

Undocumented Immigrants
and Higher Education:

¡Sí se puede!

Alejandra Rincón, Ph.D.

Education and Equality

1975 Texas law withhold funds from school districts that enrolled undocumented children.

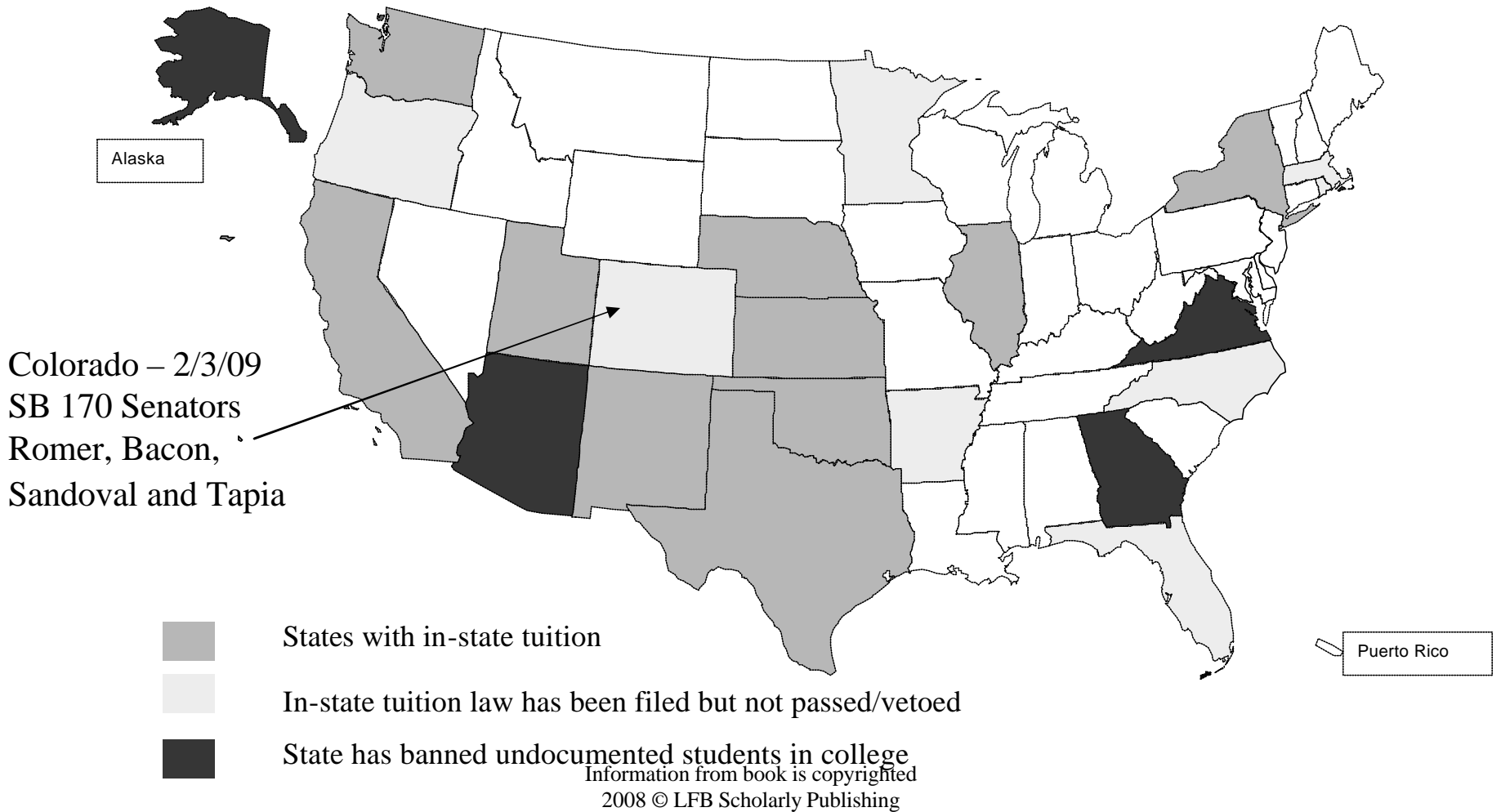
1982 Supreme Court rules in *Plyler v. Doe* that undocumented children have access K-12



1996 Section 505 of the *Illegal Immigration Reform and Responsibility Act* limits preferential treatment of aliens not lawfully present on basis of residence for higher education benefits

2001 Passage of in-state tuition laws begins in Texas

In-State Tuition Across the U.S.





July 20, 2004

Out-of-state students protest tuition break
Suit says law violates U.S. Constitution

Kris Kobach, discusses a lawsuit he filed on behalf of 24 **out-of-state students** who attend Kansas universities. The lawsuit seeks to overturn a Kansas law that grants in-state tuition to some immigrant students.

Source: Ann Williamson/The Capital-Journal



Immigrants unite 03/23/05

Juan Ornelas, of Wichita, center, takes part in Tuesday's "Out of the Shadows" rally at the Statehouse. Hundreds of people from across the state were in Topeka to support education, health care, workers' rights and civil rights for immigrants.

Attempts to Overturn In-state Tuition Laws



Retrieved from www.daylife.com

HB 50 by Riddle - Resident status in connection with tuition and fees

HB 255 by Berman - Relating to prohibiting admission of applicants who are not lawfully authorized to be present in the United States.

HB 262 by Berman - Relating to information regarding the citizenship status of students.

HB 418 by Brown, Betty - Relating to the determination of resident status of students by public institutions of higher education.

HB 577 by Sheffield - Relating to requiring public institutions of higher education to notify the federal Student Exchange and Visitor Information System (SEVIS) regarding the withdrawal or nonattendance of certain foreign students.

The need for new arguments

Arguments for in-state tuition

- Cultural Assimilation

The demand for education should be universal

- Penalizing students for the actions for the parents

The underlying logic of this kind of defense portrays the parents as criminals who have victimized their own children.

- Threat of criminality

Casts education as a form of crime prevention, promoting the shocking proposition that it is cheaper than to incarcerate them.

- Economic investment

Economic arguments

- Why are immigrants here? Why are they undocumented?
- The debate over immigration inevitably begins with the “illegality” of millions of workers.
- Political intervention of the U.S. government, and the role of its trade policies are rarely the factual starting point in the debate over undocumented immigration.
- U.S. immigration and economic policy is designed to create and sustain the economic, social, political, and military conditions that drive the immigration flows that underpin the U.S. economy (.i.e. NAFTA).
- Immigrants are denied legal status precisely because their caste-like condition as undocumented is what is most profitable for business interests.

Taxation without representation

- Limiting the use of economic arguments does not mean to leave inaccuracies unanswered regarding the role of **7 million** undocumented workers in the U.S. economy:
 - Generate super profits for U.S. economy and specific sectors
 - Have paid sales taxes and payroll taxes for decades
 - Increasingly paying income & property taxes (fund education)
 - Income and payroll taxes contribute to SSA, Medicare, and unemployment taxes (**SSN not required to pay taxes**)
 - The IRS reports that between 1996 and 2003, **income tax contributions** totaled \$50 billion. In 2005 alone, the amount withheld from undocumented workers' paychecks totaled more than \$5 billion.
- Payroll tax deductions from mismatched SSN – Also known as Earning Suspense File of the SSA (\$586 billion by 2006)

Economic arguments



- The debate is not about their presence here but rather the conditions of such presence.
- Economic system requires marginalized workers willing to work long hours for little pay under the constant threat of deportation.
- **Employer demand for cheap labor** and the **federal government's commitment to ensuring increasing profits** will continue to shape immigration policy now and in the future, much as it has over the past century and a half.
- Raid in Iowa interfered with state investigation over child labor and wage violations designed to improve conditions.

Criminalization of immigrants



•Tomasa Méndez, Guatemalan girl during New Bedford, MA raids.

- 1997-2007 – Nearly 2.2’ deported
- More than 108,000 parents of USC
- Small children without both parents for over 72 hours
- Mother released on “humanitarian grounds” –forced to wear ankle GPS monitor pending deportation
- In 2007, ICE allowed release of nursing mothers “unless they pose a *national security risk*”
- May 2007 – 7 year old USC detained for 10 hours with father in California

“A nation of immigrants is holding another nation of immigrants in bondage”
(NYT editorial, 6/3/08)

In-state tuition and Immigration Politics



Tom Tancredo

Apodaca case underscores contradiction addressed by Supreme Court in *Plyler*:

Employment and taxation of undocumented laborers yet denying their children access education



Jesús

Apodaca

Plyler v. Doe (1982) decision

“This situation raises the specter of a **permanent caste of undocumented resident** aliens, encouraged by some to remain here as a source of cheap labor but nevertheless denied the benefits that our society makes available to citizens and lawful residents. The existence of such an underclass presents most difficult problems for a Nation that prides itself in adherence to principles of equality under the law”

Education and Equality

- The Black struggle for equality was not ignited by economic rationales that promised more productive servitude.
- Blacks did not demand access to the same schools as whites, equal employment opportunities, or an end to segregation by promising increased tax bases or profits or by threatening mass criminality and burdening social service systems.
- Their compelling arguments were based on their inherent human dignity and their fundamental human and civil rights.
 - 1968 Memphis Sanitation Workers' Strike: **"I am a man."**
 - 2006 Immigrant Marches: **"No human being is illegal."**
- In line with Civil Rights and Chicano/a movements, a central tenet continues to be equal access to education at all levels.

Plyler Plaintiffs – The López Family



Antonia Martínez



Alfredo López



Fabiola López-Tizcareno

José López, foundry worker whose family became one of the plaintiffs in *Plyler* : “School is very important for all children, and they should not be discriminated against because they are Mexican or white or black. **They should be equal.**”

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Student Supporters Rally

UC Board of Regents – January 2002



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