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# Latinos and Immigrants

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# LATINOS AND IMMIGRANTS

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Cristina M. Rodríguez<sup>1</sup>

## INTRODUCTION

It has become common over the last year to hear pundits declare that Republicans, by scuttling immigration reform with an enforcement-only mantra and turning vicious and nativistic during the recent election campaigns, have won the battle (against liberalizing the immigration system) but are poised to lose the war (for the Latino vote). Short-term appeasement of a base disgruntled with high levels of immigration, particularly from south of the border, is increasingly alienating Latinos<sup>2</sup>—the electoral sleeping giant whose support both parties need to remain relevant in American politics. Commentators and Democrats find delicious irony in the right wing's quick unraveling, through immigration demagoguery, of Karl Rove's years-long strategy to entrench Republican power by incorporating a majority of Latinos into the GOP fold.

This political analysis contains an assumption that warrants unpacking, namely that the interests and sympathies of Latino voters are closely linked to the interests of immigrants. Political commentators assume that to win the Latino vote politicians must answer the immigration question correctly because Latinos will measure politicians' responsiveness to their interests using immigration as a metric. Similarly, advocates interested in promoting a Latino agenda and enhancing the political power of Latinos assume that Latinos' status as a group in the American political community requires solving the immigration puzzle and fighting for the integration of new immigrants.

These correlations between the interests of new immigrants from Latin America and the political fortunes and preferences of longstanding U.S. Latino populations are susceptible to two important and interrelated critiques:

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<sup>2</sup> See, e.g., Paul Waldman, *GOP Candidates Alienate Latino Voters*, AM. PROSPECT, Aug. 15, 2007, [http://www.prospect.org/cs/articles?article=gop\\_candidates\\_alienate\\_latino\\_voters](http://www.prospect.org/cs/articles?article=gop_candidates_alienate_latino_voters); Michael Gerson, *Division Problem: The GOP's Ruinous Immigration Stance*, WASH. POST, Sept. 19, 2007, at A23; Ezra Klein, *With Immigration Reform Dead, Democrats Court Hispanics and Republicans Go (more) Nativist*, AM. PROSPECT, Sept. 24, 2007, [http://www.prospect.org/cs/articles?article=after\\_failure](http://www.prospect.org/cs/articles?article=after_failure) (“[W]hen a party says again and again that you and people like you are the biggest problem facing the country, it’s hard to muster up enthusiasm for its candidates. If the GOP keeps this up, Latino Republicans could become like gay Republicans, a tiny, beleaguered group waging a daily battle against cognitive dissonance, scapegoated by their own party and mocked by their friends for associating with people who despise them.”). This sentiment has been articulated before, particularly with reference to California Governor Pete Wilson’s support of Proposition 187 and the subsequent alienation of Latinos from the GOP. See, e.g., Peter Beinart, *New Bedfellows*, NEW REPUBLIC, Aug. 11, 1997, at 22-26 (noting that Latinos have been alienated by right-wing attacks on immigration).

one empirical and one a matter of political strategy. Empirically speaking, the relationship between the Latino vote and immigration politics appears to be quite complex, defying easy conclusions about the impact the Republican position on immigration will have on long-term voting patterns.<sup>3</sup> It is not obvious what it means to get the immigration question right from the Latino perspective, though some recent studies of Latino public opinion suggest that the Republicans' harsh immigration rhetoric is heightening Latino skepticism of the party.<sup>4</sup> For the politicians vying for the Latino vote, the empirical relationship between immigration politics and voting patterns is a crucial one to understand and should occasion continued social scientific investigation.

But the critique I take up in this Essay is the strategic one, aimed not at vote-seeking politicians, but at Latinos and their allies interested in promoting Latino civic participation—the animating theme of this symposium. The critique begins with the question: should we embrace or resist the close correlation of Latino political identity with the immigration question? Do Latinos *qua* Latinos elide more important community interests when their leaders focus on immigration as a core Latino concern, or is this focus required to secure the status of Latinos in the American political community? Relatedly, to what extent does securing robust Latino participation depend on addressing the interests of new immigrants?

I conclude that the correlation between Latinos and immigrants is inescapable, whether individual Latinos prefer to divorce themselves from their immigrant ancestry or from the immigration circumstances of Latinos with national origins distinct from their own. The immigration issue must be embraced as a Latino issue because the interests of U.S. Latinos and Latin American immigrants are intertwined. Promoting group solidarity and ad-

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<sup>3</sup> See, e.g., PEW HISPANIC CTR., *LATINOS AND THE 2006 MID-TERM ELECTION* (2006), available at <http://pewhispanic.org/files/factsheets/26.pdf> (exit poll data revealed an 11-point swing in favor of Democrats among Latino voters between the 2004 election and the 2006 mid-term election, in which many Republican candidates used immigration as a wedge issue, in contrast to only a six-point swing toward Democrats among white voters). According to the study, “something distinctive occurred among Latino voters this year that rewarded the Democrats and punished the Republicans.” *Id.* at 2. However, it would be premature to connect that “something distinctive” to the immigration issue, considering the mixed results on the immigration question in Arizona. *Id.* at 3. See also Maria Echaveste, *Rising Tide: What the Midterm Election Results Tell Us About Hispanic Voters*, AM. PROSPECT, Dec. 22, 2006, <http://www.prospect.org/web/page.ww?section=root&name=ViewWeb&articleId=12350> (assessing the 2006 election results and concluding that Latinos have nuanced views with respect to immigration and that the Latino population in the United States is diverse linguistically, culturally, and politically).

<sup>4</sup> In a recent study, the Pew Hispanic Center revealed the following numbers: forty-four percent of Latino registered voters say that Democrats are the party with more concern for Latinos, eight percent identify Republicans as the party with more concern, and forty-one percent say there is no difference between the parties; forty-one percent of registered voters say Democrats are doing a better job of addressing illegal immigration, whereas fourteen percent favor the Republican approach; and seventy-nine percent of Hispanics identify immigration as an “extremely” or “very” important issue in the 2008 election. See PAUL TAYLOR & RICHARD FRY, PEW HISPANIC CTR., *HISPANICS AND THE 2008 ELECTION: A SWING VOTE?*, at ii (2007), available at <http://pewhispanic.org/reports/report.php?ReportID=83>.

vancing new and compelling civil rights agendas also could be invoked as reasons for a focus on immigration. But even for those who are not exercised by such objectives, self-interest requires engaging the immigration debate.

The question then becomes how Latinos should approach the immigration question while simultaneously promoting Latino political participation in the long term. Effective participation by Latinos as a group demands that the community focus on the integration concerns of Latin American immigrants. Accordingly, Latinos and their allies must approach immigration-related politics from a perspective that prioritizes immigrant integration and what I will call the “normalization” of immigrant identity into mainstream American political identity.

In Part I of this Essay, I explore the dangers of joining the agendas of Latino civic participation and immigration. It is important to see clearly the costs of closely aligning the interests of Latinos with Latin American immigrants, and to appreciate the ways in which the interests of these populations diverge. In Part II, I first consider the interconnection between the two sets of interests and then establish why promoting immigrant integration is essential to securing long-term Latino political participation.

Before delving into this analysis, a few ground rules for the discussion should be elaborated. First, I assume that securing maximum participation by Latinos as a group should be a *raison d'être* of civil rights advocates and the Latino community. Second, I use the term Latino to refer to U.S. citizens with Latin American ancestry, whether native-born or naturalized, and the term Latin American or immigrant to refer to recent immigrants, legal and illegal, who have not yet been incorporated formally into the body politic through citizenship.<sup>5</sup> The purpose of this distinction is not just to distinguish between citizens and non-citizens, but to capture the effects prolonged presence within the United States has on one's political interests and identity. The distinction is a reference to the process by which those who arrive in the United States as Mexicans, Cubans, and Central and South Americans eventually become part of a larger collectivity called “Latino.”<sup>6</sup> Finally, I assume that Latino represents a meaningful category.<sup>7</sup> Identifying as Latino is hardly mutually exclusive with identifying with one's country of origin. Though U.S. citizen Latinos may identify more strongly as Mexicans, Cubans, or Puerto Ricans than as Latinos and may seek to distance them-

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<sup>5</sup> This distinction inevitably obscures the unique status of Puerto Ricans, who are formal citizens by birth but who have sociological experiences vis-à-vis assimilation similar to immigrants. Though citizens from the beginning, Puerto Ricans who resettle inside the United States also undergo a process of “Latinoization,” though arguably according to a different dynamic given their “home” society's inclusion in the United States as a commonwealth.

<sup>6</sup> I recognize that one can also effectively become Latino before becoming a U.S. citizen, but for simplicity's sake I draw the distinction between Latin American immigrants and citizen Latinos.

<sup>7</sup> I explore the validity of this assumption *infra* Part II and in other work. See Cristina M. Rodríguez, *From Litigation, Legislation*, 119 *YALE L.J.* (forthcoming 2008) (noting limitations on treating Latinos as a coherent group in the political process).

selves from one another, as well as from recently arrived immigrants who share their national origin,<sup>8</sup> the curiously American formulation “Latino” still has meaning. In fact, becoming Latino (as well as rejecting the label) arguably represents a first and important step in assimilating into American society.

### I. IMMIGRATION AS DISTRACTION

The chief Latino interest organizations, such as the National Council of La Raza, the League of United Latin American Citizens, and the Mexican American and Puerto Rican Legal Defense and Education Funds, are deeply involved in today’s immigration debate. This involvement suggests that these groups have come to at least two conclusions: the status of Latinos in the United States, their original constituents, cannot be divorced from the immigration question, and Latin American immigrants, by virtue of crossing the border, have become their constituents. Through legislative lobbying and litigation, these organizations have become indispensable and loud voices on immigration law and policy matters. Their missions, to varying degrees and with different emphases, have become inextricably tied to the immigration issue.

This involvement makes perfect sense. Though immigrants come to the United States from all over the world, today’s immigration debate is driven largely by the presence of millions of Latin American and Mexican immigrants. Approximately fifty percent of the total number of immigrants to the United States comes from Latin America.<sup>9</sup> With the public and politicians focused on the unauthorized population in particular, the southern border and our country’s relationship to it loom large in the debate; indeed, nearly eighty percent of unauthorized immigrants are from Mexico and Central America.<sup>10</sup> We thus should expect the groups whose constituents share a history of crossing that border to become involved in the immigration question.

Though I believe the focus of Latino interest organizations on immigration to be necessary and valuable, there are reasons to be wary of drawing a

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<sup>8</sup> See, e.g., Kevin R. Johnson, *Immigration and Latino Identity*, 19 CHICANO-LATINO L. REV. 197 (1998) (exploring tensions between native-born and immigrant Latino groups); see also Juan Castillo, *Tensions & Alliances*, AUSTIN-AMERICAN STATESMAN, NOV. 10, 2007, [http://www.statesman.com/search/content/news/interactive/11/111107\\_latino.html](http://www.statesman.com/search/content/news/interactive/11/111107_latino.html) (video project citing anecdotal evidence that Mexican Americans in Austin resent immigrants who do not appreciate Mexican American culture, including Tex-Mex food, and that Mexican immigrants believe they are discriminated against by Mexican Americans).

<sup>9</sup> See Marcelo M. Suárez-Orozco, *Everything You Ever Wanted to Know About Assimilation But Were Afraid To Ask*, in MARCELO M. SUÁREZ-OROZCO, ET AL., THE NEW IMMIGRATION: AN INTERDISCIPLINARY READER 67 (2005) (noting also that twenty-seven percent of immigrants come from Asia).

<sup>10</sup> See JEFFREY S. PASSEL, PEW HISPANIC CTR., THE SIZE AND CHARACTERISTICS OF THE UNAUTHORIZED MIGRANT POPULATION IN THE UNITED STATES at i-ii (2006), available at <http://pewhispanic.org/reports/report.php?ReportID=61>.

close correlation between the interests of an extant minority population and the interests of immigrants. The conflation of Latinos with immigrants produces two different sets of problems, both of which perpetuate stereotypes about Latinos: what I call the perpetual transition problem and the social dysfunction problem. These two dilemmas, which I explain below, are ultimately in tension with each other. Whereas the former is based on the conclusion that Latinos, like immigrants, are outsiders, the latter is based on the conclusion that U.S. Latinos do not measure up to Latin American immigrants. The existence of both of these modes of thinking suggests that the interests of immigrants and Latinos alike would be better served if the groups were not treated as perpetually related to one another.

First, the correlation between immigrants and Latinos reinforces the tendency to think of Latinos as foreign. Calls for “assimilation” always arise in response to significant immigration waves, and current assimilation discourse revolves around the characteristics that define Latin American immigration. This discourse inevitably labels certain of the qualities possessed by immigrants as extra-American.<sup>11</sup> The immigration/assimilation rhetorical dynamic, when linked closely to Latino political identity, keeps alive the equation of Latinos with foreigners. Connecting Latinos with immigrants simultaneously obscures the extent to which Latinos have assimilated, or come to see the United States as their one and only home, and marks the cultural characteristics of Latinos as foreign. In other words, the articulation of immigration as a Latino issue only entrenches the public perception of the population as an immigrant population, or a population in perpetual transition.<sup>12</sup>

In particular, this transition rhetoric helps define Latino cultural characteristics, primarily the speaking of Spanish, as impositional and foreign, as opposed to as indigenous features of American life and history. Treating the Latino population as an immigrant population facilitates the elision of a rich Latino heritage, including a Spanish-language heritage, that is part and parcel of the aesthetic, literary, and demographic stock of the United States, thus making claims concerning the historical rootedness of Latino culture as American culture difficult to advance. But, of course, the Latino presence in the United States is neither exclusively the result of immigration—see the

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<sup>11</sup> In other work, I engage in extended reflection over what assimilation entails and argue that assimilation properly defined captures changes experienced by minority and majority populations alike when they come into contact with one another. See Cristina M. Rodríguez, *Guest Workers and Integration: Toward a Theory of what Immigrants and Americans Owe One Another*, 2007 U. CHI. LEGAL. F. 219, 228-57.

<sup>12</sup> This construction could, of course, be perceived as a relative advantage. Whereas Asians have been declared unassimilable, even within the context of an equality discourse, and have been excluded from entry to and citizenship in the United States, Latinos historically have been thought of as simply in need of assimilation. Cf. *Plessy v. Ferguson*, 163 U.S. 537, 561 (1896) (Harlan, J., dissenting) (“There is a race so different from our own that we do not permit those belonging to it to become citizens of the United States. Persons belonging to it are, with few exceptions, absolutely excluded from our country. I allude to the Chinese race.”).

Puerto Rican population and the Mexican American population whose presence in the Southwest precedes Anglo settlement—much less of the record immigration that has transpired since 1990.<sup>13</sup> Rather, the current wave of immigration is adding to and changing a long-entrenched and politically powerful population marked by a complex but identifiable “ethnic” character.

The failure to emphasize the separation between Latinos and Latin American immigrants thus undermines efforts to settle the question of Latino *qua* Latino belonging. With each angst-ridden debate about immigrant assimilation, the notion that Mexican Americans and other Latinos refuse to abandon their extra-American identities persists, effacing the recognition of Mexican American or Latino culture as American culture, and encouraging the suspicion that Latinos are not fully loyal to the United States.<sup>14</sup> Precisely because of the correlation drawn by the general public between Latinos and immigrants, Latinos are under the constant pressure of having to prove their American bona fides by putting their Latino identity in its proper place. This demand prevents Latinos from simply being who they are, requiring them instead to take a stance on questions of assimilation versus cultural preservation and to defend Latino culture from charges that it produces the sort of poverty and socioeconomic limitations that are characteristic of the unauthorized immigrant population.<sup>15</sup>

To be sure, precisely what Mexican American or Latino identity, divorced from the immigrant experience, entails is a subject of change and contestation. Defining which aspects of Latino culture are “old” and therefore indigenous and which are “new” and therefore foreign may be counterproductive or impossible. On the one hand, the prevalence of Spanish in the United States is new, particularly in parts of the country experiencing signif-

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<sup>13</sup> See Suárez-Orozco, *supra* note 9, at 67 (noting that the immigrant population grew by thirty percent between 1990 and 1997 and that whereas ninety percent of all immigrants in 1950 came from Europe or Canada, today almost eighty percent of immigrants come from Latin America and Asia). For further sampling of the literature documenting the characteristics and extent of current immigration, see RICHARD ALBA & VICTOR NEE, *REMAKING THE AMERICAN MAINSTREAM: ASSIMILATION AND CONTEMPORARY IMMIGRATION* (2003); Mary C. Waters & Tomás R. Jiménez, *Assessing Immigrant Assimilation: New Empirical and Theoretical Challenges*, 31 ANN. REV. SOC. 105 (2005).

<sup>14</sup> In a recent Pew Hispanic Center Study, Roger Waldinger found that just nine percent of Latino immigrants are “highly attached” to their countries of origin by sending remittances, making phone calls at least once a week, and traveling back to their country in the last two years. See ROGER WALDINGER, PEW HISPANIC CTR., *BETWEEN HERE AND THERE: HOW ATTACHED ARE LATINO IMMIGRANTS TO THEIR NATIVE COUNTRY?*, at ii (2007), available at <http://pewhispanic.org/reports/report.php?ReportID=80>. He also concluded that a majority of these most attached immigrants intend to stay in the United States. *Id.* at 21.

<sup>15</sup> Indeed, another reason to resist aligning the interests of immigrants and Latinos is that the socioeconomic and cultural distinctions between unauthorized Latin American immigrants and U.S. Latinos are vast, and it is not in the interests of Latinos who seek incorporation into the American mainstream for Latinos to be perceived as predominantly poor and uneducated. See Echaveste, *supra* note 3 (assessing the 2006 election results and concluding that Latinos have nuanced views with respect to immigration and that the Latino population in the United States is diverse linguistically, culturally, and politically).

icant immigration for the first time, because it is spoken widely and primarily only by immigrants and hardly at all by third generation Latinos. But the presence of the Spanish language in the United States is also a very old phenomenon because it has always been spoken inside the United States and by Americans.<sup>16</sup> But whether or not it is possible to be precise in answering the question of what Latino identity is, the close correlation between the Latino population and the immigrant experience has the effect of removing this debate from the table, preventing identities and characteristics that deviate from an elusive Anglo-American norm from being embraced as fully assimilated, American identities. Among the consequences of this framing is that equality claims made by Latinos that hinge on a defense of characteristics or practices that can be identified as “cultural” become claims for special treatment. The claim, for example, that English-only workplace rules have an impermissible disparate impact on Latinos in violation of antidiscrimination laws is transformed into a claim for special treatment in the workplace, reflective of Latinos’ failure to assimilate.<sup>17</sup>

The second significant consequence of joining the causes of Latinos and immigrants is that to do so facilitates the drawing of contrasts between newly arrived immigrant populations and long-present ethnic populations in ways that scramble various civil rights objectives. Whereas an assimilationist or a nativist might look at immigrants and Latinos standing together and conclude that the latter refuse to assimilate, an employer or a business interest might consider the pairing and celebrate the striving immigrant, yet condemn the poor work ethic and tendencies toward dependency of existing minority populations. The availability of this condemnation, which is facilitated when Latinos and immigrants are considered to be part of the same “group,” justifies the diversion of energy and resources from addressing persistent disadvantage and the lack of economic opportunity that might produce it.<sup>18</sup> The condemnation helps to frame disadvantage as the result of Latinos’ moral failings, rather than as the result of broader historical and structural factors. Put slightly differently (and reductively), the low-wage immigrant’s willingness to work under substandard conditions and without complaint arguably makes the welfare and antidiscrimination claims of entrenched Latino (and other minority) populations more difficult to advance

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<sup>16</sup> For a discussion of the generational aspects of the language diversity, see Cristina M. Rodríguez, *Language and Participation*, 94 CAL. L. REV. 687, 690-93 (2006).

<sup>17</sup> I discuss the way in which courts treat the speaking of non-English languages by bilingual individuals who speak English as impositional in Cristina M. Rodríguez, *Language Diversity in the Workplace*, 100 NW. U. L. REV. 1689, 1728-32, 1711-20 (2006).

<sup>18</sup> This same criticism could be made of the category Latino in the first place, given that the category lumps together subgroups and individuals of distinct races and class backgrounds. The apparent success of some Latino immigrant groups—Cubans, for example—arguably makes the welfare and discrimination-based claims of entrenched Latino (and other immigrant) populations more difficult to advance by making such groups’ relative lack of success attributable to dysfunction rather than disadvantage.

because the latter are forced to make their claims in the shadow of stereotypes about Latinos that the nature of today's immigration helps entrench.<sup>19</sup>

The moral of the story may well be that immigrants<sup>20</sup> and Latinos both would be better off if the distinctions between their interests were emphasized clearly. What is more, even if neither of these dilemmas existed, linking Latinos and immigrants might still be counterproductive. If we imagine Latinos as having collective objectives, the incorporation of justice and fairness for immigrants into those objectives may, in the end, diffuse the civil rights energy of the community. Foregrounding the immigration question challenges the formation of Latino solidarity by placing new and distinct issues onto the Latino agenda. Indeed, the results of the 2006 mid-term elections revealed a certain amount of ambivalence toward the immigration question, suggesting that some Latinos perceive it to be in their interest to distance Latino concerns from liberal immigration policies.<sup>21</sup> Indeed, a recent survey conducted by the Pew Hispanic Center revealed that even though the immigration issue has enjoyed a high profile among Latinos in the run up to the 2008 election, when Latino registered voters are asked to

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<sup>19</sup> A related consequence of the Latino/immigrant pairing is that it may skew the focus of affirmative action programs and other efforts designed to combat the legacy of historical discrimination. Tapping into the immigrant portion of the Latino pool may result in unintended or inappropriate beneficiaries. Cf. Hugh Davis Graham, *Affirmative Action for Immigrants? The Unintended Consequences of Reform*, in *COLOR LINES: AFFIRMATIVE ACTION, IMMIGRATION, AND CIVIL RIGHTS OPTIONS FOR AMERICA* 61-68 (John David Skretny, ed., 2001) (noting that "the unique moral force of affirmative action's original public rationale, as a temporary remedy to compensate for the lingering, institutionalized effects of past discrimination against the descendants of slaves, was eroded when preferences were extended to newly arrived immigrants from Asia and Latin America"). In the litigation challenging the University of Michigan Law School's affirmative action program, for example, an admissions officer notoriously was reported to have declared that Cubans should not be counted as Latinos because of their success. See *Grutter v. Bollinger*, 539 U.S. 306, 324 (2003) (Rehnquist, C.J., dissenting). Cf. Lani Guinier, *Admissions Rituals as Political Acts: Guardians at the Gates of Our Democratic Ideals*, 117 HARV. L. REV. 113, 155-56 (2003) (noting that some institutions "fail to probe beyond the checked boxes to determine who really identifies with the underrepresented groups the institution seeks to enroll: they often overlook talented, American-born, African Americans and Latinos in favor of higher-scoring recent immigrants from Africa, the West Indies, and South America").

<sup>20</sup> This separation is arguably in the interests of immigrants, too. Immigrants need services, particularly language services, to help them navigate institutions such as hospitals and schools, and to mediate their interactions with officials, such as police, and their participation in the political process once they become citizens through mechanisms such as the bilingual ballot. Part of the general public's resistance to language services stems from the conclusion that they prevent immigrants from assimilating and are part of a broader Latino agenda of cultural preservation. In other words, by conflating immigrants with Latinos, the particular language needs of immigrants are more easily characterized as part of a broader agenda resistant to assimilation, rather than as necessary transitional devices.

<sup>21</sup> This ambivalence resembles the feelings of Mexican Americans during the Bracero era, when Mexican Americans resented the Mexican laborers brought in to perform agricultural work in the Southwest under the auspices of the program, but simultaneously defended their interests given the inevitable connections between Mexican Americans and the Bracero laborers forged as a result of family and national ties. See MAE NGAI, *IMPOSSIBLE SUBJECTS: ILLEGAL ALIENS AND THE MAKING OF MODERN AMERICA* 149 (2004). I discuss this relationship in more detail in Rodríguez, *Guest Workers and Integration*, *supra* note 11.

identify the issues in the campaign most important to them, immigration comes in fifth, after education, health care, the economy, and crime.<sup>22</sup>

At the end of the day, whether to emphasize immigration as a core Latino concern presents political questions: Who should be able to claim the Latino mantle? Who should be the object of advocates' attention? How diverse or differentiated can the category become before it loses its salience or power as an expression of coherent political or associational interests? It is instructive that this debate is also playing out within the academic discipline of Latino studies, underscoring that it is one of the central problematics of Latino identity. In that context, the debate is over whether the articulation and study of transnational Latino communities would invigorate and make more complete the Latino studies agenda, or whether it would distract the discipline from its origins in Chicano/a and Puerto Rican studies and thus from its critical and self-consciously anti-hegemonic roots.<sup>23</sup> Is the transnational turn a threat to the local, or does it offer a way of better understanding the local?

In answering these questions, the dilemmas I have outlined must be part of the discussion. My ultimate conclusion is that, despite these limitations, the correlation between immigrants and Latinos must be embraced. The transnational and immigrant dimensions of Latino identity are inescapable, and figuring out how to address immigration without obscuring the wider array of Latino interests is precisely what advocates and scholars should be attempting to accomplish. I now turn to explain why.

## II. IMMIGRATION AND POWER

The disassociation of the Latino agenda from immigrants and the immigration debate would be neither conceptually coherent nor politically feasible. Conceptually, the union of immigrants and Latinos is required by the nature of Latino identity. The move toward transnationalism in Latino studies, for example, has been precipitated by the recognition that the nation state cannot remain the sole unit of analysis for exploring Latino identity, cultural production, and political status, in part because "Latino identities begin their formation not in the U.S. but in Latin America."<sup>24</sup> Though the Latino population in the United States has originated from a variety of different historical relationships between the United States and the countries of

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<sup>22</sup> See TAYLOR & FRY, *supra* note 4, at 10 (noting that ninety-four percent of Hispanics consider education extremely or very important, followed by ninety-one percent on the subject of health care, ninety-one percent on the subject of jobs, eighty-four percent on the subject of crime, and seventy-nine percent on the subject of immigration).

<sup>23</sup> For an example of a call for transnationalism, see Maria Josefina Saldaña-Portillo, *From the Borderlands to the Transnational? Critiquing Empire in the 21st Century*, in A COMPANION TO LATINO STUDIES (Juan Flores & Renato Rosaldo eds., 2008) (on file with author).

<sup>24</sup> See *id.* (explaining that this process is an effect of "U.S. intervention and compulsory neoliberalism").

Latin America, its existence is a function of those many relationships, whose formation continues through today's record immigration, which in turn repeats the patterns of previous contact and creates new paradigms of contact. The lives of naturalized citizens and even second and third generation Latinos are powerfully shaped by immigration law, as well as by the narrative and sociological dimensions of the immigrant experience.

As a political matter, even if U.S. Latinos could distance themselves and their interests from those of Latin American immigrants, Latinos have no choice but to engage the immigration issue, for two reasons. First, the correlation between immigrant identity and Latino identity will be made for Latinos by the general public. The designation of outsider always has followed Latinos. Despite the fact that they preceded Anglo settlers in the Southwest, Latinos have been regarded as historically distinct from the "core" or "mainstream" population. This divide is an old one, but it is perpetuated by the modern discourse of "minority" groups and the formulation of Latinos as a racial minority—a status Latinos sought for themselves after several decades of demanding recognition as white—in the landmark *Hernandez v. Texas* decision.<sup>25</sup>

More to the point, the constant replenishment of Latino populations through heavy immigration since 1965 has produced Latino demographic cohorts that are necessarily in transition. This constant "newness" of Latino cultures, at least for now, is an inescapable feature of Latino identity, if only because fellow citizens inevitably conflate new and old Latinos. For the general public, the immigration debate is closely related to what it means to be Latino in the United States, even for those whose presence in this country is generations old.

Even if most opposition to immigration can be justified by factors that have little to nothing to do with U.S. citizen Latinos, there is an almost imperceptible line between the current furor over illegal immigration and trepidation over the Latinoization of the United States—a line that is regularly crossed in the immigration debate. As I have written elsewhere, the vehement opposition to unauthorized immigration cannot be separated entirely from a growing sense of cultural peril experienced by vocal subsets of the Anglo or white populations of this country. To put it crudely, many of the anti-illegal immigrant ordinances that have been passed by states and localities also reflect contempt for or distrust of Latino and Mexican culture,

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<sup>25</sup> *Hernandez v. Texas*, 347 U.S. 475, 482 (1954) (invalidating conviction of Mexican agricultural worker on the grounds that the jury was the result of racial discrimination in a county in which a Mexican American had not served on a jury for 25 years). In *Hernandez*, the Supreme Court essentially recognized Latinos as a subgroup entitled to heightened protection under the Equal Protection Clause. See also Neil Foley, *Over the Rainbow: Hernandez v. Texas, Brown v. Board of Education, and Black v. Brown*, 25 CHICANO-LATINO L. REV. 139, 140 (2005) (discussing process by which Mexican Americans moved from challenging school desegregation on the grounds that they were white to building alliances with black civil rights leaders).

including anxiety over the growing prevalence of the Spanish language.<sup>26</sup> Latinos can try to distance themselves from these characteristics by insisting that they have completely assimilated, but the association will remain in the minds of the public.

Given the inevitability of the Latino-immigrants correlation, the Latino agenda should include efforts to normalize the presence of Latino immigrant culture in the United States. By normalization I do not mean resistance to or rejection of assimilation; a normalization agenda would include a real, as opposed to rhetorical, commitment to integration measures. By normalization, I instead mean to suggest that Americans should be encouraged to regard the process of cultural change occasioned by immigration as bidirectional and as time and labor intensive. The objective should be to move public sentiments in the direction of treating the presence of Latino immigrants and their cultural characteristics as a domestic social condition, not as a dilemma to be overcome. In other work, I have advanced this normalization goal by articulating a concept of cultural and social burden sharing, whereby assimilating immigrants, their descendants, and members of the "majority" adapt to one another by accepting a certain amount of the cultural dislocation that must occur in a diverse society for it to function.<sup>27</sup> This normalization requires, among other things, changing the framework through which public debate concerning immigration is mediated so that immigration comes to be seen by the public not as something that happens to us, but as a dynamic we participate in creating and from which we benefit.

The second reason the immigration-Latino connection should be embraced by Latinos themselves is that even if it were conceptually possible to draw firm lines between U.S. Latinos and immigrant Latin Americans, Latino group political power depends in the long term on the former engaging the latter. As the Pew Hispanic Center has reported, only eighteen percent of Latinos voted in the 2004 elections, whereas fifty-one percent of non-Hispanic whites and thirty-nine percent of blacks went to the polls.<sup>28</sup> Though there are a number of explanations for this discrepancy, including

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<sup>26</sup> See Cristina M. Rodríguez, *E Pluribus Unum: How Bilingualism Strengthens American Democracy*, 4 DEMOCRACY: A JOURNAL OF IDEAS 37, 37-38 (2007).

<sup>27</sup> See Rodríguez, *Language Diversity in the Workplace*, *supra* note 17, at Part I.B. (arguing that accepting bilingualism in the workplace is required under a properly formulated burden-sharing framework because it represents acceptance of the second and sometimes third-generation consequences of immigration and promotes important forms of social bonding at the same time).

<sup>28</sup> See ROBERTO SURO & GABRIEL ESCOBAR, PEW HISPANIC CTR., 2006 NATIONAL SURVEY OF LATINOS: THE IMMIGRATION DEBATE (2006), <http://pewhispanic.org/reports/report.php?ReportID=68>. The Pew Hispanic Center has reported similar discrepancies for the 2006 elections, in which thirteen percent of the Latino population voted, as compared to thirty-nine percent of whites and twenty-seven percent of blacks. The report also notes that though Latinos accounted for almost half of population growth between 2002 and 2006, they represent only twenty percent of new voters. See PEW HISPANIC CTR., THE LATINO ELECTORATE: AN ANALYSIS OF THE 2006 ELECTION (2007), available at <http://pewhispanic.org/factsheets/factsheet.php?FactsheetID=34>.

the relative youth of the Latino population, the fact that millions of Latinos in the United States today are not citizens and therefore remain ineligible to vote<sup>29</sup> is the “most significant explanation for Latino nonvoting.”<sup>30</sup> In other words, incorporating immigrant Latinos into the formal political fold and motivating them to vote is the key to ensuring that Latinos participate in the electoral arena at a level commensurate with their numbers in the population. To advance their interests as a group in the political process, Latinos must champion immigrant integration.

This conclusion is, of course, based on unstable assumptions—that individuals of Latin American origin form a coherent group or category and that the interests of native-born and foreign-born Latinos are sufficiently intertwined that we should think of the fate of the former as tied to the power of the latter. Because challenging these assumptions opens the slipperiest can of worms for Latinos, I and many of the scholars who write about the Latino vote assume coherence on some level. Even though critiques of this coherence assumption could fill volumes, I ultimately believe that it is broadly defensible, and not simply because of the ways in which mainstream American legal and popular culture lump all Latinos into a single category.

In the face of the many divergent interests I describe in Part I, coherence is certainly not chimerical within each of the major Latino subgroups, i.e., within the Mexican, Puerto Rican, Cuban, and Dominican communities. Diasporic networks are such that there will always be an interconnection of second and third generations with immigrant generations. The United States’ proximity to Latin America heightens that connection, and though transnational identification is hardly a new phenomenon, ease of travel and communication, coupled with greater social tolerance for multiple identities, renders the connections across the borders of cultures and countries strong, though by no means all encompassing.<sup>31</sup> As between Latino subgroups, coherence may be harder to identify, but, again, it is not pure political fantasy. Linguistic ties, shared historical experiences,<sup>32</sup> and other cultural similarities in

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<sup>29</sup> See Rodolfo O. de la Garza & Louis DeSipio, *Reshaping the Tub: The Limits of the VRA for Latino Electoral Politics*, in *THE FUTURE OF THE VOTING RIGHTS ACT* at 148 (David Epstein, et al., eds., 2006) (“The most significant explanation for nonvoting among Latino adults is noncitizenship. In the 1990s, approximately 40 percent of Latino adults were not U.S. citizens.”); see also *id.* at 146-47 (“[N]on-U.S. citizen Latino adults have been the most rapidly growing share of Latino nonvoters. The number of Latino adult non-U.S. citizens increased from 2.6 million in 1976 to 11.0 million in 2004, an increase of nearly 489 percent.”).

<sup>30</sup> *Id.* at 148.

<sup>31</sup> For a discussion of today’s transnationalism and the forms of cross-border identification it is producing, see Cristina M. Rodríguez, *The Citizenship Paradox in a Transnational Age*, *MICH. L. REV.* 2008 ANN. SURV. OF BOOKS RELATED TO LAW (forthcoming 2008).

<sup>32</sup> At least two forms of shared historical experience are relevant: the common history many Latin American countries share vis-à-vis their relationship to the United States, and the history of similar treatment inside the United States.

religious and family values, as well as in aesthetic and material cultures, give definition to the group label Latino.<sup>33</sup>

Given these simultaneously imposed and self-sustained connections among U.S. Latinos and immigrants from Latin America, I conclude this Essay with a brief consideration of five strategies Latinos and their advocates should pursue to promote immigrant integration, with the objective of expanding Latino civic participation over the long term. Each of these strategies will help create not only formal citizens, but also informed and engaged citizens.

First, the most obvious, immediate, and non-controversial means of addressing the gap between group numbers and group participation is the promotion of naturalization targeted at both Latin American immigrants and the agencies responsible for facilitating naturalization.<sup>34</sup> As immigrant-heavy states such as Illinois have recognized, actively promoting naturalization among eligible non-citizens and thereby encouraging their integration into the community would be a wise way to spend resources.<sup>35</sup> Similarly, efforts targeted at Congress and the administrative bureaucracy to force timely processing of naturalization applications and to ward off fee increases that would price certain immigrants out of the citizenship market, which are part and parcel of advocates' agendas, must continue.

But naturalization will inevitably take time and will leave out immigrants who are not eligible to naturalize, who cannot naturalize without losing the citizenship of their country of origin, or who do not intend to permanently resettle in the United States, despite their prolonged presence and de facto membership. In other words, even if the mechanism of naturalization works seamlessly across acceptable periods of transition time, a democracy deficit will be unavoidable. Individuals tied to citizens and with their own interests vis-à-vis governments in the United States will remain formally outside the political process, unable to take part in shaping the laws that affect them. This is, of course, to be expected by virtue of the way citizenship is constructed in the United States today. But, as the population

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<sup>33</sup> I discuss this issue in more detail in Rodríguez, *From Litigation, Legislation, supra* note 7 ("In the world of voting rights litigation, where group power matters, the fact that a group made up of people with shared interests does not have the power of its numbers should be a cause for concern; the interests of the members of the group may not be overlapping, but they are intertwined. Indeed, the hallmark of the group-based view is not that all members of that group think alike, or are fungible, but that certain commonalities will produce shared interests in the outcome of the political process. When the measure of a group, particularly one to whom the VRA is directly addressed, is not fully taken, pluralist politics suffers, because it becomes less representative and less fair.").

<sup>34</sup> I discuss this platform in more detail in Rodríguez, *From Litigation, Legislation, supra* note 7. See also de la Garza & DeSipio, *supra* note 29, at 148-50 (discussing the importance of naturalization drives to the Latino vote).

<sup>35</sup> See ILL. COALITION FOR IMMIGRANT & REFUGEE RIGHTS, FOR THE BENEFIT OF ALL: STRATEGIC RECOMMENDATIONS TO ENHANCE THE STATE'S ROLE IN THE INTEGRATION OF IMMIGRANTS IN ILLINOIS 4 (2006), available at <http://www.icirr.org/naeo/docs/pcreport.pdf> (recommending that New Americans Initiative reach out to 404,000 immigrants in state eligible for citizenship to assist them in naturalizing).

of non-citizens grows, Latino advocates should become increasingly concerned about the absence of formal means to hold public officials accountable to the interests of that population—a population that contributes to the economy through its work; to the public fisc through its tax payments; and to the development of society through its presence.

Elsewhere I have built a case for non-citizen voting as part of the Latino civil rights agenda, focusing not only on the fairness and integration concerns that animate existing normative justifications of the reform, but also on the problem-solving benefits we would accrue from incorporating the parties most directly affected by immigration policy into the formal debate. But calls for non-citizen voting have remained largely the province of immigrants' rights advocates with marginal voices. Perhaps it is time for powerful Latino interest groups to frame the issue as part of a new civil rights agenda that broadens the power of Latinos to encompass the full extent of who they are in American society today. Advocates' initial focus could perhaps be on local elections, recognizing the quotidian concerns addressed by municipal government as most directly relevant to individuals regardless of their citizenship status. Indeed, calls for national-level participation by non-citizens are as likely to push the public to reinforce the lines between citizens and non-citizens as they are to persuade Americans to hand over some formal power to non-citizens. The idea of voting as constitutive of citizenship itself will be a hard idea to dislodge, and it is by no means clear that we want to separate the concepts of citizen and voter. But local level participation, in addition to more closely aligning Latino power with Latino numbers, would also provide a kind of training ground for participatory activity for future citizens—a form of preparation that could help increase Latino turnout in national elections in the future.

In fact, the final three strategies that Latino advocates should pursue as part of a civic participation agenda are efforts to put Latin American immigrants on the path to becoming *effective* Latino citizens. The most obvious means of ensuring immigrant integration include the sorts of language education and civics classes touted by people across the political spectrum. But despite the glut of rhetoric in the political debate emphasizing the importance of English-language acquisition and mastery, adult language and literacy classes are woefully under-funded and insufficient in number to meet current demand.<sup>36</sup> Though many states and localities with large immigrant populations have come to recognize the importance of systematic integration programs that include well-funded language instruction,<sup>37</sup> promoting funding for the obvious must remain part of the activist agenda.

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<sup>36</sup> See MARGIE MCHUGH, ET AL., MIGRATION POLICY INSTITUTE, ADULT ENGLISH LANGUAGE INSTRUCTION IN THE UNITED STATES: DETERMINING NEED AND INVESTING WISELY (2007), available at [http://www.migrationpolicy.org/pubs/NCIIP\\_English\\_Instruction073107.pdf](http://www.migrationpolicy.org/pubs/NCIIP_English_Instruction073107.pdf).

<sup>37</sup> I discuss some of these efforts at length in Cristina M. Rodríguez, *The Significance of the Local in Immigration Regulation*, MICH. L. REV. (forthcoming 2008), at Part II.A.

But integration requires more than language and civics training. Because the acquisition of linguistic and cultural capital takes time, integration also depends on making institutions familiar to immigrants—a familiarity that depends on public institutions providing translation and interpretation services to immigrants as they negotiate the process of assimilation.<sup>38</sup> Unlike English-language classes, however, which are politically saleable, language access services are frequently placed on the policy chopping block, regarded as expensive coddling instead of as indispensable mechanisms of governance. Advocates for Latino civic participation must continue their public and vocal defense of such services, framing them as key mechanisms of integration for first generation immigrants. Without access to public institutions facilitated through language services, immigrants lack the capacity to defend their interests, or to pressure public institutions and bureaucracies to respond to their needs and thus to be more effective as policy entities.

Less obvious, but no less important than the promotion of affirmative integration programs, is pushing for immigration reform that is consistent with the long-term integration and political empowerment of Latinos. This agenda must include continued pursuit of the legalization of the millions of undocumented workers, whose lives are intertwined with those of legal immigrants and U.S. citizens. This population, which is likely to remain in the United States in large measure for the foreseeable future despite the recent ramping up of enforcement efforts, is politically marginal, except as a scapegoat or as a target of cheap populism. But its interests in formal integration in the United States are strong and shared by many legal and citizen Latinos.

Even more important, as the existence of twelve million undocumented immigrants underscores, it is vital that the United States create more legal channels for immigration from Latin America<sup>39</sup> because legal status represents the first step toward political visibility. These channels should include the option of permanent residence for those workers whose incentives to come to the United States in search of better wages mature into the desire to build a life here. Not only is it counter to the interests of Latinos who seek to have their numbers counted to allow our labor needs at the low end of the market to be met through the use of the highly vulnerable immigrants without legal status, the sorts of temporary worker proposals currently favored in several quarters would exacerbate the crisis of Latino under-empowerment. Such programs would guarantee the presence of large numbers of Latinos

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<sup>38</sup> See Rodríguez, *E Pluribus Unum*, *supra* note 26, at 42-43.

<sup>39</sup> The problem of having a sizable Latino population in the United States without legal status and therefore with minimal potential to influence the political process also could be addressed by rigorous enforcement measures. Though a full discussion of this issue is beyond the scope of this Essay, the creation of legal channels to absorb the predictable future flow of immigrants is more likely to work as a policy matter than ramping up enforcement even further. In the last decade, the size of the border patrol has tripled and its funding has quintupled, but unauthorized immigration remains at record levels. See Tamar Jacoby, *Immigration Nation*, 85 FOR. AFF. 50 (2006).

for extended periods of time with no prospects of directly influencing or participating in politics.<sup>40</sup>

Measures targeted at building the cultural and linguistic capital of immigrants, as well as immigration reform designed to create secure legal statuses for immigrants, are worthwhile long-term investments. Such integration strategies function simultaneously as forms of training and security for future U.S. Latinos. They contribute to the creation of more effective citizens and force current political majorities to pay attention to the interests of Latino immigrants, even before they cross the citizenship threshold. Pursuing the integration of immigrants is therefore crucial to the future of Latinos as a group in the United States.

#### CONCLUSION

Though I have defended the inevitability of the association between immigrants and Latinos, it is clear that the association must be managed. Efforts to promote Latino civic participation must simultaneously balance the need to secure universal participation of all Latinos with the need to protect the gains that have been made by U.S. Latinos already. It is important to prevent Latinos' participatory interests from being framed as efforts to rewrite the social bargain—a charge that could result if the incorporation of immigrants' interests, or interests external to the U.S. political community, were pushed too hard. Advocates for Latinos thus face a bewildering political landscape. The sheer diversity of interests and identities that fall under the Latino umbrella make solidarity and coalition-building a challenge. Reaching across the citizenship divide to find commonality should strengthen the position of each of the community's constituent parts, much as reaching across the class, race, and national origin differences that characterize the Latino grouping contributes to the formation of a political alliance of significance. In the end, it is our very diversity that makes the Latino vote the elusive and much-sought after political prize. By keeping ourselves diverse but united, we keep ourselves in play.

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<sup>40</sup> I have written about the integration-related and democratic dangers presented by temporary worker programs at length. See Rodríguez, *Guest Workers and Integration*, *supra* note 11.