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The Broken Ladder:

Education Access and Social Mobility for Children of Unauthorized Immigrant Parent

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ABSTRACT

Education is often defended by reformers, researchers, and policy makers as a means to access social mobility. Thus education theoretically sustains meritocracy in American society. For children of unauthorized parents this is not true. Because of a variety of barriers I outline, education serves as a reproducer of class to children of unauthorized parents. The barriers can be broadly separated into inside the school and outside the school barriers. Education reform mistakenly focuses only on the internal factors, despite the fact that it has been consistently found that two-thirds of the variance in achievement can be attributed to factors external to schools (e.g. race, income, parental documentation status, etc.). Children of unauthorized parents inability to access social mobility via education is predominantly because of non-school factors. Thus the biggest implication of this study is that the limitation of education reform to in-school factors is misguided, especially as it pertains to children of unauthorized parents. When discussing education reform we need to be more explicit about our goal of reducing societal inequality. In making this goal explicit, education would be viewed as merely one avenue through which social immobility and inequality can be addressed, not the panacea.

Bibliographic Sketch

Abbey completed her undergraduate degree at Cornell's ILR School in 2009, after attending Foothill Community College in Los Altos Hills, CA. Before returning to ILR to pursue her M.S. research on children of unauthorized parents' education policy, Abbey taught Pre-K through the program Teach for America in Chicago. Through this teaching, Abbey's interest in the intersection of immigration and education policy and the related implications for social mobility arose. Abbey plans to continue her work in education, be it in the study of education, teaching in a variety of contexts (i.e. classroom, library, volunteer work, tutoring), or advocacy work.

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I. Introduction

A mother discusses her frustration with the school's perception and reception of her daughter:

> "Well, it's true, she's not getting good grades now, but you should have seen before; she used to get very good grades, she used to apply herself a lot. Instead of trying to see why she's not getting better grades, her teachers at school just say, oh, she probably doesn't like school. The truth is that the girl has to work on weekends and she probably is tired at school. They [teachers] don't realize that she doesn't have papers . . . she gets discouraged, disillusioned. In my view, all this affects her, no? But do you know what she started to say here at home? That she doesn't like school!" (Pessoa, 2010, p. 38)

In this example, there has been a decline in the teacher's perception of the student. There has similarly been a decline in the student's motivation and performance. The overall effect is that this student experienced a drop in achievement, resulting in a more limited academic trajectory and relatedly, a lessened ability to move up in society (i.e., social mobility). The focus of this paper is on the reasons that students like her disproportionately cannot access the social mobility education is intended to provide.

In 1848 Horace Mann famously declared, "Education then, beyond all other devices of human origin, is a great equalizer of the conditions of men" (Mann et al. 1891, p. 669). This statement by Mann has come to signify a long held belief in America as a meritocracy. Public education has been the primary avenue through which meritocracy plays out and social mobility is accessed. Given the ever widening achievement gap between children of unauthorized parents and their counterparts, however, this idea of a meritocratic education system has proven to be more myth than reality for children of unauthorized parents.

In 1982 the Supreme Court decided the landmark case regarding unauthorized children's access to education. *Plyler v. Doe* broadly protects unauthorized children's right to an education.

The task of this paper is to address how school and non-school factors affect *Plyler's* legacy for children of unauthorized parents (COUP), specifically. I argue that, while in the approximately thirty years since the *Plyler* decision students' access to education has been upheld, students' access to social mobility—one of the chief benefits recognized by the *Plyler* court—has not been protected.

Approximately 5.5 million children have unauthorized immigrant parents, and about three fourths of these children are U.S.-born citizens (Chaudry et al., 2010, p. vii; Passel, 2011, p. 26). The 5.5 million children and youth growing up in the shadows equals more than the combined population of Montana, Delaware, South Dakota, Alaska, North Dakota, Vermont, and Wyoming. Measured differently, one to two students per American classroom is directly affected by unauthorized status (Suarez-Orozco, 2011, p. 462). As we will see below, the difficulties faced by citizen children of unauthorized parents are comparable to the difficulties that unauthorized children face (Abrego 2006, p. 218). For this reason, I discuss authorized and unauthorized students as one cohort, referring to them as children of unauthorized parents (COUP). (I specify when there are differences in experience between authorized and unauthorized children.) Children of unauthorized parents encompass unauthorized children, citizen children, and children with one or both parent(s) who is unauthorized.

This focus on the children of unauthorized parents is uncommon. Typically, education researchers look either at unauthorized students, immigrant students, or children of immigrants. Researchers rarely define the focus of their study as children of unauthorized parents. As a result, I have been unable to locate education achievement data tailored specifically to COUP. Instead, I outline the data that strongly suggests low achievement levels for COUP. Unauthorized younger adults (one fourth of COUP) are disproportionately more likely to have lower educational

attainment (Passel and Cohn, 2009, p. 11). Research has also shown that the broader group comprising children of immigrants, which includes all COUP as well as children of legal immigrants, has school performance and academic trajectories more aligned with segmented assimilation theory (Portes & Rumbaut 2005). Poverty and educational attainment are negatively correlated for most children, but this is even more the case for immigrant children (Feliciano 2006, p. 11). In other words, children from poorer backgrounds (i.e., a category that includes nearly all COUP) perform more poorly and have less social mobility. The existence of more limited access to social mobility for COUP is well established. These data give rise to the main research question of this paper: What are the barriers to academic achievement, the main avenue for social mobility?

The literature of inequity in education discusses the disadvantages faced by low-income minority students or immigrant students at length. My intent here is to isolate the barriers unique to COUP or whose effect is particularly damaging to COUP and the ways that those barriers interact with access to educational achievement and consequently, access to one of America's main tools for social mobility. The major challenges to COUP are in fact outside of the school. As we will see in the school section, the premiere importance of non-school factors is supported by the literature. Yet, the majority of education scholars and reformers have largely ignored this research suggesting the importance of non-school factors, limiting their scope to what can be done inside the classroom or school to the exclusion of other factors (e.g. poverty, homelessness, healthcare, child abuse, etc.). This failure to acknowledge outside factors as determinative of achievement and thus important to address when discussing achievement is particularly damaging to COUP.

I begin by looking at children of unauthorized parents' *de jure* access to education (i.e. *Plyler v. Doe*). I then move onto their *de facto* access to education. Within *de facto* access to education I outline three substantial contexts in which barriers to social mobility via education arise: (1) school, (2) immigration enforcement climate, and (3) home. Throughout the discussion of these three contexts it becomes clear that the main reason the issues affecting COUP are pertinent to our society is because of these children's blocked access to social mobility, which degrades our notions of America as a meritocratic society. I discuss the broader implications of COUP's lack of social mobility for U.S. society and economy. I conclude by discussing what needs to happen and who needs to act in order to remove some of the barriers to social mobility via education for COUP.

II. De Jure Access to Education

A. What Plyler Stands For

In this section I will first outline what *Plyler v. Doe* stands for and then discuss its applicability to today. It is important to briefly note that when discussing Plyler here we are discussing one-fourth of COUP—the unauthorized fourth. In 1982 the Supreme Court ruled on *Plyler v. Doe*. The question before the court was: is it constitutional to charge unauthorized students tuition to attend public schools? It was found unconstitutional to charge unauthorized students tuition. In its most straightforward reading, *Plyler* protects unauthorized children's right to an education. However, in a deeper reading we see that *Plyler* stands for educational equality and "an abolition of castes" for unauthorized students (Lopez, 2005, p. 1377).

The threshold question in *Plyler v. Doe* was: can the unauthorized children even go to court to use the protections of the 14th Amendment of the constitution (Bosniak, 2012)? In other

words, the first issue addressed was, are unauthorized children "persons within [a state's] jurisdiction" (*Plyler*, 1982). If unauthorized children are considered persons within the state's jurisdiction, then they have protection under the 14th Amendment, specifically the equal protection clause which states, "no state shall ... deny to any person within its jurisdiction the equal protection of the laws" (*Plyler*, 1982, 455). Unauthorized students were found to be persons within the state's jurisdiction, and therefore since no "substantial goal of governmental interest" was furthered, the state could not justify the differential treatment of the unauthorized students (*Plyler* 1982, 217).

There were three justifications of the law (i.e. three substantial goals of governmental interest) that Texas put forth, all of which the Supreme Court rejected. The first of Texas's three defenses was the preservation of Texas's scarce economic resources. This is referred to as the economic defense argument. The Supreme Court found that "there is no evidence in the record suggesting that illegal entrants impose any significant burden on the State's economy. To the contrary, the available evidence suggests that illegal aliens underutilize public services, while contributing their labor to the local economy and tax money to the state" (*Plyler* 1982, 228)

Another argument put forth by Texas was that by barring unauthorized children from public education Texas was stemming the "tide of illegal immigration" (*Plyler* 1982, 229). The court rejected this argument on the basis that "charging tuition to unauthorized children constitutes a ludicrously ineffectual attempt to stem the tide of illegal immigration, at least when compared with the alternative of prohibiting the employment of illegal aliens" (*Plyler* 1982, 228). Take note of this specific argument because it is the basis for much of the continued resistance by some groups to the protection of unauthorized students' right to public education. Examples of such resistance will be discussed in the Immigration Enforcement section below.

The last argument Texas mounted was that "unauthorized children are appropriately singled out because their unlawful presence within the United States renders them less likely than other children to remain within the State's boundaries and to put their education to productive social or political use within the State" (*Plyler* 1982, 229-230). The court is, yet again, unpersuaded by this argument. The court says that the record of evidence offered by the State "in no way supports the claim that exclusion of unauthorized children is likely to improve the overall quality of education in the State" (*Plyler* 1982, 229). Additionally, the court argues the "the state has no assurance that any child, citizen or not, will employ the education provided by the State within the confines of the State's borders" (*Plyler* 1982, 230).

The court finds that the costs of denying a free public education to unauthorized students far outweigh the benefits. In fact, the first part of the opinion explicitly outlines the uniquely important role in society that education holds. The *Plyler* court asserts that education sustains "our political and cultural heritage" and through the Equal Protection clause education acts as an avenue through which social mobility is upheld. The costs are increasing inequality and the creation of a caste system, and the failure to impart the American political and cultural heritage on future potential citizens. The benefits are "further[ing] some substantial state interest" which the court was unable to find (*Plyler* 1982, 230).

B. Applicability

Does *Plyler* still hold true today, or has something changed? This section reviews the legacy of *Plyler*. In the most strict reading, or narrow sense, the answer is: yes. What *Plyler* facially stood for—the right for unauthorized youth to access free public education—has been upheld in the almost thirty years since its ruling (Olivas, 2012, p. 33). The *Plyler* justices defend the idea that one of education's many functions in society is serving as a ladder for social

mobility. My research demonstrates that for COUP this is not the case. Yes, the ladder is there, but COUP have very few ways of actually utilizing it.

The Court reasoned that "the creation of a substantial 'shadow population' of illegal migrants…raises the specter of a permanent caste of unauthorized resident aliens, encouraged by some to remain here as a source of cheap labor …[which] presents most difficult problems for a Nation that prides itself on adherence to principles of equality under law" (*Plyler* 1982, 219). The Equal Protection Clause of the 14th Amendment was intended to work to abolish "all caste-based and invidious class-based legislation" (*Plyler* 1982, 213). If the court's goal was to in any way avoid the creation and continuation of a "shadow population", *Plyler* has not achieved this. Because of the circumstances unauthorized students face, educational inequality has flourished and a caste system has been established.

My intention is not to discuss how the case should have been decided in order to carry out some spirit of the ruling more robustly. Rather, I am arguing simply that in light of the circumstances in which unauthorized youth find themselves (i.e. their de facto access to social mobility via education), the precedent does not uphold the intentions the justices set out to defend (e.g. the abolition of caste system and educational equality). I will leave for those who are trained in legal thought predictions of better rulings.

III. De Facto Access to Education

The three contexts where we see restrictions on children of unauthorized parents' access to the social mobility education provides are (A) the school setting, (B) immigration enforcement, and (C) the home. While the Supreme Court traditionally limits its scope to access

to education, not ability to perform, I find it relevant to discuss not only COUP access to education, but also how able they are to perform. If the chief benefit of education is social mobility, what good is mere access? Access to free public education is obviously a step in the direction towards equity as compared with charging tuition or barring unauthorized students altogether. Being able to walk in the door of the school house, but not able to access any of the social mobility education is meant to provide, renders education a failure in terms of social mobility for COUP.

I argue, as many have previously, that it is in fact impossible to separate students' performance from their home lives.[1] Despite the current dialogue within education reform, it is well established that out-of-school factors account for more of the variability within test scores than in-school factors. Released in 1966, the "Equality of Education Opportunity," referred to simply as "the Coleman Report," established for the first time that variation in student test performance—a disparity that has since been termed the proverbial achievement gap—was greater within a given school than between schools (Coleman, 1966). In 1964, ten years after the issuance of Brown vs. Board of Education, as desegregation measures inched forward at a glacial pace, Congress commissioned a study meant to elucidate how black students in the United States were attending inferior schools and call to arms a broader and stronger desegregation effort (Rothstein, 2004). Samuel Coleman, a sociologist from Johns Hopkins University, was the head researcher tasked with creating this study. He went about measuring the quality of schools not by the input of resources, but as a breakthrough measure in sociology he looked at output—for

[1] Rothstein argues that only by taking into consideration and addressing these non-school factors will we make substantial headway in closing the achievement gap (Rothstein, 2008).Ravtich's emphasis, similarly, is on the threat posed to our education system by policymakers' current reliance on capitalistic models as their means to create reform. She points out that the broader causes of poverty are not addressed by the current privatization reform efforts. And, in fact, the backwards-incentive structure employed by the market-driven reform efforts often aggravates rather than ameliorates the effects of poverty (Ravitch, 2011).

the first time using student performance as a heuristic to measure school quality (Kiviat, 2000). This methodology was employed with the tacit assumption that test scores would be relatively homogenous within a given school. It was previously assumed that resource variation between schools accounted for the majority of the variation in achievement. Coleman's finding is often misinterpreted to suggest that "schools don't matter," and that interpretation obviously flies in the face of common sense (Rothstein, 2004).

While the Coleman Report does not suggest that school does not matter, it does demonstrate that out-of-school factors (e.g., parental citizenship, race, income, etc.) are better predictors of student achievement than any in-school factor, including teachers. One year before the Coleman Report's release, with the passage of the Elementary and Secondary Education Act (ESEA), Lyndon B. Johnson declared that "education is only valid in its passport from poverty, the only valid passport" (Johnson, 1965). This declaration, central to Johnson's Great Society initiative, suggests that only by bettering our schools and closing the achievement gap can we hope to ameliorate economic inequality. However, the Coleman Report tells us that this is not so. Student achievement is not primarily determined by school quality. Therefore, if school is not the primary determinant of student achievement, any honest attempt at closing the achievement gap must look to remedy out-of-school resource disparity. In other words, LBJ with his Great Society initiative assumed that in fixing the inequality in our schools we could fix the inequality in our society; Coleman yielded findings suggesting that we must fix societal inequality to fully remedy inequality in student achievement.

Since 1966, many education researchers have attempted to debunk the Coleman Report's counterintuitive claim, and to no avail. According to Richard Rothstein (2004), a Columbia University researcher focused on the impact of out-of-school factors on student achievement,

"scholarly efforts over four decades have consistently confirmed Coleman's core finding… [and] no analyst has been able to attribute less than two-thirds of the variation in achievement among schools to the family characteristics of their students." Coleman's findings have been and continue to be confirmed. Using federal longitudinal data, Meredith Phillips and others concluded that, "[e]ven though traditional measures of socioeconomic status account for no more than a third of the test score gap, our results show that a broader index of family and environment may explain up to 2/3rds of it" (Phillips et al. 1998).

More recently, another report reached similar conclusions. The report was conducted by three Johns Hopkins University professors, and titled "Lasting Consequences of the Summer Learning Gap" (Alexander et al. 2007). They found that more than half the difference between high and low SES youth by grade nine can be traced to the summer shortfall, in terms of learning, accumulated over the five years of elementary school. Specifically, in looking at Baltimore City School student achievement from first grade to age 22 they found that "it is low SES youth specifically whose out-of-school learning lags behind, this summer shortfall [in terms of summer learning] relative to better-off children contributes to the perpetuation of family advantage and disadvantage." The implications of this are substantial. Clearly this has implications for the linkage between student achievement and teacher performance ratings. Moreover, the study yet again demonstrates that learning is not solely predicted by in-school factors.

Children of unauthorized parents' precarious situation highlights the absurdity of separating the children's home-life issues from their school performance. This fact is especially true in the situation of unauthorized youth. It is impossible to separate, for example, an unauthorized student's fears that her parents, if not herself, will be deported because of her grade

on her spelling test. Put bluntly, when searching for an education policy recommendation for children of unauthorized parents in the K-12 setting, limiting the scope to the schoolhouse door turns out to be too restrictive.

A. School

This is not to say that school factors should not be addressed. We must address school factors. And within that realm there are six major factors that I argue contribute to the school's failure to provide social mobility to COUP. The (1) label of English Language Learner and the (2) added mismatch between the home culture and the school culture (i.e. cultural capital) lead to negative (3) tracking and an inherent lack of social mobility. In addition, three factors (i.e. (4) relationships, (5) parents, and (6) motivation) that could act as buffers to negative tracking do not for COUPs because of their unique circumstances as COUP. I discuss these six factors because they are the most unique and/or most uniquely detrimental to COUPs.

On a wide range of indicators children of unauthorized parents perform poorly. Some of these indicators are achievement tests, grades (Gandara & Contreras, 2009), dropout rates (Orfield & Lee, 2006) and higher education attainment. In 2009, approximately 45% of unauthorized immigrants report attending college or having attended college, as opposed to 76% of the legal resident counterparts (Lopez, 2009). The parents' documentation status has been shown by a multitude of studies to be correlated with student educational attainment. Bean and colleagues found that parental legalization added about a year and a half to the amount of schooling students completed (Bean et al., 2011). There is some variation in findings regarding which parent's (i.e. mother vs. father) naturalization is most predictive of greater educational attainment for the child (see, for instance, Bean et al. 2006 in which mother's status is most predictive vs. Bean et al. 2011, where father's status is most predictive). However, research has

consistently found that unauthorized parental status has the effect of lowering educational attainment on the part of the child. Conversely, parental legalization leads to an increase in children's educational attainment.

English Language Learners

Whether the label English Language Learner (ELL) was intended to have negative consequences for the students who are given it is debatable. However, in practice there is a plethora of evidence that the label ELL is in fact correlated with negative outcomes for school performance and thus less social mobility. ELLs are consistently mentioned as one of the most at risk groups of students in America, along with ethnic minorities and poor students. ELLs "lag behind whites, blacks, and Hispanics by almost every academic measure" (Suarez-Orozco, Louie, Suro, 2011, p. 166). English language learners (ELLs), the majority of whom are children of immigrants, are the fastest growing student population in the US (Calderon et al., 2011). For ELLs, segregation is seen along lines of language, which creates serious tensions in the most progressive (along integrationist lines) schools. Isolating ELLs certainly does not advance assimilation efforts (Olsen, 2008); it further helps to create a caste system and the stagnation of social mobility for ELLs and, by proxy, children of unauthorized parents.

Lau et al. v. Nichols et al. established the requirement, on the part of the schools, to teach in meaningful ways to students with limited English proficiency (*Lau et al.* 1974). If schools do nothing to assist ELLs to access the material taught, they are providing an unequal education on the basis of language. In many ways, this case established language as a proxy for national origin. National origin is a protected class, and therefore if schools are discriminating on the basis of language (read: national origin), they are violating the 14th Amendment (*Lau et al* 1974).

Even though *Lau et al.* established the requirement for ELLs to be taught in a manner in which they can access the material, controversy around *how* to do this has persisted. Teaching English as a second language generally falls into two distinct categories: bilingualism and structured English immersion. The battle between the two diametrically opposed camps has raged fiercely over the past few decades. Bilingualism can be defined as using the child's native language in addition to English as a language of instruction (Slavin, Madden, Calderon, Chamberlain, & Hennessy, 2011) In other words, English is taught in a mixture of English and the native language with a slow progression towards utilizing more English. Structured English immersion is when "instruction is in the second language [e.g. English]…but the immersion teacher understands the home language and students can address the teacher in the home language; the immersion teacher however replies only in the second language." Put differently, "Structured immersion differs from bilingual instruction in that the home language is never spoken by the teacher and subject area instruction is given in the second language from the beginning" (Baker & Kanter, 1986, p. 5).

Much of the literature on teaching a second language to children of immigrants suggests that bilingualism is the superior approach (Willig 1985; Cummins 1991 & 1992; Greene 1998; Slavin and Cheung 2003; Rolstad, Mahoney, & Glass 2005). A slow process that combines learning the culture and language of the receiving society with the conservation of parental languages and elements of their culture has been demonstrated to yield the best adaptation outcomes for the second generation (Rumbaut and Portes 2001). As we will see below, for children of unauthorized immigrants especially, there is often a chasm between the home culture and the school culture in terms of class, race, and communication styles. By abruptly and systematically denying the student's home language, schools greatly devalue the children's home

culture. There are costly implications for students' self-esteem, establishment of a sense of self, and ultimately for their performance when the school environment marginalizes students' home culture. Additionally, previous studies based on the Children of Immigrants Longitudinal Study demonstrate that fluent bilingualism is significantly associated with positive outcomes in late adolescence, including higher educational aspiration, school grades, self-esteem, and lesser intergenerational conflict (Portes and Rumbaut 2001, chps. 6, 9; Portes and Rumbaut 2006, ch. 7).

With this knowledge of the immense benefits bilingualism can provide for students, the recent attacks on bilingual education are especially worrying. In Massachusetts (Chandrasekhar, 2003), Arizona (Ryan, 2002), and California (Johnson & Martinez, 2000) substantial efforts were mounted to demolish bilingual education. In addition, the dismantling of bilingual education in California, Massachusetts, and Arizona can broadly be seen as a symptom of what Maria Pablon Lopez calls the "war against non-citizens" (p. 1375) or "the immigration crisis" (Lopez 2005, p. 1374).

Cultural Capital

Cultural capital is a determinant of school performance for not only COUP, but all students, more than most other factors discussed in the school section. *Cultural capital*, a sociological construct proposed by Pierre Bourdieu in 1977, is "instruments for the appropriation of symbolic wealth socially designated as worthy of being sought and possessed" (Bourdieu, 1977, p. 487-511). Stated differently cultural capital is "proficiency in and familiarity with dominant cultural codes and practices for example, linguistic styles, aesthetic preferences, [and] styles of interaction" (Aschaffenburg & Maas 1997, p. 573). Theoretically, public education is

meant to abolish the class system by rewarding on the basis of effort (i.e. meritocracy) not class position. This theory is more myth than reality.

Despite Mann's declaration and American ideals of meritocracy, Bourdieu (1977) argues that cultural capital is not simply a reflection of class position, but rather is utilized by the school to ultimately reproduce class position. This means, then, that differences in cultural capital and related class position are actually reproduced over the course of an educational career rather than equalized. For Bourdieu this reproduction is far from a coincidence, rather "schools act as institutional agents that reward the cultural capital of the dominant classes and devalue those of the working classes and the poor" (Noguera & Wing 2006, p.51). Thus, much to Horace Mann's chagrin, schools are agents that reproduce, rather than challenge, class order.

In *Other People's Children*, Lisa Delpit expands upon the concept of cultural capital. She outlines the culture of power that is present in schools. The majority of teachers come from a white middle class background and this percentage is growing (Delpit 1995, 105). An increasing number of these white middle class teachers were raised in the suburbs isolated from their poor and nonwhite urban counterparts (Freedman 1999, p. 23). Increasingly then, teachers are educating children their culture has prepared them to see as "other people's children." In this context we see that the great majority of children are immersed in a system that not only denies and marginalizes their culture, but also "pathologizes the contributions of people of color, especially those who cannot or will not embrace white middle class culture" (Freedman 1999, p. 23). The lower levels of academic achievement exhibited by children of unauthorized immigrants can partially be explained by the fact that schools not only systematically devalue but actually penalize children's cultural capital, which differs from white middle class cultural capital. Keep in mind this misfit between the home and school culture and the resulting

marginalization of members of the non-dominant class of society as we move onto the next three factors (i.e. tracking, parents, and relationships), which are greatly influenced by cultural capital.

Tracking

Another major factor that affects the academic performance and resulting access to social mobility via education of children of unauthorized parents is tracking. Proponents of tracking argue that differences in student ability, performance, and career preparation all demand differences in school curriculum tracking (Oakes, 1985; Schafer and Olexa, 1971), and that tracking leads to more effective and efficient teaching and learning (Hallinan, 1994; Kilgore, 1991). However, tracking has consistently shown to have formidable deleterious effects on negatively[2] tracked students (Oakes, 1985). There is more of a focus on behavior issues in negatively tracked classes at the expense of academic achievement (Murphy and Hallinger, 1989; Schwartz 1981). Teachers are more likely to encourage and advance academic achievement in higher tracked classrooms (Oakes 1985). Additionally teachers demand little of themselves as educators and have very low expectations for their students (Schwartz 1981). One of the original impetuses for tracking was the preparation of people for a wide variety of jobs. As Bourdieu argued, however, schools utilize students' current place in society (i.e. cultural capital) when sorting, thus replicating the current class system.

Relationships

Positive relationships with members of the dominant class and/or those in power (e.g., peers from empowered backgrounds or teachers/school authority figures) can assuage the many negative effects of having cultural capital which is not valued by the school. Interacting with those in power provides access to the forms of cultural capital valued by the school, which in

[2] Gonzales refers to lower tracked students as "negatively tracked" (2010). I utilize Gonzales's terminology here when discussing low tracked students.

turn often leads to a better relationship with the school, more positive tracking, and thus more social mobility. The relevant relationships discussed here are relationships to the students' peers and/or the school.

Children of unauthorized parents are also acutely susceptible to the negative impacts of tracking. Due to their parents' cultural capital, which is misaligned with the school's cultural capital, children of unauthorized parents are uniquely and heavily dependent on the relationships they form with teachers and peers. "Much of the research finds that student success and failure is often determined by their relative ability to form positive relationships with school personnel and high achieving peers" (Gonzales 2010, p. 472). Schools can assist student achievement by structuring students' peer relationships. Mixing social classes can be especially useful to COUP, rather than isolating cultural classes with tracking (Gibson, Gandara, & Peterson-Koyama, 2004). For instance, peers in a positively tracked classroom are more likely to have parents with college degrees and as a result college-prep knowledge. Therefore, by restricting children of unauthorized parents from interacting with peers who will, by and large, have cultural capital that is more valued and rewarded by the school, children of unauthorized parents are cut off from yet another venue of gaining access to that valuable cultural capital, and are ultimately also cut off from opportunities to achieve.

Finding reliable knowledge is particularly challenging for unauthorized parents. Because they may be afraid that people will discover their unauthorized status, unauthorized parents are particularly dependent on informal information sources (e.g. family members, friends, parents, teachers, school personnel, etc.). Similar to tracking, a student's relationship to the school (i.e. teacher, school personnel, counselors, and assistance programs) can be of crucial importance to children of unauthorized parents because of the access to cultural capital that these relationships

can provide. Because of the associated effects of the parents' documentation status, school personnel become critical in helping children of unauthorized parents navigate the school environment successfully.

Positive relationships with school personnel have been shown to have especially helpful effects for children of unauthorized parents. Much of this is because teacher-based forms of social capital lower the likelihood of dropping out and assist students from socially disadvantaged backgrounds (Gonzales 2010, 472). Not surprisingly, trust in authority (i.e. school counselors, teachers, school personnel) is highly correlated with high achieving students (Gonzales, 2010). Portes also found that among disadvantaged children of immigrants a "really significant other" in adolescence was correlated with high educational attainment (Portes and Fernandez-Kelly, 2008, p. 27). This person can be the teacher or counselor, among many other non-school affiliates (e.g. sibling or friend of the family). The importance of positive relationships with school counselors and teachers has been supported by many studies (De Leon, 2005; Bernard, 1995). Portes and Fernandez-Kelly (2008) also found that special assistance programs (e.g. educational assistance or mentoring, etc.) for minority students can be especially effective in supporting disadvantaged children of immigrants achieve academically; these programs are particularly useful for getting children of immigrants to college.

Parents

Unauthorized parents' low levels of education also contribute to negative tracking and limited access to social mobility through education. There is a strongly established correlation between student achievement and parental education levels: "One of the most consistent findings in developmental literature is the positive association between parental education and children's ability to do well in school" (Suarez-Orozco et al., 2008, p. 37). The more educated parents are

the more prepared they are to direct children in "studying, accessing, and making meaning of educational information" (Suarez-Orozco et al., 2011, p. 175). As we saw with our discussion of Bourdieu, Delpit, and others, a large portion of this is attributable to the way the school measures ability or intelligence; that is, through a lens of cultural capital that creates biases against non-dominant class members.

Despite this bias, parental educational attainment is still strongly correlated with student achievement and "unauthorized adults are much less educated than others" (Passel 2005, 23). Not surprisingly, there is a positive correlation between parental cultural capital and student achievement. The greater the parents' cultural capital from their home country, the more likely the child of the immigrant will succeed academically.

The reason for this correlation is twofold. First, the importance of a "respectable" past acts as motivation to "restore family pride and status" (Portes and Fernandez Kelly, 2008, p. 29). Let's take an example from Portes and Fernandez-Kelly's study: a mother *was* an educated middle class businesswoman in Nicaragua, her home country. However, as an unauthorized immigrant in America she cleans houses and gets paid under the table. The mother "repeat[ed] stories of who they or their ancestors 'really were' as a way to sustain dignity despite present circumstances" to her son (Portes and Fernandez-Kelly, 2008, p. 29). The son internalized a sense of self that was separate from, and bordering on opposition to, his impoverished classmates. The second reason for the correlation between parental cultural capital and high achievement is the "know-how that immigrants who come from upper or middle classes possess" (Portes and Fernandez Kelly 2008, 29). This parental pressure placed on their children to achieve might be formidable, and in some circumstances helps students achieve, but too often "parents verbally stress the importance of an education...[but] are...unequipped with the skills to provide

academic support" (Abrego 2006, 219). This makes the student's relationship with school personnel and peers especially pertinent.

Parenting style greatly affects children of unauthorized parent's ability to achieve. Authoritarian parenting[3] is correlated with high achieving disadvantaged children of immigrants (Portes and Fernandez-Kelly, 2008). Authoritarian parents serve to isolate students from some of the dangers of the poverty in which they live (e.g. gangs, drugs, violence, etc.) while simultaneously keeping the children in touch with their cultural roots. So, while in some environments (i.e. suburban or otherwise safer environments) the freedom to explore and tolerant parental attitudes may work, this same tolerance fails in urban poverty.

Parental involvement is also a determinant of student achievement. One study found that in New York City, where more than 60% of students are children of immigrants (NYC Coalition for Educational Justice, 2009), 80% of immigrant parents want to be more involved in parent association/school leadership opportunities (Advocates for Children of NY 2009, p. 19). However, there are formidable barriers to unauthorized parents' involvement. Schools are often unwelcoming environments for unauthorized parents. For instance, school safety officers who ask parents for ID pose significant barriers to a population already living in constant fear (Advocates for Children of NY, 2009). The same study additionally found that school personnel often discriminate on the basis of language, race, and national origin; for instance, a guidance counselor told a student "she would not be able to go to college or get a decent job because [her parents] were unauthorized" (Advocates for Children of NY, 2009, p. 14).

Additionally, language barriers are still often insurmountable obstacles for unauthorized parents' involvement in school (Hill and Torres, 2010, p. 99). The NYC study mentioned above

[3] Authoritarian parents are defined as "stern parental figures who control…, if not suppress…, extensive external contacts and who [seek] to preserve the cultural and linguistic traditions in which they themselves were reared" (Portes & Fernandez-Kelly, 2008, p. 24)

found that 66% of parents reported never or only sometimes being able to communicate with their child's teacher in their home language (Advocates for Children of NY 2009, p. 15). It has been shown that the a substantial indicator of academic success is determined by the degree to which a student's language and culture are incorporated into the school's program (Cummins, in Weis and Fine 1986, p. 108). Parents' inability to effectively communicate with their child's teacher is a clear indication of a failure to integrate the student's language and culture into the school program.

Motivation

The final factor that leads to a lack of social mobility via education is student motivation. This is one area where the differences in students' documentation status matter. It is useful here to tease out authorized from unauthorized students, as opposed to lumping them all into the larger group (i.e. children of unauthorized parents). For authorized youth one of the bigger motivational factors is "the fear of remaining in the same class position as their parents" (Portes & Fernandez Kelly 2008, p. 31). This particular factor is more predictive for children who are actually unauthorized themselves.

Unauthorized students, more so than authorized students, find it difficult to stay motivated in school because for them the likelihood of attending college is so low. Furthermore, the likelihood that undocumented students will put their education to use in any job they obtain is limited. This is especially apparent when the student has family members (especially siblings or cousins) who have already faced the usually insurmountable setbacks of attending college as an unauthorized student (Abrego, 2007, p.219). This finding is supported by demographic trends of lower education attainment in unauthorized populations (Passel, 2005, p. 22).

An unauthorized student's knowledge that he or she will eventually be excluded from the chief benefit of education, a job, can lead to a lack of motivation or even school dropout (Abrego 2007, p. 223). It has been found that educational aspiration is positively correlated with documentation status (Menjivar 2008). Unauthorized students, most of whom have spent the majority of their life in the United States, attend public schools where the American values of meritocracy and upward mobility through hard work are instilled in them. Upon learning of their inaccessibility to these internalized American values, the decline in motivation is especially acute. Gonzales has done extensive research on the decline in motivation for unauthorized students upon learning of their unauthorized status (2010, 2011). Thus, the limitation of *Plyler* to school age children renders its vitality greatly weakened. This fleeting right to education is analogous to saying to an African American at the height of Jim Crow, in 1910, you can vote but only until 1912. What good are rights if transient? Yes, being able to vote in 1910 and accessing K-12 public education is better than being barred from voting or receiving free public education. However, when a right is transient the power, utility, and worth of that right is greatly diminished. Some have in fact argued that the propositions that *Plyler* stands for (i.e. "an abolition of castes and an affirmation of equality") are "dead letters in the face of the reality of the undocumented student" (Lopez, 2005, p. 1377). I am arguing, however, that its vitality has been greatly diminished, but not to the point of worthlessness.

We have seen that a multitude of factors (i.e. English language learners, unvalued cultural capital, negative tracking, a lack of significant relationships, uneducated parents, and a decline of motivation) at best greatly hinder the opportunity to social mobility the justices in *Plyler* were trying to preserve. At worst and increasingly frequently, these factors establish a caste system that renders education as the great reproducer of class.

B. Immigration Enforcement Climate

The immigration enforcement climate is where most of the policies that ultimately reduce social mobility options for COUP originate. In other words, the policies discussed in this section come to life in the school and home in very negative ways. Comprehensive immigration reform failed in 2005-06. In the wake of this failure, national and state governments have implemented laws and policies that act to not only criminalize immigration and limit the rights of immigrants (especially unauthorized immigrants), but also to exclude them from society entirely. These exclusionary practices and the criminalizing of immigration have been enacted and/or enforced by executive and state level governments, but Congress has additionally been complicit in criminalizing immigration law. The two contexts discussed here where immigration enforcement plays out are the national level (i.e. legislative/executive branch) and the state level. As we will see, the separation between the two is increasingly blurred. The final discussion in this section uses migration theory to elucidate the broader forces at play in the domestic "immigration crisis" that are unaffected by current enforcement strategies.

This broader enforcement climate is relevant to access to education for children of unauthorized parents because some of the policies discussed here are direct challenges to *Plyler*, and all restrict, the parent's rights, and by extension, children's rights as well. These restrictionist policies affect children's access to education and its main benefit—social mobility. Even though for policy purposes the department of education, homeland security, and social services are separate silos, their effects on the lives of children of unauthorized parents are in fact inseparable. Children of unauthorized find themselves at the intersection of these three agencies, and examining their lived experiences shows how policy contradictions arise or present dire costs for these children's access to social mobility via education.

National Resistance to Immigrants' Rights

Nativism affects COUP social mobility via education because the more restrictive and exclusionary policies are, the more fearful unauthorized parents will be. Nativism is defined as the fear of foreigners (Hirschman, 2000, p. 7222). As a result, they will be less likely to connect with their children's school and other agencies meant to assist struggling families. Parents are often the avenue through which children's rights are upheld. Three quarters of these children are in fact citizens, so this is a reduction of citizen rights. The more fearful parents are of government agencies the less able or willing they will be to enforce and protect their children's rights. All of the laws and policies discussed in this section (i.e. PRWORA, IIRIRA/287(g), and HB 4437) are restrictionist in nature. Although none of these policies are direct challenges to *Plyler*, they are demonstrative of a shift in restrictionist tactics from challenging *Plyler* and more broadly, COUP access to social mobility via education directly, to simply making it harder for unauthorized parents to remain in the country (Olivas 2011, p. 45). There are many more examples of recent restrictionist national laws or policies (e.g. the failed Gallegly Amendment it IIRIRA, Secure Communities etc.). I choose to discuss only these three here because they have the greatest consequences for children of unauthorized parents.

The first example of restrictionist policies is the PRWORA (Personal Responsibility and Work Opportunity Reconciliation Act) of 1996. PRWORA is commonly referred to as the welfare reform bill, which "explicitly barred all unauthorized immigrants from access to TANF [Temporary Aid for Needy Families] and non-emergency Medicaid" (Wessler 2011, 18). In the wake of the 1996 welfare reform law there was a sharp decline in the use of public benefits programs (Fix & Passel, 2002). The effect of the limiting of public benefits on the child's environment will be discussed below. For this section the important part of the PROWRA is that

it restricts immigrant rights and has no way of safeguarding citizen children of unauthorized parents' rights against unfounded restrictions. Ultimately these policies limit COUP ability to perform and engage at school. This is because the more restrictive and exclusionary policies are, the more fearful unauthorized parents will be and the less likely they will be to connect with their children's school and other agencies meant to assist struggling families.

The next policy discussed is not only restrictionist in nature, it also exemplifies *intransigent nativism*. Portes and Rumbaut define 'intransigent nativism' as policies that "seek...to stop most immigration, expel unauthorized immigrants, and put remaining immigrants on notice that they occupy an inferior position, ineligible for the privileges of citizens" (2006, p. 346). The Sensenbrenner Bill (HR 4437), named after its author Representative James Sensenbrenner (R-Colorado). The Sensenbrenner Bill was proposed in December of 2005, and would have, among other things, created a "700-mile fence along the U.S.-Mexico border; increase[d] the penalties for employing unauthorized immigrants; and [made] it a felony to house unauthorized immigrants, with a punishment of no less than three years in prison plus fines. H.R. 4437 also [would have made] any unlawful presence in the U.S.—even a visa overstay—a felony, and expand[ed] the government's ability to lock up indefinitely immigrants who cannot be deported"(Civil Rights Monitor, 2006). The Sensenbrenner Bill took a giant step towards aggressively excluding unauthorized people from American society. The Sensenbrenner Bill ultimately failed, partially, some would argue, due to the massive protests by immigration rights advocates around the country (Khoulish 2010, p. 145-151).

HR 4437 and especially PRWORA are more typical examples of Congress's restrictive turn on immigration. However, with the Illegal Immigrant Reform and Immigrant Responsibility Act 1996 (IIRIRA), we see an example of a trend towards congressional action blurring with

executive action. Since approximately1986 the intersection of immigration and criminal law has been increasing (Stumpf, 2012). This phenomenon of the criminalizing of immigration has been coined *crimmigration* (Stumpf, 2006).

One way immigration law has been criminalized is that Congress has expanded crime-based grounds for deportation. In 1996 the Illegal Immigrant Reform and Immigrant Responsibility Act—changed the definition of aggravated felonies to encompass a broad range of minor and non-violent offenses (Baum, Jones, & Barry, 2010, p. 3). Effectively this means that more people post-IIRIRA are being deported for less violent crimes, sometimes years after the crime was committed. IIRIRA marks a decisive "departure from immigration policies in the post-WWII era which ...embraced the values of family reunification" (Hagan & Rodriguez, 2004, p. 328-29) toward the criminalization of immigration.

287(g) was added to the Immigration and Nationality Act by the IIRIRA. The "Immigration Customs and Enforcement's (ICE) 287(g) program…authorizes federal officials to enter into written agreements with state and local law enforcement agencies to carry out the functions of immigration officers, including investigation, apprehension, and detention" (Khashu, 2009, p. xi). Essentially 287(g) deputizes local and state police to enforce federal immigration law (Koulish, 2010, p. 135; Chaudry & Fortuny, 2010, p. 3). As we can see from such programs as 287(g), "[C]rimmigration law was a way of domesticating immigration law. The federal government was essentially shifting the focus of enforcement towards the interior daily life of the country...making it easier for states to see themselves...as immigration regulators" (Stumpf, 2012, 17:05). In counties where police signed 287(g) agreements with ICE, children in foster care were, on average, about 29% more likely to have a detained or deported parent than in other counties (Wessler, 2011, p. 4). The effects of increased detention and

deportation on children of unauthorized immigrants are severe and are discussed later in this paper. The important thing to note here is that claims by U.S. Immigration and Customs Enforcement that it focuses on deporting the "worst of the worst" (Prabucki, 2011; Baum et al. 2010, p. 15) criminal offenders are false. In fact "68 percent of legal permanent residents are deported for relatively minor, non-violent offenses" (Baum, Jones, & Barry, 2010, p. 3-4). Not only are ICE's claims false, but the consequences of these policies for families touched by unauthorized status are dire. The health and related academic achievement effects of tearing apart families is discussed in the Home section.

State Resistance to Immigrants' Rights

None of the examples in this paper (i.e. PRWORA, IIRIRA/287(g), and HB 4437) of federal challenges to COUP access to education culminated in a direct challenge to *Plyler*. The last serious direct congressional challenge to *Plyler* was with the failed Gallegly amendment to IIRIRA in 1996 (Olivas 2011). After a federal failure at restrictionist policies, states became the new battleground. While we still do not see significant challenges to *Plyler* at the federal level, we are seeing state-level challenges to *Plyler*. Again, these state level challenges affect COUP because they affect unauthorized parents. In the context of mixed status families, affecting unauthorized parents will most certainly affect their children.

Not surprisingly, from Arizona to Nebraska and from California to New Hampshire we have seen a surge in immigration related state legislation. State lawmakers and voters argue that the impetus for such state legislation is the federal government's failure to reform or enforce current immigration policy. From 2005-2011 total immigration laws and resolutions increased by 7.5 times. In 2005 there were 39 total laws and resolutions and in 2011 there were 306 (NCSL, 2012). Scholars have discussed at length the danger in this blurring of the separation of powers

(e.g. Olivas, 2007). Take, for instance, the highly publicized and debated HB 1070, which was challenged and largely overturned in *Arizona v. United States* (2012). In *Arizona v. United States* the Supreme Court wrestled with preemption in immigration enforcement. It appears with *Arizona v. United States* that the judiciary may be less supportive of the federal government's partnership with the states. (After *Arizona*, 2012). I discuss Proposition 187 and Alabama's HB 56 in particular because, in conjunction with *Plyler*, they represent the three most aggressive attacks on unauthorized school children's access to public education (Easton, 2013, p. 323).

Let's begin our discussion of state resistance to immigrants' rights with Prop 187 (CA), which was proposed in 1994. Had it passed it would have denied virtually all state-funded benefits, including public education, to unauthorized people (Olivas 2011, p. 32). Proponents of Prop 187 defended it as a *slightly* different approach to the same problem the *Plyler* court was responding to (i.e. the federal government's failure to properly police the country's borders). Based primarily on *Plyler*, federal courts overturned Prop 187, and reaffirmed *Plyler* (Lopez 2005, p. 1396-97). But the mere fact that the proposition passed with 60% approval (Olivas 2011, p. 32) is demonstrative of the popular public support against what *Plyler* stands for and the anti-immigrant climate that children of unauthorized parents live in. These attacks on *Plyler* reveal "a deep-seated resentment towards unauthorized immigrants" (Lopez 2005, p. 1398) mostly due to the perceived high cost that states bear when educating unauthorized immigrants' children even though this argument was rejected by the *Plyler* court.

The next and final example of state resistance discussed here is H.B. 56, the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. H.B. 56 is discussed because it was widely considered the strictest immigration state law proposed (Reuters, 2011; Bauer, 2012; Easton, 2013). Section 28 of HB 56 "mandated that personnel at all public elementary and

secondary schools in Alabama verify the immigration status of public school children at the time of enrollment (Easton, 2012, p. 313). Unlike Prop 187, H.B. 56 did not explicitly deny access to public education upon the discovery of a student's unauthorized status. However, as many have noted (e.g. Robertson, 2011) such restrictionist policies and laws greatly chill unauthorized students' access to education, and especially their access to social mobility via education.

Here and in most of the proceeding attacks on *Plyler* the main argument mounted is the economic burden argument. The *Plyler* court reasoned that there was "no evidence on the record suggesting that illegal entrants impose any significant burden on the State's economy" (*Plyler* 1982, 228). Despite *Plyler*'s clear precedent some argue that it is no longer good law because "the ever-growing illegal immigrant population has consequences in the United States today that were unforeseeable in 1982" (Butler, 1997, p. 1485).

This attack on *Plyler* is perpetuated by proponents of the Alabama law who argue that they are merely attempting to document the cost of educating unauthorized students so that they can overturn *Plyler* (Robertson 2011). One such example of a proponent of such laws as H.B. 56 is the Immigration Reform Law Institute (i.e. IRLI). IRLI is a public interest legal education and advocacy organization that was integral in passing H.B. 56. IRLI's purpose is "to control…illegal immigration and reduce…legal immigration to levels consistent with the national interest" and works towards designing and promoting "state and local legislation that enables communities to effectively address problems resulting from illegal immigration" (ILRI, 2013). IRLI's goal is that H.B. 56-what IRLI described as the "most advanced omnibus state immigration enforcement legislation in U.S. history"— will become a touchstone for other states and Congress in overhauling immigration reform (ILRI, 2012). IRLI is but one example of the increasingly popular anti-immigrant activist organizations (Doty 2009; Barry 2005). This public

support of nativist policies is certainly one of the catalysts for the sustained production of governmental—be it national, state, or local—nativist policies, such as H.B. 56.

H.B. 56's legality was immediately challenged. In Texas, California, and Arizona school officials verify students' *residency*, but not their *immigration* or *citizenship* status (Education Week, 2011). A federal court put a temporary hold on some of the law's more controversial provisions—including the issue of checking the immigration status of children (Robertson, 2011)—but an Alabama district judge allowed some others to go into effect (Anti-Illegal Immigration Laws In States, 2012). The impact of this law was quickly seen in schools. Schools saw a dramatic spike in absenteeism—absentee rates statewide tripled (Easton 2013, p. 322)—of Hispanic students immediately following enactment of section 28 of the law, which the Southern Poverty Law Center said, "virtually guarantees racial profiling, discrimination and harassment against all Latinos in Alabama" (Bauer, 2012, p. 3).

One principal noted that the effects on student achievement were substantial. "That time out of the classroom is huge. So it's kind of a ripple effect from there. The ripple starts with students falling behind. Then they may not do as well on standardized tests required under the federal No Child Left Behind Law. When those scores are reported, every category of student has to advance to meet the goals. One of Wilson's [i.e. the principal's] categories is Hispanic students. That could tip the balance… Failing school. It doesn't say missed one goal. It says failing school" (Yeager, 2011). The Southern Poverty Law Center has also documented many associated negative effects on Latinos as a result of this law. The most poignant example of the racist rhetoric which was the impetus for such laws is the House sponsor's (Rep. Micky Hammon) conflation of "Hispanic" with "illegal immigrant" during the legislative debate (Alabama Fair Housing center, et al. v. Julie Magee, et al., 2011, p. 80-81).

This racist rhetoric is exemplary of the broader motives behind restrictionist/nativist policies. Nativist policies aimed at unauthorized people are rooted in more than just citizenship debates. Nativist policies are rooted in racism, classism, and more generally, xenophobia (Khoulish 2010, p. 19). By masking racism, classism, and xenophobia as nativism, we allow these underlying motives to persist and thus they spread to affect not only those without papers, but anyone who looks like those without papers. A threat to an unauthorized person is a threat to more than just this discrete class. In fact, threats to and liminality of non-citizens affect citizens and our democracy in profound ways:

> "The formalistic exclusion of deportable noncitizens from our rich traditions of constitutional discourse also risks the creation of a caste from a 'discrete and insular minority.' It facilitates irrational discrimination against the noncitizens who live, work, pay taxes, raise children and participate in communities alongside citizens every day. And practices that take root against noncitizens may provide models for actions against citizens" (Kanstroom 2007, p. 18).

The Alabama law was eventually overturned. The court determined "section 28's facially neutral data collection and reporting methods substantially interfered with unauthorized students' access to a primary and secondary public education in Alabama without serving any substantial state interest that might warrant the interference" (Easton 2013, p. 323). The Supreme Court decided not to hear a case against H.B. 56, which means that the lower court's decision to invalidate section 28—where the law allowed teachers to ask about their immigration status—will be upheld. H.B. 56 exemplifies the ways these new state laws increasingly focus on a diverse set of enforcement grounds. Far too often this leads to the school becoming the battleground for immigration enforcement or to draconian enforcement schemes external to the school, impinging upon the ability of COUP to perform.

Migration Theory

The previous two sections on national and state resistance to immigrants' rights outline a variety of policies that culminate in a hostile environment for immigrants and negatively affect COUP ability to perform academically. These policies are passed in an attempt to address clandestine migration. To better understand if these policy *solutions* that ultimately limit COUP ability to perform at school are in fact effective, an understanding of clandestine migration is necessary. By examining migration theory we can correct some of the misconceptions (Capps and Fix 2005) that guide the policies limiting COUP's ability to perform in school.

If previous sections focused on the trees, in this section we take a step back and look at the forest. In the last two sections I examined national and state policies in response to international migration. Here I will briefly outline international forces at play. There are two major forces in clandestine migration, neither of which is affected by penalizing unauthorized immigrants. There are push forces (i.e. poverty and low standard of living in sending country) and pull forces (i.e. relatively high wages offered by American employers). See the diagram below (Portes & DeWind 2007, 16).

Figure 1: Immigration Border Control and its Unexpected Consequences

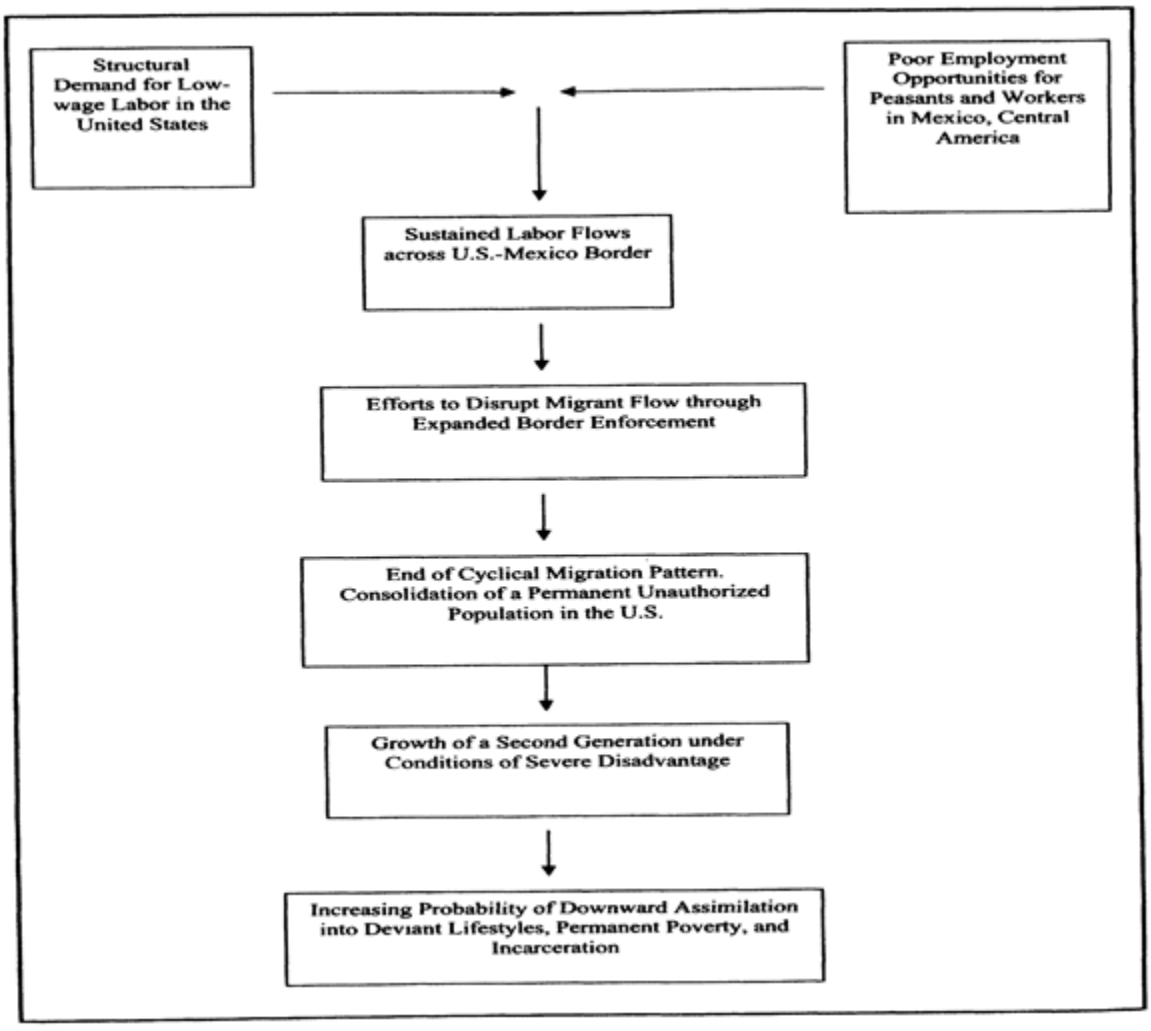

Figure 1.Source: Portes & DeWind 2007, 16

It is evident with this diagram, penalizing the migrants themselves, or in the case this paper examines, the children of the migrants, leaves the root causes of the problem (i.e., poverty in sending country and comparatively high wages in America) untouched. It is synonymous to treating a stroke patient's slurred words or headache rather than treating the stroke itself. Some would argue that if we make living conditions in America unbearable we will deter unauthorized immigrants from coming—this logic is utilized by the state of Texas in *Plyler*. The trouble with this overly simplistic "solution" is that we would have to make life in America worse than life in their sometimes war-torn, desperately impoverished home country. In other words we would have to not only replicate, but make worse the conditions in America than the societies from which these immigrants originate. This approach also "clash[es] directly with the structural demands of the U.S. economy" (Portes 2007, 275). Mirroring the fear and anguish citizens face in countries ridden with drug trafficking, organized crime, and corrupt governments seems an ineffective policy. Not only do these national and state policies restrict children of unauthorized parents' access to social mobility via education, when one looks at the policies through the lens of migration theory it is evident that the policies do not address the root of the problem.

The departure from family reunification immigration policies towards crimmigration, the blurring of the lines between national and state enforcement, and the increasingly number of restrictionist laws combine to create a situation in which unauthorized parents and their children have an increasingly difficult time participating in American society—including accessing education and social mobility.

C. Home

As we saw earlier, immigration enforcement has become increasingly restrictive with a growing focus on enforcement in the country's interior, including policies that target schools. Theoretically, with *Plyler* the Supreme Court maintained that the sanctity of schools was to be left out of immigration enforcement. *Plyler's* reasoning was partially based upon upholding the social mobility schools provide to our society. However, one's ability to access the ladder for social mobility that schools symbolize is only as great as one's ability to engage and perform at school. If a student is struggling with the most basic of needs —what Maslow referred to as physiological needs—he or she is never going to be able to access any of the higher order needs, let alone the top one (i.e. self-actualization), which is where learning occurs (Maslow, 1943). What happens at home as a result of immigration enforcement is inseparable from the social mobility that school provides. We see policies enacted at the government level play out at home. The home factors, which I argue are indicative of and partially to blame for children of unauthorized parents' limited access to social mobility via education, are poverty, living conditions, family separation, health, and public assistance.

Figure 2: Maslow's Hierarchy of Needs

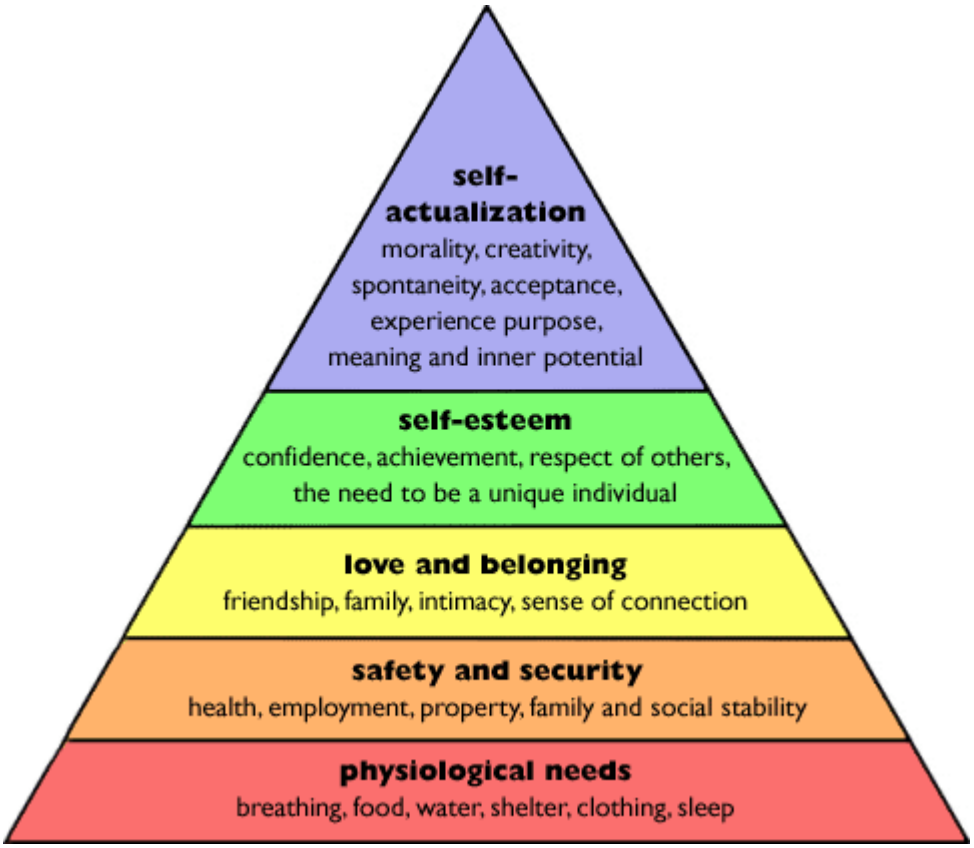

Figure 2. Source: Maslow 1943, p. 370

Poverty

Poverty leads to reduced access to social mobility through education because the needs outlined in the bottom two levels of Maslow's hierarchy (e.g. health, employment, property, family, social stability, food, water, shelter, clothing, sleep) are being challenged, thus making it harder to perform in school. Additionally, as we saw in our discussion of cultural capital, income/class are often predictors of tracking. Children of immigrants are disproportionately (40%) more likely to live in poverty compared to children of non-immigrant parents (Chaudry & Fortuny, 2010). This poverty exists for a multitude of reasons but two primarily: the poor conditions of clandestine work in the US and the impoverished nature of sending countries.

The working conditions for unauthorized workers in the US are notoriously horrid (Southern Poverty Law Center, 2013). Among other abuses, unauthorized workers are systematically paid far below the minimum wage, thus keeping them deeply impoverished. In addition to this, the debts owed from costly migrations to America (Yoshikawa 2011, p. 56) and obligations to family members dependent upon remittances add extra financial burden to these families (Menjivar 2008, p. 178). These debts are often owed directly to the smugglers, who frequently threaten unauthorized immigrants with violence (Yoshikawa 2011, p. 56), which adds to the stress and anxiety that will be discussed more in the health section below.

This financial burden –from debts owed, family obligations, and poverty due to their parents' jobs—forces many children of unauthorized parents to get after-school jobs. One study found that 60% of unauthorized seniors reported working between 16-40 hours after school or on the weekends (Oliverez, 2006). Another study finds that on average unauthorized students work 12 hours per week (Perez, 2009, p. 164). "The burden of work at an earlier age often impedes or stalls educational achievement" (Zhou et al., 2008, p. 58). One might mistakenly assume from these facts that unauthorized parents do not value their children's education, but rather the families' poverty forces them to require financial help from their children. In fact immigrants have been shown to place high value on the education of their children (Stanton Salazar, 2001, ch. 4).

Living Conditions

The living conditions of children of unauthorized parents are a challenge to academic success. Unauthorized parents are relatively young, low income, poor, less educated, and have larger households than non-immigrant households (Passel, 2011). For children of unauthorized parents home environments are often not conducive to homework because children frequently

must help care for other siblings and their homes are crowded—90% live in studio or single apartments where everyone shares a bedroom (Oliverez, 2006). Additionally, unauthorized parents move frequently. Eleven percent of unauthorized workers work in farming (Passel 2005, p. 29). It is likely that a majority of them are migrant farmworkers. For those who are migrant farmworkers frequent moves are associated with migrant work and many other destabilizing factors (Greene, 2003). Moreover, parents are often afraid to leave the house/apartment due to fear of deportation (Yoshikawa, 2011, p. 55).

Due to their legal status, in many states unauthorized people cannot obtain driver's licenses. In rural areas where public transportation is sparse, this poses significant barriers to parents' ability to provide for their child (Wessler, 2011, p. 20). Lack of transportation options also adds to these families' isolation, which contributes to mental health issues.

Crime is highly associated with immigrant destination enclaves in inner cities (Portes, 2007, p. 289). The oft repeated rhetoric of "dangerous illegals," founded more in nativist fears than in fact, hides the truth that unauthorized immigrants are actually less likely to commit crime than citizens and large influxes of immigration do not lead to large increases of crime rates (Immigration Policy Center, 2008). In fact, unauthorized immigrants are more likely to be the victims of crime, partially because their fear of deportation keeps them from reporting such crimes to police (Davis & Erez, 1998). The tightening of immigration enforcement often has the unintended consequence of forcing women and mothers to remain in abusive relationships for fear of reporting the abuse to the police and consequently being deported (Wessler 2011, 33).

Family Separation

In the event that a parent is placed in deportation proceedings, the effects of this on the children are severe and deeply challenge their ability to perform academically. The effects of

parental deportation on children's health will be discussed in the health section. Here I will discuss only the effects on family unity. Both immigration law and child welfare policy attempts to reunify families whenever possible (Wessler 2011, 5). However, the intersection of immigration enforcement and the child welfare systems has led to a situation in direct opposition to both systems' goals of family reunification. In fact, families are often torn apart for extended periods of time.

A report by the Applied Research Center found that "most child welfare departments lack systemic policies to keep families united when parents are detained or deported" and that as a result of the failed collaboration between immigration enforcement and the child welfare system, "at least 5,000 children" are now caught in foster care. In an interview about his report, Seth Wessler, author and principal investigator for the report, said, "Immigration detention effectively severs the critical line of communication that is necessary between families and the child welfare system" needed to keep families together (Wessler Report, 2011).

The greatest barrier to family reunification is if the parents are in detention or deportation proceedings, in which case the family must make the difficult decision of keeping the family intact and uprooting children from their familiar "cultural, social, and linguistic" environments to bring them back to their parents' sending country or separating the family and leaving the child with another caregiver (i.e. family member or friend) in the U.S. (Brabeck & Xu 2010, p. 344). These two decisions are also a best case scenario, because often parents simply lose track of where their children are within the child welfare system (Wessler, 2011). Financial hardship on the family members left behind has also been shown to follow in the wake of deportation (Kremer, Moccio, & Hammel, 2009).

Once the child has been separated from their parent(s) in deportation proceedings, reunification can be extremely difficult because "their families are subjected to particular and deep systemic barriers to reunification" (Wessler 2011, p. 17). These barriers include, but are not limited to: the tendency of child welfare departments barring reunification with parents who do not have driver's licenses; the tendency of child welfare departments to require "verifiable or legal work"; and the disproportionate poverty among unauthorized immigrants which cannot be dissuaded by public assistance programs (Wessler 2011, p. 20).

For example, a child welfare caseworker recalled a recent case in which an unauthorized mother was struggling to maintain custody of her children: "We reunified [initially] with her because there was no reason not to. But then once we placed we were caught in a situation where she could not get a babysitter because all her network is unauthorized and they would not be approved by our background check, she could not drive without a license and she could not get services… Not having papers was the number one barrier for her. This has nothing to do with this woman maliciously abusing or neglecting her children but it was a situation where we did not feel safe reunifying with her because she does not have the means to get the services or help she needed. We ended up having to remove them from her" (Wessler 2011, p. 19). Additionally, once in detention parents are "transferred an average of 370 miles from their homes" making it impossible to participate in a family reunification plan (Wessler 2011, p. 39).

Health

Challenges to their development, mental health, and physical health all challenge COUP ability to access the social mobility education is meant to provide them. There are three major ways children's health is affected by their parents' status: (1) living underground, marginalized from society and the associated effects on health and development; (2) living in fear of or in the

event that their parents are detained and/or deported and the associated mental health issues; and (3) the lack of health insurance.

Let's start with the effects of not having documentation. The negative stereotype of "illegals" has profound negative impacts on identity formation and development (Suarez Orozco 2011, p. 453). Additionally, child heart disease, diabetes, and depression, have well established correlations with unauthorized parents (Suarez-Orozco 2011, p. 457). Some of these negative mental health effects are also dependent on the child's citizenship status. For those who are unauthorized, the negative effects of *illegality* may be more severe. Roberto Gonzales found that fear, anxiety, hopelessness and effects on personhood are associated with abjectivity and illegality, which is a result of children's unauthorized status (Gonzales & Chavez, 2012).

The effects of liminality on early childhood development are substantial. The parents' unauthorized status has harmful effects on the children's early cognitive development. This is due to a combination of factors: parental psychological distress and monetary hardship combined with lower availability of social support for help with infant child care and lower levels of knowledge about public assistance (Yoshikawa, 2011).

Adolescence is typically a time of identity formation. In fact, this stage of development is often referred to as *emerging adulthood*. However, for unauthorized youth in particular it turns out to be a time of "(sub)merging adulthood" (Suarez-Orozco, 2011, p. 455). Unauthorized adolescents must "learn to be illegal" (Gonzales, 2011). All the state-sanctioned rights of passage that any other adolescent would aspire to are not available to the unauthorized adolescent (e.g. driver's license, passport, uncomplicated college attendance, legal entry into the labor force) (Menjivar, 2008; Gonzales, 2011).

Many of these families live in constant fear of deportation. The effects of this fear on health will now be discussed. While citizen children of unauthorized parents may not fear for their own deportation, they fear for the discovery of their parents' unauthorized status and the resulting separation of their families. Dozier found that loneliness, depression, fear of deportation and/or developing close emotional relationships with others are common emotional states for unauthorized students (Dozier, 1993). In the event that their fears are realized, the effects of deportation on the child's mental health are severe. A study of children in the aftermath of immigration enforcement found pervasive changes in child behavior, higher levels of anxiety and fear, PTSD (Post Traumatic Stress Disorder) symptoms, and disruption in sleeping and eating patterns for children who saw their parents arrested in home raids (Chaudry et al. 2010, p. ix). Depressive symptoms are also more common in children who were separated from their parents (Suarez-Orozco et al., 2002).

Finally, access to health care is a major concern for children of unauthorized parents. Children of unauthorized parents are far more likely (22%) to lack health insurance than both children with citizen parents (12%) and all low-income citizen children (14%) (Capps, Fix, Henderson, & Reardon-Anderson, 2005). This lack of health care/insurance is partially to blame for the persistence of many of the health problems that plague children of unauthorized parents. If children of the unauthorized were being treated for their health problems (e.g. PTSD, diabetes, depression, etc.), surely the rate and severity of these conditions would decrease.

Public Assistance

If a child of unauthorized parents' basic needs, such as food, shelter, and sleep cannot be provided and the family cannot access public assistance to assuage the effects of poverty, the child's ability to perform in school and access social mobility will be greatly degraded. Many of

the public assistance programs designed to mitigate the ill effects of poverty will never be utilized by mixed status families because of their fear of deportation and the fact that many of these benefits are dependent on parents' citizenship status. Aside from the moral incentives for creating public benefits there is an incentive to provide social mobility through public benefits. Whatever social mobility education provides will be greatly hindered, if not destroyed, if social benefits are not accessed by children of unauthorized parents. This is because it is nearly impossible to invest in your future human capital (i.e. education) if your basic physiological needs are not currently met, as shown in our discussion of Maslow's hierarchy of needs.

Public policies in the recent past have contributed to low "benefit take-up rates" among eligible immigrants, including citizen children living with noncitizen parents (Capps, Fix, Henderson, & Reardon-Anderson, 2005). Not only are unauthorized parents often afraid of the ramifications on their potential deportation, there are also many misconceptions about benefits within the unauthorized community. For example, a common belief among unauthorized parents is that "benefits for a child come out of an account that is kept for their lifetime and that any 'withdrawals' early in life require deposits later... [and] that if a family [takes] advantage of the aid that was available, [as one mother said,]'there isn't much left [for student loans] because it's like their savings that the government is going to lend them" (Yoshikawa 2011, 63).

Parents also have some well-founded fears of receiving cash welfare or SSI benefits for their children. I say well founded fears because these two benefits have in the past been utilized by ICE when considering a transition to LPR status. In the 1996 frenzy to restrict immigrants' rights (e.g. PRWORA, IIRIRA, and the Anti-Terrorism and Effective Death Penalty Act) Immigration and Customs Enforcement—formerly known as Immigration and Naturalization Services—attempted to clarify the age-old term "public charge," which up until 1996 had been

nebulous in definition and applicability. The federal government's attempt to pin-down the meaning and application of the term "did little to lessen immigrants' confusion" (Sun-Hee Park, 2011, p. 4). Even though this surge of effort to enforce and demystify the term "public charge" was temporary, its lasting effects on immigrant communities' utilization of public services have been massive (Zimmerman & Fix, 1998).

Even if unauthorized parents were to overcome their fears of utilizing benefits, the application process is often confusing. For instance, free lunch applications *request* but do not *require* a social security number (Morse, 1999). Most often these benefits are actually available to eligible citizen children in low-income families. However, because children cannot walk into government offices and enroll themselves they often do not get the benefit. Programs that children of unauthorized often fail to access, but are eligible for, include non-emergency Medicaid, welfare, Temporary Assistance for Needy Families (e.g. Supplemental Nutrition Assistance Program, formerly known as food stamps), housing assistance, Supplemental Security Income, Special Supplemental Nutrition Program for Women, Infants and Children (WIC), and early childhood education subsidies (Fix & Zimmerman, 1999; Karoly, 2011; Wessler, 2011; Yoshikawa, 2011).

The home environment, which is a mirror reflection of the immigration and enforcement environment/government policy, is inundated with factors that detract from children of unauthorized parents' ability to perform in school. The factors discussed here are poverty, living conditions, family separation, health, and public assistance. We see that children of unauthorized parents in every respect of the word live in a caste system at home. If they live in a caste system at home it is irrational to assume that this caste system will somehow fall to the wayside in school. As I said in the introduction to this paper, it is illogical to isolate home factors from

school factors, because, for instance, if you are malnourished at home learning your multiplication tables will be the last thing on your mind. The resources a nation pours into ensuring equity at school are only as strong as students' home lives.

IV. What are the Stakes of Not Acting?

The majority of this paper has been devoted to outlining the various ways that children of unauthorized immigrants' opportunities for social mobility via education have been nullified. Thus, setting aside the social mobility issues, our country has one pertinent self-interested motivation to correct the precarious situation that children of unauthorized parents find themselves in: the waste of children's potential economic contributions

The economic waste of the children of unauthorized parents is seen in two major ways. First, especially for unauthorized children, they will not be allowed to put to use their intelligence and/or academic achievement until they are brought out of the shadows and obtain legal status of some form. "Writing off millions of productive citizens is economically self-destructive and civically reckless" (Suarez-Orozco 2011, p. 463). At a time when the American economy is importing workers to fill the shortage of highly skilled labor we cannot afford to waste any talent (Lowell, Gelatt, & Batalova 2006).

Secondly, if unauthorized workers can come out of the shadows there will be an increase in wages. This was shown when millions of formerly unauthorized immigrants were granted amnesty. After IRCA was passed in 1986 and a little over 2 million unauthorized immigrants were legalized (Portes and Rumbaut 2006, p. 135) most of their wages increased by 15 % in 5 years (Smith, Kramer, & Singer, 1996.) and the majority of those who "obtained legal

status…found better jobs by 1992" as compared to those who did not obtain legal status (Powers, Percy Kraly, & Seltzer, 2004). Higher wages will result in turn in increased taxes and spending. Take for instance, "A 30 year old Mexican immigrant woman with a college degree will pay $5,300 more in taxes and cost $3,900 less in government expenses each year compared to a high-school dropout with similar characteristics" (Gonzales 2007, p. 5). All of this indicates that the more we can draw unauthorized parents out of the shadows the better our economy will be. Additionally "both Social Security and Medicare are financed through payroll taxes, paid mainly by working adults (and their employers). As the baby boomers age into retirement, immigrant children will be aging into adulthood, where they will make up a greater share of the workforce and will carry a greater share of this financing burden" (Passel 2011, p. 34).

V. Conclusion

When combining school and non-school factors it is clear that Plyler's more far reaching goals—social mobility and the avoidance of a caste system—have failed. The barriers I discussed within the school were English Language Learner status, cultural capital, tracking, relationships, parents, and motivation. The non-school factors are: national and state resistance to immigrants' rights based on misunderstandings of migration theory, and the related negative effects these immigration policies have on poverty, living conditions, family unity, health, and accessing public assistance. Taken together, these factors make it clear that children of unauthorized parents live in castes isolated from the social mobility schools purport to provide to them. Furthermore, the implications for our economy of not normalizing unauthorized parents' status are substantial.

The biggest impediments for COUP academic achievement are not in the schools. The biggest impediments to academic achievement for COUP are outside the schoolhouse door. What is needed is a paradigm shift in education reform. Education policy needs to consider not only the in-school effects, it needs to address the out-of-school effects.

Despite the findings of the Coleman Report and the years of subsequent studies that clearly demonstrate a direct and strong link between achievement and out-of-school factors, we still find ourselves in a debate that views in-school reform as the panacea for closing the achievement gap. The field of education and the nation continue to put all eggs in the single basket of education. My focus on the COUP highlights the immense importance of these non-school factors, and the need to spread some of the eggs out into such areas as social services or immigration reform. As Rothstein states, "The biggest threats to the next generation's success come from social and economic policy failures, not schools. And enhancing opportunities requires much more than school improvement…The singular obsession with schools deflects political attention from policy failures in those other realms" (Rothstein, 2008, p. 5).

Even the framing of the debate is demonstrative of an obsession with in-school factors. The most frequent term used, "achievement gap," connotes only in-school factors. When discussing education reform we need to be more explicit about our goal of reducing societal inequality. In making this goal explicit, education would be viewed as merely one avenue through which social immobility and inequality can be addressed, not the panacea.

To paraphrase one of the most renowned and articulate dissidents in the current education reform debate, Diane Ravitch, our schools cannot be improved if we ignore the disadvantages associated with unauthorized immigration status that affect children's ability to learn. Ravitch adds, "Our schools cannot be improved if we use them as society's all-purpose punching bag,

blaming them for the ills of the economy and burdens imposed on children by poverty…Schools must work with other institutions and cannot replace them" (Ravitch 2010, p. 229).

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