



Project  
**MUSE**<sup>®</sup>  
*Scholarly journals online*

*The Review of Higher Education*

Fall 2006, Volume 30, No. 1, pp. 21–40

Copyright © 2006 Association for the Study of Higher Education

All Rights Reserved (ISSN 0162-5748)

# Toward a Theoretical Framework for Membership: The Case of Undocumented Immigrants and Financial Aid for Postsecondary Education

*Andre M. Perry*

## PURPOSE OF THE STUDY

Whom we deem as members determines with “whom we make those choices, from whom we require obedience and collect taxes, [and] to whom we allocate goods and services” (Walzer, 1983, p. 31). “Membership” and “members” refer to the group of people in a political community who are “committed to dividing, exchanging, and sharing social goods, first of all among themselves” (Walzer, 1983, p. 31). In general, society is amenable and/or morally obligated to providing resources to those it deems as members. However, what specific factors constitute the commitment that Walzer identifies in his definition?

---

ANDRE M. PERRY is Assistant Professor of Educational Leadership, Counseling, and Foundations at the University of New Orleans. He presented an earlier version of this paper at the 30th Annual Conference of the Association for the Study of Higher Education, November 16–19, 2005, at Philadelphia. Address queries to him at the Educational Leadership Counseling and Foundations, 348 Bicentennial Education Center, Lakefront Campus, 2000 Lakeshore Drive, New Orleans, LA 70148; telephone: (504) 280–6443; fax: (504) 280–6453; email: [aperry@uno.edu](mailto:aperry@uno.edu).

Several conceptualizations of membership exist within proposed and enacted policies that limit or expand educational benefits to undocumented students. Two policies in particular—that enunciated in *Plyler, Superintendent, Tyler Independent School District, et al. v. Doe, Guargian, et al.* (1982; hereafter *Plyler v. Doe*) and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)—offer juxtaposing positions on who should (in principle) be eligible for in-state tuition benefits. These differences in principles reflect dissimilar ideas among stakeholders regarding what type of membership status (i.e., citizens, residents) should make one eligible for financial aid. In this study, I seek to identify and analyze stakeholders' basic beliefs on the topic of membership that can be considered in normative arguments on whether to allocate in-state tuition benefits to undocumented immigrants. If we can assume that a political community is generally obligated to distribute resources to its members, then a framework that captures our expectations for membership can be helpful. The study responds to the primary research question, "Should undocumented immigrants receive financial aid?", by pursuing a conception and framework of membership. The study aims to answer the sub-question, "What does it mean to be a member of society?", by examining individual stakeholders' beliefs of why they consider themselves a member (or not) of the United States.

This study categorizes these beliefs into essential factors that lead to the commitment of potential members (as an individual or as a group) to divide, share, and exchange among official citizens. From this framework, stakeholders should be better equipped to understand the concept of membership in moral and ethical disputes of whether undocumented immigrants should receive financial aid.

Methodologically, the study is a philosophical analysis/case study that uses (a) empirical evidence from stakeholders of a policy-relevant issue and (b) theoretical writings on membership to make a logical response to the primary research question. The analysis incorporates case study techniques to help filter the enormous amount of data from stakeholders and policies connected to the issue. I also examine the beliefs and policies of stakeholders involved in Texas House Bill 1403 (2001).

## LITERATURE REVIEW

To help accomplish the study's aims, I review and analyze membership within working models of membership and benefit distribution. Two models in particular, *Plyler v. Doe* and IIRIRA, offer juxtaposing moral positions on who should be eligible for in-state tuition benefits. The following literature review summarizes how these two highly influential policies present membership, thus shaping the debate. These conflicting policies offer differing ideas about the type of membership status (i.e., citizens, residents) that war-

rants financial aid. Not surprisingly the immigration rights and distributive justice literatures, which I also summarize, reflect a similar tension.

The 1982 U.S. Supreme Court decision held in *Plyler v. Doe* prevents public elementary and secondary schools from considering immigration status when a student is seeking to enroll. In a five-to-four decision, the Court held that a Texas law blocking the use of state funds to educate undocumented citizens was unconstitutional. The ruling was based on the equal protection provisions of the Fourteenth Amendment. Of particular concern to the Court was the fact that children—rather than their parents—were involved. The Court believed that denying undocumented children access to education punished children for their parents' behavior. Such an action, the Court noted, did not square with basic ideas of justice (Hunter & Howley, 1990; Yachnin, 2001). In addition, the court acknowledged that residency, time spent in the country, and the unlikelihood of deportation are factors to be considered in the allocation of education benefits (*Plyler v. Doe*). The court noted that children of undocumented parents should be taken as future members of society and granted benefits befitting such a status.

As a result of this act, thousands of undocumented school-age children attend public primary and secondary institutions. While graduation rates of this population are difficult to assess, the Urban Institute calculates that, in 2001, there were probably 60,000 to 80,000 undocumented high school graduates who have lived in the United States for at least five years and that an additional 65,000 are apparently currently enrolled in college (Passel, 2001). However many of those attending college do not receive the benefit of in-state tuition, partly because of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).

Because of a common interpretation of section 505 of IIRIRA, undocumented students are ineligible for in-state tuition. IIRIRA amended the Immigration and Nationality Act, which served as the primary law that regulated border control and immigration. IIRIRA provisions have five aims: (a) to improve border control and facilitate legal entry; (b) enhance enforcement and penalties against alien smuggling; (c) advance the inspection, apprehension, detention, and removal of inadmissible and deportable aliens; (d) bolster the enforcement of restrictions against alien employment; and (e) place restrictions on benefits for aliens, including higher education benefits. Section 505 provides that if a state offers in-state tuition or any other higher education benefit to undocumented students, the state must provide the same benefit to out-of-state U.S. citizens.

This ruling is grounded in the belief that, if states are going to provide undocumented immigrants with benefits typically reserved for citizens, then the same benefit must be provided equally to all members, namely, U.S. citizens. Unlike the *Plyler* decision, the act does not take into consideration residency, amount of time spent in the country, or unlikelihood of depor-

tation as factors to be considered in allocating education benefits. In other words, IIRIRA does not conceptualize undocumented immigrants as being resident members who are eligible for in-state tuition. While the legitimacy of section 505 is questionable—Congress does not have the ability to regulate state benefits—many states consider this statute binding (Olivas, 1995, 2002). Because citizens and permanent residents are the only categories of students eligible for federal financial aid, a state's adoption of IIRIRA effectively eliminates all forms of financial aid for undocumented students. Subsequently, many undocumented graduates lack the financial aid which may make it possible for them to attend college (King, 1999).

Literature on post-national membership analyzes relationships among a nation, its citizens, and their rights (Y. N. Soysal, 1994). Post-national theorists—most notably Yasmin Nuhoglu Soysal—critique national membership models that assume rights and privileges must be strictly allocated among compatriots (Hammar, 1986, 1989, 1990; Marshall, 1998; Y. N. Soysal, 1994, 1998). Soysal (1998) describes a transition from an old model of citizenship that is defined by a particular nation-state to one that is universal: “The post war era [World War II] is characterized by a reconfiguration of citizenship from a more particularistic one based on nationhood to a more universalistic one based on personhood” (p. 189). The literature claims that the rights of men, women, and children were historically defined by their membership status in a nation-state. Rights differed between citizens and aliens (Marshall, 1998).

Because rights differed, attitudes toward non-citizens were governed by their legal standing or designation, rather than their membership standing. However, in the post-war era, “an intensified discourse of personhood and human rights has bent the bounded universality of national citizenship, generating contiguities beyond the limits of national citizenry” (Soysal, 1998, p. 191). The human rights discourse that occurred globally during the World War II period forced countries to provide basic security and welfare for all residents. Theorists in this camp consequently argue for the distribution of rights based on personhood, human rights, and residency.

Delanty (1998) notes that many discussions on post-national citizenship lack accuracy in their conceptualizations of citizenship and benefit distribution. He suggests that the rights and responsibilities associated with citizenship are also bound to membership, which is developed more locally and substantively. In this regard, membership and rights associated with it cannot be governed outside the context of the political community. In addition, post-national theorists argue that nation-states are not currently distributing benefits based on human rights nor do they acknowledge other membership statuses. However, as we have seen, some K-12 benefits are granted to various residents in the United States based on criteria other than citizenship. Joppke (1998) writes:

Postnational membership argument is premised on a colossus of “national citizenship” that never was. Yasmin Soysal thinks that in the old nation-states “national belonging constitutes the source of rights and duties of individual.” This is a fiction. . . . Civil and social rights have never been dependent on citizenship. Instead, modern constitutions . . . have conceived of civil and social rights as rights of the person residing in the territory of the state, irrespective of her citizenship status. (p. 271)

However, does the United States facilitate a type of membership that unduly precludes those members from rights that society expects members to have? Does the nature of the community facilitate a type of membership that warrants higher education benefits? If Delanty is correct that our day-to-day exchanges stir the membership stew, then an examination of our beliefs should reflect how our behaviors construct our membership realities. The study takes the perspective that the distribution of rights to non-citizens can be more easily dealt with if we know what it means to be a member of society.

## METHODOLOGY AND DATA COLLECTION

The goal of this analysis is not to discover new facts. I do not create a definition of “membership” per se. Rather, I systematically arrange a sample of stakeholders’ experiential beliefs about membership to inductively reach some conclusions of its meaning. This case study draws upon Rawls’s (1971) methodology of forming a conception from which can be induced principles with which to organize a reasonable conception of membership (1993).

Rawls had a practical goal of achieving “reasonably reliable agreement in judgment to provide a common conception of justice.” In *Theory of Justice*, he posits that differing conceptualizations of a supposedly comparable idea make it difficult to adjudicate claims of distributive justice. Rawls (1971) adds that we do not know our sense of justice until “we know in some systematic way covering a wide range of cases what these principles are” (p. 46) Instead of justice, this study seeks to conceptualize membership by its principles and hence to achieve a better understanding of membership.

In the tradition of Hobbes, Locke, and Rousseau, Rawls conducts a “device of representation” (or thought experiment) to achieve social agreement or an overarching consensus of what the basis for social order should be. Rawls posits that the only way people can be fair in creating this foundation for justice in society is to place them in the “original position” behind a “veil of ignorance.” He argues that, if people are unaware of their potential position in society, they will choose rational principles of justice.

Rawls knew that many of our conceptualizations of justice are tinted with culture, politics, religion, and other doctrines that often are irrecon-

cilable in the same political space. Therefore, Rawls attempted to disarm these sociopolitical/cultural biases in his method of achieving a rational conceptualization of justice. Methodologically speaking, Rawls sought to get at people's rational, intuitive beliefs about a just means of distributing communally determined goods. Rawls's methodological device for achieving this aim was his "original position" and "veil of ignorance." If people were placed in a hypothetical situation of otherness (original position) in which they could not have access to their personal sociopolitical, cultural, and economic backgrounds (behind a veil of ignorance), they would make rational choices about justice.

Similarly, subjects in this study are burdened by ideological, political, and economic agendas, as well as by their personal biases. In a community filled with members and non-members, Republicans and Democrats, rich and poor, etc., how can a study get at people's basic ideas about membership? My methodological goals differ significantly from those of Rawls in that I wanted to garner information from actual stakeholders. Rawls's thought experiment was just that—purely esoteric. I could not place a stakeholder in an original position behind a veil of ignorance without creating methodological problems. For example, I could have asked stakeholders a Rawlsian "original position" question like: "What type of law would you create if you were an immigrant?" However, I doubt that I would receive unbiased responses in the same sense that Rawls sought. Nonetheless, the study benefited from his thinking about how to determine basic beliefs and attitudes about membership.

I used semi-structured interviews and qualitative approaches associated with case studies as an appropriate method of eliciting stakeholders' beliefs about membership. In an attempt to get fair and intuitive beliefs about membership, I developed two questions: "Do you feel as if you're a part of an American community? Why do you think that?" I believe that these membership questions get at what people feel membership is without removing their moral convictions of that belief. Also, these questions minimize the inherent conflict between different aspects of the interviewee's belief systems. Affirmative and negative responses to the questions identified people's basic ideas concerning membership. From these responses, various themes of membership emerged, which I used to form a conception or framework.

In addition to the two primary questions, the interview protocol consisted of other semi-structured interview items that addressed persistent issues that crop up repeatedly in the debate on undocumented immigrant educational rights. Broadly these questions examined the distribution of individual and citizen rights, membership development, immigrant resource usage, and conflicts between state and federal law.

I adapted interview protocols to the stakeholder. For instance, questions to the students included: "When and how did your parents [guardian or

family member] emigrate to the United States?” “When did you realize that you were undocumented?” “Did you or your parents attempt to stabilize your citizenship status?” “If so, when and what happened?” “If not, why?” Questions to legislative and national stakeholders included: “What criteria should determine postsecondary educational benefits?” “What should determine the receipt of postsecondary benefits and why?” “Does the denial of higher education benefits interfere with federal immigration laws?” Still, the primary membership questions led the procedures for all subjects.

### THE TEXAS CASE

Stake’s (1995) approach to case studies sees two primary roles for the researcher: (a) interpreting meaning locally (at the subject’s level), and (b) identifying and articulating overarching constructs that catalog the behaviors being studied. To filter the enormous amounts of information which constitute the knowledge needed to properly analyze, clarify, and organize principles of membership, I placed my exploration within the “bounded system” of Texas House Bill 1403 (Creswell, 1998). This case study develops conceptual categories to illustrate, support, or challenge theoretical assumption held prior to data gathering (Merriam, 1998, p. 38).

Because of its demographics, political influence in the union, laws, and openness to talking about the issue of undocumented immigrant benefits, Texas made an ideal place to situate my study. In addition, pressing legal and ethical considerations about student selection contributed to my decision to conceptualize membership in the context of Texas.

The student respondents in this study are vulnerable to deportation. To reduce the risks involved in identifying undocumented students, I narrowed my case selection to states that have current legislation permitting some level of aid to undocumented students. Texas makes its undocumented students eligible for in-state tuition through House Bill 1403. In Texas, students who attend college and receive some form of aid are already located and identified by postsecondary institutions. These students acknowledge their status, and these acknowledgements are recognized by official agencies in their respective states. These undocumented students do not have deportation immunity. State legislation does not supersede federal immigration laws. However, I did not put students in further jeopardy by locating undocumented students currently in postsecondary institutions.

I used a combination of purposeful and convenient sampling techniques. Of the many types of undocumented students, I interviewed students whose parents had entered the country illegally without any formal documentation. I did not consider students whose parents had entered legally but whose documentation had expired. I developed a pool of students from various public agencies that interact with undocumented immigrants. I made verbal

contacts with these organizations and presented my human subjects approval form; the organizations subsequently directed students to contact me by phone or email. I relied on staff members within these organizations for subject recruitment because I did not think undocumented students would have agreed to attend a research interview session if I, a stranger, had contacted them without an intermediary.

I also interviewed state and national stakeholders who displayed an interest in the Texas case. I gathered names from correspondence on House Bill 1403, including legislators and interests groups. All of the national stakeholders work as staff members at various associations or think tanks in the D.C. metropolitan area. These interest groups have produced position papers on this particular policy and topic.

The human subjects involved in this study included 21 undocumented students from four-year and community colleges in the Houston area; 17 legislators, policymakers, and staff members in Texas state government including members of its House of Representatives and staff members, members of the Texas Higher Education Coordinating Board, a former judiciary officer, and a high school principal, and seven representatives of various interest groups in Washington, D.C.

### DATA ANALYSIS

“Interpretational analysis is the process of examining case study data closely in order to find constructs, themes, and patterns that can be used to describe and explain the phenomenon being studied” (Gall, Borg, & Gall, 1996, p. 453). Researchers can use cases to locate abstract constructs, which can lead to theory building, or the researcher can use cases to test theoretical constructs.

For data collection, I used the coding strategies for case study analysis described by Stake (1995), including the “direct interpretation of the individual instance and aggregation of instances until something can be said about them as a class” (p. 74). Direct interpretation involves pulling an idea or instance apart and putting it together again more meaningfully (p. 75). Collecting instances generates issue-relevant meanings. Stake’s techniques interfaced well with my goal of conceptualizing membership from emerging patterns or consistencies within certain conditions. Stake calls such pattern consistencies “correspondence.”

For this analysis, I used preexisting categories, which were identified by Galston (1991) and the U.S. Immigration and Naturalization Service (2003).

- time or physical presence in the United States (residency)
- allegiance to the country (allegiance)

- belief in core community values (Constitution)
- economic and social investments (investments)
- moral character (law abidingness)
- cultural awareness.

I analyzed interview transcripts with the intent of extracting instances pertinent to these preexisting categories. After identifying such instances, I looked for patterns or consistencies that emerged from the categories and formed new ones. When such dominant themes surfaced, I termed them principles. Together the principles form a construction of membership.

I took considerable pains to assure the trustworthiness of both the data and their interpretation. Triangulation is the substantiation of interpretations through tertiary sources (Stake, 1995). This study incorporates Stake's system, which demands the validation of data sources and the researcher's interpretations of those sources. When possible, I used alternative accounts of data source information. For instance, interviews of teachers, parents, lawyers, school officials, and politicians associated with the case, as well as meetings with my research team, helped verify data sources and interpretations. In addition, I employed the services of philosophers who examined membership, community, citizenship, and immigration to help check the clarity of the membership framework constructs.

## FINDINGS

What are the principles that make up our conceptualizations of membership? My chief goal in this section is to identify and analyze principles that make up stakeholders' conceptions of membership. Rawls (1993) suggested that differing conceptualizations of a supposedly comparable idea make it difficult to adjudicate claims of distributive justice. Therefore, an imperative of the analysis was to examine the heterogeneity of stakeholders' intuitions about membership—the extent to which beliefs of membership are shared.

The analysis generally found that stakeholders share the same beliefs regarding membership. Citizens and non-citizens, Republicans and Democrats, students and non-students all mentioned similar views of what it means to be a member. I attribute this commonness to the ability of the primary questions to eliminate bias associated with sociopolitical status. The general findings corroborate Rawls's (1993) ideas that the original position and veil of ignorance in an "unbiased" account may lead to some "universal" principles.

The remainder of this section is organized by the principles that emerged from the philosophical analysis/case study. The study found that the principles of residency, social awareness, reciprocation, investment, identification, patriotism, destiny, and law abidingness form a philosophical framework

of membership that explains what it means to be a member of a political community/nation-state.

### *Residency*

In response to the two primary questions, all but two of the respondents reported residency as a reason why they feel or do not feel part of the American community. More specifically, the subjects made statements such as: "I lived here all my life," "I'm a Texas resident," "I live here," "This is my home," "I live in America," and "My family has been here since about the depression." Terms involving residency were the most consistently reported factor among the range of stakeholders. For instance, Todd, a forty-five-year-old immigration lawyer, stated:

It depends on what you're talking about, but this [America] is my home. My great grandfather emigrated from Germany . . . my family has been here [in America] ever since. . . . I've lived in [the same city] all my life.

Similarly, Leticia, a nineteen-year-old undocumented college student, stated:

I lived here [America] all my life. . . . We represent the colors [Mexican flag], but this is the only place I know. . . . Most of my friends can't remember the last time they were in Mexico.

I did not find any differences on the basis of race/ethnicity, place of birth, citizenship status, education, or political affiliation. Respondents repeatedly used the root terms "live" and "resident" without further prodding. Other synonyms included "grew up," "brought up," and "raised." Because so many subjects saw living or not living in a space as a rationale for feeling part of the American community, I created a principle based upon those finding. The emergence of residency as a principle from the data suggests that stakeholders believe that sustained residence in a particular space is relevant in defining membership.

### *Social Awareness*

In response to the primary interview questions, all of the respondents mentioned specific types of knowledge that facilitated their sense of membership in the American community. Some of the responses were broad and ambiguous. For instance, one student stated, "I know America more than I know Mexico." Another commented, "You have to understand everything." A legislative stakeholder reported, "I should feel a part of the community because this is all I know. You are what you know. . . . I only know American stuff." An interest-group respondent observed, "I'm American because I know how to be one."

In response to the follow-up question, “How does ‘knowing America’ make you feel a part of its community?”, a legislative stakeholder said, “If I skydived in[to] Russia . . . I wouldn’t know where to go. I wouldn’t even know how to ask for help.” Subjects’ responses reinforced the concept that contextualized information facilitated their feelings of membership. Luis, a 19-year-old undocumented immigrant, stated:

I feel like I’m in the American community now, but when I was young I didn’t. . . . When I first came, the hardest part of being here was understanding everything. It was hard, you know? See, I didn’t understand anything. I couldn’t speak English but that wasn’t the hard part. It took me a couple weeks to get home. . . . [laughing] I kept getting lost. I went to a White school. . . . She [Carla] had somebody to help her [learn]. All the immigrants went to [Johnson High]. Nobody helped me [learn]. I just went to class and went home every day. . . . I just waited for my family to get home [from work].

Respondents further reported specific types of knowledge that made them feel part of the American community: language, history, and civic awareness. A student respondent stated, “You have to know English.” Another student commented, “I know English.” A legislative stakeholder reported, “I know the language. I participate in American traditions.” A respondent from a D.C. association mused, “I feel a part ’cause I know customs, laws, and traditions. . . . There are basic things everyone needs to know in America.”

For respondents who did *not* feel part of the American community, I asked a two-part follow-up question: “What community do you feel part of and why?” The same themes emerged from the only two negative responses garnered from the study. For instance, an interest-group respondent reported, “I’m a part of a Black American community. . . . You need to know our sense of struggle . . . history.” In general, responses suggested a need for broad as well as specific types of knowledge as necessary for feeling part of a community.

### ***Reciprocation***

As the principle of social awareness quickly emerged from the interviews, I began to search for the places where and mechanisms by which citizens or potential citizens gained membership information. I asked follow-up questions such as: “Where did you learn English? How did you learn about your American community? How did you learn to communicate with other Americans?” In response to these questions, as well as to the primary research questions, respondents reported specific situations in which transfers of knowledge took place: school, places of employment, and interactions with family. Such transactions were significant factors in feeling part of an American community.

Leticia stated, "I learned English in school." Another student said, "The reason why I know English and my family don't is because we have to speak English in school. . . . They don't have to speak English on the farm." Luis commented, "I learned it [how to understand American culture] in school. I watched TV and then I would see how it was said in school." Students commonly reported school as the primary institution in which they acquired needed information about the community. Students also mentioned specific American family members who helped them acculturate. Joseph stated, "I have a cousin who help[ed] us come in. . . . They took care of us. . . . They showed us how to get along."

Similarly, many legislative and interest-group respondents mentioned school and family as significant sources of information about the community. Arlene commented, "My family taught me everything." Dorian said, "I learned [about] being an American through my family." Anton stated, "College is the place where you can learn about your specific community."

Other citizen respondents identified employment as contributing knowledge about the American community. Frank said, "I spend so much time at work. . . . This is where I learn." In general, citizen respondents mentioned work more often than students as where they learned knowledge that helped them feel like members of the American community. Jaber, an immigration lawyer, reported how significantly participation in professional settings influences learning and membership:

This is the place [Texas/America] where I work and live. . . . Working is important. I learned more about the Constitution and the law at work than at law school . . . I'm ashamed to say I spend more time at work than at home.

The data suggest that social exchanges between individuals and various institutions help shape their commitment and sense of belonging to a community. Jaber's commitment to his employer and the community of which it is part seems contingent upon his learning and participation. Likewise, the more Jaber learned, the more valuable he became to his employer, which thus led to his increased participation. Subjects who responded positively to the primary research questions acquired knowledge through their participation in various institutions, which in turn facilitated membership and institutional growth. I assumed, as did the respondents, that without such participation, the same level of information and growth could not have been achieved.

### ***Investment***

Especially among the citizen respondents, people said they felt a part of the community because they paid taxes. Legislative stakeholder Todd stated, "I pay taxes." Greg reported, "I pay taxes, vote, and everything else that's required of me." William states, "I vote . . . pay taxes." Likewise, un-

documented immigrants frequently mention taxes when asked the primary interview questions. When asked the follow-up question, "So you paid taxes?", undocumented student Luis explained, "Yeah, they took taxes out of my check." Carlos reported, "When they took taxes out of my check I was, like, cool. . . . I thought everything was okay. . . . I thought I was finally good . . . with [the] government." In general, undocumented students and citizen responses suggested that paying taxes contributed to a sense of membership. However, they also mentioned other types of investments.

Paying taxes meant more than just an involuntary requirement. One legislative stakeholder stated, "My taxes are an investment in American citizens." Another observed, "I pay taxes with the expectation that it will help people . . . [and] the country." The theme of investment seemed important to the students as well. Undocumented student Erica stated:

I want to go to grad school after I graduate. . . . I want to be a professor like my favorite teacher Dr. [Smith]. . . . I would like to teach at a school like [State University]. . . . I can't wait till it's over [being naturalized]. Then I can just let my worries go.

Erica clarified that she wanted to invest in graduate school for the future return of becoming a professor in the United States. Similarly, Zack saw his education as an investment in membership: "Yeah, I want to stay here. Why do you think I'm going to college? . . . I want to take care of my family . . . here in America."

Students frequently mentioned that they went to school to gain future employment. Citizen respondents also reported making an outlay of some resource in hopes of a future return. Interest-group respondent Frank stated, "My grandparents sacrificed everything so that I could live a comfortable life here in the country. . . . But they did it the right way." In response to the follow-up question, "How does paying taxes make you feel that you're a member of the American community?", interest-group respondent Anton stated, "I give a lot of myself for this country. . . . I deserve everything I get."

Stemming primarily from interview data, the membership principle of investment leads to a greater sense of inclusion in the political community and, hence, a stronger sense of membership. The principle of investment is defined similarly to our everyday understanding. However, I borrow Amitai Etzioni's (1998) definition, which he used in the essay, "A Communitarian Note on Stakeholder Theory." He defines investment as "the outlay of money, time, or other resources, in something that offers (promises) a profitable return" (p. 682). Resources are anything that can be seen as being exchanged for some type of gain or benefit. As with any investment, the returns can "rise or fall, or even be wholly lost, depending on the ways the investment is used" (p. 682).

### **Identification**

When asked the follow-up question, "In terms of nationality how do you identify?"; undocumented respondents generally claimed some form of American identity. Two respondents said, "Chicano." Four said, "Mexican American." Twelve undocumented immigrants' self-definitions included being an American although they were not officially so. In response to the follow-up question, "You are not a U.S. citizen. Why do you claim an American identity?"; one student stated, "I feel American. . . . I tell people that I'm American, but I know that I'm not." All but one of the legislative and national stakeholders claimed an American national identity.

I will spend more time discussing identification in the responses of undocumented students because American identification among citizens is predictable. Still, responses among all stakeholders to the primary questions yielded similar beliefs. For instance, legislative stakeholder stated, "It's my identity. I consider myself American before anything else."

Although many undocumented respondents saw themselves as having an immigrant background, they did not differentiate themselves from other Americans. These beliefs generally tended to be based upon cultural notions of membership. They saw their day-to-day behaviors and beliefs as similar to those of American students. Students typically acknowledged their immigrant background, but still saw themselves as American. Carla stated, "I feel a part of the American community . . . Being an immigrant is American. . . . I belong because I fit in. . . . I love America because everybody is an immigrant." When asked the follow-up question, "Why do you consider yourself American?"; Carla said, "This is what I am. I don't know why people question who I am."

The general findings suggest that self-concept contributes to the general sense of a commitment to exchange resources with others who have the same commitment. The identity that a person gives herself impacts whether one develops that commitment. Plainly, undocumented immigrants are more likely to exchange resources with American citizens if they see themselves as American.

### **Patriotism**

When asked the follow-up question, "How do you identify?"; most of the respondents reported multiple identities including an American character. For instance, undocumented immigrant Leticia stated, "We live in a multi-cultural community. . . . I hang out in different communities all the time. . . . You just can't hang with people in your race." Luis remarked, "I have to be a part of the Guatemalan community, Mexican community, and American community." In response to the follow-up question, "What does it mean to be Latino?"; Gretchen commented, "We [friends] do American things. We're Chicano. I do salsa and meringue . . . Latino American stuff."

The legislative stakeholders and interest-group respondents also mentioned multiple identities when responding to the follow-up question, "How do you identify or what other communities do you belong to?" Todd stated, "I am very active in my fraternity . . . [and] my political party." Yvonna described: "I am in several communities . . . I'm a Texan . . . Republican . . . PTA . . . There is no one American community." Lincoln remarked, "We have our own country in Texas." Juliaine said, "I belong to several communities. . . . We are a tossed salad. . . . That's what makes America great." Despite the multiple identities, most respondents claimed an American national identity.

Shabini (2002) asks, "Who's afraid of patriotism?" in his article on the subject's binding force on citizenship. In a country swarming with cultural, ethnic, and political diversity, calls for patriotism in a post-September 11 era have often been poorly disguised allegiance checks. These checks of allegiance remind us of a time when nationalistic educational tools were used to exclude some members or force others to stake essentialist beachheads on either American or enemy soil (Gottlieb, 1989).<sup>1</sup>

Despite its flawed historic uses, "[n]ationalism . . . is a powerful indication of a desire and need to belong to a politico-cultural entity that determines one's identity" (Shabini, 2002, p. 419). The respondents in this study communicated this same need, but patriotism in the proposed membership framework is not the ethno-nationalistic brand that liberals have criticized as being steeped in tribal or familial notions of national belonging (Taylor, 1985; Walzer, 1983, 1990). Rather, the principle of patriotism reflects an apparent need for civic belonging in a political community that is diverse and pluralistic. Shabini captures the essence of this theme: "Civic patriotism . . . [is] what promises to replace nationalism by providing the civic bond of citizenship necessary for one's sense of belonging and identity while avoiding nationalism's damaging features" (p. 420). From the respondents' answers, it became clear that patriotism was a need inherent to their commitment to share and exchange resources with likeminded beings.

### *Destiny*

Responses to the primary interview questions included references to the interviewees' future relationship with the country. Undocumented students related how their educational aspirations involved future employment in the United States. Erica stated, "I want to go to grad school after I graduate. . . . I want to be a professor like my favorite teacher Dr. [Smith]." Undocumented students' responses also suggested that parents planned for their child to stay in the country. Lolita said, "My parents worked so I could have a future."

---

<sup>1</sup> The Gottlieb article examines how the treatment of Reconstruction, McCarthyism, and the Vietnam War in high school textbooks were one-sided, nationalistic views on the topics.

Citizen subjects also reported references to the future. Clifford stated, "This is where I'm going to stay. I'm going to be here. . . . This is my home and my children's home." Eben said, "I live in the same house [where] my grandparents lived. . . . My kids will probably stay here." Jaber, interest-group participant, stated, "I work so that my family can live comfortably. . . . Yes, here in America." The sense that one belongs in his or her future community was a subtle but distinct finding. Many of the remarks that led to this category stemmed from the primary or follow-up question: "Where do you see yourself in five years? In 10 years?" Respondents consistently reported participation in family, school, and work in the country in which they identified. Therefore, I wanted to encapsulate feelings about future participation relevant to why someone feels like a member of a country.

The term *destiny* captures the future vision of where someone sees himself or herself inside or outside of a particular political community. It is the extent to which a person links himself or herself to the fate of the community. This construct seems to be a subcomponent of identity. However, the frequency with which the concept of destiny was mentioned warranted the construction of a principle that emphasized its importance.

### ***Law-Abidingness***

This principle was not derived from the two primary membership questions. When I asked students, "Have you ever been arrested for any crime?" all of the respondents said no. I did not expect to hear otherwise, and I did not have access to criminal or disciplinary data to validate responses. However, student responses did align themselves with the spirit of state policies that permit the distribution of financial aid to qualified undocumented high school graduates.

Many of the proposed policies that would or do grant undocumented immigrants some form of financial aid require that residents have demonstrated "good moral character" upon applying for the subsidy (U.S. House of Representatives, 2001; U.S. Senate, 2001). Typically this requirement is interpreted as not having an arrest record for a certain class of crimes. Many of the non-student stakeholders generally saw law-abidingness as an indication that the person can be a *good* future citizen. Galston's (1991) citizenship virtues and U.S. naturalization policy also require law abidingness as a virtue or condition of membership (U.S. Department of Justice, 2000).

Students who responded that they have not been arrested of any crime also reported that they resided in the country for a significant period of time, participated in many institutions, knew critical information about the state, identified with an American community and connected their fates with that of the nation-state. Assuming that there are virtues that make for a good member of a community, this principle assumes that moral behaviors facilitate membership. The analytic question underlying

this principle asks, “What basic moral standards facilitate membership in a political community?”

Without codifying a list of ethical behaviors that should be explored in membership, what basic, assessable behaviors can policymakers pull from to consider moral/ethical behavior in membership formation? Law observance seems to be a pragmatic and sensible way to examine basic moral behaviors. I make the obvious assumption that public policy and law generally comport with basic notions of justice that are considered morally sound. There are certainly instances where good people break laws for just reasons. However, ignoring aberrant circumstances, the principle assumes that breaking laws is, in part, a reflection of a person’s aversion to the moral doctrine of the state, which is negatively correlated with being a member (or at least a good member). The negative responses to “Have you ever been arrested for any crime?”, supports the presence of normative behaviors associated with feelings of membership.

### CONCLUSION: SUBSTANTIVE MEMBERSHIP

Empirically, the study posits a moral based upon stakeholders’ common intuitions of membership. In other words, the study generally establishes an evidence-driven account of what we believe membership *should* be. More specifically, it responds to the question: “What makes me (stakeholder) a member of society?” Separately, the principles do not define membership. (Many of the enacted policies that give benefits to the undocumented are based on one, or at most a few, of the principles). The principles derived from the multiple data sources make a logical map of political membership. These principles make up *substantive membership*.

Substantive membership entails living in particular spatial boundaries; attaining community knowledge, skills, and resources; receiving communal provisions through exchange with significant community institutions; investing in communal provisions for membership; accepting the community’s identity and fate; and accepting the political community’s basic moral philosophy. Substantive membership answers the question, “What makes a person a member?” It assumes that not all substantive members are citizens and that not all citizens are substantive members. Still, citizenship matters, and the rights associated with citizenship should be carefully guarded. The question then becomes, “Should higher education benefits be a right or benefit exclusive to citizens?”

The Supreme Court’s decision in *Plyler v. Doe* reflects the need for democratic societies to ensure that its substantive members receive the political and social attributes necessary to maintain a healthy democracy. Why does this need exist? We can get to the root of this need by asking why citizens generally commit to the goals of the country.

Not only do countries protect the rights of its members, but citizens also participate, exchange, and deliberate in the country *because* they have developed into substantive members. As noted by Walzer (1983), membership is a sense of commitment to exchanging and sharing with likeminded beings. That commitment is facilitated and encouraged by other members. Citizens are born (or naturalized) and members are made. The danger of not allocating rights to members can result in a legalized second-class citizenry, which can cause dissention among substantive members in a political community. Marshall (1998) suggests that "citizenship has itself become, in certain respects, the architect of legitimate social inequality" (p. 93).

Therefore, countries have a moral obligation and practical need not to deny rights and privileges to those who are doing everything required of them as members. In this regard, citizenship and its rights must recalibrate themselves periodically to capture its substantive members. This study offers a guide toward making such changes. However, some of the principles are hard to acquire through some type of administrative process. For instance, how does one know if a person has reached a reasonable degree of patriotism? Policymakers have an easier time operationalizing residency (current residency laws), social awareness (high school completion), and law abidance (no criminal record).

If we have similar beliefs about membership, then why do we have such stark differences in policy? If differing conceptualizations of membership are not the problem, then what is? The interviewees commented that differing policy positions occur because of differing views on naturalization rules, conflicts on the amount of resources needed to ensure citizens' postsecondary benefits, differing beliefs about how members are developed, beliefs about how distributing postsecondary benefits to undocumented residents may affect national goals, and, of course, simple discrimination. These problem areas may be "intellectual detours" that move policymakers away from enacting policies that reflect our basic beliefs. Upcoming research will help reconcile these differences. In addition, future studies may warrant political analyses if the pursuit of power can account for the differences in policy.

## REFERENCES

- Creswell, J. W. (1998). *Qualitative inquiry and research design: Choosing among five traditions*. Thousand Oaks, CA: Sage.
- Delanty, G. (1998). Reinventing community and citizenship in the global era: A critique of the communitarian concept of community. In E. A. Christodoulidis (Ed.), *Communitarianism and citizenship* (pp. 33–52). Aldershot, Hants, Eng.: Ashgate.
- Etzioni, A. (1998). A communitarian note on stakeholder theory. *Business Ethics Quarterly*, 8(4), 51–66.

- Gall, M. D., Borg, W. R., & Gall, J. P. (1996). *Educational research: An introduction* (6th ed.). White Plains, NY: Longman.
- Galston, W. A. (1991). *Liberal purposes: Goods, virtues, and diversity in the liberal state*. New York: Cambridge University Press.
- Gottlieb, S. (1989). In the name of patriotism: The constitutionality of “bending” history in public secondary schools. *History Teacher*, 22(4), 411–495.
- Hammar, T. (1986). Citizenship: Membership of a nation and of a state. *International Migration*, 24, 735–747.
- Hammar, T. (1989). State, nation, and dual citizenship. In W. R. Brubaker & German Marshall Fund of the United States (Eds.), *Immigration and the politics of citizenship in Europe and North America* (pp. 81–96). Lanham, MD: University Press of America/Washington, DC: German Marshall Fund of the United States.
- Hammar, T. (1990). *Democracy and the nation state: Aliens, denizens, and citizens in a world of international migration*. Aldershot, Hants, Eng.: Ashgate.
- Hunter, J., & Howley, C. (1990). Undocumented children in the schools: Successful strategies and policies. *ERIC Digest*. 1990-09-00 (ED321962).
- Immigration and Naturalization Service. (2003). *Form I-485: Application to Register Permanent Residence or Adjust Status*. Retrieved December 26, 2003, from <http://uscis.gov/graphics/formsfee/forms/files/i-485.pdf>.
- Joppke, C. (1998). *Challenge to the nation-state: Immigration in Western Europe and the United States*. New York: Oxford University Press.
- King, J. E. (1999). *Financing a college education: How it works, how it's changing*. Phoenix, AZ: Oryx Press.
- Marshall, T. H. (1998). Citizenship and social class. In G. Shafir (Ed.), *The citizenship debates: A reader*. Minneapolis: University of Minnesota Press.
- Merriam, S. B. (1998). *Qualitative research and case study applications in education* (2nd ed.). San Francisco: Jossey-Bass.
- Olivas, M. (1995). Storytelling out of school: Undocumented college residency, race, and reaction. *Hastings Constitutional Law Quarterly*, 22, 1019–1086.
- Olivas, M. (2002, June). A rebuttal to FAIR. *University Business*, p. 72.
- Passel, J. S. (2001). *Demographic information relating to H.R. 1918: The Student Adjustment Act*. Washington, DC: Urban Institute.
- Plyler, Superintendent, Tyler Independent School District, et al. v. Doe, Guargian, et al.*, 457 202 (U.S. Supreme Court 1982).
- Rawls, J. (1971). *A theory of justice*. Cambridge, MA: Belknap Press of Harvard University Press.
- Rawls, J. (1993). *Political liberalism*. New York: Columbia University Press.
- Shabini, O. A. (2002). Who's afraid of constitutional patriotism? The binding source of citizenship in constitutional states. *Social Theory and Practice*, 28(3), 419–443.
- Soysal, Y. N. (1994). *Limits of citizenship: Migrants and postnational membership in Europe*. Chicago: University of Chicago.
- Soysal, Y. (1998). Toward a Postnational Model of Membership. In G. Shafir (Ed.), *The citizenship debates: A reader*. Minneapolis: University of Minnesota Press.

- Stake, R. E. (1995). *The art of case study research*. Thousand Oaks, CA: Sage.
- Taylor, C. (1985). *Philosophy and the human sciences*. New York: Cambridge University Press.
- U.S. Department of Justice, Immigration and Naturalization Service. (2000). *A guide to naturalization* (Form No. M-476). Washington, DC: Immigration and Naturalization Service.
- U.S. House of Representatives (2001). 107th Cong., 1st Sess. *Student Adjustment Act of 2001*.
- U.S. Senate. (2001). 107th Congress, 2nd Sess. *Development, relief, and education for alien minors act (DREAM)*.
- Walzer, M. (1983). *Spheres of justice: A defense of pluralism and equality*. New York: Basic Books.
- Walzer, M. (1990). What does it mean to be an "American"? *Social Research*, 57, 591–614.
- Yachnin, J. (2001, April 11). Bills in 2 states would cut college costs for some illegal immigrants. *Chronicle of Higher Education*, p. A36.