

EDUCATING UNDOCUMENTED STUDENTS *PLYLER V. DOE*

A CALL FOR PAPER PROPOSALS

A series of research and policy papers in law and in the social sciences will be commissioned for presentation at a strategic roundtable to be held in Spring 2007

BACKGROUND AND PURPOSE

The current public debate over immigration policy has uncovered deep divisions within the United States over the treatment of undocumented immigrants. In 1982, in a case that profoundly affected the lives of undocumented families, the Supreme Court ruled that undocumented children had a constitutional right to a free public education. As a result of *Plyler v. Doe*, thousands of undocumented children have had access to the American school system for the past two decades. This extremely close decision (5-4) has, however, repeatedly been challenged at the state and local levels.

In 1994, Proposition 187 in California sought to deny public education, among other services to undocumented children and their families. Ultimately, the more draconian provisions of this initiative were held unconstitutional, including the bar to education of undocumented children. Texas legislators made a similar bid several years ago. Georgia also debated a bill, HR 256, which proposes to amend the state Constitution to bar “illegal aliens from access to public elementary and secondary schools of the state. . . .” Given the new appointments to the Supreme Court, along with the very contentious debate taking place throughout the country regarding immigrant rights, it is entirely possible –maybe even likely—that this decision will be revisited at some point during the next decade.

Significant gaps exist in our knowledge about the educational attainment and experiences of undocumented children in this country. According to the Pew Hispanic Center, there are currently 1.8 million undocumented children in the United States.¹ Approximately 400,000 undocumented children reside in California.² Other than estimated numbers, not enough is known about these children and the social and economic ramifications of blocking their access to a public education. Additionally, given the continuing attacks on undocumented and immigrant

¹ Jeffrey S. Passel. *Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey*. Pew Hispanic Center, March 2006. Available at <http://pewhispanic.org/reports/report.php?ReportID=61>

² *The Impact of Immigration on the California Economy* prepared by the Center for Continuing Study of the California Economy, September 2005, p. 19.

children and families, there is a need to strengthen the constitutional and legal arguments that supported *Plyler v. Doe*.

To help address this need, the Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity (the Warren Institute) has designated *Plyler* and immigrant education as one of its priority topics for research and policy development. The Warren Institute is a multi-disciplinary and collaborative venture designed to produce research and research-based policy prescriptions on issues of racial and ethnic justice.* It engages the most difficult topics related to civil rights, race and ethnicity in a wide range of subject areas, and does so by combining several disciplines and professions, including law, the social sciences, public administration, and public health. Central to its methods are concerted efforts to build bridges connecting the world of research with the world of civic action and policy debate so that each informs the other, while preserving the independence and quality of the academic enterprise.

CALL FOR PROPOSALS

With the foregoing in mind, the Warren Institute is commissioning a series of research and policy papers in law and in the social sciences to be presented at a major roundtable on *Plyler* to be held in spring 2007. We invite proposals related to the following topics. We will also review other proposals in this general arena, especially ones that address additional topics not listed here.

- ❖ Quantitative or qualitative studies of the benefits that have accrued as a result of educating undocumented children, such as the number of students affected and key examples of positive outcomes.
- ❖ What percent of the undocumented children here today are likely to gain legal status; or to remain in the United States regardless of legal status? If they are likely to stay regardless, or more likely than not to eventually become legalized, what are the implications of not receiving basic education, not graduating from high school, not graduating from college?
- ❖ Is education a significant “pull” factor—to what extent is education a factor in immigrants’ decision to enter illegally? Does the “pull” factor vary with regard to different national origin groups? In *Plyler*, the court discounted the “pull” factor; is that still a reasonable assumption?
- ❖ Would refusing to educate undocumented children cause a reduction in illegal immigration?
- ❖ What percentage of undocumented children travel to the United States without family? Under what circumstances does this happen? Of those unaccompanied undocumented

* In significant respects, it is modeled after The Civil Rights Project at Harvard, co-founded by Harvard Professors Gary Orfield and Christopher Edley, Jr. (now Dean of Boalt Hall School of Law).

children, what percentage is likely to return to their country of origin?

- ❖ A moral analysis: Incorporating theological perspectives as well as others, what are the rights of workers and their children and the responsibilities of those who benefit from their labor?
- ❖ Historical and legal analysis of the belief that children should not be punished for the “sins” of their parents.
- ❖ How would state and national economies be impacted by the denial of education to undocumented children? What are the net public costs of educating these students versus the costs of not educating them in terms of lost tax revenue, increased burden on social services, and loss of human capital, etc. And the reverse, what benefits, such as economic growth and social cohesion, can we expect as a result of educating children of undocumented workers?
- ❖ How many undocumented children have siblings who are U.S. citizens? What would be the impact on immigrant families and communities if families were split into those who may and those who may not attend public school?
- ❖ What is the impact of educating undocumented students on U.S. citizen and permanent resident youth in the United States. How can this impact be measured?
- ❖ What percent of the undocumented population are school age children? What percentage of the total school population are undocumented students?
- ❖ For an international perspective: What do other industrialized nations do about educating undocumented children and what kinds of cost benefit analyses have they done? What have been the effects? What are the economic and philosophical underpinnings of their policies?
- ❖ How would a reversal of *Plyler* impact English language acquisition? Without public school access to English language instruction would areas of non-English culture and political alienation be created?
- ❖ Describe the conflict between educators’ values and missions and the legal requirements that they check students’ legal status and exclude them from school. What can we learn from California’s experience with Proposition 187? Who would bear the responsibility and costs of enforcement? Could an enforcement mechanism be evenly applied across a state? If not, what kind of inequities would result from uneven enforcement?
- ❖ Conduct a survey of parent, student, educator, and/or public attitudes toward an overturn of *Plyler*, framing the questions to consider benefits as well as costs.

Guidelines

The cover page for the proposal should include (a) the title of the paper; (b) the author(s) affiliations(s); and (c) the name of the primary contact with email and telephone number. Paper proposals should be *no longer than five double-spaced pages*, excluding references, and should include a 250-word abstract on a separate page. All proposals should describe (1) the questions and hypotheses to be addressed and the parameters of the research; (2) the data sources to be drawn upon, if applicable; (3) the theoretical or conceptual framework; (4) an indication of the amount of work already completed; (5) the paper's expected length; and (6) initial conclusions or results, if available. Proposals for empirical studies should address the same questions, but may be more extensive.

Contingent upon funding, we will provide significant honoraria to authors completing large, empirical studies and more modest honoraria (est. \$1,500) to other authors. Lead authors are expected to be available to participate, with a draft manuscript, in a roundtable in April 2007, at the University of California, Berkeley.

Proposals must be received by November 1, 2006. They will be reviewed with the assistance of an advisory committee (in formation) of researchers and practitioners. Please submit proposals electronically to warreninstitute@berkeley.edu. Authors will be notified of selection by December 1, 2007. Papers will be due no later than March 15, 2007.

For more information, please contact Aarti Kohli, Legal Advocacy Associate, at akohli@law.berkeley.edu. The director of this initiative is Dean Christopher Edley, Jr., of Boalt Hall School of Law, University of California, Berkeley. The Project Coordinator is Marilyn Byrne, at Boalt Hall School of Law.