

Undocumented Virginians in the Age of Trump

By Jessica F. Chilin-Hernández

Following the election of Donald J. Trump as President of the United States, the largest immigrant youth-led organization in the United States, United We Dream (UWD), declared a “state of urgency and resilience” for immigrant communities nationwide. Over the next few weeks, UWD organized a series of community calls to promote advocacy, know-your rights information, mental health, and suicide prevention. These initiatives — the latter two in particular — are symptoms of the fearful and anxious sentiments reverberating throughout immigrant communities as they contemplate their future under a Trump Administration.

It is crucial for states and cities to put forth resources to protect, advocate, and support their immigrant populations. While our federal system currently does not provide a straightforward path for undocumented people to become U.S. citizens, our tax system provides an infrastructure for all immigrants to contribute tax revenue to state and local economies. It is only fair that state legislators give some consideration to their respective immigrant populations by removing barriers that prevent undocumented people from fully participating in their communities. A specific group of undocumented Virginians faces such a barrier: college-bound high school students also known as DREAMers (American Immigration Council, 2012).

Opponents of removing barriers that prevent undocumented students from accessing higher education argue that granting them in-state tuition is unfair to U.S. citizens. This argument generally rests on three assumptions: 1) undocumented people are unworthy of taxpayer-funded services; 2) undocumented people bring crime to our communities; and 3) undocumented students do not deserve in-state tuition because their presence in the state is unlawful. None of these assumptions hold up well under close scrutiny.

The first assumption conveniently dismisses undocumented Virginians’ tax contributions to the state economy. It is estimated that undocumented immigrants pay between \$51.9 million and \$67.1 million in property taxes, and between \$105.8 million and \$135.4 million in sales and excise taxes per year in Virginia (Williams & Cassidy, 2016). Nationally, undocumented immigrants collectively pay \$11.64 billion in state and local taxes annually (Gee, Gardner and Wiehe 2016). Certainly, any legislation or policy that seeks to address the conditions experienced by undocumented people must take into account that they are taxpayers as well.

The second assumption ignores the overwhelming evidence to the contrary: immigrants neither cause nor aggravate criminal activity in the United States. First, compared to U.S.-born American citizens, documented and undocumented immigrants are less likely to commit serious crimes or be behind bars regardless of nationality or level of education (Ewing, Martínez, and Rumbaut 2015). Immigrants are also less likely than U.S.-born American citizens to engage in criminal behaviors such as being repeat offenders, assaulting another person, or theft (Ewing, Martínez, and Rumbaut 2015). Moreover, lower rates of violent crime and property crime are actually associated with high rates of immigration (American Civil Liberties Union, 2008). Disproved time and time again by a number of studies, the link between high levels of immigration and high levels of crime is false.

In addition to ignoring U.S. immigration history and current laws in place, the third assumption is based on a harsh social judgment of undocumented people that holds them in contempt for not applying for legal authorization prior to entry to the U.S. In our current immigration system, there is neither a readily available pathway to legal status, nor an infrastructure in place to “get in line” (American Immigration Council, 2015). Furthermore, 40 percent of the 11 million undocumented immigrants currently residing in the U.S. legally entered on tourist, student and temporary worker visas, which means that they were subject to inspection by immigration officials before entering the country (Murra, 2016). Many people legally entered the country they now call home, but once here, could not simply adjust their status to a legal one. Because immigration

laws are designed to make U.S. entry and reentry difficult for non-European immigrants (Chomsky, 2014, p. 85), many individuals overstay their visas past their designated time frame. Once visas expire, legal immigrants fall out of status and become undocumented.

The decision to migrate cannot be divorced from the impact that U.S. foreign policy has had on immigrants' countries of birth, many of whom are from Third World nations. For the purposes of this article, I will focus the Central American nation of El Salvador. Gonzales (2000, p. 129) states that it was not until the final decades of the twentieth century that Central Americans started to have a significant presence in the United States. Their immigration was the direct result of American military intervention in the region. In the case of El Salvador, where over 75,000 Salvadorans perished during the civil war, the United States provided \$3.7 million to the Salvadoran government. Seventy percent of this aid financed weapons and military assistance. According to the United Nations Truth Commission's report on the conflict, an estimated 85 percent of the violence was perpetrated by U.S. financially supported government paramilitaries, death squads, and army units (Bonner, 2016). Indeed, we cannot discuss immigration without mentioning foreign policies that have systematically destabilized societies and economies, of which the only realistic option to survive is migration.

Virginia DREAMers are no different from their U.S. citizen counterparts. They are honor roll students, and they are young leaders who volunteer in our local communities through leadership and service. They dream of attending our state's best public institutions to obtain a world-class education while remaining close to home. Along with their families, DREAMers are active participants in the state economy by virtue of being consumers. They follow the laws, and they pay taxes. In turn, the Virginia state legislature should provide them with the opportunity to complete their postsecondary studies.

Fortunately, some Virginia leaders understand the justice and prudence of this approach. In 2014, Attorney General Mark Herring announced that undocumented students in Virginia could qualify for in-state tuition provided they were covered by Deferred Action for Childhood Arrivals (DACA) (Herring 2014). Created by President Barack Obama on June 15, 2012, DACA allowed administrative relief from deportation for eligible immigrant youth who migrated to the U.S. as children (National Immigration Law Center, 2016). It also equipped them with a work permit that authorized their legal employment in the United States. DACA opened many doors of freedom for undocumented youth nationwide. It also presented states the legal space to embrace equity-based policy to support DACA documented (DACAmented) residents.

However, that was 2014. Four anti-student immigrant bills have since been introduced to the Virginia General Assembly: HB 1356 and SB 722 in 2015, and HB 2001 and HB 2004 in 2017. HB 1356 and SB 722 would have outlawed the option for public institutions of higher education to grant in-state tuition to undocumented Virginians. Specifically, HB 1356 would have made any DACA recipient ineligible for Virginia domicile, therefore making them ineligible for in-state tuition billing at public institutions of higher education (HB 1356, 2015). SB 722 went further, excluding both DACA recipients and beneficiaries of the Deferred Action for Parental Accountability (DAPA), the new deferred action program announced by President Obama on November 20, 2014 (SB 722, 2015). Fast forward to 2017: anti-immigrant bills continue being introduced to the General Assembly. HB 2001 would have required college and university administrators to cooperate and comply in the enforcement of federal law by U.S. Immigration and Customs Enforcement (ICE) on campus, non-campus and public property (HB 2001, 2017). HB 2004 would have forced university campus governing boards to annually report how many non-citizen students are enrolled full time, and how many of those students receive financial assistance to attend those institutions (HB 2004, 2017).

The latter two bills were introduced ten days before the inauguration of President Trump. They have since met opposition from students, advocates, and educators alike. Through community-led lobbying, the Education Subcommittee struck SB 2004 from the docket and unanimously laid SB 2001 on the table by voice vote on January 31, 2017. This was exactly a week after President Trump signed executive orders

ordering the construction of his campaign-promised wall along the U.S.-Mexico border, and the cutting of federal funding to sanctuary cities (Federal Register, 2017, Executive Orders 13767 & 13768).

Although this was an encouraging sign, the obstacles that confront undocumented Virginians remain. A pro-immigrant bill that would have provided in-state tuition for DACAmented students, even in the event of a DACA repeal, was tabled in the full Education committee of the House of Delegates on February 1, 2017 (HB 1857, 2017). And an anti-sanctuary law prohibiting localities from adopting ordinances restricting federal immigration law enforcement was passed 63-yes to 33-no on February 7, 2017 by the House of Delegates (HB 2000, 2017).

Anti-immigrant bills do not move the Commonwealth forward. In the case of HB 2001 and HB 2004, not only do these policies make college campuses zones of immigration enforcement that put students at risk, but they also dissuade many from pursuing a college education by fomenting environments of fear and anxiety at colleges across the state. For each undocumented student who is not able to complete their post-secondary education, Virginia loses human capital one human at a time: lawyers, teachers, doctors, professors, bankers, organizers, artists, journalists, writers, nurses, and scholars who will not be. Barring undocumented students from tapping into their academic potential is synonymous to depriving the Commonwealth of talent, which it could use to propel the state economy forward.

It is true that state legislators have only limited power and authority to pass laws that will improve the lot of undocumented people. However, it is within the power of the Virginia legislature to pursue policies that provide opportunities for its taxpayers. It is fiscally inconceivable to divorce Virginia's ability to provide services to all constituents from the annual tax contributions of undocumented immigrants. Cassidy and Williams (2016) estimate that undocumented Virginians pay \$200.2 million and \$304.3 million in sales and excise taxes, local property taxes, and state income taxes into the local and Virginia state economy annually. The Commonwealth should embrace policies that ensure equity for all Virginian taxpayers regardless of immigration status.

Shortly after releasing his letter to the public, Attorney General Herring emphasized the undeniable identity of undocumented people in the Commonwealth as Virginians. "These 'DREAMers' are already Virginians in some very important ways. In most cases they were raised here, they graduated from Virginia schools, and they have known no home but Virginia" (Herring 2014). Indeed, the human condition and experience cannot be reduced to legalistic terms. Doing so opens the door to systemic injustice and dismissal of human rights. In the end, no human being is illegal, and immigrants hailing from other nations in the globalized world are no less lacking in humanity than those born in Virginia. Their unalienable humanity is ultimately the foundation of undocumented immigrants' right to equity and access to social mobility – a right they satisfy by contributing to Virginia's tax base and by executing their civic and neighborly duties in good faith.

Unfortunately, after a decade of failed efforts to reform US immigration laws, those laws are *still* imagined by many to be both rigid and incapable of change. But history shows us that immigration laws have repeatedly been subject to reform, revision, and amendment. The Chinese Exclusion Act of 1882, the Johnson-Reed Immigration Act of 1924, and the Bracero Agreement of 1942 all blocked the way toward full citizenship for some groups under the guise of limiting immigrant influence in the United States. In time, each of these laws came to be seen as oppressive, and were scrapped for more just and humane alternatives. Washington might not be ready to replace the broken immigration laws that currently prevail. But, that need not hold back Virginia. Promoting the wellbeing of undocumented immigrants is fundamental to promoting the prosperity of all Virginians. The Commonwealth can help pave the way forward by crafting policies that embrace undocumented residents and harness their talents for the common good.

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