

Educational Rights for Students without Documentation

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Abstract:-Education is a tool as seen by those living in the United States as the guide and ladder to better improve one's educational future and career goals. Unfortunately, students without documentation suffer from severe fear of being removed from their educational surroundings, and losing their chance for future advancement. Though the United States Supreme Court has ruled in favor of allowing children without documentation to legally attend public schools through the case of Plyer v. Doe 1982. (U.S. 202), a number of states have attempted to ignore the landmark decision only to bring new state laws that forbid students without documentation from attending public schools. This article looks into the negative influences of shunning students without documentation through domestic and international trends, the use of specialized means of community organizing, awareness, political activism greatly gives a voice for those who have lived in silent fear.

Keywords:*Citizenship, Documentation, Organization, Participation, Race*

I. INTRODUCTION

What legal rights do students who do not have proper legal documentation have? Personally mentoring and tutoring students who had to live in society without documentation, or citizenship to any sovereign nation this question has been frequently asked by my peers and myself. The effects of lacking documentation and constantly looking over ones shoulders are not the best path in life or the fairest way to live. Especially in the case of if their parents don't have the documentation necessary to be considered legal status in the country, how does this affect the student's welfare, security, and sense of belonging to society? Since the colonial period of America's founding, education has constantly evolved with the geographical and political evolution of the United States. As numerous issues from every generation in American history has fought for a fair share in attending schools and to receiving an equal education, an essential subject in today's society is the question of the rights of both the parents and students in the issue of citizenship in America's public education system and how the parents can cope and deal with the realities that surround their children's education and voice their concerns to the policies that greatly affect their children's education and their very lively hood. I will investigate the issues, legal rights, and policies that effect these students and their families, and explore as to why it is of great importance to allow and provide adequate education to these students and bringing them a sense of belonging to society.

Unlike many other nations across the globe such as Finland and the Republic of Korea, education is not an inalienable right for the people, nor is the right to an education mentioned in any of the Articles of the United States Constitution. The rights to a free and equal education have been left for each of the fifty sovereign states of the United States to decide. Control at the state level has at times led to serious issues of funding control, allowing and discriminating on who is allowed an education and who has a voice in the decisions in the local school boards. The right to a fair and equal education in the United States has been an uphill battle for every generation of its citizens and non-citizens even long before the nation's founding.

From race, gender, sexuality and the status of citizenship, the equality to education has been at the forefront of discussion for nearly every generation and through each generation we've witnessed certain issues pertaining to a particular group which have deeply struggled and tirelessly and peacefully fought to achieve the respect, values and beneficial rights to a fair and equal educational experience. Through the history of these generations the struggle of African Americans who were against their will slaves being barred from any education only to be threaten by death or severe inhuman punishment in receiving any form of education, Native Americans children losing their culture and way of life while being sent thousands of miles away from their homes to boarding schools, Irish immigrants arriving to America looking for a new and better life especially for their children only to enter local schools and be taught the racist views against them in the very public schools their parents help finance through taxes they paid to the city, to finally desegregating schools especially in the southern states of America and allowing both white children and black children to enter the same classroom and learn in the same environment, and now in our generation the issue of allowing children who are undocumented

through the Supreme Court case of *Plyer v. Doe* 1982 (U.S. 202) which granted the rights of children who do not have proper documentation to finally attend public schools without the fear of being deported or rejected from the local school system.

The Supreme Court voted in favor of allowing students without documentation to legally attend public schools through the case of *Plyer v. Doe* 1982. (U.S. 202) Why do many states attempt passing state legislation that simply violates this federal law? Even with the passing of the Civil Rights Act of 1964 many states have always been hostile to opening up school doors to others who are different in terms of race and socioeconomic status. There still so much inept backlash and measures to block and prevent students who are not documented to attend public schools. Why do a number of state legislatures such as California and Texas pass laws that cause unimaginable fear to parents that their children may be taken away when they leave home for school? Why must society judge, fear, and question ones relationship to a nation due to their legal status? What effects does this have on the children in terms of their identity? California's Proposition 187, which would have prevented students who do not have documentation to enroll in public schools and force the students to live in constant fear that they could be reported to authorities and be deported from the United States even by their very own school teachers. The heinous law also was designed to prevent families without documentation from receiving any type of health care and civil services. (Hoover)

The Fourteenth Amendment states that the State shall not "deny to any person within its jurisdiction the equal protection of the laws." (U.S. 202 1) "Whatever his status under the immigration laws, an alien is a "person" in any ordinary sense of that term." (U.S. 202 1) A person no matter their citizenship status has the right to equal protection of the laws, and should therefore be able to live rightly under those laws. Just from basic simple analysis of the previous quoted section, any state must provide equal protection to any persons under the law. Some members of the California legislature seemed to have forgotten this notion, and continued to push for Proposition 187, which violates the federal statute. "From the perceptive of citizenship, this struggle can be articulated in terms of tension between citizenship's inclusionary and exclusionary sides." (Lister pp.49) Attempts such as those with citizenship in Texas that attempted to prohibit undocumented children from entering public schools and in California where undocumented children could have been deported and reported to authorities by teachers, those who supported Proposition 187, the struggle and tension between the citizenship inclusionary and exclusionary sides are vividly real and at the heart of today's educational quarrel. Why introduce xenophobic policies and instill fear to human beings who are simply trying to receive an education? Even during the *Plyer vs. Doe* case the Supreme Court stated "Public education has a pivotal role in maintaining the fabric of our society and in sustaining our political and cultural heritage the deprivation of education takes an inestimable toll on social, economic, intellectual, and psychological well-being of the individual, and poses an obstacle to individual achievement." (U.S. 202 1) There is no question that preventing any child no matter his or her background that a lack of education will only lead to a more difficult and stressed life, but could also lead to disenfranchisement from society.

II. THE FOUR VALUES EFFECT

Education plays an important role in the shaping of America and many of the children attending the thousands of schools across the nation have no documentation. To have a sense of belonging and inclusion into society the four very important values of inclusive citizenship need to be addressed. The four values of inclusive citizenship are justice, recognition, self-determination, and solidarity. Unfortunately for people without documentation, these four values are almost impossible to achieve. Without documentation, it is almost entirely impossible to achieve justice, even though the fourteenth amendment guarantees protections for those persons under the law. Those who do not respect the rights of people especially those without documentation clearly do not view them as a person but views them with racially motivated and ethnically degrading terms such as illegal aliens or illegals, which simply degrades their humanity.

"Inclusive citizenship is as much about recognition as about access to formal rights" (Lister pp.51) having recognition of ones self and identity is crucial to allowing one to feel and truly be a member of society. Unfortunately official recognition by persons who don't have official documentation status is fearful situation by many for them to be able to come out and publicly open up about their legal status, they face severe consequences such as detainment by government officials and forced deportation. These students have no recognition from any government agency and for the brave students those that have opened up about their legal status have done so with much strength and determination in order to spread the message and bring awareness to the issue that dehumanizes them and marks them as a nuisance to society.

Self-determination for those without documentation is virtually impossible. Many students without documentation in higher education lack the security of finding a job. "The 65,000 undocumented students who graduate high school each year (Perez 2009, xxv) face overwhelming obstacles in future employment and higher education opportunities. Most jobs outside of menial labor require proof of citizenship status." (Radoff pp.444) Since January of 2010, eleven states have passed laws allowing students without documentation to receive in-

state tuition. Unfortunately at least five states prevent students from receiving in-state tuition. South Carolina has legislation that bans students without documentation from enrolling in all public universities and colleges while Alabama bars students without documentation from enrolling in its community colleges. (Glenn pp.12) When a person is stripped of their rights and the state government blocks any chances of personal advancement the students lose their self-determination. Due to restrictions to funding for in-state tuition, hurdles that prevent them for entering the job market after graduation these students lose the very motivation that allows them to move their lives to the next step of their goal.

Solidarity, the fourth value could be the most achievable of the four values, due to many grass roots organizations such as the Immigrant Youth Justice League in Illinois, and the JovenesImmigrantespor un future Mejro (JIFM) in Texas who have brought together students and families organizing, and bringing the issue to the forefront of society especially to the local and state arena. "These immigrant student groups draw on the language of social justice, international human rights and domestic civil rights." (Glenn pp.76) Uniting and speaking out, these groups have helped and motivated other students to not be afraid and look over their shoulders and speak out about their dire situation.

III. PARTICIPATION IN THE LOCAL SYSTEM

The disadvantages from the lack of citizenship or legal status are extremely terrible and cause serious social inequalities. "Citizenship affects public life in areas such as political participation and development of state policy; it also affects private life, including family and interpersonal relations. Lack of citizenship or legal status affects household formation and may indeed fracture families by separating members from those who have legal status from those who do not." (Glenn pp.2) While children without documentation face serious issues from state and local governments on enrolling in schools, what of the parents? When parents have no decision making power or voice on the policies that effect their children's education, the situation for their children can become even direr as they are put in a system that has no respect or makes many willing adjustments to accommodate them.

Most parents with children who are undocumented have no say in their children's education nor future especially in the situation where there is no legal route for them to have their voices included in the local school board to share their views and express their opinions on matters related to their children's education. Issues of non-citizens voting in local elections especially pertaining to educational issues surrounding their children's school districts have surfaced in several municipalities across the United States. Cities such as San Francisco where the non-citizen immigrant population represents sixteen percent, currently have no voice in the local school board in matters related to their children's education. Many cities across the country have large immigrant communities, which is following the national trend of disproportionate representation in the education system. (Radoffpp.275) Why should many State and Local government officials fear in allowing non-citizens to vote in their local school boards agendas and meetings? Successful examples of where non-citizens were granted the right to vote are cities such as Takoma Park, Maryland, and Amherst and Cambridge Massachusetts, which have allowed non-citizens to vote in local elections. "A pragmatic argument for noncitizen voting rights is that noncitizen voters will increase the power of the working class and minority voters." (Radoffpp.307) which in a natural sense does no harm towards the greater good of the community but to the policy makers the greatest fear is losing their grasp on policy decisions and their general fear of what it would mean for them and their supporters if another group with a different political ideology and values arose into power and influence. These parents are contributing to society and striving to provide a better life for their children, so to keep them away from any decisions made for their own children's educational wellbeing and push them back and affect their children's future is not for the betterment of society but a serious cause of concern. To build a wall and prevent equal opportunity for these children is essential for both these children's and society's future. As was done in Amherst, Massachusetts where non-citizens are allowed to vote in local elections, other cities are moving towards that direction as San Francisco had attempted in 2004 though failed continues to argue for the right to vote of its non-citizens. For people without documentation, having the rights of the four values of inclusive citizenship would clearly help them to achieve great benefits for their educational goals and allow greater contributions to society. Allowing them to speak on behalf of their children who are attending the local schools is not only the right thing to do, but also helps them become an active member of the community and can lead to more involvement in the community that will only positively stimulate the growing sense and positive exchange within that community.

IV. POSSIBLE ISSUES OF SECURITY AND OSTRACIZING

There have been disastrous effects on societies around the globe when governments and society prevent children to be included into society due to their legal status. "Statelessness is not just a human rights concern. There are potentially huge-scale and long-term security concerns as well"(Berkeley pp.7) In many other nations

the threat of violence, and rejection to social norms due to exclusion from society has paralyzed the movements that have voiced concerns and expressed their wishes to be treated equal, through peaceful means. A major security concern for the United States is not the fear of violence against the state from those without documentation, the fear must focus on what happens as students who do not have documentation cannot complete or even safely attend grade school, cannot attend institutions of higher education due to legal and financial reasons attributed to legal issues and or cannot get jobs they are qualified for due to their status even if they graduate from institutions of higher education? “Stateless peoples, abandoned by the world and bereft of hope, sometimes take matters into their own hands” (Berkeley pp.7) Where will these students go, and where will they turn to if they feel that society does not accept them nor allow them to contribute to society? These students will continue to live in the United States as most cannot move to the country they left when they were too young to make choices especially back to the land from where they along with their parents immigrated from, or return to the country where they left as many have little or no links to that country. An excellent example of when society closes its doors to a particular group especially a youth centered demographic is France where young people of North African origin who most have been born and raised in France have little or no real connection with the country of their parents’ origin. This situation of living in one country but being considered a member of another country leaves them virtually stateless. Without any form of education within the society they live in, this idea of statelessness and societal rejection can have a profound negative impact to the youth and to society as a whole. “Since the body of the French nation does not want them, they do not want it in return. No wonder that during a soccer game at the famous Stade de France, thousands of young Maghrebins whistled in protest as the national hymn of France, *la Marseillaise* was being sung” (Sajed pp.372) Generating so much anger and anguish of one’s status can really cause negative consequences as it has happened in France.

Though this type of scenario hasn’t played out yet in the U.S. as of yet, the negative connotation that could come about from keeping a group from participating in as a member of society can have ill effects. On a positive note, nearly every group that has fought for equality has done so in peaceful manners. What happens when a group simply gives up and feels threatened and not welcomed? Seemingly the use of violence usually comes to the fray. Society cannot simply leave them on the street to fend for themselves or take away their chances of contributing to society. In France we have seen students agitated by being rejected as a citizen and member of French society a country where they have grown up in and simply viewed as an outsider. Implementing laws such as Proposition 187 and fighting to remove students without documentation from the public schools is not the right course for society especially for the youth as they are creating their identities and figuring out their place in society. In some countries such as France where the youth have turned to violence, the grassroots movement and support for people without documentation have grown and have peacefully taken measures to have their voices heard.

V. ORGANIZATION AND VOTING

Organizational movements have been working to peacefully introduce and share awareness of the situation involving students without documentation and their families. “Voting rights for noncitizens has become an increasing salient and visible political issue at the local level in communities all over the United States” (Kinipp,271) Those living the U.S. with documentation that do not have citizenship are gradually winning the right to vote on local level elections, which is a step in the right direction and by expanding that leverage for localized elections to all members of the community whether they are documented or not can effectively bring significant participation to the community and for the schools as well. “Several municipalities have passed legislation granting noncitizens the right to vote at some local elections, several more are considering such legislation, and the issue has garnered attention for politicians, immigrant rights groups, legal scholars, and political scientist.” (Kinipp.271) The garnered interest in non-citizen voting has generated heated debates over questions related to citizenship, as voting and citizenship has been linked together but was not the general case over the history of the U.S., as “it is instructive to remember that many Americans reacted to the idea of women voting and blacks voting with a similar sense of outrage, yet public sentiment changed over time.” (Kinipp.272) As American society and social views evolve in America, the barriers, which prevent change, also can be broken, as different groups have won their rights to vote and are able to raise their voice through the ballot. The same general fear that caused resistance in the past that pursued prevention from voting rights for all, can be broken down as it was during the Civil Rights era, and through the proper initiatives and grassroots support, the momentum to win support for localized voting rights can be achieved.

A predictor of how successful passing voting rights for non-citizens is, looking at the successful campaigns in Takoma Park, Maryland and Amherst and Cambridge, Massachusetts the “First, these communities has experienced an influx of immigrants. Prior to passing noncitizen voting legislation, both Takoma Park and Cambridge has previously passed legislation declaring themselves a sanctuary for refugees,” (Kinipp.276) Already in support of the local immigration population, the cities were able to pass laws that

allowed non-citizens the right to vote. "Second, local organizations, especially those nonprofits working with the immigrant community, engaged in effective grassroots organizing, coalition building, and lobbying." (Kinipp.276) Having local organizations and engaging in coalition building is an important step in convincing local council members and legislators to supporting particular issues and causes. Imagine having such support in cities such as Chicago, Houston, Los Angeles, and San Francisco, the positive effects that can come from a sense of community can greatly benefit those cities. A grassroots movement in localized areas supporting rights of people without documentation such as the JIFM and IYJL, have raised their voices in the educational issues pertaining to them and to society is the direction that needs to take place first. As much as changing an entire county's perspective is of great importance, first starting by making changes at the local level must come first. Convincing the local community takes serious dedication and careful planning. Helping to get all people in the community to understand the dilemma and plight of students without documentation living in the country with fear from being removed, yet simply trying to complete an education is important.

Though some may never change their minds, as former Congressman Randall Cunningham (currently serving prison time for corruption) did not during a university class project to lobby our local member of Congress on a particular issue. His hardline stance on his refusal to allow students without documentation to stay in the United States and attend schools would never change and his view that it was in the best interest of the students to return to their home country and return to the U.S. legally. (Lobby 2003) To overcome barriers such as the lobbying experiences, the views that the students shouldn't be labeled as victim, or be viewed as an unfortunate circumstance of society as an uncontrolled law breaking criminal. The true, essence of their wanting to go to enroll in schools equally with their peers, get an education, and make something of themselves in society is the angle and tool needed to influence and change the perspectives of those who oppose any changes to any type of voting especially in local elections, and could eventually garner support in their educational mission from those who originally have opposed their very presence in the first place. "Although the Constitution explicitly makes citizenship a prerequisite for some forms of political participation, it does not state that one must be a citizen to vote in federal elections" (Kinipp.278) Trying to sway the entire country to changes its views on non-citizen voting would seriously end in ultimate failure in the first round, but patience and gradual change in the local level is the best way to start and eventually could reach the state level and then possibly the federal level over time.

VI. CONCLUSION

Blocking educational opportunities for any child whether they have legal documentation or not is simply wrong and dangerous for the future of the United States. Parents regardless of their status if they are refused a voice on the policies and decisions that are made at the local school board level, the repercussions can cause serious strains on the perspective future of the families that have children without documentation who are enrolled in schools across the nation. We see this with teachers refusing to adapt practices and cultural understandings at Hoover Elementary School. Though it's a choice if teachers want to learn or implement curriculum in the classroom that could integrate or allow students to feel more involved in the class and school, altering classroom materials to fit the particular needs of each class is a genuine sign of a caring and understanding teacher. Adjusting a curriculum based on the needs of the students' necessities will only help the students better understand the materials and allow them to adapt to school life. There is no one or right way to teach every class, as each class has students with different interest, needs, and views. As some teachers may feel all students must and should follow the American way or as is policies of the classroom environment it not only alienates students, it gives them less motivation which could result in lower scores and less participation in the classroom. Some form of adjustment must be made, and whether teachers want to learn a new culture or not, implementing a curriculum that would allow students to follow the classroom environment could be met with great results especially to students without documentation who live in fear and are often looking behind their backs.

As some groups do fear the influx of immigrants and view them as a threat, especially if they are not in the country legally; they are contributing to society through their hard work and contributions to society. Embracing children and helping them achieve their educational goals is the best gift and prize to a community and to the nation. By restricting this we alienate them and prevent them from being members of society, which we all belong to together, and labeling them as outsiders with derogatory terms will only, instill distrust in the communities. Starting with grassroots movements the issues surrounding school enrollment of students without documentation can be a just cause and could lead to more support from the community that could prevent future derogatory laws such as a Proposition 187, and implantation of racist rules from school boards like the Tyler Independent School District. Not only can these movements help generate better understanding, it could lead to voices from the parents of these children to speak up and share their views on what is best for their children's education and community. These ideals would be the start, and with that the students without documentation could attend schools more confidently and without having to look over their shoulder in fear that someone even

their own teacher just might report and have them taken away. Away from their schools, their homes, their families, their friends, their community, their state, and their country. Embracing and opening up to those who are contributing to society no matter their status will only bring benefits to the nation and will really show how history will judge the awful policy and policy makers who refused to accept every rightful member of society.

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