of breaking up the family, dehumanizing school experiences, and losing hope. The job of generating meaning from these data was facilitated by mapping my codes, categories and themes on a table to see how each was composed by the prior. An example of this can be seen in Table 2 below.

Theme Development for “Losing Hope” Table 2		
Key Codes	Categories	Themes
Not Fair	Developing hopelessness	<b>Losing Hope</b> that laws will ever change to help me be part of my society – <i>As constituted by its categories</i>
Want to give up		
Not changing for me		
Law is different for us	Legal Oppression	
Legal threats		
More bad laws		
Scared of police & ICE		
What’s the point?	Do right but bad things don’t change	
We’re good students		
Did what was told		

Table 2 above demonstrates my thought process of clustering key codes into categories, and subsequently clustering categories to develop the themes mentioned above that will be exemplified in the findings below.

### Findings

To humanize my four subjects’ stories, I chose to use their stories below to exemplify themes generated during the data analysis. These four subjects represent the key findings surfaced across 16 subjects. A discussion section follows the findings.

#### *Susana: A normalized state of fear*

Susana is originally from Sonora, Mexico, where she lived until the age of eight. It was then that her father, whom she had never met, sent for her and her mother to join him in the United States. Susana’s migration occurred during the cold winter month of January as she traveled across the Sonora/Arizona desert. Susana found it too difficult to talk about her journey but mentioned that it was scary for her. At the time of our interview, Susana was a graduating high school senior and lived with her parents, two cousins, and her aunt in the Phoenix area. Susana had decided to take off the first semester of college, while she worked to raise money to pay her college tuition, and the university where she was admitted agreed to deferred enrollment. Susana planned to major in early education and aspired to be a preschool teacher.

Despite these important ambitions to educate young children, Susana did not feel safe in this country. Susana described how safety feels for her as an undocumented student, and her reaction whenever she sees a police car:

*There is always a thing that if I get caught by the police then I am going to get deported like that (she snaps her finger). If you are documented, then the idea of driving next to a cop, you don't even worry about being deported. But for me, there is always this fear that the cop may do something to me. Oh my God, what if this car is not working? What if they stop me? It happens to me every single time, every time I see a cop. My heart stops! I know I don't look it, but I feel so scared. There is still that feeling that I know I am undocumented. My whole life could end with us being stopped by the cops. This thought always freaks me out. Instead of being safe when I see a cop, I feel scared. And I feel scared for my parents, as well. If they got deported, it would be hard. It's very difficult. You can't even go out to the store without feeling like this. It's hard.*

Above, Susana describes living under this fear of constant criminal vigilance, as did so many other interviewees. Susana tries to continue focusing on school and developing into an adult, but this legal surveillance or threat of apprehension can be torturous. In this case, "law enforcement" is a more appropriate term to use than just "the law," because it involves an interpretation of the law by the police. However, these same police officers are knowledgeable about the law and represent the law through their job as law enforcers.

The fear reflected in the quote above is informed by a life of living under *de jure* oppression that is empowered by our immigration legal system, which makes Susana feel like she is the broken one, not the system. This example shows how difficult and isolating living while undocumented can be, especially when one considers that Susana did not feel that she could receive legal help -- since it was the legal system that she feared (an example of sustained *de jure* oppression). Susana identifies the emotion of fear linked to a police officer when she said, "But for me, there is always this fear that the cop may do something to me. Oh my God, what if this car is not working? What if they stop me?" This heightened sense of fear is linked to the real possibility that she can be deported if any of the two scenarios above occurs (i.e., car not working or getting stopped) because of law enforcement's strong connections with immigration authorities in her home state of Arizona. For example, in the case of Arizona's SB1070, this law mandated that state law enforcement officials check the immigration status of any person one comes into legal contact with (such as at police checkpoints or being pulled over), if they have reasonable suspicion that the person is in the U.S. without authorization (State of Arizona, 2010). So, when Susana says, "the cop may do something to me," she refers directly to this law and how it can lead to her or her parents' deportation, which is very traumatic for undocumented youth (Rojas-Flores, Clements, Hwang Koo, & London, 2017).

I remind the reader that this event happened while she was attending school, as do many millions of other students, who are not undocumented and feel no fear. Susana was not stopped by the police, but just being near them was sufficient to arouse this terrifying emotional response (or punishment, as Foucault suggested), which is not irrational but a natural reaction to living in a state of *de jure* oppression.

The constant reminder of possible removal (deportation) from their U.S. homeland was unique to this population, a fear that was shared by all students in this study. Another example is Augusto's story.

*Agusto: Fear of breaking up the family*

Agusto is from Jalisco, Mexico, and at 1 ½ years of age he came by plane to the U.S. on travel visas with his mother and older sister. His father met the family in Los Angeles, where they eventually settled in a southern part of Los Angeles County. The family eventually grew to six with the arrival of Agusto's little sister and brother. Like many other undocumented students with a mixed-status family (Taylor et al., 2011), Agusto lives with siblings who are citizens, while he remains undocumented due to no eligible pathways to citizenship for him.

At the time of the interview, Agusto planned to attend a local community college and major in Engineering or Business. Agusto recollects the real threat that the immigration legal system had on him: "With the situation that I am in, knowing immigration can pop into my house and they can take me and my parents away and leave my little brother and sister all alone and I won't know what will happen to them. That is what we live with." Like other subjects in my study who lived in mixed-status families, Agusto exemplifies multiple layers of fear that undocumented students experience as they not only fear the removal of themselves and their parents, but fear what will happen to other family members (usually young ones) who are citizens. Agusto describes the real threat of removal by immigration authorities in this quote. This unique, real threat reminds us that the police are not just misinterpreting the law because of bias they may harbor (though this happens, as well), but many are operating within the legal parameters of their job as law enforcers whose jobs, when cooperating with immigration authorities, is to report people such as Agusto to immigration and customs enforcement. It is important to note that this threat of removal and splitting up a mixed-status family is real and legal. Under current U.S. immigration law, it becomes legal to remove undocumented people and split up their families despite, in many cases, the longevity of their time in the U.S. and contributions (economic and otherwise) to the country. The threat of deportation for undocumented people is legal and done on behalf of the U.S. citizenry. Here again, in Agusto's story, is an example of how an undocumented student experiences *de jure* oppression not as an imaginary fear, but a reasonable response to the legal threat of having his family broken apart if immigration authorities enter his home with removal orders.

In Sylvia's story below, the persistent battle of dehumanization undocumented students must deal with appears not just in the media, but in the classroom itself.

*Sylvia: Dehumanizing school experiences*

Sylvia is originally from Oaxaca, Mexico, where she lived with her grandmother and brother because her parents had decided to come to the United States in search of work. Sylvia's journey of migration began at age 11 and consisted of a treacherous walk across the desert with her parents and older brother, where she almost lost her parents and her own life due to exhaustion and dehydration. After a seven-day journey, Sylvia and her family settled in the Los Angeles area, where she excelled in high school and finished her senior year with straight A's. Although eligible to apply to the most prestigious schools in the United States, Sylvia decided to attend a community college, then transfer to a four-year institution so she could continue helping her family with the money she earned working at a shoe store in "the underground economy," where income is not recorded or reported. At the time of her participation in the study, she had just graduated from high school and was attending a community college in the greater Los Angeles area. She was interested in becoming a physician.

Sylvia was very proud of her accomplishments and always sought to help others even if it came at a personal cost. In the story that follows, Sylvia had been explaining how a group of teachers created a college-going program at her high school but that they excluded all undocumented students from participating. Having experienced such exclusion before, Sylvia formed and led an AB 540<sup>4</sup> student group on her campus to help excluded students. Sylvia shared that when these teachers found out about Sylvia's efforts, they ridiculed her and refused to allow her to post flyers or make announcements in their classrooms. Sylvia also told that one teacher threw the flyer back in her face after she had handed her the announcement. When asked how this experience made her feel, Sylvia said she had entered a bad depression:

*They made me feel like if I wasn't a human. They made me feel like an animal that couldn't be with humans. At first it did hurt me. But then most of us, like the AB540 students, we just decided to forget about it and do our own thing. We started doing the group. And most of us, we were like AB540 but also some of the other kids were people who had papers and they were helping us all. And they would sell things with us and everything. And it was really good having people that were from here in the group. But it was just that group [the teacher's group] that made me feel really bad like if I was an animal that was going to do something really, really bad to them so that is why they didn't want me to be there.*

The quote above alludes to the dehumanization that too many undocumented students must endure, not just in the media, but in their schools. Such dehumanization suggests how many undocumented students are being treated across the country with terms like "illegal alien" or "illegal," which place undocumented migrants as being less human (Hing, 2006). This dehumanization is something that the students in this study endured and fought. What made things worse for Sylvia, she later explained, was that she had been close to two of the rejecting teachers, until they learned she was undocumented. After the teachers found out about her immigration status, these same teachers

avoided and no longer spoke to her outside of regular instruction time. Sylvia described this as “being betrayed by people I thought cared about me.” Our current immigration laws and policies that threaten removal (i.e., deportation) embeds these oppressive conditions deeper into a legal structure that makes it more permissible to mistreat and exclude undocumented people. This does not mean that outright racist attacks do not exist. They do, but most laws have been moved or are moving away from de jure implications that are outright racist (e.g., Jim Crow laws). This is not the case with immigration law where de jure aspects of this portion of the law are very xenophobic. The population of undocumented students thus must deal both with the stigma of being undocumented and its severe legal implications.

Parallel and comparable to this situation were the travel bans by the Trump administration and their effects on the U.S. Muslim community (Whitehead et al., 2019). The results of those bans and traumatic events like those experienced by Sylvia and other students in this study, send messages (especially to young people) that they are neither wanted nor needed. Such psychological trauma can severely affect immigrant children, when adults who were meant to help them become the source of pain and distress (Suárez-Orozco & Suárez-Orozco, 2001).

Despite this difficult situation, Sylvia did not lose hope. She fought back by helping create her (and other undocumented students’) own space at the school, even when it meant outing herself and enduring painful treatment. Sylvia formed her own group because she was being excluded from the group the teachers had formed. Similar student organizations became spaces of safety and empowerment that students develop not just for themselves, but for those like them. This communal act of helping others reciprocally helped themselves. Community service is empowering, as was evident for the students in my study, but I also saw that it was difficult to remain hopeful when they still were powerless to change their status -- not because they did not want to but because there was no pathway to doing so, as Carmen’s story will illustrate.

*Carmen: Losing hope*

Carmen was born in Tijuana, Mexico, but grew up in Sonora, Mexico. Carmen crossed the Sonora/Arizona desert twice. The first time she and her family tried to cross the border, the U.S. Border Patrol caught them; her father was imprisoned and she, her mother, and her 6-month-old baby brother, whom her mother carried on her back, were deported to Mexico. The second time, they crossed the border unapprehended and settled in the Phoenix, Arizona, area. Carmen began working at a young age to support her family while still attending high school and passing all her classes. At the time of this study, Carmen was a single, working mother who had her baby while still in high school. Despite this, she managed to graduate from high school on time and planned to attend college to study business. Below she discusses the difficulty of being part of the U.S. while struggling to see the purpose of even trying to be part of it:

*Carmen:* As a person, I do feel part of this country because I follow all the rules of the United States. I obey all the rules. I would go to school every day. I would take college courses at night. I had the right to just stop going to school and drop out, but I chose not to. I

chose what the country wanted me to do. I have never been arrested. I have never committed a crime. I have been respectful and loyal to this country. Yet this is what I get for it. I don't get the opportunities that a person has that actually exists here.

*Jaime:* How does that make you feel?

*Carmen:* Well, it just makes me feel that it should be equal. That it shouldn't be so discriminative against us (*Carmen begins to weep but continues talking*). Like, we have the right, too. Like if we are good citizens and if we have never committed a crime. We followed the rules of the United States. We never hurt anybody here. We tried our hardest to be part of it and yet we don't get that right to be part of the U.S. Then, what's the point of actually trying?

A reader who holds that our immigration legal system is not broken may contend that Carmen's experience is justified because our immigration legal system is justified. However, seen through a CLS lens that is critical to systems that oppress, including the law, that interrogates the justification of the law itself and recognizes that some laws are unjust, shows that Carmen herself is questioning the justice of a legal system that denies "that right to be part of the U.S." when she is trying so hard to be part of it. Carmen struggled to make her point about the tension that exists between wanting to live the "American Dream" by following all that the U.S. (which she considers her home) expects of her, but then being made to feel that she is not part of this nation.

Carmen later discussed how she was concerned about returning to Mexico because it is a country she no longer knows, since she was brought to the U.S. at the age of three -- along with the fear of not knowing what would happen to her baby in the U.S. if she were removed to Mexico. This anxiety is similar to Augusto's concern of what would happen to his younger siblings, who are U.S. citizens. Carmen, Augusto, and other undocumented students like them "find themselves in a labyrinth of liminality not of their own making and with virtually all exits blocked" (Suárez-Orozco, Yoshikawa, Teranishi, & Suárez-Orozco, 2011, p. 461). The metaphor of a labyrinth suggests what many of my subjects described as exhausting and possibly hopeless. In addition to fighting to make a place for themselves in their school, there was an internal fight about whether they belong in their homeland. This can result in a loss of hope that this *de jure* oppression will ever be lifted or that they will find a way to escape their status by finding a path to citizenship, which is rare for many undocumented students. Here again, the loss of hope evident in Carmen's story can be understood in light of the legal or *de jure* oppression under which all undocumented students live.

### Discussion

Susana's story demonstrates that the normalized state of fear many undocumented students experience does not stop at police apprehension or harassment but adds a layer of fear, a fear of removal. If removed (i.e., deported), they are banished from the only country many of them have ever known. Given the close relationship that some police have with ICE, many undocumented



students are twice as scared when they see an officer of either. Even police checkpoints undocumented communities must guard against for fear of being removed.

Agusto's story continues Susana's story by describing the fear of his family being broken up. He points out that he lives with "knowing (that) Immigration can pop into my house and they can take me and my parents away and leave my little brother and sister all alone and I won't know what will happen to them." Agusto, though undocumented as well, describes not just fear of his own removal but removal of his parents and its possible effects on his younger siblings. Thus, fear extends beyond the self into fear for the whole family despite their mixed immigration status.

Together, Susana and Agusto's stories of fear are rooted in an omnipresent fear of the authorities because of the persistent message of suspicion of illegality or wrongdoing that undocumented students endure. The suspicion, as Foucault (1995) reminds us, is enough for punishment to be felt and experienced. And the law in the generative sense touches all aspects of society including the media (López et al., 2019), which, taken together, influence the beliefs and behaviors of society including educators, as Sylvia's story shows. She describes a story of dehumanization by those she trusted, her teachers. After they found out she was undocumented, she experienced a dehumanization that is allowed too often to exist without retribution or correction. It is important to note that such rejecting behavior by trusted figures does not include all teachers or counselors (my data suggest otherwise), but it does occur and occurs in detrimental ways toward undocumented students. Sylvia, however, resisted this portrayal of her and other undocumented students at her school by creating her own student organization to advocate for undocumented students. This act of resistance happens at the school and national level (see *United We Dream* and *Immigrants Rising* for national examples). These student organizations develop a sense of empowerment for undocumented students; they can then see examples of how to combat dehumanizing portrayals.

The doors of legal redress appear shut to undocumented people and, by default, undocumented students. This was a common theme in my study across all my subjects. Further, given the students' immigration status and fear of being removed, undocumented students may not go to law enforcement to protect them. As Olivas (2012) points out, "the undocumented are forced deeper into the shadows as they are hunted down, harmed, or deported -- in the contexts of employment, civic life, and the larger social community" (p. 4). This makes it harder for undocumented students to ask for legal assistance when they are victims of crimes against both their legal rights and human rights. Here, *de jure* oppression takes on a terrible twist: the legal authorities, like law enforcement, becomes the thing to be feared instead of the shield needed for protection. Despite living under these circumstance, undocumented students try to belong to the only country they have ever known even when it seems they are fighting a losing battle. Despite losing hope, at times, they do not consider themselves nor their plight as lost hope. These students assimilate and identify with U.S. customs and practices, and many identify themselves as "American" (Perez, 2009) -- often affiliating themselves more with the country they live in than the one they were born in.

Despite wanting to belong to the U.S., these students constantly struggle to be recognized by the United States while also maintaining their sense of humanity when confronted with the perils they must endure. Research has shown that the immigration industrial complex benefits from exploiting the labor of these students and their parents, while dehumanizing them via the media (Golash-Boza, 2009). A theme that surfaced among the student interviewees, focuses on how they cope and fight against dehumanization and seek to be recognized as belonging to the U.S., which they consider to be their home.

Lastly, Carmen's story describes a frustration and sadness not unique to her but to countless undocumented students who see no hope for themselves in this country or in their schools. People like the author spend our time trying to keep them motivated and lift them up, and we will continue doing so, as will they. But we must do better. As Carmen notes, "That it shouldn't be so discriminative against us." The "it" in Carmen's story is the legal system that this article has addressed, showing its effects on the daily lives of undocumented students.

Life can be difficult and challenging, of course. But the question educators must ask ourselves is should it be this severe for the undocumented student? Furthermore, educators should ask if children brought here at a young age should be subjected to a second-class or even third-class citizenship with no hope of adjusting immigration status through our immigration system. Aside from their parents and guardians, teachers are the people most involved in children's lives. They not only teach content but socialize kids about many aspects of life -- while also being a significant part of their lives. More understanding of undocumented students' plight is important for teachers because they, too, are part of the classroom. People have moved (or been moved) since human beings walked this earth. They will continue moving (or being moved). We should ask ourselves; how will we treat people when they do move?

### **Conclusion**

As educators, we are responsible to teach all who enter our classrooms regardless of race, class, gender, immigration status or many other characteristics that make each of us unique. Losing hope for the students studied here is not about losing hope in oneself, but in a system that has given up on them. This article set out to raise educators' awareness of this very important issue -- the fear of deportation in the lives of undocumented students, and how it affects their hopes and dreams. For without hopes and dreams, anyone's future can appear bleak and perhaps not worth pursuing. As Carmen describes in her interview, "We tried our hardest to be part of it [the U.S.] and yet we don't get that right to be part of the U.S. Then, what's the point of actually trying?" In this example, it is important for educators and researchers to understand that the disenfranchisement of undocumented students is not of their own choosing, but one imposed on them by a system that does not see them as full members of U.S. society. To lose hope is detrimental for many reasons, but one particularly difficult for anyone who has ever taught in a classroom is that it is incredibly difficult to teach a student who has lost hope in school -- because they feel school has lost hope in them. As educators, let's not let them lose hope by ensuring that we have not lost hope in them.

Resist normative frames that restrict the extent to which we see undocumented people generally, and undocumented students specifically, as full members of our society.

Many undocumented students have been in this country since they were young children. They are here as children in our grade school classrooms and in our schools. They play and study alongside all our children and form friendships with them and with this country. For example, as discussed above, Augusto and Carmen arrived in the U.S. at the ages of one and three, respectively. All their formal schooling has occurred in the U.S. Susana and Sylvia arrived at ages eight and eleven, respectively, and thus entered the U.S. school system in elementary school. Each of their stories show how undocumented students go to school and/or work with us. More importantly, their lives demonstrate how they are part of the fabric that makes up the families, friends, and society of the U.S. Unfortunately, their lives are too often lived under duress, as this study shows. Only when we face these problems honestly, will we see a school system and a society that is truly equitable, one where all can enter to learn, teach, imagine, and dream.

**NOTES**

<sup>1</sup> The DREAM Act is a proposed federal act that if passed would provide a pathway to citizenship from some undocumented students who meet certain criteria. The bill was originally introduced in 2001 and was re-introduced several times for the next 20 years.

<sup>2</sup> For those who qualify and are accepted into the program, DACA provides a 2-year working permit and deprioritization for removal <https://www.uscis.gov/humanitarian/consideration-of-deferred-action-for-childhood-arrivals-daca>

<sup>3</sup> Pseudonyms are used for all proper names in this study.

<sup>4</sup> AB 540 was a California bill that passed into law that permits undocumented students who fit certain requirements to pay in-state tuition in its public colleges. This law provided a legitimacy and identity for many undocumented students in California, and many called themselves “AB540 students” (Abrego, 2008).

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