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Birthright or Meritocracy?: Deep Stories and Undocumented Student Access to Higher Education

Marina Lopez
mlopez2@wellesley.edu

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Birthright or Meritocracy?
Deep Stories and Undocumented Student Access to Higher Education

Marina Nayar López Pabón

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Abstract

In the United States, allowing undocumented students to qualify for in-state tuition has been an oddly contentious topic in legal, political, and social realms. It is at once a debate about immigration law, federalism, sentiment towards immigrants, and the direction for the nation. This thesis explores the various laws and policies that each state across the country holds for allowing undocumented students to receive in-state tuition. In addition to this nationwide survey of states, I focus on four state case studies to explore key factors that led states to grant or deny in-state tuition to undocumented people. An important factor is the shared immigration deep stories, or shared emotional outlook, that I set forth. Emotional deep stories conceiving of America as a Birthright or America as a Meritocracy are reflected in state policies toward undocumented students. Other factors that are analyzed include state political culture, economic sectors, and time when these policies changed. My goal is to evaluate the mechanisms and reasons that allow undocumented students to receive in-state tuition.

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Introduction

There are an estimated 10.7 million undocumented people in the United States (Passel and Cohn 2018), with an estimated 2.5 million of these being undocumented youth under the age of 24 (Migration Policy Institute n.d.). This segment of the undocumented population has often been at the center of national level debates. Children, and undocumented residents of the United States brought into the country as children, have been regarded as a meaningful subset of the undocumented community by policymakers and the public alike.

In recent years, undocumented people under a certain age have been treated with different assumptions of culpability, the conventional view emphasizing that they have been brought to this country “through no fault of their own” thus shielding them from the full harshness of U.S. immigration law due to their perception as “innocent” (*Plyler v. Doe*, 457 U.S. 202 (1982)). However, based on their enduring undocumented legal status, this partial insulation from the popular and frequently unfavorable view of undocumented residents of the United States does not entirely extend to the realm of policymaking.

Historically, the immigration system has been constructed with the stated intention of a consistent legal means by which immigrants must prove their worth by the standards of the United States before being accepted both socially and in the eyes of the law. Regardless of an immigrant’s legal status in the United States, political rhetoric emphasizing the acceptance of immigrants who are “good” and “hard-working” sets impossibly high standards for immigrants, legally and throughout United States institutions. For undocumented people, this standard of conforming to a cultural standard of “worth” has historically been tied to economic value. The law prioritizes, and in fact expedites, visas for immigrants who have skills that are in high

demand over other immigrants (U.S. Dept of State - Bureau of Consular Affairs n.d.). The wait to apply for a visa via family connection is exponentially longer than the wait for those who apply for a visa based on a declared extraordinary skill. This value has been measured in terms of ability to contribute to certain types of labor. Although the visa program is a current example of this principle, it is nothing new; the Bracero Program, which brought in guest workers to work primarily on agricultural lands to fill in labor gaps, lasted from World War II to 1964 (García 2018). Time and again, the United States has prioritized letting in immigrants who meet explicit economic standards of worth to the United States, both through rhetoric and through policy.

Increasingly, an immigrant's value to the labor force has been measured through educational attainment. The current immigration system enforces this through increased visa allotments for those who are highly educated and the fast tracking of visas for those who have "special skills" in the current immigration system (U.S. Dept of State - Bureau of Consular Affairs 2019). Visas are not the only way in which immigration policy has tied education to economic value. Two major pieces of immigration policy from the past two decades, Deferred Action for Childhood Arrivals (DACA) and the Development, Relief and Education for Alien Minors (DREAM) Act, both make normalizing immigration status contingent upon attainment or enrollment in education. Although DACA was enforceable policy and the DREAM Act never was, these two pieces of legislation show that educational achievement has increasingly become a marker of an immigrant's value to policymakers and the public.

This connection drawn between educational standards and immigration is not limited to federal immigration policy such as visa allocation and naturalization processes. One of the first and most notable examples of the relationship between educational attainment and immigration

is the 1982 Supreme Court case *Plyler v. Doe*. Not only does the case hold that the Equal Protection Clause in the Constitution is applicable to those who are undocumented, it also allows undocumented K-12 students to access to the U.S. education system regardless of their immigration status (*Plyler v. Doe*). Although *Plyler v. Doe* was landmark in more ways than one, this ruling is rather limited in its approach to educating undocumented youth, leaving an open question as to what opportunities may be available to undocumented youth once they leave high school (*Plyler v. Doe*). *Plyler*'s narrow scope has left behind a system that fails undocumented students wishing to attain public post-secondary education. Although *Plyler* allows for undocumented students to attend public school through high school, systemic barriers to the participation of undocumented students result in low completion of high school among undocumented students, despite the decision supporting their ability to access this education (*Plyler v. Doe*). Recent estimates from the Migration Policy Institute indicate that 98,000 undocumented young adults graduate from high school across the country, a sizeable increase from the oft cited estimated 65,000 (Zong and Batalova 2019). Of this group, "it is estimated that only 5 to 10 percent of undocumented immigrant students successfully matriculate to postsecondary institutions and that even fewer graduate (Gonzales 2015:44).

The scope of *Plyler*'s ruling ends with undocumented students being allowed to attend high school. Although questions of citizenship and immigration are determined at the federal level, many policies that affect how noncitizens live their lives are decided at the state level. Some of these policies include the legal accessibility of driver's licenses to undocumented people, sanctuary state laws, and the question of whether undocumented young adults qualify for in-state tuition. Undocumented young adults who want to attend a public institution of higher

education after high school face a complicated system that depends on state-by-state differences. States vastly differ on their options for undocumented students; some policies actively bar undocumented students from admission to their state institutions of higher education, while others actively encourage undocumented students to apply and even offer state-based financial aid to admitted undocumented students. This patchwork system across the country has been created and codified mainly because decisions about higher education for undocumented students are solely within the purview of the states.

The implications of these state-by-state discrepancies are important for a variety of reasons. Fundamentally, these policies are vital to undocumented students in the process of considering higher education. Information about tuition rates and admission policies for all 50 states is not widely available. In many cases, the information is uneven, with some lists only including states that have laws in place without considering other ways in which undocumented young adults can obtain in-state tuition benefits. Regardless of the information that is available, without in-state tuition, it is nearly impossible for undocumented young adults to attend college. College is expensive and tuition costs are rising. This has a disproportionate impact on undocumented communities; in California alone, “families of undocumented workers earn less than half the average California income, and they are 43 percent larger than the average American family” (Gonzales 2015:39). This makes in-state tuition as an option all the more important to undocumented young adults trying to become undocumented students.

Further, although the topic of tuition and admission policies towards undocumented students may seem like an innocuous subject, this rather arcane section of the law has been an area of highly contested debate (Kobach 2006; Olivas 2003). Questions have been raised about

the legality of granting in-state tuition to undocumented students (Kobach 2006). The vast differences between states also bring up an important question about the origin of these opposing viewpoints. It may seem that tuition policies towards undocumented students are a litmus test for how a state thinks about immigration in general, an indicator of the state's political leanings, or a reflection of how many undocumented people are in a given state. A careful empirical examination, however, tells a much more complicated story when it comes to higher education for undocumented young adults. There are many states across the country that transgress the boundaries associated with commonly understood motivations for political leanings.

The vast disparities in policy and law include several variations that, on the surface, seem surprising. For example, why do Utah, California, Oklahoma, and Minnesota state governments have similar in-state tuition policies towards undocumented students? What compels the agreement in policy between Arizona, Montana, and Massachusetts? In many ways, these commonalities in policy are due to a variety of factors including timing, political culture, and shared cognitive or emotional frameworks in broader state culture. These factors all have the power to impact how individuals view the world and the way in which we pass laws and issue executive orders and policies.

This thesis will examine the tuition and admissions policies towards undocumented students across the United States. After examining the range of laws and policies that the states have adopted towards undocumented students, I will look at four case study states — California, Utah, Georgia, and Wisconsin — to further investigate the following: Why do states include or exclude undocumented young adults when making decisions about who can receive public higher education? What factors influence a state's choices on this issue? I argue that state laws

regarding undocumented students are codified versions of emotional deep stories, which represent different views of nation and nationalism.

Chapter Summaries

In the first chapter, after a brief background of immigration laws and how they have historically been tied to educational attainment for undocumented young adults, I highlight a divide in the legal field of whether or not in-state tuition for undocumented students is even legal under current federal law. The second chapter outlines a framework by which to evaluate social policy by combining analyses of political culture, time frame, and emotional primary frameworks called deep stories. In the third, I outline the data that was collected, the methodology and the findings of the 50 state data collection, and the central puzzle set out by the data. For the fourth, I analyze Georgia and Wisconsin as examples to evaluate the concept of America as Birthright. For the fifth, I analyze California and Utah as examples to evaluate the concept of America as a Meritocracy. In the conclusion, we look at the way in which these two competing deep stories of America are ultimately limiting, damning, and hurting the country and undocumented students by forgetting that unauthorized noncitizens are people first and foremost.

A Note on Terminology

Throughout, I will use the terms “undocumented” and “unauthorized” interchangeably. This is in line with immigration law scholars, news sources, and Justice Sotomayor who use these terms instead of “illegal” (Colford 2013; Kammer 2016; Pabón López and López 2009). I will also be using the term “noncitizen” instead of the term “alien.” Although the latter term is the term used in immigration laws to define those who are not U.S. citizens, the usage of “noncitizen” throughout “follows the practice of immigration law scholars who consider the term

‘alien’ needlessly pejorative with connotations of otherness or lack of humanity” (Pabón López and López 2009:2). These phrases do not capture the wide range of “legality” that one can have; being DACAmented, or undocumented with DACA status, is not technically a form of “legality” but inherently a different way of existing while undocumented. These terms are limited and cannot encapsulate the wide range of experiences that come with being undocumented.

I will be using the term “undocumented students” to reference undocumented people who attend post-secondary education. Often times, scholars use the term “undocumented students” to refer to K-12 students because that is the age that is covered by *Plyler* and, subsequently, is the age range that is more often studied. This is relevant and necessary work, but it is not the target population for in-state tuition policies. Since the central question of this thesis is whether or not undocumented young adults get to attend public universities, I also want to make a distinction between undocumented college students and undocumented young adults. Roberto Gonzales makes a similar distinction in *Lives in Limbo* between the early exiters, or the undocumented young adults who exit the system early and do not attend college, and the college goers (Gonzales 2016). Throughout the thesis, “undocumented young adults” refers to undocumented people who are around college-age but do not attend or are not specifically able to attend institutions of higher education, distinguishing them from undocumented students who are eligible to attend college.

Chapter 1: Understanding Undocumented Students in the United States

Background Data About Undocumented People in the United States

In order to understand the problem presented by the patchwork of responses to granting in-state tuition to undocumented students, we must first understand the scope of undocumented students and undocumented populations in the United States. There are an estimated 10.7 million undocumented people in the country (Passel and Cohn 2018). Of those 1,302,000 are eligible for the Deferred Action for Childhood Arrivals (DACA) policy, meaning that they arrived as children and meet certain requirements as is stipulated by this executive order (Migration Policy Institute 2016). The U.S. Customs and Immigration Services stated that as of July 2018, there were approximately 703,890 people protected under DACA (U.S. Citizenship and Immigration Services 2018). There are an estimated 803,000 undocumented youth (ages 0-16) in the United States and an estimated 1,653,000 ages 16-24 (Migration Policy Institute 2018). Although the majority (53%) of undocumented people come from Mexico, there are an increasing number coming from Asia and Central America (Gelatt and Zong 2018).

It is important to note the uneven distribution of undocumented people across the country. It is estimated that “three out of every five unauthorized immigrants in the United States during the 2012-2016 period resided in California, Texas, New York, Florida, and New Jersey” (Gelatt and Zong 2018). There are also substantial populations of undocumented people in Atlanta, Seattle, Chicago, Boston, and Washington DC (Passel and Cohn 2019). Although these cities and states have the largest populations of undocumented people, others have recently seen substantial increases in undocumented populations. There has been large growth in

undocumented populations in South Dakota, South Carolina, North Dakota, Tennessee, and Delaware between 2000 and 2016 (Zong, Batalova, and Burrows 2019).

These numbers represent a massive shift from the estimated number and demographics of undocumented people in the United States seen in years past. The number of undocumented people in the United States has overall reached a plateau since 2008 (Gelatt and Zong 2018). In addition to the overall plateau of the number of undocumented population in the United States, much of the undocumented population has settled into the United States, with “sixty-two percent of unauthorized immigrants [having lived] in the United States for at least ten years...with 21 percent in the country for 20 years or more” (Gelatt and Zong 2018). The shifting demographics and number of undocumented people in the country is important to note because immigration laws have not been substantially updated since 1996 to meet these changing needs.

Education and Immigration: Where Worlds Collide

Illegality does not impact everyone in the undocumented community in the same ways; despite a common set of shared vulnerabilities, adults who are undocumented face different challenges than undocumented youth and young adults. As Gonzales put most succinctly, “for undocumented youth, the transition to adulthood is accompanied by a *transition to illegality*” (Gonzales 2016:11). There is a stark difference between being an undocumented child and being an undocumented adult in the United States. Because of the Supreme Court ruling, *Plyler v. Doe*, undocumented minors are subject to different rules and regulations than undocumented adults are. After the age of 18, however, unauthorized noncitizens are forced to reckon with their status as undocumented in a different way than during childhood and adolescence. Although there have been measures to protect those who come to the United States as youth, “as they come

of age, academics and policymakers are concerned with measures of [undocumented youth's] productivity, including their educational attainment and employment.” (Gonzales 2016:10).

Plyler v. Doe

The U.S. Constitution does not provide that education is a fundamental right in the United States for citizens and noncitizens alike. However, states have compulsory schooling laws that children are required to attend school. Thus, the landmark Supreme Court case *Plyler v. Doe* aimed to evaluate how undocumented minors fit into this particular schema. In 1982, a divided Supreme Court concluded that “undocumented persons are protected under the Equal Protection Clause of the Fourteenth Amendment” and cannot be treated differently than their U.S.-born counterparts when it comes to education (*Plyler v. Doe*, 457 U.S. 202 (1982)). Undocumented minors can thus have access to public education through high school. Although undocumented children are extended the opportunity to attend public primary and secondary schools in the U.S. for free, this does not mean that undocumented youth do not face other hardships. All that *Plyler* holds is that undocumented minors cannot be treated any differently than other classes of students. It must be noted that *Plyler* affirms that education is not a Constitutionally-guaranteed right for anyone in the United States and that the opportunity to attend public education stops before college. Once an undocumented minor is no longer in school, these students do not have a path forward without risk of deportation. These individuals are left to either work illegally or to apply to colleges that may make undocumented students pay a hefty price tag.

This landmark case marked the first time in which education and immigration were tied in regard to undocumented youth. Over the next several decades, there have been several more

political developments that have created legal categories for undocumented youth based on their educational attainment.

DREAM Act

Since this federal legislation was first introduced in 2001, there have been more than 50 attempts in Congress to pass the Development, Relief, and Education for Alien Minors (DREAM) Act. Throughout these last almost two decades, the legislation remained more or less the same; had it ever passed, it would have streamlined the process by which undocumented persons could gain legal permanent residency, provided the persons meet the age requirement, education requirement, and the residency requirements. The DREAM Act was at various times introduced as its own legislation, as a part of a comprehensive immigration bill, or tied to a larger appropriations bill. It passed five different times in at least one chamber before it died or before the bill was scrapped and passed piecemeal without the DREAM Act. The last widely publicized attempt was in 2013, in the bipartisan comprehensive immigration reform bill, known as the Gang of Eight bill.¹ In order for an undocumented person to qualify for the DREAM Act, the person must have earned a high school diploma or an alternative such as the GED or have served in the U.S. military. In many ways, these sorts of restrictions, such as educational achievement or military service, create a narrative of worthiness that an immigrant must achieve before getting accepted to the United States. These policies are palatable to many because it appeals to segments of the citizenry who see immigration as a threat to the United States.

¹ This is data collected I collected for the Utah Education Policy Center. Appendix A contains the list of bills used for this analysis.

Deferred Action for Child Arrival (DACA)

Another way in which the education of undocumented youth has been tied to immigration status is through DACA. Through an “exercise of...prosecutorial discretion” from the Department of Homeland Security in 2012, the Deferred Action for Child Arrival (DACA) program allows a 2-year deferral on deportation for noncitizens under the age of 30 if the undocumented person came to the U.S. before the age of 16, has been in the country since 2007, and is working to benefit society by going to school or serving the country. DAPA, the Deferred Action for Parents of Americans, was a similar executive action taken by the Obama administration in 2014. DAPA was an expansion of DACA, which had been mandated two years earlier. Both were done to influence immigration policy without trying to pass a bill through a gridlocked Congress. Importantly, it should be noted that, much like the DREAM Act, DACA is also contingent upon high school or college education and military service. This speaks to what society values in the “model” immigrants.

In June of 2016, the Supreme Court of the United States released a one-sentence lack-of-ruling to the case *United States v. Texas*. This case was particularly centered around the question of the legality of DAPA. Texas, along with 26 other states, including several out of the jurisdiction of the Fifth Circuit, argued that DAPA would “expand benefits to illegal aliens” who would therefore be eligible for benefits that would place an undue burden on Texas’ economy (Oyez 2015). The benefit in question was state-subsidized driver’s licenses offered to all who get licenses in Texas (Oyez 2015). The Fifth Circuit ruled in favor of granting an injunction on DAPA. When the case was taken to the Supreme Court, the Court ultimately failed to rule on this issue by tying 4-4, meaning that the previous Fifth Circuit ruling stands.

In September of 2017, the Trump Administration rescinded DACA, thus leaving the more than 1 million eligible young adults in an unprotected status. There is a federal case currently pending in court that has yet to be ruled on at the time of this writing. Under a court injunction, the United States Federal Government is taking DACA renewals but will not accept new applications.

Background about Post Secondary Education in the United States

Equally as important to understanding why in-state tuition is vital to undocumented young adults is understanding the post-secondary education landscape in the United States. It is increasingly necessary to get a post-secondary degree in order to compete in many industries across the country; “by 2020, 65 percent of all jobs in the economy will require postsecondary education and training beyond high school” (Carnavale, Smith, and Strohl 2013). The rising need for a degree has been accompanied with rising costs. Over the last two decades, tuition costs, regardless of type of post-secondary school, have been rising across the country. “In the public two-year and private nonprofit four-year sectors, published prices are more than twice as high in 2018-19 as they were in 1988-89. The average in-state tuition and fee price in the public four-year sector is about three times as high in inflation-adjusted dollars as it was in 1988-89.” (College Board 2018). Although tuition costs have been rising for public institutions, this has especially been true for private institutions. Tuition costs at private institutions of higher education have been consistently rising across the country. Rising tuition costs have made in-state tuition even more vital to making post-secondary education an affordable, acceptable option for students. Tuition rates are especially important for undocumented young adults because undocumented young adults do not qualify for federal financial aid. This means that

options such as work study, Pell Grants, and federal loans are not available to undocumented young adults. Thus, for undocumented students wishing to attend public institutions, the financing options available are often state-sponsored in-state tuition and private scholarship funds. However, these are not always available to all students, thus making college an unattainable pipe dream for many.

In-State Tuition for Undocumented Students: An Immigration Policy Problem

There are many age milestones that demarcate when someone goes from being a child to being an adult. One such factor is going to college. Although *Plyler* “covers” undocumented youth by allowing them to enroll in public school through high school, once undocumented youth turn 18 or graduate, there is a stark difference as to how undocumented people fit into society. As Gonzales puts it, there are shifting legal contexts that undocumented young adults realize throughout different stages of childhood (Gonzales 2011).

Issues regarding college residency, as qualifying for in-state tuition is referred to in legal circles, are tricky. Granting residency to undocumented students throws a wrench into an already complicated question. In many ways, “[in-state tuition] is, alternatively, an admissions case, an immigration matter, a taxpayer suit, a state civil procedure issue, an issue of preemption, a question of higher education and finance, a civil rights case, and a political issue.” (Olivas 2003:435). Establishing domicile or residency often involves proving that you are “from” the state through a mixture of measures including but not limited to proof of taxes, owning a home, and graduating from a high school in that state. These requirements can include statements referring to how international and undocumented students should be considered. A particularly

sticky point of contention between legal scholars has been the issue of the degree to which granting residency to undocumented students is actually legal under current immigration laws.

The last pieces of major immigration law passed in 1996, when Congress enacted and then-President Clinton signed two different bills into law. These two laws have greatly impacted the rights of undocumented people in the United States. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (“PRWORA”), although technically a welfare reform act, stipulated that undocumented people were not eligible to receive public benefits. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”) was seen as a crackdown on immigration as it increased funding for border security, increased restrictions against employing undocumented people, and marked the advent of E-Verify. Finally, IIRIRA created a restriction on public benefits for undocumented people. These restricted benefits included social security and access to public higher education.

The following small section of IIRIRA tucked deep into U.S. immigration law is at the core of the main legal debate when it comes to granting in-state tuition to undocumented people:

Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident. (IIRIRA Title V § 507 or 8 USC §1623)

According to Olivas, there are two key provisions as to how undocumented young adults can qualify for resident tuition. First, the statute directly states that undocumented young adults qualify for in-state tuition must not do so “on the basis of residence.” In other words, they must qualify in other ways that are not specifically residency. In many states, the statutes specify that students can qualify for in-state tuition by graduating from a high school in the state after having

attended for a certain amount of time. Second, Olivas says that states must do so explicitly through a “provision of law” i.e. the passage of a law through the state’s legislature.

However, this is not an interpretation on which all scholars agree. There are legal scholars who believe that even Olivas’ reading of IIRIRA is too far of a reach from what the letter of the law says. One of the more noteworthy scholars to make this argument is Kris Kobach, Kansas’ Secretary of State, Republican gubernatorial candidate in Kansas in 2018, Trump’s head of the voter fraud commission, and a former professor of Constitutional law. He argues:

The [statute’s] meaning was clear. If a state wished to make resident tuition rates available to illegal aliens, it would have to make the benefit available to all nonresident U.S. citizens and nationals....Obviously, proponents of the section reasoned, no state in the union would be interested in giving up the extra tuition revenue derived from out-of-state students, so this provision would ensure that illegal aliens would never be rewarded with taxpayer-subsidized college educations. (Kobach 2006:477)

Kobach also claims that states that give in-state tuition to undocumented people are actually wildly misinterpreting and practically breaking federal law by doing so (Kobach 2006:513).

The phrase “notwithstanding any other provision of law” has impacted undocumented students who wanted to get in-state tuition because it has been commonly understood that IIRIRA stipulated that states must pass legislation in order to enable institutions of higher education to grant in-state tuition. Many who examine these policies and laws, including Olivas and Kobach, only look at states that have explicit statutes. In this thesis, I include 27 states (and the District of Columbia) that have statewide policies, going beyond previous empirical compilations that examine only explicit statutes.

Chapter 2: Theoretical Framework for Analyzing Social Policy

In order to understand why certain states make the choices that they do regarding in-state tuition policy for undocumented young adults, I adopt a framework that weaves together questions of how political culture, time frame, emotional frameworks, and nationalism are useful in analyzing the laws and policies. Although analyses using political framework are important and necessary, it is not enough to think about political contexts when considering how undocumented young adults are granted in-state tuition. Thus, a framework encompassing state politics, timing, and broader emotional resonances is necessary to further evaluate in-state tuition for undocumented young adults.

Political Framework: Elazar and Lieske

When we think about state-level political cultures in the United States, there is a common conflation between partisan ideological standings and political culture. This conceptualization is the one that many already have in their heads; politics is seen in terms of “red” or “blue” instead of understanding the nuances that exist within each state. Thus, many people think that partisanship is the defining characteristic of the political culture of the state.

This, however, is a gross oversimplification of how states actually think about politics and how they operate in reality. Political culture, instead, is more about the individual state variations in how they approach governing. Elazar has a particular framework for thinking about how a state’s political culture is influenced by how a whole state functions in regard to politics. This is a departure from conceptualizations of political culture that are reliant upon partisan ideology. For Elazar, an important element of evaluating how people in a given state consider the state’s politics is evaluating the state’s political culture. He defines political culture as “the

particular pattern of orientation to political action in which each political system is embedded” (Elazar 1984:109). Elazar discusses three main influences to political culture:

(1) the set of perceptions of what politics is and what can be expected from government, held by both the general public and the politicians; (2) the kinds of people who become active in government and politics, as holders of elective offices, members of the bureaucracy, and active political workers; and (3) the actual way in which the art of government is practiced by citizens, politicians, and public officials in the light of their perceptions. (1984:112)

Elazar outlines three major types of political culture that he sees in the United States. The first is the traditionalistic which “is rooted in an...older, precommercial attitude that accepts a substantially hierarchical society as a part of the ordered nature of things” (Elazar 1984:119). Thus, the political power is concentrated in the political few (Elazar 1984:119). The second major form of political culture that Elazar describes is the moralistic culture. The moralistic political culture “emphasizes the commonwealth conception as the basis for democratic government. Politics, to the moralistic political culture, is considered...a struggle for power, it is true, but also an effort to exercise power for the betterment of the commonwealth” (Elazar 1984:117). The third political culture is the individualistic culture which, according to Elazar, views democracy as a marketplace and thus the government as a purely utilitarian, political entity that responds directly to the needs of the people (1984:115). Elazar argues that despite a historical tie to partisan politics, these political cultures are more tied to voting behavior (1984:153-156). Overall, Elazar argues that political cultures are more an orientation towards political and everyday behavior.

Obviously, times have changed since Elazar envisioned this in 1972. However, the concept of political cultures is still relevant and is something that we still think about today. As such, Lieske updated and changed Elazar’s concept to add in factors of race and ethnicity, due to

other political science literature by Hero and Tolbert that has found “that patterns of racial and ethnic diversity are more influential than political subcultures derived from settlement patterns of the past” (Gray 2017:19). According to Lieske, Elazar’s vision of political cultures has been shifted to include the following categorizations: Global, Blackbelt, Rurban, Nordic, Nonethnic, Germanic, Latino, Border, Anglo-French, Heartland, Native American, Dutch, Mormon (Lieske 2010). These are all based on racial and ethnic categories that have left lasting imprints onto the overall political culture of a state. Lieske envisions these categories as sub-categorizations of Elazar’s original typology. The Nordic, Mormon, and Anglo-French fall into Elazar’s moralistic typology, while the Germanic, Heartland, Rurban, and Global are categorized as Elazar’s individualistic typology (Lieske 2012). Lastly, the Border, Blackbelt, Native American, and Latino categories fall into the traditionalistic typology (Lieske 2012). Although this is the same fundamental typology that Elazar envisioned, Lieske’s updated version adds nuance to the original categorizations by focusing on the sociopolitical realities of today.

This overall conceptualization of political culture helps us understand the ways in which a state approaches politics. In order to better analyze state-level associations, we must move beyond partisan politics to a deeper level, addressing how a state approaches governing. Elazar and Lieske start the basis of a framework for considering political culture in this way. This combined framework requires a state-by-state level of analysis; trying to fit political cultures into a larger context is more difficult because Elazar saw these political cultures unfolding on a state level. Although this kind of analysis gives us a deeper look at overall cultural leanings at the state level that are more complicated than the overall partisan political divide, this level of

analysis is not enough. Politics is not the only factor that goes into how a state makes the political choices that they choose to make, including in-state tuition for undocumented people.

Time Sensitive: Gladwell and Kingdon on Time Frame

In regard to in-state tuition laws for undocumented young adults, there were two major immigration “moments,” one from 2001-2006 and then from 2009- 2012. These moments have also coincided with many major pushes for changes to immigration law, including the introduction of the DREAM Act. Thus, in order to better understand the ways in which these particular time frames were important to the overall development of in-state tuition policies, there needs to be a better understanding of time in relation to policy.

Gladwell uses a wide variety of examples, including fashion choices and falling New York crime rates, to evaluate how overarching factors spark and unite the beginnings of movements. Starting with the concept that “ideas and products and messages and behaviors spread just like viruses do,” Gladwell sets out to evaluate the similarities between these wildly different examples (Gladwell 2000:7). He states that there are three characteristics that start movements. For Gladwell, these are “one, contagiousness; two, the fact that little causes can have big effects; and three, that change happens not gradually but at one dramatic moment.... The name given to that one dramatic moment in an epidemic...is the Tipping Point” (Gladwell 2000:9). A tipping point creates an almost magical phenomena when cultural understandings, policies, or behaviors can change and fluctuate.

Political scientists who focus on American politics have a particular way of thinking about how and when policies get passed. Kingdon conceptualizes the times when specific policies get passed as policy windows. These policy windows are “opportunit[ies] for advocates

of proposals to push their pet solutions, or to push attention to their special problems” (Kingdon 2010:165). This has to happen because there is no way to pass or discuss all of the policies that are debated. Kingdon believes that the opening and closing of policy windows is tied to establishing a priority to these various policies; “participants move some items ahead of others, essentially because they believe the proposals stand a decent chance of enactment.” (Kingdon 2010:167). However, this is not the only reason why policy windows open or close. Kingdon argues that a policy window opens “because of change in the political stream (e.g., a change of administration, a shift in the partisan or ideological distribution of seats in Congress, or a shift in national mood); or it opens because a new problem captures the attention of governmental officials” (Kingdon 2010:168).

Taken together, Gladwell and Kingdon help us to understand opportune moments when policies like in-state tuition for undocumented young adults enter public consciousness and get passed. Where Gladwell starts rather generally, Kingdon focuses specifically on public policy. This is a state-by-state level of analysis; there are “moments” during which states pass policies; though these moments may be tied to national happenings, much about them is more state specific. However, it would not be enough to consider timing alone to understand why these states make the choices they do. A focus solely on time frame ignores that there are people, and a broader society at large, that impact how decisions get made. It is not by chance or by magic that policies get passed. There are people who pass these laws, who wrench open these policy windows or take advantage of the policy windows. What motivates them and what drives them at a specific moment in time needs to be further evaluated.

Primary Frameworks: Goffman, Lakoff, and Hochschild on Emotional Deep Stories

State-level political culture and time frame in regard to this particular aspect of immigration policy cannot fully account for the intricacies of why certain states choose to grant undocumented people in-state tuition. Thus, I take a more sociological, emotion-driven approach to how and why certain states make the choices that they make in regard to in-state tuition for undocumented students.

The importance of emotion and how people think about immigration cannot be understated; immigration as a voting issue gets to the core of thinking about fairness, respectability, racism, and the overall conceptualization of nation. Even something as seemingly mundane as in-state tuition or driver's licenses for unauthorized noncitizens have brought about some major political drama and debate in political and legal spheres. What about these specific issues brings out a tribalism that is deeply ingrained into the psyche?

When we think about the sociology of emotion, it is important to remember that there are specific frameworks that give us the context and meaning to understand the world around us. Goffman describes these outlooks on society as primary frameworks. When we think about the world around us, “[we] tend, whatever else [we] do, to imply in this response (and in effect employ) one or more frameworks or schemata of interpretation of a kind that can be called primary” (Goffman 1974:21). In other words, all human responses and interactions are inherently tinged with particular frameworks and thought processes. For Goffman, these frameworks divide into natural and social frameworks. Social frameworks “provide background understanding for events that incorporate the will, aim, and controlling effort of an intelligence, a live agency, the

chief one being the human being” (Goffman 1974:22). These primary frameworks “frame” how individuals look and think about the world.

Although evaluating an individual’s primary frameworks is interesting, it is not enough, nor is it properly sociological, to stop the analysis at this point. It is the job of sociologists to dig deeper, sort through the frameworks, and figure out a deeper, more common understanding to which people align themselves. Using Goffman’s own words, “One must try to form an image of a group’s framework of frameworks — its belief system, its ‘cosmology’” (Goffman 1974:27). Trying to assemble all of these different frameworks to see which ones come to the fore is a project that Lakoff takes on.

To better grasp the “cosmology” of frameworks that are necessary to understand in-state tuition policies for undocumented people, I turn to Lakoff. For Lakoff, politics is centered around morality and the framing of political issues taps into certain cognitive frameworks. Thus, the central problem in contemporary U.S. politics is a divide in morality that seeps into the way in which everyone thinks about politics, the viewpoints that are held, and the rhetoric that is used in politics. The rhetorical aspect to the argument is especially important; as a cognitive linguist, Lakoff posits that two distinct moral frameworks emerge if we consider the central metaphor of the Nation as a Family. These two moral frameworks are linked to politics through, “a common understanding of the nation as a family, with the government as parent” (Lakoff 2016:35). The two metaphors that Lakoff uses stem from different political cultures with different orientations to authority; one uses what Lakoff calls the Strong Father model while the other uses the Nurturant Parent model. For Lakoff, these models map cleanly onto the conservative and liberal political policy divide.

When thinking about the conservative side of U.S. politics, Lakoff posits that this political alignment particularly ascribes to the Strong Father model of morality. Using the “traditional nuclear family” as the basis, the Strong Father model assumes that “the father [has] primary responsibility for supporting and protecting the family as well as the authority to set overall policy, to set strict rules for the behavior of children, and to enforce the rules...” (Lakoff 2016:33). This particular model of morality “assigns highest priority to such things as moral strength.... respect for and obedience to authority, the setting and following of strict guidelines and behavioral norms, and so on” (Lakoff 2016:35). The Strong Father model believes in a strong hierarchy and a patriarchy. On the flip side, the so-called liberal side of the political alignment, according to Lakoff, ascribes to the Nurturing Parent moral model. In the model, “Nurturant Parent morality has a different set of priorities. Moral nurturance requires empathy for others and the helping of those who need help. To help others, one must take care of oneself and nurture social ties. And one must be happy and fulfilled in oneself, or one will have little empathy for others” (Lakoff 2016:35). In many ways, this alignment seems more egalitarian in nature and is often less reliant upon the patriarchy.

This typology is of particular importance to this analysis because, in keeping with Lakoff’s Nation as a Family metaphor, the divide in moral alignments gives a helpful way to think about how different groups decide who gets to be a part of the nation-family and why. In the Strong Father model, “illegal immigrants are not citizens, hence they are not children in *our* family” (Lakoff 2016:187). However, “from the perspective of Nurturant Parent morality, powerless people with no immoral intent are seen as innocent children needing nurturance. For the most part, illegal immigrants fall into this category” (Lakoff 2016:188). This is a vitally

important start to understanding the deep divide seen in the policy field of in-state tuition policy, given that it is an offshoot of general immigration policy.

Lakoff's perspective with cognitive linguistics is especially important for this thesis because I analyze the rhetoric surrounding policy mechanisms that either allow or deny undocumented young adults in-state tuition. Lakoff's division between the Strong Father and the Nurturing Parent is interesting and particularly salient. It allows a larger view of how Goffman's primary frameworks function on the level of ideological groups. However, Lakoff aligns these cognitive, moral alignments with what he sees as contemporary U.S. political ideologies. This is limiting for many reasons. First, there is a divide between how people think and feel, and how they vote and align themselves politically. Second, attaching these particular ideologies to a rigid sense of partisanship in the United States limits how we think about the deeper meanings of political cultures. To analyze these deeper meanings, we must turn to the importance of emotion in social life.

Hochschild has written extensively about the role of emotions in how people live their lives and, most recently, the way emotions shape political commitments. In particular, she is interested in how political positions may be shaped more by the true value of "deep feelings" than by objective facts or rationality. To understand this, she went to rural Louisiana to talk to those who were most negatively impacted by EPA rollbacks to see why they were overwhelmingly supporting the Tea Party and Trump despite the fact that both would support cutting back the EPA. After talking to many people about their stories, she wrote a small "deep story" that she found resonated with many in her study. She defines a deep story as a "*feels-as-if* story—it's the story feelings tell, in the language of symbols. It removes judgment. It removes

fact. It tells us how things feel” (Hochschild 2016:135). This deep, emotional resonance, although felt on an individual level, can be applied at a larger level of analysis given the fact that there are collective dimensions of emotions.

Fundamentally, these deep stories help to answer where these political commitments come from. Deep stories help gauge how emotional undercurrents impact the choices people make. Additionally, the conceptual usage of the deep story frees us from having to align these different primary frameworks politically. With Elazar and Lieske’s conceptualization of how state’s political cultures impact politics, this layer of partisan politics is actually rather unnecessary. Understanding politics in simply a partisan dichotomy lacks analytical power because the very concept of two parties is malleable and means little in comparison to broader emotional resonance. The deep stories, however, still give me the freedom to think in terms of Lakoff’s “Strong Father vs Nurturing Parent” dichotomy. Extricating these cognitive and emotional frameworks from partisan politics is especially important in this analysis, given that the data regarding in-state tuition policies for undocumented people has not aligned itself along partisan lines. We must make sense of the odd coalition of states that have congruences in policy. Hochschild’s conceptualization of the deep story gives us a new way to think about how emotion plays into politics: the deep stories, such as the Strong Father/Nurturant Parent model, act as primary frameworks when it comes to thinking about political actions.

Two Deep Immigration Stories: America as a Birthright and America as a Meritocracy

When writing about immigration, it is important to understand the the topic of immigration seems to consistently hit a nerve. In fact, voters of both parties agreed that immigration was a very important issue for the 2018 midterm election (Geiger 2018). In order to

truly understand how and why certain sectors of the population see immigration as a “crisis,” there needs to be a fuller understanding of the deep emotions that immigration has brought out in the country as a whole. The first deep immigration story that I put forth is America as a Birthright. This deep story is the impetus behind many restrictive immigration laws and policies. Those who espouse stricter policies towards immigrants often tap into a deep story that relies on a sense of belonging based on inheritance and residency. However, many of those who propose loosening restrictions for undocumented people also come from a space of a “deep story,” one of value and merit. This second immigration deep story is America as a Meritocracy. This division between those who believe in America as a Birthright and those who believe in America as a Meritocracy helps explain both the odd coalitions of states who believe these sorts of stories and why there is a lot of emotional resonance in the stories. The deep stories, without the facts and reason, allow for more of a narrative understanding of how states understand themselves.

These immigration primary frameworks, as outlined by Hochschild and Lakoff, illustrate a deep rift that seems to touch the nerve in a way that is larger than immigration. The true difference between America as a Birthright and America as a Meritocracy is how they think about who gets to be a part of a nation. Anderson defines a nation as “an imagined political community - and imagined as both inherently limited and sovereign” (Anderson 1991:6). It is imagined in the sociological sense; it does not “exist” in any material sense. Although the borders that seemingly define a nation are socially constructed, the nation exists as a reality that has real consequences. The nation is inherently limited in scope due to the fact that there is a distinct definition of “us” and “them” (Anderson 1991:6). There is a uniting factor that signifies who gets to be a part of the community (Anderson 1991:7). It is sovereign because, starting with

the Enlightenment, this became the dominant signifier of freedom. The nation is “imagined as a community, because, regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship” (Anderson 1991:7). Bhabha describes the way these imagined communities thrive and are borne of the dominant narratives and discourses which become seen as a national culture. For Bhabha, “it is from...traditions of political thought and literary language that the nation emerges as a powerful historical idea in the west. An idea whose cultural compulsion lies in the impossible unity of the nation as a symbolic force” (1990:1). A nation does not exist without the conceptualization of itself and the narratives it tells itself.

Anderson and Bhabha lend themselves to a framework by which to evaluate how narratives about nation are deeply tied to the national self-identification. The immigration deep stories help give a sense of how these groups truly imagine their communities in different ways. The very different senses of nationalism are the undercurrent to the framework; without them, these two different sides to the story do not tell an emotionally resonant story. Lakoff notes this as well, stating that within the realm of immigration “we can see the Nation As Family metaphor playing a critical and almost direct role in the form of reasoning” (2016:189).

Combining this with the concept of emotional deep story, I put forth a deep difference in how people imagine community based on the narratives that they espouse and defend. Their different senses of nationalism are at the core of this analysis — without them, understanding why there are two different sides to the story does not make as much sense. The way in which the in-state tuition laws themselves are written and talked about is key.

In-state tuition is inherently about proving that you are from a place and that you belong in a place. To qualify for the benefit, in-state tuition is contingent upon proof of belonging in a state and intent to make that place a *bona fide* residency. It inherently creates a dichotomy between those who belong and those who do not. The fact that in-state tuition is a benefit granted by the state only heightens the tension felt in each deep story because there is state money involved and no state in the U.S. has taken an approach to higher education that would. The very definition of belonging underpins the difference between the two different competing deep stories that I set forth in this thesis: One is America as a Birthright, or one that requires being “from” the United States, whereas the other is America as a Meritocracy, one that requires earning your way into the United States. The given narrative, or deep story if you will, changes how the nation as a community is imagined.

These immigration stories function on a much broader level of analysis; they are based on cultural norms that are deeply embedded into the foundation of the nation. These deep stories do not quite map onto ideological groups nor do they exist in isolation from one another. They are two fundamentally competing yet not mutually exclusive narratives that operate on a level that is tangible and fundamental to the heart of society itself.

Omi and Winant on Racial Narratives Hidden by Deep Stories

These emotional resonances tell an interesting underlying story about the way in which nationalism plays out on an individual, emotional level. However, one angle that gets erased in this narrative is the inherent, inescapable way in which race factors into national identity and defining a nation. Omi and Winant define racial formation as “the sociohistorical process by which racial identities are created, lived out, transformed, and destroyed.” (Omi and Winant

2014:109). This process plays out in many ways, including in racial politics. Racial politics is “the way society is racially organized and ruled” (Omi and Winant 2014:109). Historically, the United States has understood itself to be a white nation (Omi and Winant 2014:75). The conceptualization of the nation for Omi and Winant is inherently tied to race because the degree of inclusivity that is required presupposes that there is one way of belonging to the nation (2014:144). Even Omi and Winant see applications of Anderson as apropos: “race linked the corporeal/visible characteristics of different social groups to different sociopolitical statuses, and provided various religious and political principles for inclusion and exclusion from the imagined community...of the nation” (Omi and Winant 2014:76).

The United States was created and built as a white supremacist nation through a racial despotic system. The continuing effects of this history live on today in the form of racial democracy (Omi and Winant 2014:75). Racial despotism refers “to a familiar series of state practices: deprivation of life, liberty, or land; dispossession, violence, confinement, coerced labor, exclusion, and denial of rights or due process” (Omi and Winant 2014:139). The role of the government in this process is obvious; “the state plays a crucial part in racialization, the extension of racial meaning to a previously racially unclassified relationship, social practice or group” (Omi and Winant 2014:142). Racial democracy, on the other hand, relies upon hegemony, bringing the subaltern into a sphere of participation. Although the role of the government is masked, this is no less of a racialized state. (Omi and Winant 2014:139–40). As we will see, the deep stories of America—both as Birthright and as Meritocracy—have inescapable ties to racial formation in the United States.

Chapter 3: Methods and Empirical Findings

Although in-state tuition for undocumented students is of vast importance to students' daily lives given rising tuition costs, it is an area that remains a rather understudied. There is no centralized source of information about different statewide level laws and policies towards undocumented students. Much of the information that does exist is often limited to only states that have laws that explicitly state that undocumented students can have access to in-state tuition. Although this fits with a more narrow reading of the IIRIRA law, analyses of only in-state tuition laws do not take into account the increasing number of ways in which states can, and do, grant in-state tuition to undocumented students. Although having targeted laws is the most common approach states take, it is not the only way in which undocumented young adults are granted in-state tuition.

In this thesis, I present one of the first 50 state surveys of all of the in-state tuition laws and policies that has ever been done. Because it has been commonly understood federal law stipulated that states must pass legislation in order to enable institutions of higher education to grant in-state tuition, there are few analyses that include states that have other state wide policies that are enforceable on a statewide level. This is not, however, the only level of "law" that has truly come to exist and be used by states to grant or take away in-state tuition from undocumented people. In many states, there are provisions written into the state's statutes (or other forms of statewide codes) that grant state boards of higher education the right to decide who is granted residency in their jurisdictions. Thus, these are a seemingly secondary set of bodies are acting on behalf of states under purview of the law. These secondary forms of

“provisions of law” are an understudied but highly valuable way of looking at these in-state tuition laws.

Although the research is itself unique, the other way in which this analysis is special is because of the specific sociological approach taken. Granting in-state tuition to undocumented students is a specific section of study in public policy, education, economics, and immigration law that is almost exclusively left to those realms. The sociological angle is critical because without it, we forget that there is a real human angle on the story, both in terms of the people it affects and the people who support specific policies. This human angle tells us about how undocumented people are talked about and what this translates to in terms of policy.

Content Analysis

The primary data for this thesis is an original content analysis of laws, policies, and legal rulings regarding higher education admission, tuition, and residency for all noncitizens in 50 states, plus the District of Columbia. Data were collected in two rounds, conducted in the summer of 2016 and late 2018-early 2019, from state legislatures, boards of higher education, and university systems. (For a full explanation of data collection procedures, see Appendix B.)

In my initial analysis of the data, I determined the form of policy governing post-secondary undocumented students, coding policies as being set by legislative bodies, judicial rulings, statewide bureaucratic agencies (e.g., Boards of Higher Education), state executives (e.g., Attorney General), or institutions of higher education (either university systems or individual colleges), I further coded the content of policies as being related to admission, tuition rates, residency requirements, and financial aid. In addition, I made note of key words or phrases, such as “alien” or “noncitizens” that set the overall tone of policies. Based on this

coding, I categorized the states into two overarching types: those that are exclusion and those that are inclusive in regard to in-state resident tuition benefits for undocumented young adults. After giving an overview of the 50-state findings and typology, I describe the case study method by which I analyzed how states arrive at the policies they use.

Findings

Of the 50 states evaluated (plus the District of Columbia), 25 states left it to the state or university boards to make decisions on allowing in-state tuition for undocumented students. Many other reports that evaluate in-state tuition policies for undocumented students only evaluate the states that have laws and are thus missing the majority of states. For a full list of legislation and policy numbers, see Appendix C.

Inclusive States

As is shown in Figure 1, 22 states and the District of Columbia have some mechanism that allow for undocumented students to be charged in-state tuition. These states allow for residency to be established by graduation from a high school in the state, or by residency in state for a certain length of time.

In six of these states, in-state tuition is granted by institutions other than state legislatures. Three states — Nevada, Oklahoma, and Rhode Island — have decisions made through the Board of Higher Education, or equivalent. The decision to allow undocumented students to qualify for in-state tuition was made at a school level for Hawaii and Wyoming. Lastly, the clause that addresses in-state tuition for undocumented students in Kentucky is in the state code and it does not exclude undocumented students. These policies, often left out of the normal analyses of in-state tuition for undocumented students, make it possible for undocumented young adults to

enroll in public higher education. However, they are relatively vulnerable to change, since except for Kentucky, they are not bound by the legislative process involved with passing and repealing laws.

States with Inclusive Laws and States with Additional Benefits

Sixteen states have laws that specifically allow in-state tuition. Of these, California, Illinois, Minnesota, New Mexico, and New York are the most inclusive, extending these benefits beyond the scope of in-state tuition to additionally include state financial aid as an option available to undocumented students. (Undocumented students are specifically ineligible from getting federal financial aid.) Making state financial aid available to undocumented students makes college even more accessible to undocumented students for whom the cost of in-state tuition would still present a barrier to access.

Exclusionary States

Twenty-three states do not allow undocumented students to be charged at in-state rates. Many of these states have a provision that requires students to have specific immigration visas or a way of establishing that they can remain in the United States permanently and legally. These types of clauses ensure that undocumented students cannot qualify for in-state tuition since they do not have a way of establishing residency or domicile. These clauses also eliminate the hopes for in-state tuition for any DACA student, since DACA is not a guarantee of legal immigration status nor is it an establishment of permanence. This language is carefully tailored to exclude certain sectors undocumented young adults from public higher education.

States with Exclusionary Laws and States with Additional Exclusionary Laws

Seven of the exclusionary states have laws and policies that explicitly do not allow in-state tuition for undocumented students. Three of these, Alabama, South Carolina, and Georgia, are specifically more exclusive and have specific laws and policies that deny admission to undocumented students by making all students undergo a verification of legal permanence in these states before being admitted to their public institutions.

Miscellaneous Cases

Figure 3 highlights the cases that were more difficult to categorize. Two states, Virginia and Massachusetts, grant in-state tuition to undocumented students who qualify and receive deferred action through DACA. Virginia's Attorney General Mark Herring announced this policy in 2014 in a letter written to the State Council of Higher Education and to all public institutions in the state. Massachusetts' Board of Higher Education has also issued a similar policy. Neither Virginia nor Massachusetts allow in-state tuition for undocumented students without DACA. Figure 3 also shows the special case scenarios. Because each state is unique in terms of governing structure, there were a few that had no State Board of Higher Education, no University Governing Board, or anything similar (Lowry and Fryar 432). Thus, it was left up to individual university and community college systems to make their choices in regard to allowing undocumented students to in-state tuition. Vermont and Michigan were two states in this situation. Within these states, there was no uniformity in regard to this matter. The last special case is Maryland. It has one of the most interesting laws where they allow undocumented students to receive in-state tuition at both community colleges and four-year universities with

certain requirements. One of these requires that an undocumented student wishing to attend a four-year college must first attend a community college and transfer to the four-year university.

Case Study Analysis

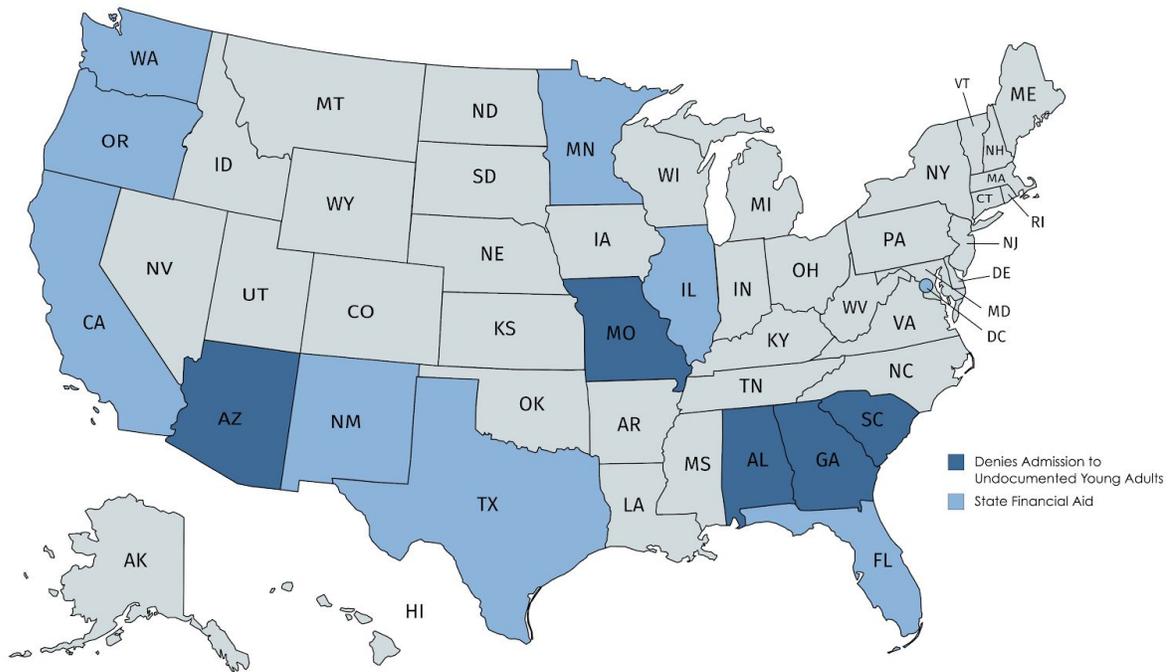
The typology resulting from my initial nationwide analysis did not adhere to the state partisan ideology that many assume is at the core of the battle for immigration. For example, although conservative states are assumed to gravitate towards hard-line stances on immigration, this is not necessarily reflected in education policies toward undocumented young adults. Second, in-state resident tuition for undocumented students is just one in a long series of battles at the crossroads of immigration and education. In-state tuition for undocumented young adults has proven to be one that causes some extreme reactions. These are debates are subject to hearty debate, both academic and activist. Kobach and Olivas' dispute regarding interpretations of IIRIRA is only one such example. Another is the activism around in-state tuition policies in Missouri. Missouri denies in-state tuition to undocumented people through its annual budget process, so there is activism around the issue yearly (Stern 2018).

To better understand the underlying explanation for why states have the policies they do, I employed a case study method to allow a more in-depth analysis of a few states. I chose four states: California, Utah, Wisconsin, and Georgia. Two of these states are exclusionary while two are inclusive to undocumented students. To go about building these four case studies, I use social, economic, and political factors. Social factors include racial and religious demographic characteristics, along with demographics about the overall population of unauthorized noncitizens in the state. Social factors also take into account the state of public higher education in each state when looking at in-state tuition policies for undocumented people. To learn more

about the public higher educational opportunities, I look at the number of institutions of higher education, the total enrollments, and the difference in prices for in-state and out-of-state tuition at select schools. Economic factors include the state GDP, the state unemployment rate, the major sectors, and the major sectors that employs unauthorized noncitizens. There are many studies that evaluate the connection between perception of immigrants and economic conditions (Citrin et al. 1997; Ybarra, Sanchez, and Sanchez 2016). Political factors include partisan characteristics of each state as well as broader policies toward immigrants. I measured partisan political leanings in the following ways: voting behavior in national elections over time, current state legislature composition, and shifts in overall demographics. Receptiveness towards immigrants is distinct from overall partisan politics. I also observed the state's overall political climate towards immigrants by evaluating the benefits available to undocumented residents and the ways in which certain states criminalized people with undocumented statuses. Combined, these various factors allow for careful comparison of individual cases.

Each case study also includes a thorough a history of each specific law and policy in effect. Using the theoretical framework described in Chapter 2, I analyze the political cultures, timing, and cognitive-emotional frames that shape each state's policies. First, I use Elazar and Lieske to look at how the state political cultures influence the ways in which states decide in-state tuition benefits for undocumented young adults. For each state, I evaluate whether or not there has been a shift between Lieske and Elazar's categorization and how a state would use this political culture to decide its in-state tuition policies. Second, I use Gladwell and Kingdon to analyze the two specific time periods that I noted as particularly salient in the realm of immigration policy in the last two decades. In particular, for each state, I look at the various

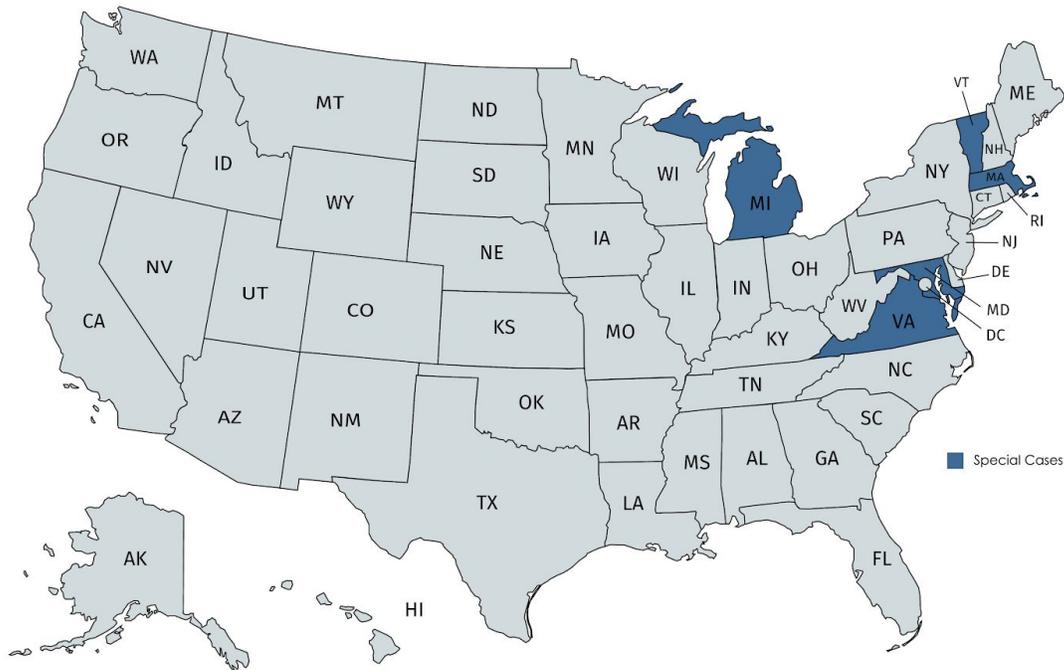
ways in which the moment in which the law was passed was particularly relevant to how the law or policy was passed. However, these two components of the framework alone are not enough to fully encompass how states make the choices they do. I use a combination of theorists to discuss two primary emotional frameworks that I argue underlie the in-state tuition laws and policy question. Based on Lakoff's two competing frameworks, I argue that there are two emotional deep stories related to immigration that are an undercurrent to how states make the decisions they do in regard to in-state resident tuition policies. One framework is America as a Birthright — one that believes in a strict hierarchy of haves and have nots. The other framework is America as a Meritocracy — one that envisions an egalitarian society reliant upon achieved status. These two competing frameworks fundamentally believe in two different competing definitions of the nation; to borrow Anderson's terminology, these two frameworks imagine their communities in different ways. It is through the content of state laws and policies, including the language used and the mechanisms to carry out the chosen law/policy, that a state shows how it aligns itself emotionally.



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Figure 2: States with Additional Inclusive and Exclusive Laws and Policies

In the figure above, the states have additional measures to make their states either inclusive or exclusive towards undocumented young adults. The states that had additionally exclusive laws and policies, shown above in the darker color, denied undocumented young adults from being admitted to their state institutions of higher education in addition to excluding them from receiving in-state tuition. The states that had additionally inclusive laws and policies, shown above in the lighter color, not only allowed undocumented students to receive in-state tuition but also allowed them to receive additional state financial aid.



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Figure 3: Special Cases

The states in the darker color above indicate that the state’s laws and policies were difficult to categorize or that they include policy quirks that are worth noting. The states that were harder to categorize did not have any statewide laws or policies in regard to in-state tuition for undocumented young adults. The states that had policy quirks included only granting in-state tuition to DACAmented students or having very specific guidelines for how undocumented students could receive in-state tuition. For a full explanation, see “Miscellaneous Cases” in Chapter 3.

Chapter 4: America as a Birthright

*Western culture is challenged by groups within Western societies. One such challenge comes from immigrants from other civilizations who reject assimilation and continue to adhere to and to propagate the values, customs, and cultures of their home societies.... It is also manifest, in lesser degree, among Hispanics in the United States, who are a large minority. If assimilation fails in this case, the United States will become a cleft country, with all the potentials for internal strife and disunion that entails. — Samuel Huntington, *The Clash of Civilizations and the Remaking of World Order**

About This Chapter

When grouping states together, there were three main divisions: states with inclusive policies for undocumented people, states with exclusive policies for undocumented people, and the exceptions that were more difficult to categorize. For this case study analysis, I grouped together the states with exclusionary laws and policies for undocumented young adults. When looking for states with exclusionary laws and policies regarding in-state tuition, I was looking for states that explicitly bar undocumented young adults from gaining access to in-state tuition. This often included dehumanizing language such as “alien” and “illegal.” Others had provisions about citizenship involved in their in-state regulations, thus making it impossible for undocumented young adults to get in-state tuition. In this grouping of states, there were a few that particularly stood out due to the exclusionary nature of their laws and policies. Georgia, often seen as a reliably conservative state in the deep South, has a law that explicitly bars undocumented young adults from gaining access to in-state tuition benefits. Indeed, as will be later explored, the state had a legal battle over granting in-state tuition to DACAmented students. Other states in this category would include Alabama and South Carolina. Wisconsin, a reliably conservative flyover state in the heartland, has gone through each iteration of in-state tuition. In a two year timespan, the state has changed its position on granting in-state tuition to undocumented students. As will

later be explored, this sudden change in position so rapidly came at the heels of the rise of the Tea Party and the overall rise in nativism in the early 2010s. It is important to note that both of these states explicitly, not tacitly, changed their position to make in-state tuition more exclusionary to undocumented young adults. There are other states that have stipulations that are tacitly exclusionary. Such an example would be states that have clauses that require citizenship in order to get access to in-state tuition. These states have not passed specific laws but defer to decisions in general regarding in-state tuition. Both Georgia and Wisconsin specifically made the decision to deny undocumented young adults access to in-state tuition benefits legally.

A Profile of Georgia

As a case study, Georgia is exemplary of how some states go above and beyond the mandate of restricting in-state tuition for undocumented young adults. Georgia is a state that goes further than excluding undocumented young adults from receiving in-state tuition; the state also bars undocumented young adults from being admitted to institutions of higher education. Georgia is one of three states that is exceptionally exclusionary in this manner. It is worth mentioning, however, that there is a strong and vocal opposition for this issue in particular. Activist organizations like Freedom University are working to make the state less exclusionary when it comes to granting in-state tuition for undocumented young adults.

Background about Georgia

Out of the 10,519,475 people in Georgia, just over 50% of the population identify their racial category as non-Latinx white (U.S. Census Bureau 2018). There are 32% identifying as African American while just under 10% identify as Latinx (U.S. Census Bureau 2018). There are an estimated 351,000 unauthorized noncitizens in the state (Migration Policy Institute n.d.). In

the state of Georgia overall, two-thirds of the undocumented population has lived in the United States for more than ten years (Migration Policy Institute n.d.). The overall foreign-born population of Georgia grew by 10% between 2010 and 2016, which is one percent above the U.S. average (Alperin and Batalova 2018). There are 77,000 undocumented youth under the age of 24 (Migration Policy Institute n.d.). The state is overwhelmingly Christian (79%) with a larger than national average percentage of Evangelical Protestant (38%) (Pew Research Center 2015). Although it is a rural state with a strong history and culture of agriculture, it is also home to Atlanta, a large, cosmopolitan city. The estimated number of unauthorized noncitizens in Atlanta is 275,000 (Pew Hispanic Center 2019).

Economically, Georgia's state GDP per capita is 48,979 which is lower than the U.S. average (Bureau of Economic Analysis 2017). The state is reliant upon the retail industry its largest economic industry (Bureau of Labor Statistics 2016). The current overall unemployment rate is 3.6%, which is not significantly different from the national average (Bureau of Labor Statistics 2018). The unauthorized noncitizen workers, of which there are an estimated 327,000 (Migration Policy Institute n.d.), whom are mainly employed in construction, manufacturing, and business services industries (Passel and Cohn 2015).

Politically, Georgia is seen as a reliably conservative Southern state. Georgia as a state has voted for the Republican candidate in eight of the last ten presidential elections (270 to win 2019). The Georgia governorship, state senate, and state house have been Republican led since 2005 (Ballotpedia n.d.). On the issue of immigration, Georgia has a reputation for being particularly anti-immigrant. One such example of this xenophobia is the Georgia General Assembly Bill HB 87 or the Illegal Immigration Reform and Enforcement Act of 2011. This law

specifically targeted identity fraud and using fraudulent documents, empowers local police to arrest or detain people who could not produce valid form of identification, created new criminal offenses that criminalized being undocumented, and required employers to do background checks for citizenship. This bill passed and became law. Georgia also has an anti-sanctuary state law that requires enforcement of federal immigration law by cities and counties (Henderson 2018). Georgia's troubling trend of anti-immigrant sentiment on a statewide level continued to last fall's campaign for the governorship. The current governor, Brian Kemp, ran on a platform that was explicitly anti-immigrant. One of his campaign ads specifically stated, "I've got a big truck in case I need to round up criminal illegals and take them home myself" (Cunnings 2018). Atlanta, the city that has the largest undocumented population in the state, has earned the reputation for being the toughest place to be undocumented due to the crackdown of police aiding ICE enforcement (Rose 2018).

About Georgia's Public Institutions of Higher Education

There are two systems of higher education that operate in Georgia. The Technical College System of Georgia (TCSG) controls the 22 technical schools in Georgia (Technical College System of Georgia n.d.). Mostly coordinating two-year institutions, last year TCSG graduated 27,000 students across all of their community colleges (Technical College System of Georgia n.d.). The University System of Georgia (USG) specifically coordinates the 26 universities of higher education (University System of Georgia n.d.). The entire USG had a total enrollment of 328,712 in Fall 2018 (University System of Georgia n.d.). The University of Georgia at Athens, the flagship school of USG, had a difference of \$19,000 between the in-state and out-of-state tuition (UGA - Office of Student Financial Aid n.d.).

Information on Georgia's Specific In-State Tuition Law and Policies

In the Georgia General Assembly 2007-2008 regular session, the seemingly innocuous SB 492 passed. On the General Assembly website, it is listed as a bill that passed “HOPE scholarships; add accrediting entity to the definition of the term eligible high school” (SB 492). The bill summary at the beginning of the legislation demurely states that the bill “revise[s] requirements relating to in-state tuition” (SB 492). However, the legislation explicitly retooled how in-state tuition benefits were to be given out in order to explicitly deny this benefit to undocumented young adults. In fact, the legislation reads “noncitizen students shall not be classified as in-state for tuition purposes unless the student is legally in this state” (SB 492). This is rather standard for states that do not allow in-state tuition for undocumented young adults; many times, they include a clause that specify that only young adults who are citizens or visas/permanent residency would be allowed to have in-state tuition benefit.

What is less standard is specifically banning undocumented young adults from being admitted to institutions of higher education. In this regard, the University System of Georgia (USG) went a step further than what the legislature has directly legislated. Buried deep in their policy manual, there is a pair of policies passed in 2010 that directly bar admission for undocumented young adults to certain institutions of higher education and reinforce not granting in-state tuition to undocumented young adults. Policy 4.1.6 states that “A person who is not lawfully present in the United States shall not be eligible for admission to any University System institution which, for the two most recent academic years, did not admit all academically qualified applicants (except for cases in which applicants were rejected for non-academic reasons)” (USG Policy 4.1.6). This distinctly means that the more competitive and selective four

year universities are directly ordered to not admit undocumented students. This has, according to Freedom University, an award-winning human rights organization and freedom school for undocumented students in Atlanta, resulted in there being five institutions of higher education in Georgia that bar admission for undocumented young adults (Freedom University 2019). There are only two other states that directly bar admission for undocumented students. Policy 4.3.4 directly states that each “institution shall verify the lawful presence in the United States of every successfully admitted person applying for resident tuition status” (Policy 4.3.4). In other words, this seemingly rather redundant policy specifically denies in-state tuition to undocumented people.

Although the USG’s policy seemed redundant, it was actually the center of a controversy. The USG’s Board of Regents was sued by a group of DACAmented students who argued that, although DACA is not a legal status, it is a form of lawful presence, and that DACAmented students should thusly be granted access to in-state tuition. This distinction would have forced the USG Board of Regents to grant DACAmented students. This case had been tied up since December 2016, when “a Fulton County judge agreed with the students and ruled that the Georgia Board of Regents must grant in-state tuition status to students under the DACA program” (Yu 2018). This was reversed by a state court of appeals and went until 2018 when the Georgia Supreme Court refused to hear the case, thus leaving the repeal from the state court of appeals in tact. This does not mean that the activists have accepted this outcome; in February of this year, nine members of faith leadership were arrested for protesting a Board of Regents meeting on behalf of undocumented young adults seeking in-state tuition.

A Profile of Wisconsin

Wisconsin is not necessarily seen as an epicenter of immigration nor is it often the site of state-level analysis of immigration. This is, however, exactly what makes it worth studying. If we center all of our analyses on how states are focused on immigration, we lose really valuable information as to the “taken for granted” and why we think that immigration is important.

Wisconsin also is a valuable state to focus on because it allowed undocumented students to have in-state tuition for two years before shifting to explicitly barring undocumented young adults from getting in-state tuition.

Background about Wisconsin

Wisconsin has an estimated population of 5,813,568 people. It is a midwestern state and is home to cities like Milwaukee, Madison, and Green Bay. It is a majority white state, with Census estimates stating that 81.3% of the population is white. The state is mostly Christian, with above average number of Catholics in comparison to the rest of the country (Pew Research Center 2015). The population of Wisconsin consists of an estimated 86,000 unauthorized noncitizens (Migration Policy Institute n.d.). An estimated 22,000 of these are under the age of 24 (Migration Policy Institute n.d.). The undocumented populations in Wisconsin are not particularly new; an estimated 60% have lived in the United States for more than 10 years (Migration Policy Institute n.d.). However, in the state of Wisconsin overall, the undocumented population has grown by 13% between 2010 and 2016, 4 percent higher than the U.S. average (Alperin and Batalova 2018).

Economically, Wisconsin’s state GDP of 48,979 (Bureau of Economic Analysis 2017) is reliant upon its manufacturing industry (Bureau of Labor Statistics 2016). Undocumented

workers, of which there are an estimated 78,000 (Migration Policy Institute n.d.), are mainly employed in manufacturing, leisure/hospitality, and wholesale/retail industries (Passel and Cohn 2015). The current overall unemployment rate is 3%, which is significantly lower than the national average (Bureau of Labor Statistics 2018).

Politically, Wisconsin has been seen as a part of a group of states that had a bunch of blue collar workers whom were aligned with the Democrats but also had some conservative views. In the last 10 presidential elections, Wisconsin voted with the Democrats more times than it voted with the Republicans (270twin n.d.). In the state government, the House, Senate, and Governor's office were all held by split members of party (270twin n.d.). This, however, changed in 2011 when the Republicans gained full control of all three (270twin n.d.). This shift came with the rise of the Tea Party and a more conservative slant to Wisconsin politics. It is worth remembering that Paul Ryan, former Speaker of the House, was a representative from Wisconsin. Partisan politics, however, are not an indicator of overall friendliness towards immigrants. Wisconsin does not have any major pro- or anti-immigrant pieces of legislation. They do not offer driver's licenses to unauthorized noncitizens and do not have any sanctuary cities.

About Wisconsin's Public Institutions of Higher Education

The University of Wisconsin system, one of the largest systems of public higher education in the country, services 26 campuses across the state. The 26 institutions are evenly divided between four year institutions and two year institutions. The system overall serves more than 170,000 students yearly and employing more than 39,000 faculty and staff statewide (Anon 2017). Their flagship institution alone, the University of Wisconsin at Madison, has 44,411

students (Anon n.d.). The difference between in-state and out of state tuition at the undergraduate level is \$27,676 (Anon n.d.). The Wisconsin Technical system oversees 16 campuses (Anon n.d.).

Information about Wisconsin's In-State Tuition Law

Wisconsin's legislation allowing undocumented young adults to briefly get in-state tuition was passed in a Assembly Bill 75 in 2009. Tucked into a large financial appropriations bill, one part of AB 75 restructured the statute regarding tuition at the University of Wisconsin. This part of the law allowed undocumented people to have in-state tuition benefit by granting an exemption to paying full, nonresident prices. Much like California, the exemption was contingent upon three factors: 1) Wisconsin high school graduation or received declaration of equivalency of high school graduation from Wisconsin; 2) continual presence in Wisconsin for 3 years after starting high school in Wisconsin; and 3) signed affidavit saying that they will apply for permanent residency as soon as possible. The bill passed and was the law for two years. In 2011, however, there was new leadership in the Governor's office and a new congress. The in-state tuition provision was removed as it became law, by being tucked into an appropriations bill. This time, it was 2011's budgetary bill, Assembly Bill 40. The current statute in place regarding in-state tuition for undocumented people explicitly denies this right to undocumented people. Section 36.27.2.e reads that "...if the student is not a U.S. citizen, possession of a visa that permits indefinite residence in the United States" is required to get access to in-state tuition benefits (AB 40). This effectively bars anyone who is unauthorized and/or DACAmented from gaining access to in-state tuition.

Analysis

The legacy of immigration in the United States is one of systemic racism and exclusion. Between the time of the Chinese Exclusion Act of 1882 and the separation of thousands of children and toddlers from their families while seeking asylum at the border in the summer of 2018, the actions of the United States Federal Government have proven time and again that the nation truly wants to hand-pick the immigrants who are to be accepted into the country. This is the legacy of immigration that has to be acknowledged.

The Samuel Huntington quote I chose for the epigraph most pointedly explains how the question of immigration is about more than immigration. It gets to the heart of questions about deserving and belonging that cut deeper and truly tap into people's bigger sense of honor and worth. In this "clash of civilizations" that Huntington foresees, the problem isn't necessarily the immigrants that are being let into the country. When it comes to immigration, the common narrative states that the whole nation is at risk if the "wrong" sort of people get let in. It isn't a question of having a good heart. It's a question of whether or not there is a belief in the country. This sort of tribalism, often masquerading as nationalism, shows itself in many ways and in various different topics.

America as a Birthright: An Immigration Deep Story

Arlie Hochschild's concept of a "deep story" is a way of analyzing how emotion undergirds social and political identity. Hochschild developed this concept of deep story while studying conservatism and the environment in the swamps of Louisiana. Many of her interviewees had been terribly impacted by rollbacks in EPA regulations but had also

consistently voted for people who campaigned on deregulation of the EPA. In her studies, Hochschild said the deep distrust of the government overall was not simply about the ways in which the government had failed them; despite logic and reason, this mistrust ran deeper and was something that felt true. It was a deep story. Here is an abridged section of the deep story that Hochschild presented to her interviewees:

You are patiently standing in the middle of a long line stretching toward the horizon, where the American Dream awaits. But as you wait, you see people cutting in line ahead of you. Many of these line-cutters are black—beneficiaries of affirmative action or welfare. Some are career-driven women pushing into jobs they never had before. Then you see immigrants, Mexicans, Somalis, the Syrian refugees yet to come. As you wait in this unmoving line, you're being asked to feel sorry for them all...The government has become an instrument for redistributing your money to the undeserving. It's not your government anymore; it's theirs. (Hochschild 2016)

When Hochschild sent a version of this deep story to her interviewees, they stated that this deep story was truly depicting how they were feeling. Despite the fact that it was not factual nor based in reason, this was their truth.

Hochschild uses this narrative to highlight the importance of feelings as key to understanding political views. Her respondents' political ideas, she says, are shaped more by what *feels true* to them than by any objective measures. Similarly, to understand the *felt* truths that underlie policies toward undocumented immigrants, we must attend to the collective emotional elements of how we understand the nation and what it means to *belong*. Borrowing Anderson's terminology, this deep story must get to the core of how people imagine their communities. In sum, the deep story must describe who belongs and who does not. This deep story helps to understand why something as prosaic as granting in-state tuition to undocumented students causes such an uproar. In the mind of those who believe in this deep story, granting in-state tuition to undocumented students would, seemingly, give those people a huge leg up in

line towards the American Dream that is undeserved. I argue that a similar deep story can help us understand how states as different as Georgia and Wisconsin arrived at very similar policies excluding undocumented young adults from public higher education. An underlying emotion-based story of America as a Birthright organizes some people's feelings about who belongs, who is worthy, who is right for the country. For those who hold this deep story, belonging comes with being born and makes one worthy of making claims on the state for higher education. Simply put, there is an inherent belief that there are people who deserve to have access to public goods while there are others who do not.

In discussing primary frameworks in a Goffmanian sense, we have to think about how there are certain models that truly lend themselves to being a specific kind of outlook on the world. Thus, there is a particular outlook on how this particular law or policy is viewed. Lakoff would very clearly invoke his Strong Father model of morality when it comes to this particular alignment with talking about the America as Birthright model. Lakoff himself talks about how undocumented people are seen as outsiders in his particular framework. From the Strong Father model,

illegal immigrants are not citizens, hence they are not children in *our* family. To be expected to provide food, housing, and health care for illegal immigrants is like being expected to feed, house, and care for other children in the neighborhood who are coming into our house without permission. (Lakoff 2016:188)

The issues of citizenship, belonging, and who gets to be included are all tied up into this conceptualization of nation. Only those who truly are a part of the family, or the imagined community, are those who get to benefit from what the U.S. has to offer. This sort of morality extends far past just stating that unauthorized noncitizens are outside of the imagined

community; “within Strict Father morality, illegal immigrants are seen as law breakers (‘illegals’) who should be punished” (Lakoff 2016:187). Using this morality as a foundation, we turn to look at how specific groups of people, and indeed entire states, buy into this narrative and make it near impossible for undocumented students.

The deep story orienting people to immigration in this frame hinges on a sentiment that there is a sense of belonging based on where someone is born. I summarize the deep story of America as Birthright thus:

Because I was born here, I am a True American. I, along with other True Americans, deserve to be in the line towards the American Dream and claim the benefits and rewards that are not available to others who are not citizens. This country is for me and other people like me. Undocumented people and refugees aren't just line cutters; they are people who simply don't belong in this country. Illegal Aliens, if you will. Why should someone who is illegal get any special treatment? Why would they get the same rights as born and bred Americans who are not just allowed to be in this country but deserve this treatment. It is a privilege that only those who were born here, or those who have worked to get to similar status as those who were born here, get. America is for Americans, plain and simple.

In this immigration deep story, an almost biblical tie to birthright comes through clearly. In the story of Jacob and Esau from the book of Genesis, the birthright was something that was coveted. Esau, the first born and favorite of father Isaac, was tricked out of his inheritance, through deceit by his younger brother, Jacob. By being too imprudent and reckless with his birthright, Esau loses his inheritance to Jacob. The moral of the story reflects this deep desire to protect the birthright of U.S. citizens. This is a central tenet of the overall America as a Birthright immigration deep story: the need to protect and make sure that no one takes advantage of the system.

There are many ways in which debates about granting in-state tuition to undocumented young adults use the America as a Birthright narrative. First, in many cases when there was a definite attempt to exclude undocumented students from proving residency, there are clauses about only providing in-state tuition to citizens, permanent residents, and those who have proper visas. In many ways, this makes in-state tuition a birthright for those who can prove their citizenship but one that can be accessed if the federal government considers you to be of equal status to those who have been born in this country. Second, the premises of residency, domicile, or in-state tuition policies all tap into this thought process that there is something that is owed to those who are *truly* from the state in which they reside. Even in looking at the phrasing of many of the laws and policies, it is not enough to be from a place or to graduate from a high school; you have to prove a “bona fide intent” to stay in this state and not just be trying to game the system to go to a better institution of higher education for a cheaper price. In many ways, tuition at in-state rates not quite birthright but a residency-right. It is a right based on true domicile that available to those who can prove beyond a shadow of a doubt that they belong.

I would be remiss to not mention how this overarching deep story is related to a white supremacist imagination of American nationalism. Omi and Winant dig into the way in which the United States has constructed itself racially to think of itself as a white nation (Omi and Winant 2014:75). This imagined white nation was built by a system of racial despotism and years of state practices that consistently dehumanize nonwhite bodies in physical, mental, social, and legal ways (Omi and Winant 2014:139). This has never been clearer than through the notion of exclusion and inclusion. Who gets to belong in the United States and who is excluded is

racially coded. This is something that continues to exist today given the way in which the undocumented communities have been homogenized and racialized.

Georgia and America as a Birthright

In 1972, Elazar categorized Georgia as traditionalistic. More recently, Lieske categorizes Georgia as split between Blackbelt and Border, both of which he categorizes as Bifurcated. These categories, however, tie back to Elazar's traditionalistic. Thus, despite shifts in the way in which the categorization has changed, both Lieske and Elazar agree that Georgia is fundamentally traditionalistic. It is important to remember that "the traditionalist political culture is rooted in an ambivalent attitude toward the marketplace coupled with a paternalistic and elitist conception of the commonwealth" (Elazar 1972:119). There is a strong tie to keeping a strict hierarchy within the state and sense that in the state government should keep the overall state safe. It thus makes sense that the traditionalistic model of political culture would reject in-state tuition policies for undocumented young adults. Strict models of inclusion to belong in the citizenry would be in line with the elitist traditionalistic culture. However, this answer is not enough to fully explain the ways in which Georgia's in-state tuition policy came to be.

Although the Georgia bill that denies in-state tuition benefits to undocumented young adults passed in the 2007-2008 session, the Board of Regents policies that explicitly ban undocumented young adults from enrolling in institutions of higher education were passed in 2010. Because we're thinking about time frame, there are a few variables that are worth noting that would be different depending on the time frame. In 2008, the undocumented population is vastly smaller at an estimated 475,000 people (Passel and Cohn 2009). The state GDP was 415 billion which is much smaller than the current state GDP (U.S. Bureau of Economic Analysis

2018). The Republicans controlled the state legislature along with the governorship in 2007 (Ballotpedia n.d.).

In 2010, there was the passage of Arizona's controversial immigration bill, SB 1070. This is the moment when there was a tipping point and many different states decided to pass various in-state tuition laws and policies. This bill made it a state crime to reside in the U.S. illegally, made it a state crime to work in the United States, required law officials to check the immigration status of all individuals who were detained or arrested, and allowed law officials to arrest individuals without a warrant on probable cause of unlawful presence (Ballotpedia n.d.). There were 5 states - Utah, Alabama, Georgia, South Carolina, and Indiana - that followed suit and passed similar bills (GORDON and RAJA 2012). Georgia's version of Arizona's SB 1070 bill, HB 87, passed in 2011 just a year after the restrictive in-state tuition. Although these are very closely tied, time frame alone cannot explain the way in which Georgia went on to pass harsher policies towards undocumented students later on.

Thus, we turn to the deep story of America as a Birthright. The content of the law explicitly bars undocumented young adults from receiving in-state tuition as well as from getting access to public institutions of higher education. However, as further evidence that the law manifests the idea of America as a Birthright, one has to specifically look beyond in-state tuition policies towards undocumented young adults and evaluate the broader social considerations. This sort of deep story permeated into other similar legislation within the last few years. In April 2017, the Georgia General Assembly passed HB 37, otherwise known as an "Anti-Sanctuary Campus" bill. It is the first state in the country to pass a law that punishes private institutions of higher education for protecting undocumented students (Freedom University 2019). This

legislation also illustrates Georgia's legal manifestation of the America as a Birthright narrative: keeping undocumented young adults out of the entire system of higher education is tied to not wanting undocumented young adults in the country. This overall climate towards immigrants has been and continues to be driven by an emotional framework illustrated through the birthright deep story.

A completely separate example of how the America as a Birthright deep story reveals itself is the fierce debates centered around the remaining Confederate monuments in Georgia. There have been battles in the legislature between Atlanta lawmakers who want to remove the monuments and legislators who want to keep the statues in place. To argue that the monuments should stay in place, State Senator Jeff Mullis explicitly harkens back to years past. He believes that "we need to calm down and respect the wishes of our previous ancestors of whatever kind of monument their city thought was important at that time" (Prabhu and Mark Niese 2019). This argument explicitly buys into the America as a Birthright narrative by appealing to the history of those who are "true" Georgia residents. What defines a true Georgia resident is one who not only was in Georgia but was one that supported erecting these monuments in the first place. In many ways, this inherently racist and nativist rhetoric excludes new Georgia residents and those who are not white.

There are a few other states across the country that similarly take extra-exclusionary stances when it comes to granting in-state tuition laws and policies for undocumented people. These include South Carolina (No Admission; HB 4400) and Alabama (No Admission; HB 658). Both explicitly bar from admission, and these ones go further than Georgia by passing legislation to make this case. They were also passed in the same time frame and abide by the same Elazar

category. However, Alabama and South Carolina do not have the same history in regard to lawsuits. In this matter, Arizona comes the closest to Georgia, given that the state also faced a lawsuit attempting to allow DACAmented students to receive in-state tuition (Snow 2018).

Wisconsin and America as a Birthright

For Elazar, Wisconsin followed the moralistic view of political culture. In 2010, however, Lieske categorized the state as a solid mix of Nordic (moralistic) towards Minnesota and Germanic (individualistic) towards Michigan. This large split in political culture is helpful for explaining how political culture played into the change in policy for undocumented young adults. When thinking about the moralistic perspective on political culture, there is a sense that the government's job is to protect and search for what is good for the commonwealth (Elazar 117). In many ways, what is good for the commonwealth would be to continue to educate the group of undocumented young adults as far as they want to achieve. However, the individualistic political culture sees politics as a free market. Granting in-state tuition to undocumented young adults would be difficult because, given the free market attitude in the individualistic political culture, it would be unfair to have people compete in the free market who are not fairly playing the game. Although political culture is helpful for understanding how Wisconsin's in-state tuition laws came to be, this is not enough to fully understand in-state tuition policy.

Understanding time period when it comes to in-state tuition laws for Wisconsin is utterly vital. Because we're thinking about time frame, there are a few variables that are worth noting that would be different depending on the time frame. In 2009, the undocumented population of Wisconsin is smaller at an estimated 100,000 (Passel and Cohn 2011). Wisconsin had a state GDP of 245 billion which is far lower than the current GDP, given that this was during the

economic downturn (U.S. Bureau of Economic Analysis 2018). The state legislature and governorship were controlled by the Democrats in 2009 but were controlled entirely by the Republicans in 2011 (Ballotpedia n.d.).

The initial bill to pass in-state tuition policies for undocumented young adults was passed in 2009, right after the election of President Obama. In the year between Wisconsin's passage of an inclusive in-state tuition bill and an exclusive one, Arizona's SB 1070 law passed. This harsh anti-immigrant law sparked national attention and a national wave of anti-immigrant copycat bills in the year that followed. Although Wisconsin itself never passed a bill that copied SB 1070, this speaks to a larger "moment" during immigration policy during which the overall policy was initially passed. This, however, was not the only thing that happened in 2010. Starting in 2009, with the advent of the Tea Party, Wisconsin's legislature switched to be in Republican control and a conservative governor. Many of those who were Tea Party supporters espoused harsh anti-immigrant sentiments, especially during this time period (Jones et al. 2014).

Wisconsin's policy toward undocumented students also manifests the America as a Birthright deep story in a few specific ways. Explicitly denying undocumented young adults in-state tuition is not the only way in which the Birthright narrative is shown in the legislation. In regard to shifting the residency to be exclusive towards undocumented young adults, Representative Don Pridemore said, "It's not a question of how much money it'll save us. It's a question of principle. We shouldn't be giving any taxpayer-funded benefits to people who have come to this country illegally" (Stewart and Quinn 2012:35). The rather small undocumented population in Wisconsin means that money is not the real problem. Wisconsin legislators chose to adhere to the the principle of exclusion to make their in-state tuition laws.

There is only one other state besides Wisconsin that has changed their in-state tuition laws after having explicitly passed a law in the past. Oklahoma had granted in-state tuition to undocumented young adults a law in 2003 which was later revoked in 2008. The key difference, however, lies in the laws that Wisconsin and Oklahoma passed to repeal in-state tuition for undocumented young adults. The Oklahoma law gives the Oklahoma State Board of Regents the right to determine the in-state tuition policy instead of denying undocumented young adults in-state tuition. The Oklahoma State Board of Regents has decided to grant in-state tuition to undocumented young adults since 2008. Although they both have similar shifts in policy in similar time frames, Wisconsin's overall adherence to the America as a Birthright framework resulted in the state explicitly denying in-state tuition for undocumented young adults.

Birthright, Redux

Georgia and Wisconsin are not often linked together; their populations, regions, economic sectors, and undocumented population are all vastly different from one another. Their partisan politics affiliations are not similar; until recently, Wisconsin was seen as a purple state more than anything and Georgia was seen as pretty reliably conservative despite a gubernatorial election that got national attention for being close for the Democratic party. Neither state is seen as particularly friendly towards immigrants, although Georgia is seen as markedly anti-immigrant in comparison to Wisconsin. So, how then, did they both arrive at the same conclusion in regards to in-state tuition policies for undocumented young adults?

What connects them is the deep story of America as a Birthright. Either through explicit rhetoric or implicit orientation, these states employ the birthright narrative in shaping their respective in-state tuition laws and policies. Belonging, in the America as a Birthright

framework, is being truly from a place. This belonging implicitly gives you access to all of the benefits that are owed to the citizenry. Undocumented young adults do not fit into this strict definition of citizenry.

Policies governing access to public higher education are just one manifestation of the deep story of America as Birthright. Those for whom this represents a *feels-as-if* truth have become increasingly visible and vocal recent years, especially during, and since, the 2016 election. As a result, immigrants and refugees have been directly impacted by many of the harshest, cruelest policies that the Trump administration has had to offer. The rhetoric and the underlying messaging of America as a Birthright is powerful enough that it drives immigration policies that put young children into cages under the guise of protecting the nation. Restrictive in-state tuition policies are just one way in which this deep story affects the lived experience of undocumented immigrants; others have been far, far worse.

Chapter 5: America as a Meritocracy

The United States has a long history of welcoming immigrants from all parts of the world. America values the contributions of immigrants who continue to enrich this country and preserve its legacy as a land of freedom and opportunity. — United States Customs and Immigration Services, Welcome to the United States: A Guide for New Immigrants, 2015

About This Chapter

For this analysis, I grouped the states that gave in-state tuition via some particular mechanism like high school graduation and an affidavit. There is a particular earned achievement that undocumented young adults can receive, in many cases high school graduation, to become undocumented students at institutions of higher education. Upon looking at states that offer in-state tuition benefits to undocumented young adults, there were a few states that stood out, especially in comparison to other states that offer in-state tuition to undocumented people. Although there were states that were “expected” to grant in-state tuition to undocumented students given their political leanings and their other policies towards undocumented residents, the states that surprised me were states that I thought of as particularly conservative and not hubs for unauthorized noncitizens. To evaluate these further, I chose two examples of states that have inclusive in-state tuition laws and policies towards undocumented young adults, California and Utah. The two states that particular states were chosen as “case studies” were chosen because, although they could not get more different, they still had similar policies about in-state tuition for unauthorized noncitizens. California, often seen as a reliably “liberal” state from the West Coast, not only grants in-state tuition to undocumented students by law but also gives them access to state financial aid to help make higher education more accessible. Utah, a “conservative” state with a strong religious undercurrent that often molds laws and policies, chose to grant in-state

tuition to undocumented students by law. To evaluate why these seemingly very different states made the same decision about in-state resident tuition benefits for undocumented young adults, I focus on the social, political, economic factors to build a profile of the state. Then, I focus on how certain states abide by the America as a Meritocracy deep story. Although I am choosing to focus on these states in particular, it is worth noting that these states are obviously not alone in their thinking nor in their policies.

A Profile of California

California is an important state to evaluate when it comes to in-state tuition benefits for unauthorized noncitizens. With an estimated 3 million undocumented residents in California alone, it is currently home to the largest population of unauthorized noncitizens in the country (Migration Policy Institute 2018). California was also the first to truly grapple with the puzzle of granting in-state tuition to undocumented people; it was among the first to pass a piece of in-state tuition legislation.

Background about California

California is among the largest states in the country with a population of 39,557,045 according to the current census projections (U.S. Census Bureau n.d.). It is among the most racially and ethnically diverse; Latinx populations surpassed the White populations in the state in 2014 (Lopez 2014). The undocumented population is estimated to be the largest in the country at roughly 3 million undocumented people (Migration Policy Institute n.d.). Although the state has the largest undocumented population in the country, the growth of the estimated overall foreign born population between 2010 and 2016 in California is estimated to be lower than in the country as a whole (Alperin and Batalova 2018). This is partially because 71% of the

undocumented community has been in the United States for more than 10 years (Migration Policy Institute n.d.). The state is religiously different in comparison to the national average — there are many more Catholics in the state than the rest of the country (Pew Research Center n.d.). Geographically, it is large, coastal state on the West Coast, with lots of agricultural lands.

Economically, California is the largest economy in the United States. In fact, when it is accounted for separately from the rest of the United States, California is the 5th largest economy in the world (Corcoran 2018). The largest economic industry is the health care and social assistance industry (Bureau of Labor Statistics 2016). The October 2018 unemployment rate was 4.1%, which is significantly higher the national average (Bureau of Labor Statistics 2018).

Undocumented workers, of which there are an estimated 2,863,000 (Migration Policy Institute n.d.), mainly are employed in the farming, production, and construction industries (Passel and Cohn 2015) . The average earnings for undocumented families are quite low; in California alone, “Los Angeles-based families of undocumented workers earn less than half the average California income, and they are 43 percent larger than the average American family” (Gonzales 2016:39).

Politically, California is generally seen as an overall Democratic state with a strong conservative history. Although a Republican candidate for the presidency has not won the state since George H.W. Bush, this state still has a strong Republican undercurrent (270towin n.d.). Despite a Democratic hold on the State Legislature since 1959, there have been Republican governors for years (Ballotpedia n.d.). Overall, however, the state is currently trending toward the more Democratic leaning, given that 89 of the 120 representatives to the State Legislature belong to the Democratic party (Ballotpedia n.d.).

Overall receptiveness to immigrants is not something that can be directly linked to partisan politics in a given state. California in particular has a history of conservatism towards undocumented immigrants. One such example is 1994's ballot measure, Proposition 187, that explicitly made undocumented residents in the state ineligible for state public benefits, including social services, health care services, and public education at all levels (Ballotpedia n.d.). The ballot initiative was struck down as unconstitutional. More recently, however, California's receptiveness towards immigrants has shifted. California will issue distinctive driver's licenses to undocumented residents (Anon n.d.). California has passed legislation declaring it a sanctuary state. This has not stopped a few counties from circumventing that law: "a federal court upheld the state's ban on communication with ICE, but Orange and San Diego counties have found a workaround: Instead of directly informing ICE, they now make public the release dates for everybody, including ICE, to see" thus making it easy for ICE to directly take people from prison to deportation centers (Henderson 2018). The overall receptiveness towards undocumented people is mixed.

About California's Public Institutions of Higher Education

Given the sheer size of California as a state, it is one of the more complicated systems of publicly funded higher education. To get a sense of the magnitude of how large the California higher education system is, "the number of students enrolled in community colleges in California [is] greater than total higher education enrollments in [some] other states" (Lowry and Fryar 2017:426). There are three main systems of public higher education in California: The University of California system, the California State University system and the California Community College system. The UC system has nine academic campuses that are all research-designated.

The California State University system has 23 universities. The California Community College system, consisting of 115 schools, is for two-year institutions. They are nonetheless vital to the state as a whole; community college students “constitute the largest share of public higher education enrollment [in California]: 68 percent” (Lowry and Fryar 2017:426). Additionally, six of the nine UC schools guarantee admission to their institutions to graduates of a California Community College and those who meet certain requirements (UC Admissions n.d.). UC Berkeley has a total enrollment of 41,910 and the overall tuition difference between in-state and out of state tuition is just shy of \$29,000 (UC Berkeley n.d.).

Information on California’s Laws about In-State Tuition

California was the first state to actively discuss and debate the overall topic of in-state tuition for undocumented young adults. In fact, since 1985, undocumented young adults’ access to in-state tuition rates has been granted and taken away many times. *Leticia A. v. Board of Regents of the University of California* (1985) gave undocumented students access to in-state tuition rates and state financial aid but the ruling was overturned in 1990 (Flores 2009 citing Olivas, 1995, 2004; Rincon, 2008). The infamous Proposition 187 (1994) restricted undocumented people’s access to public benefits including in-state tuition benefits. It should be noted that a provision of this proposition, Section 8, specifically prohibited undocumented young adults from being eligible for in-state tuition. This was, however, overturned by the U.S. District Court for the Central District of California in *LULAC v Wilson* (1997) (Nelson et al. 2014:920).

In 2001, California was one of the first to give in-state tuition benefits to undocumented young adults by law. Undocumented young adults who wish to receive in-state resident tuition through AB 540 must meet the following guidelines: they must have attended high school in

California for three or more years, graduated from a California high school or attained an equivalent thereof, and also have signed an affidavit with the institution of higher education stating that they have or will legalize their immigration status. It is important to note that the law does not stipulate that undocumented students who receive in-state tuition are considered residents; they are simply exempted from paying nonresident tuition (Nelson et al. 2014:914). This detail is a key way in which California is going an extra step to prevent conflicts with IIRIRA.

In 2011, California passed a series of bills that allow undocumented students access to public state financial aid and scholarships. These two bills combined are known as California Dream Act of 2011. AB 130 outlines that anyone who is exempted from paying nonresident tuition can also access public financial aid, whereas AB 131 specifies that those exempted from paying nonresident tuition can access private financial aid. This is also when states like Minnesota and Washington and other states were passing similar legislation.

A Profile of Utah

If California is the state that is most likely to have in-state tuition for undocumented people, Utah is one of the states that would be expected to have an exclusive in-state tuition law. This assumption, upon further inspection, would prove to be false. In fact, Utah was only a year behind California and Texas in passing in-state tuition for undocumented young adults. Why would this be the case? For many reasons, this recent immigrant hub became one of the first in a series of bedfellows to pass inclusive in-state tuition legislation.

Background about Utah

A moderately sized mountainous state, Utah is peculiar to discuss. Out of an estimated population of 3,161,105, Utah's current population of undocumented residents is 79,000 (Migration Policy Institute 2018). There are 19,000 undocumented young adults who are under the age of 24 (MPI). The overall foreign born population in Utah has grown by 13% between 2010 and 2016, which is larger than the U.S. average (Alperin and Batalova 2018). There is not much diversity in the state: 78.5% of Utah's population is white (U.S. Census Bureau n.d.). It is also worth noting that there is a sizable Native American/Indigenous population.

The religious history of Utah is necessary to understanding most of the aspects behind the Utah culture, polity, and society. The Church of Jesus Christ of Latter-day Saints (henceforth the LDS Church) is the dominant religion in the state and has been since the state was founded. Salt Lake City, the capital of the state, is also the religious center of the LDS Church. To this day, it is the state in the country with the largest LDS population; members of the LDS faith make up 55% of the population in the state (Pew Research Center n.d.). In this way, the LDS faith permeates the very being of the state. One particular aspect of the LDS history is important to note: members of the LDS Church settled in Utah after they were pushed across the entire United States by being continually outcast as an entire religion for being too different.

As a state, Utah is reliant upon the largest economic industry which is retail trade. The state's GDP per capita is 48,376 (Bureau of Economic Analysis 2017). The current overall unemployment rate is 3.2%, which is significantly lower than the national average (Bureau of Labor Statistics 2018). Undocumented workers, of which there are an estimated 70,000, are

mainly are employed in leisure/hospitality, construction, and manufacturing (Passel and Cohn 2015).

Politically, Utah is heavily influenced by the LDS Church's decisions and viewpoints; nine out of every ten legislators in the state legislature are LDS (Davidson 2019). Utah has voted for the Republican candidate for the last ten elections (270towin n.d.). The Republicans have had control of all both chambers of the state legislature as well as the governorship since 1992 (Ballotpedia n.d.). There are less conservative spots in the whole state, such as Salt Lake City, which has an openly gay Democratic woman mayor. However, overall partisan politics is not an indicator of the state's receptiveness to immigrants: for example, Utah has allowed undocumented residents to have driver's licenses since 2005 (Anon n.d.). This does not mean that they were uniformly receptive to immigrants. Utah also passed 13 anti-immigrant laws in the wake of Arizona's SB 1070 (GORDON and RAJA 2012).

About Utah's Public Institutions of Higher Education

Since Utah is a smaller state than others in the country, in terms of enrollment and overall population, all of the following universities are included in the overall system of higher education. The entire Utah System of Higher Education includes 10 institutions total: Utah State University Eastern, Dixie State University, Salt Lake Community College, Snow College, Southern Utah University, University of Utah, Utah College of Applied Technology, Utah State University, Utah Valley University, and Weber State College. The Salt Lake Community College, the largest college in Utah, enrolls 60,000 students at ten different campuses (Anon n.d.). The enrollment at the flagship university in Salt Lake City, the University of Utah, has an enrollment of 32,760 students, both graduate and undergraduate (Anon n.d.). At the University of

Utah, the difference between in-state tuition and out-of-state tuition at the undergraduate level is \$20,000 (Anon n.d.).

For the 2010-2011 academic year, Utah had a total of 716 undocumented students who qualified for in-state tuition using HB 144 (Stewart and Quinn 2012). Approximately 94% of these students were enrolled at Salt Lake Community College, Utah Valley University, the University of Utah, and Weber State College (Stewart and Quinn 2012). The University of Utah has a whole center devoted to undocumented students who enroll. The Dream Center at the University of Utah Office of Engagement works to support undocumented students from enrollment to graduation by providing services such as finding scholarships for which undocumented students are eligible.

Information about Utah's In-State Tuition Law

In 2002, Utah passed HB 144. This bill specifically altered the State System of Higher Education code to make a specific exemption for undocumented young adults who qualify for in-state tuition. As is the standard for this type of law, the stipulations include the having attended a Utah high school for three or more years, having attained a high school diploma or an equivalent from a Utah high school, and the filing of an affidavit that the undocumented student will apply to normalize their status as soon as they are able (HB 144). Much like California's law, it does not count undocumented students as residents but instead exempts them from having to pay nonresident tuition rates.

Analysis

As these two profiles of states describe, Utah and California could not be more different. Demographically, California has both more diversity as well as more undocumented immigrants.

Utah's economy is smaller than California's. Their overall political alignment is vastly different. Given their vastly different contexts economically, politically, and socially, the question remains, how can we explain the similarities in the states' inclusion of undocumented students? As an answer to this question, I posit another deep story: America as a Meritocracy. This collective emotional framework also orients feelings about nation and belonging. Within this deep story of nation lies another narrative about undocumented young adults—one that is often referred to as the "Good Dreamer."

The Good Dreamer Narrative

Over the course of the last few decades, people who came to the United States as undocumented children have been treated as a separate and different issue from undocumented adults. This overvaluing of a particular group of noncitizens has been seen and treated as something that is separate from the overall immigration debate, leading to undocumented young adults and those who came as children being generally positioned differently in society.

Playing on the common conceptualization of youth as innocence, the Good Dreamer narrative "... frames some undocumented migrants as well-assimilated, driven, U.S.-educated youth who came to the U.S. 'through no fault of their own'" (Lauby 2016:374). This rhetorical framework came from the large push to enact the Development, Relief, and Education for Alien Minors Act, commonly known as the DREAM Act. In the early 2000s, advocacy by pro-immigrant organizers for the passage of this legislation was often reliant upon a particular narrative of whom the legislation would help (Lauby 2016:376). The Dreamers, or the undocumented youth for whom the DREAM Act would provide a pathway to citizenship, often were positioned in an overwhelmingly innocent and positive light to break dominant image of

unauthorized noncitizens as “lawbreaking, inassimilable, and uneducated masses using public benefits, lowering wages, and having babies in the United States” (Gonzales 2016:27). What did this perfect Dreamer look like?

“They were framed as clean-cut, college-bound youngsters who spoke fluent and largely unaccented English. Images of valedictorians, class presidents, and model citizens wearing business suits or caps and gowns, the trappings of academic and professional success, multiplied in the media. Stories of educational achievement and American dreaming humanized the plight of undocumented immigrants.”
(Gonzales 2016:27)

This narrative of the “good Dreamer” has consequences that are two-fold. First, it reinforces a dichotomy of those who belong and those who do not. By categorizing the Dreamers as good, hardworking young adults with big aspirations, the rest of the undocumented population is seen as less than. This logic is even embedded in the name of the act and those who would directly benefit from it: calling these undocumented young adults “Dreamers” is a not-so-subtle way of hammering home the message that this specific group is distinct from the rest of the undocumented population. *This* group of immigrants participates in and deserves the American dream; they are already “one of us.”

Second, at the core of this conceptualization of the “Good Dreamer” is the concept of meritocracy. The notion of “earning” one’s place in society is essential to the way in which we think about who gets to participate fully in society. Earning one’s place in society is a twofold concept: one must both be an exemplary achiever while also assimilating to espoused U.S. values. These often include almost being more American than Americans. By growing up in the U.S., by speaking English well, and by having deep roots in the U.S., the Dreamers get to be a part of society. In other words, the Dreamers have “earned” their place in society by assimilation.

The “‘perfect Dreamer’ narrative relies on frames relative to achievement, innocence, meritocracy, individualism, and injustice, which together create the story of the ideal, high-achieving undocumented youth who is unfairly prevented from gaining access to college and pursuing his or her dreams” (Lauby 2016:376). This narrative is a manifestation of considering undocumented young adults as a benefit to society as citizens-to-be.

This same rationale is often used to defend why undocumented young adults deserve to have in-state tuition benefits: they have played by our rules and conformed to our norms, so they deserve to be included. Furthermore, to deny them access to higher education would be a waste of prior public investment in their education and talent. The narrative has extended far beyond the original DREAM Act legislation it is named after and has become a standard for proving one’s merit.

What is implicit in this narrative is the concept of the American Dream as a construct that is a meritocracy: those who work hard and pay their respects and “do the time” deserve the opportunity to work their way up. People who buy into this narrative see this meritocratic principle as a central tenet of the United States that needs to be upheld. When this meritocratic ideology is applied to immigration, it does not map neatly onto any particular political leaning. In fact, it is something that many in the country agree upon. Americans love a good “bootstrap” story. It does not matter how factually true this narrative is. What matters is that it is something that *feels* true to many people. That laws and policies mimic this narrative is a clue that there is an emotional deep story at work here.

America as a Meritocracy: An Immigration Deep Story

A meritocratic viewpoint is inherent to this Good Dreamer conceptualization that has been consistently prevalent throughout the last few decades of immigration debates. This meritocratic viewpoint, however, is not just a standard to which immigrants are being held. In many ways, this sort of rhetorical usage is indicative of an underlying perception of how U.S. society operates and how one gets to belong within society. In a Durkheimian fashion, if immigrants are already subject to the same norms of worth, that implicitly includes them in the moral community of the nation. In discussing primary frameworks, we have to think about how certain models that lend themselves to being a specific kind of outlook on the world and thus an outlook on how this particular law or policy is viewed.

Thinking about America as a Meritocracy is the second of the competing frameworks that are present in in-state tuition laws. There is a tendency to look at the United States as a system that inherently requires a sense of fairness; if you work hard and play by the rules, you get a chance to make it in the United States. Compare this to America as a Birthright that believes only those who are born/have the same rights as those who are born in this country belong. There is a stark difference in the world views and how specific models of nationalism lend themselves to different views on immigration and in-state tuition laws and policies for undocumented young adults.

This particular framework fits within Lakoff's Nurturant Parent model. The Nurturant Parents model believes in a model of politics that is empathetic for others and a need to help those who are in need (Lakoff 2016:35). Lakoff believes that, in many cases, this means that unauthorized noncitizens are entitled to a certain amount of empathy because they are often the

ones who are most in need. In this framework, “powerless people with no immoral intent are seen as innocent children needing nurturance” (Lakoff 2016:188). As such, undocumented immigrants—especially those who came to the U.S. as children—should be given the resources necessary to make a better life because they are an asset to society. Undocumented people “support the lifestyles of better-off people, providing an important service....they deserve to be compensated for their low pay by having their basic needs guaranteed. Since illegal immigrants historically have become citizens, they should be seen as citizens in the making” (Lakoff 2016:188). Many of those who believe this cognitive framing do so because they believe that undocumented people are inherently beneficial to society, given that they are working hard and are doing good work for the country. Aligning with this thought process is cognitively easier with immigrant children because children are already seen as people in the making (James and Prout 1990). Adherents of this framework also support giving benefits to undocumented people including in-state tuition because it is a public investment that benefits the overall society.

Although this rhetorical conceptualization is helpful to understanding the overall framework of social policy and in-state tuition for undocumented people, it is important to note that Lakoff views the Nurturant Parent framework as one that is tied to a particular party in the United States. Lakoff sees the Nurturant Parent cognitive framework as key to understanding the Democratic Party; however, political party alone does not make the map of in-state tuition policies make any more sense. In fact, given the map and the way in which Elazar talks about political culture, partisan party affiliation would be a bad heuristic to consider. This is especially true for in-state tuition laws and policies for undocumented young adults, where dominant party affiliations at the state level are not indicative of policy choices. However, we can uncover

Hochschild's concept of a "deep story" that underlies many of the choices that are made throughout the states. Although she does not work with this particular application, using the concept of the "Good Dreamer," I posit the concept of America As a Meritocracy.

For this particular viewpoint, the deep story goes as follows:

America is a country of immigrants following the American dream. Immigrants come here for the opportunity to build a better life and become Americans by working toward that dream. Everyone deserves an equal shot at the American Dream if they work hard enough for it. It isn't a question of if someone belongs here legally — it is a question of if they have proved that they are good, worthy "citizens." Beyond that, immigrants help better the economy — they do the jobs we don't want and are hard workers. Belief in American values and hard work is what has defined Americans for centuries. Once they prove their worth, why shouldn't they get an equal shot at getting ahead in our country? After all, my grandparents came here and got that same deal. America is about equality of opportunity.

In many ways, this viewpoint is deeply ingrained in the immigrant law and rhetoric under which the United States operates. The DREAM Act and DACA define who gets to qualify to be a good citizen and who can normalize their status. In both cases, education or military service proves a worthiness and a value that is a prerequisite to gain access to these benefits. Once someone has shown their merit, that is when the U.S. deems them worthy of becoming citizens. In this case, citizenship is necessary to the sense of belonging for undocumented young adults; it is a recognition of belonging, making "official" what was already true in spirit.

The America as a Meritocracy framework is no less based in racial formation in the U.S. than America as a Birthright. The difference between these two is the way in which the appeal to two different kinds of racial state; where the America as a Birthright believes in the racial despotic state whereas the America as a Meritocracy believes in a racially democratic state. The America as a Meritocracy framework is doing the work of hegemony in the democratic racial

state by constantly pushing the narrative that belonging is earned as a result of individual actions that conform to *status quo* power arrangements. The idea of meritocracy serves as a legitimating ideology for existing social inequalities, including America's persistent racial hierarchy. This narrative is often appealing to many, including the subaltern and those who want to be brought out of the racially despotic state. However, it is a short step from the ideology of meritocracy to the respectability politics that so often work against racial justice movements. Thus, the two deep stories organizing emotional orientations toward undocumented students are not wildly different; instead they are two sides of the same coin.

California and America as a Meritocracy

Elazar and Lieske have quite a mixed understanding of California's political culture. In 1972, Elazar posited that California was a mix of moralistic and individualistic. Lieske's posits that California is a mix of Global in the south, Latinx in the middle, and Rurban up north. When we collapse these categories, however, Lieske would say that California is mostly Pluralistic and Separatist (Lieske 2010). Lieske argues that the "'pluralistic' category includes two more culturally diverse subcultures the Rurban and Global that represent the outgrowth of internal migratory streams and the arrival of a third global wave of immigration that stems from the 1965 immigration amendments" (2010:544). Lieske also rather misguidedly (or racistly) posits that counties with large Latinx communities are categorized as Separatist because he thinks that this group of immigrants has "assimilated" (Lieske 2010). Nonetheless, he considers this larger Separatist as Elazar's normal Traditional category. Indeed, this seems to be a shift in how political subcultures have been categorized since Elazar first posited the theory. However, in the

intervening decades, there has been a large migration of new people, including undocumented people, to California.

California's shifting political culture has resulted in mixed sentiments and mixed ways of approaching whether or not undocumented students should receive in-state tuition benefits. The individualistic approach that values the free market above all else would value getting a return on an investment. This would include the public investment in K-12 education for undocumented young adults. However, this is not enough to tell us how they would consider undocumented people into the schema of the citizenry — this is something upon which in-state tuition is contingent. Thus, political culture, although influential and helpful in seeing how California may rationalize the choices made about in-state tuition policies, is not enough.

California is at the forefront of making policy in this area, in part, because of the large undocumented population in the state. California had the lawsuit about it years ago and the law itself passed in 2001. Because we are thinking about time frame, there are a few variables that are worth noting that would be different depending on the time frame. In 2001, the undocumented population is vastly smaller and has different characteristics than it does now. There were 2.3 million unauthorized noncitizens in the state (Passel 2002). The economy was also smaller — the GDP was over \$1.3 trillion and the service industry was the largest industry (California Legislative Analyst's Office n.d.). The Democratic party controlled the House, Senate, and Governorship and the state voted for Gore in the last election (Ballotpedia n.d.). Thus, there were conditions under which it makes sense that the overall state would make the choices they do. However, during the second major immigration moment, California recently gave more benefits to undocumented people such as explicitly giving financial aid to

undocumented students in 2011 and drivers' licenses in 2013. Thus, timing cannot be the only thing that impacts how in-state tuition policies were decided in California.

Thus, we turn to the overall America as a Meritocracy framework. California categorizes into America as a Meritocracy due to how the laws frame in-state tuition as an “earned” status — by high school achievements. The large undocumented population and the way in which California has had to “deal” with undocumented people gives them a bent into the meritocratic — if you’ve earned your spot, you’ve earned it. However, the legislators themselves discuss how their overall viewpoint regarding granting in-state tuition is based on a similar viewpoint. The governor released a statement that, in part, read: “The Dream Act benefits us all by giving top students a chance to improve their lives and the lives of all of us” (McGreevy and York 2011). When talking about the passage of the California Dream Act, Representative Gil Cendillo said, “It makes no sense to invest in a child K through 12, and then undercut that investment by making their higher education more difficult by not providing funds that we provide for all other students” (Kahn 2011). This is sort of logic reduces undocumented young adults to their overall worth and what they can provide society.

Combined, we see clearly how California abides by the America as a Meritocracy framework when it comes to in-state tuition. Although the large population of unauthorized noncitizens makes it understandable that California was among the first to pass in-state tuition legislation, the reality, as is it so often, is far more complicated. California employed the America as a Meritocracy framework in the mechanism used to grant in-state tuition to undocumented young adults and how the lawmakers framed the law as a social benefit. When it comes to thinking about other states that are in similar situations, New York is a good

comparable example to California. Both states have large undocumented, a mixed political history with a recent Democratic streak. Both states were also early adopter of in-state tuition for undocumented students. Under these circumstances, it is “expected” for these types of states to use the America as a Meritocracy framework.

Utah and America as a Meritocracy

Elazar and Lieske both make note of Utah’s relationship with the LDS Church and thus focus on how this would lead the state to lean towards moralistic culture. As a state, the overwhelming population of LDS members means that the overall political culture tends to exhibit the characteristics that are espoused in the religion. As a reminder, “politics, to the moralistic political culture, is considered one of the great activities of humanity in its search for the good society — a struggle for power, it is true, but also an effort to exercise power for the betterment of the commonwealth” (Elazar 1972:117). This concept of “betterment” is key to how the LDS view and talk about in-state tuition laws for undocumented people. It is almost a moral obligation to make it possible for those who have worked hard to make it within society as a whole. Although it is helpful to explain how Utah came to grant in-state tuition to undocumented young adults, political cultures are not necessarily the entire explanation as to how the state overall got to be seen as inclusive to undocumented people in this regard.

Time frame is also important to consider when thinking about how in-state tuition policies for undocumented students get passed. Utah’s undocumented population was estimated to be between 75,000 and 100,000, which is smaller than the current population (Passel, Capps, and Fix 2016). In 2002, Utah’s state GDP was about \$76 billion, which is less than half of what it is today (U.S. Bureau of Economic Analysis 2018). The state legislature and governorship

were held by the Republican party (Ballotpedia n.d.). However, these are not the only factors that are important to note when considering how Utah came to grant in-state tuition. At the same time that Utah passed legislation allowing undocumented students, Utah legislators in Congress were working to pass important legislation at the national level. Sen. Orrin Hatch (R- UT) and Rep. Chris Cannon (R-UT-3) were the first to introduce the DREAM Act in Congress in 2001. Orrin Hatch tried twice to pass the standalone bill while Chris Cannon tried twice to pass the Student Adjustment Act of 2001 which included the DREAM Act. Both attempts were in 2001 and again in 2003. Orrin Hatch tried once more to pass the DREAM Act in 2004, trying to tuck it into a Department of Justice appropriations bill. The section with the DREAM Act ultimately did not pass. Although this is not particularly about in-state tuition, it is indicative that there was a brief moment between 2001 and 2004 in which these two representatives were at the forefront of advocacy for undocumented young instead of simply endorsing such actions. However, time frame and time period are not the only thing that would impact how Utah passed legislation that grants in-state tuition to undocumented students.

Utah abides by the America as a Meritocracy framework in many ways. In the law itself, the mechanism for undocumented people to receive in-state tuition is through high school graduation from a Utah high school. This is not, however, the only way in which the state is meritocratic. To better understand why this legislation was passed, here is a quote from Representative David Ure, the sponsor of HB 144, as to why he introduced the legislation in the first place:

I was approached by people from the University of Utah. The statistics in the state of Utah were that Latinos were dropping out of school after their freshman year in high school. Many of these people were very smart. As a matter of fact, the four or five from Park City that I met were extremely bright young people, but they were not citizens of the U.S. because they had come across the border with their

parents when they were two, three, four, five, or six years old. They all spoke very good English. They all had good grades. They just realized it was a dead end for them here in this state or anywhere else in the U.S. They might as well go get a job and go to work, because they couldn't go to college without paying the out-of-state tuition, which was very expensive. So they were dropping out very rapidly. So I agreed to introduce the legislation because it has always been my belief that you can't go wrong educating people, whether they're undocumented or what the story is. If you can educate people, society is better off. (Stewart and Quinn 2012:21)

Representative Ure decides that this group of undocumented young adults are worthy of getting in-state tuition by implementing several different aspects of the “Good Dreamer” narrative. By insinuating that they arrived at ages younger than six, there is an inherent sense of presumed innocence. The solid grasp on English also is a marker of belonging in the United States. Rep. Ure also establishes linkage between the student’s grades and economic worth by stating that these undocumented young adults would be good for society. Granting this group of undocumented young adults in-state tuition is just one way in which Rep. Ure sees that he can help the betterment of society. All in all, this quote encapsulates the America as a Meritocracy framework.

This is only one way in which the meritocratic angle comes to the fore in Utah regarding in-state tuition for undocumented young adults. The large LDS community in Utah plays a pivotal role in how the state defines itself around the topic of immigration. As was previously mentioned, the LDS Church has a history of being outcast by other states in the U.S. and also by the United States Federal Government itself. Governor Gary Herbert explained this much in a Facebook post:

In 1879 under the direction of President Rutherford B. Hayes, the US Secretary of State William Evarts requested that foreign governments no longer allow Mormons to emigrate to the United State in order to prevent the ‘large numbers of immigrants [who] come to our shores every year from the various countries of Europe for the avowed purpose of joining the Mormon community at Salt Lake.’

Utah exists today because foreign countries refused to grant the wishes of a misguided president and his secretary of state. I am the governor of a state that was settled by religious exiles who withstood persecution after persecution, including an extermination order from another state's governor. In Utah, the First Amendment still matters. That will not change so long as I remain governor. (Governor Gary Herbert 2015)

This history has, seemingly, made a difference in how the LDS Church speaks about immigration and immigration policy in the last several years. One example of this is the Utah Compact. The Utah Compact was released in 2010 and the rise of more nativist arguments in Utah after SB 81. The manifesto aimed to reframe the debate around immigration in Utah to be aware of five main "pro-immigrant" factors including: Federal Solutions, Local Law Enforcement, Families, Economy, A Free Society (Utah Compact). The Utah Compact also pushed those in government to do better in terms of immigration legislation. This manifesto, although mostly a letter of intent and nothing more, was co-signed by the LDS Church leadership and many prominent Utah business leaders (Stewart and Quinn 2012).

This sort of signaling has often been key to Utah's seemingly pro-immigrant stance on some issues, including refugee policy (which is what Gary Herbert was referring to in his facebook post), DACA, and the DREAM Act (Utah Attorney General 2017; Governor Gary Herbert 2015; Cortez 2017). The deep ties to the LDS Church have helped Utah create some policies that are pro-immigrant while still retaining deep ties to more conservative parts of partisan politics in the United States.

Utah is exemplary of the America as a Meritocracy model. Despite the fact that the partisan political leaning of the state is conservative, there seem to be certain factors, namely the influence of the LDS Church that help orient Utah towards America as a Meritocracy. The undercurrent of the LDS influence is apparent given the fact that this is even noted as influential

to the political culture of the state. It is interesting to note that the states with the largest LDS populations in the United States, including Utah, Wyoming, and Idaho, all have inclusive in-state tuition laws and policies for undocumented young adults. Although I do not want to draw any causal inferences, I do think that that connective influence of the LDS Church is undeniable.

Meritocracy, Redux

On paper, California and Utah cannot get more different. Their population sizes, economic sectors, state GDP, and partisan political affiliation are radically different. California's population unauthorized noncitizens alone is roughly the same size as Utah's entire population. So the question remains, how did these two completely different states end up with almost identical policies regarding in-state tuition for undocumented students? The answer is that they have different reasons but they have a distinct emotional outlook, America as a Meritocracy, that makes it possible.

A part of this emotional deep story is the concept of the "Good Dreamer." Within the last several years, many scholars who work with undocumented populations and study immigration have begun to unpack the "Good Dreamer" narrative. For many, those who were the faces of the DREAM act were young undocumented people who were here "by no fault of their own" by arriving to this country at an age too young to understand the implications of moving to the U.S. without the proper documentation (*Plyler v. Doe*, 457 U.S. 202 (1982)). Those play into this narrative are seen as innocent, hard-working kids who deserved better than the lot they were given in life. They deserved to achieve their dreams — especially if that means educational attainment such as higher education.

Inherent to the conceptualization of the “Good Dreamer” is that someone made it and that they therefore deserve to get something like in-state tuition. The earned status is inherently about acting and being American. In fact, this sort of rhetoric is often used to defend why the Dreamers should have a pathway to citizenship or other legal protections. Then-President Obama reiterated this much in his announcement creating DACA program: “This is about young people who grew up in America — kids who study in our schools, young adults who are starting careers, patriots who pledge allegiance to our flag. These Dreamers are Americans in their hearts, in their minds, in every single way but one: on paper” (CNN 2017). Obama connects a series of benchmarks that make Dreamers “American.” He does this by alluding into categories such as educational and career attainment and American values. In the America as a Meritocracy model, the nation is held together by American values. To belong in this imagined community in the America as a Meritocracy framework is to be American beyond the shadow of a doubt. That American-ness is measured by earned statuses.

It is important to note that adherence to the America as a Meritocracy deep story is not necessarily a reflection of how genuinely immigrant friendly the state is. Instead, this narrative speaks more to emotional orientations toward collective identity and belonging. California is not unilaterally a haven for unauthorized noncitizens. It also does not offer nearly enough financial aid to cover all of the students who apply to get the financial aid thus the facade of being immigrant friendly stays while there are still plenty of students who cannot afford school (Rose 2018). Although there are moments and narratives which help Utah seem more being receptive to immigrant, this is not the entire truth. For Utah, it is the many anti-immigrant bills that have

been passed and the fact that there is an attempt to harken back to the pro-immigrant past that betray strict adherence to the deep story. In the end, however, it is the narrative that matters.

Chapter 6: Conclusion

The central motivating question for this thesis is why states that are quite different make similar choices in regard to in-state tuition policies for undocumented young adults. Overall inclusivity and exclusivity toward undocumented young adults do not neatly correspond to either the size of a state's undocumented population or a state's partisan leanings. Along the way, I discovered the way in which this rather small, arcane section of the law inspired much spirited debate among academics, legislators, and activists alike. Relative to the scope of the issue, this sort of emotional response was puzzling.

To attempt to answer this central question, I put forth two competing primary frameworks that I call deep stories: America as a Birthright and America as a Meritocracy. America as a Birthright defines belonging to the United States as something that is inherited by being born or residing in a place. In this deep story, belonging is to call the state, and by extension the United States, a natal home. America as a Meritocracy defines belonging in the United States as something that is earned by adopting the United States values and by proving that one can belong accordingly. Belonging, in this framework, is to be accepted as conforming to shared values and desired norms of behavior, regardless of citizenship. As is clear, the overall sense of belonging is vastly different depending on which of these deep stories is being employed. The central difference between these two definitions is how these two conceptualize of the nation. Their conceptualization of the so-called "imagined communities" differ between communities that are closed off and require permission to enter and the communities that require certain values and specific achievements to belong. This difference in imagined community is key.

Furthermore, there are two additional aspects that were helpful to understanding how states enact the in-state tuition laws and policies. Political culture helps give an understanding as to how a state considers itself to operate politically. This political culture, although malleable, lends itself to understanding why a state makes the choices they do. Time frame is equally important to understanding these laws — there are certain moments that make it feel like an abundance of policies and laws pass in quick succession.

To understand this analytical framework and see how this applies to in-state tuition policies for undocumented young adults across the country, I chose to focus my content analysis to four key case studies. Georgia, a state with a large immigrant population residing in an anti-immigrant environment, harkens back to ancestral values to discuss America as a Birthright. Wisconsin, a flyover state that has a small undocumented population, saw the increased prominence of a Birthright narrative concurrent with the rise of the Tea Party and in reaction to Arizona's SB 1070 bill in 2010. California, a large immigrant hub and a long history with the subject, abides by the America as a Meritocracy framework due to their self-proclaimed openness to immigration and the benefits to be reaped by allowing undocumented young adults to graduate from public institutions of higher education. Utah, a recent immigrant hub and majority LDS state, uses the LDS history and Good Dreamer framework to employ the America as a Meritocracy deep story. These case studies illuminate the variety of ways in which these two immigration deep stories operate across the country.

Although these emotional frameworks are important to understanding how a state makes the choices they do in regard to in-state tuition for undocumented young adults, it is worth mentioning that the truth, as it so often is, lies in the middle of these two competing narratives.

In-state tuition, as it exists in the present, is both earned and a birthright. These frameworks both make up important parts of how the United States thinks of itself.

Limitations

One limitation to my data collection is brought about by the volatility of these policies and laws. This is, in part, due to the nature of these types of policies; given the fact that each state decides to do things differently makes it harder to ensure that the policy that I found was the most current or the one in effect. Furthermore, all of these laws and policies were ones that were available to me online. The website can only take me so far; there have been discrepancies between what was publically available in online and what some people have reported. An example of this is Maine, where news sources report that DACAmented young adults are eligible for in-state tuition. While a single power point I found on the Maine website says that this is the case, there was no evidence anywhere else on websites or elsewhere that codified this as a statewide rule. Thus, Maine was counted as not allowing undocumented young adults in-state tuition.

Implications for Inquiry

This particular area of study is particularly salient given the interdisciplinary perspectives, the human impact, and the current political climate. In time, I hope there is a more rigorous analysis of time frame for in-state tuition resident laws and policies — something that looks particularly at the conversations and debates to see if there was a shift over time or something about these moments during which many states decided to pass in-state resident tuition. There has also been a discussion of the ways in which even though there is a law that grants in-state tuition to undocumented young adults, there is no way to ensure equal application

under the law nor is there a way to ensure that the overall policy is in effect. This is something that Dra. Liliana Castrellón, at the University of Utah, did in her dissertation. Although she specifically focused on Utah, it would be interesting to look at elsewhere and compare. Lastly, in-state resident tuition is only one step towards getting undocumented people into college. There are still institutional barriers that would make attending an institution of higher education as an undocumented student difficult at best and downright impossible at worst. There need to be financial aid for undocumented students, as well as additional institutional resources to address needs that are different than those of students who have citizenship or permanent residency. Further analyzing if states that have in-state tuition benefits also adequately know how to make sure that their institution is ready to work with undocumented students is a vital step to seeing if these measures of friendliness are genuine or hold-overs.

Where We Go From Here

Things are bleak in the realm of immigration. There have been two major “waves” during the last two decades during which immigration law and policy has been in flux, one from like 2001-2005 and the other from 2011-2015. It would be impossible to make it through this thesis without acknowledging the way in which the current political moment has shaped the way this thesis unfolded. The topic has been made more salient and difficult to unpack in this moment. Current national trends are making immigration policy vastly more difficult to discuss. Between the family separation policy, the Muslim ban, the DACA challenge, and the government shutdown during Christmas about funding a border wall to “stop” immigration, it very well seems that the immigrant community is under attack. With these policy shifting towards the extremist and xenophobic, there has been a shift in rhetoric as well although. We are removed

enough from the earlier waves that it does not seem impossible to think about the “tipping points” that lead to those particular immigration moments. However, it’s far too early to tell what this particular moment will bring around in regards to the rights of undocumented people. Even within the last few years of researching one particular benefit that is sometimes afforded to unauthorized noncitizens, there have been multiple changes and judicial trials and shifts.

In my estimation, the two narratives I have outlined as orienting emotional frames are both fundamentally flawed — the Birthright/Meritocracy dichotomy truly forgets that unauthorized young adults are people. Birthright sees undocumented people as wholly a drain on society while the Meritocracy framework sees the undocumented community as a support system to the citizenry/citizens in the making. Neither deep story specifically denies personhood explicitly, but they give in to the ways in which the undocumented person monolith impacts society as a whole. Instead, these deep stories specifically ignore that the people who are immigrants or people who are undocumented are more than just one thing. They are not monsters, machines, or aliens but complicated, living, breathing human beings. At the end of the day, what gets lost when we frame immigrants as benefits or as drains to society is that we ignore the humanity of everyone involved. In a discipline like sociology that aims to look at the study of society, we should interrogate how whole subclasses are considered and talked about.

I caution against thinking that inclusive in-state tuition laws and policies alone would be a step forward in giving undocumented young adults the right to live with dignity. Even if undocumented students are treated with any semblance of dignity to go to college at an acceptable price point, it greatly depends on where they are in the country and as to their opportunities. It is important to note that there has been “a troubling trend: policy

proposals...have been driven by a singular focus on undocumented youth qua students, with little consideration of their experiences outside school” (Gonzales 2016:26). Undocumented students face a difficult road for which in-state tuition alone cannot account. Institutions of higher education cannot simply let undocumented students into their universities without also giving appropriate resources that are necessary to support undocumented students. Although there are plenty of ways in which this support is necessary, providing adequate access to mental health, physical health, financial aid, and immigration resources are a start. These are concrete steps that must be taken to truly embrace the fact that undocumented students are people.

An “undocumented people as people” framework would almost explicitly not fit into society as we know it; this sort of thinking requires a radical rethinking of nation, citizenship, and belonging. It requires believing that the world could be a more open place in which citizenship means something completely different. It truly requires a breakdown in how nations imagine themselves. It requires thinking that the community is broader and more open to new members than could ever be imagined.

This sort of radical hope is best seen on the ground, on a state-by-state level, by real organizers who do the work. These are groups of activists and organizers are like the ones that Brown and Jones discuss in Mississippi. The Mississippi Immigrant Rights Alliance created a coalition with Black Caucus to tap into deep histories of slavery, segregation, and racism to combat anti-immigrant sentiment in real life and anti-immigrant bills that were being passed in Mississippi (Brown and Jones 2016). All of the states that I discussed have robust immigration activist communities that are actively working towards creating a more welcoming state-level environment. California has a long history of immigration activism starting with the United Farm

Workers that continues to today including Coalition for Humane Immigrant Rights of Los Angeles, the Koreatown Immigrant Workers Association, the National Day Laborer Organizing Network, the South Asian Network, and the Central American Resource Center (Pastor 2015). Utah has the Refugee and Immigrant Center — Asian Association of Utah, Comunidades Unidas, and la Red de Solidaridad SLC who all do community building, activism, and workers' rights workshops. Wisconsin has the renown Voces de la Frontera working hard to organize yearly events around including the 2016 Day Without Latinos Protest (Krieg 2016). Georgia has Freedom University, which organizes specifically around getting Georgia to allow undocumented young adults to have access to in-state tuition (Freedom University 2019). All of these organization do tireless work that requires fighting the good fight and redefining the bounds of what society deems as worthy. Radical hope is something that these activists have and actively embrace. I hope that we all do the same in order to understand why unauthorized noncitizens deserve the rights to live with dignity regardless of what they have to offer society.

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Appendix A: DREAM Act Legislation History

I gathered information about all of the DREAM Acts from the first time it was introduced until 2016 for the Utah Education Policy Center.

Year	Congress	Bill Number	Name
2001	107	S. 1291	DREAM Act of 2001
2001	107	HR. 1918	Student Adjustment Act of 2001
2003	108	S. 1545	DREAM Act of 2003
2003	108	HR. 1684	Student Adjustment Act of 2003
2004	108	S. 2863	Department of Justice Appropriations Authorization Act, Fiscal Years 2005 through 2007
2005	109	S. 2075	DREAM Act of 2005
2006	109	HR. 5131	American Dream Act of 2006
2006	109	S. 2611	Comprehensive Immigration Reform Act of 2006
2007	110	HR. 1645	STRIVE Act of 2007
2007	110	S. 1348	Comprehensive Immigration Reform Act of 2007
2007	110	S. 774	Development, Relief, and Education for Alien Minors Act of 2007
2007	110	HR. 1221	Education Access for Rightful Noncitizens (EARN) Act
2007	110	HR. 1275	American Dream Act
2007	110	S. 2205	DREAM Act of 2007
2007	110	HR. 1585	National Defense Authorization Act for Fiscal Year 2008
2007	110	S. 1639	A bill to provide for comprehensive immigration reform and for other purposes.
2009	111	S. 729	DREAM Act of 2009
2009	111	HR. 1751	American Dream Act
2010	111	S. 3827	DREAM Act of 2010
2010	111	S. 3454	National Defense Authorization Act for Fiscal Year 2011
2010	111	S. 3932	Comprehensive Immigration Reform Act of 2010
2010	111	S. 3962	DREAM Act of 2010
2010	111	S. 3963	DREAM Act of 2010
2010	111	HR. 6497	DREAM Act of 2010
2010	111	HR. 5281	Removal Clarification Act of 2010
2010	111	S. 3992	DREAM Act of 2010
2010	111	HR. 6327	Citizenship and Service Act of 2010
2011	112	HR. 1842	Development, Relief, and Education for Alien Minors Act of 2011

2011	112	S. 6	Reform America's Broken Immigration System Act
2011	112	S. 952	DREAM Act of 2011
2011	112	S. 1258	Comprehensive Immigration Reform Act of 2011
2013	113	S. 744	Border Security, Economic Opportunity, and Immigration Modernization Act
2013	113	HR. 15	Border Security, Economic Opportunity, and Immigration Modernization Act

Appendix B: Methods for Data Collection

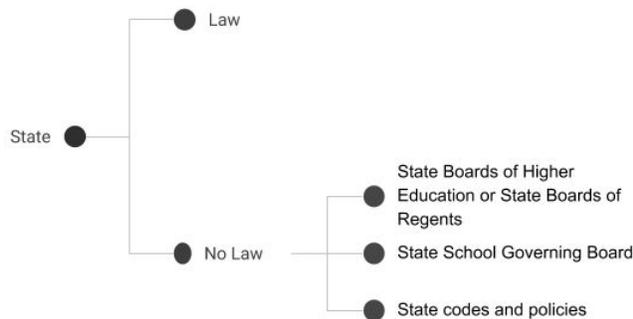
As a Summer Undergraduate Intern at the Utah Education Policy Center in the summer of 2016, I compiled a list of states that specifically had laws that explicitly state that undocumented students can receive in-state tuition using Olivas' *No Undocumented Child Left Behind*, Pabón López and López' *Persistent Inequality*, the National Conference of State Legislatures website, and the University Leaders for Educational Access and Diversity (uLEAD) Network website. Since this compiled list was not up to date and had inconsistencies between the different versions, I went through the various state forms of codifying legislation that is current to see if these laws were still valid and enforceable. These included state statutes or codes that were available on each state's legislature websites. This search yielded information about the availability of in-state tuition benefits for 23 states.

To find out in-state tuition policies and laws for the remaining 27 states (and the District of Columbia), a few different steps were used. The first step was to study each state's given governing board, such as a State Boards of Higher Education or State Boards of Regents, to see if there were in-state tuition policies for undocumented students that governed whole university systems or were applicable statewide. Often, these searches involved examining manuals and policies to see if there was a policy towards undocumented students as well as the scope of reach of these documents. There are 21 states that have centralized governing boards (Lowry and Fryar 432). If such a policy did not exist in at this level, or if the particular state did not have a State Board of Higher Education, I next looked into each state university system's governing board to see if they had tuition policies that were applicable to all of the state's schools, including community colleges. If these university board level searches yielded nothing, I went further into the state codes and policies. I would look at their residency codes and the way that they considered "Aliens" or "Foreign" students. In evaluating these various policies, I included any mechanisms, such as proving residency with graduating from a high school in the same state, which made it possible for students to be granted tuition.

This process was fully repeated twice: once in 2016 for the original dataset and once again in late 2018/early 2019 to update the existing dataset. There were a few state laws and policies that had some special cases that became apparent with some further research over the two years. In 2016, an injunction of a Georgia lawsuits regarding in-state tuition for

DACAmented students briefly allowed students with DACA to receive in-state tuition. Although this state-level case was denied, the case was ongoing for many years. An important part of Virginia’s in-state tuition policy was granted by a letter drafted by the state Attorney General. The particular nuances of these cases brought out some interesting ways in which undocumented students can be eligible for in-state tuition rates that are not explicitly in laws or school/state policies. These are not explicit laws that are passed by a legislative body. They were not laws in the way in which many previous legal scholars have discussed but are nonetheless enforceable and binding ways for a government to make policies a reality. These examples included ways in which some state university systems granted in-state tuition through state Attorney General policies. In a few other cases, the debate of in-state tuition for undocumented or DACAmented students was tested and granted in state level courts. These sorts of special cases came to light with further research and interest in the topic over the course of two years.

Figure: a pictorial representation of the method outlined above.



Appendix C: Full List of Policies and Laws

	Allow Admissions	Allow In-State Tuition	Allow Scholarships/Financial Aid
Alabama	No (HB 658, 2012 Reg. Sess. (AL 2012); AL. CODE § 31.13.8)	No (HB 658, 2012 Reg. Sess. (AL 2012); AL. CODE § 31.13.8)	No (HB 658, 2012 Reg. Sess. (AL 2012); AL. CODE § 31.13.8)
Alaska		No (Board of Regents Policy P05.10.025)	
Arizona		No (Prop 300/SCR 1031, 47th Leg., Reg. Sess. (AZ 2006); AZ Code §15-1803)	No (Prop 300, 47th Leg., Reg. Sess. (AZ 2006); AZ Code §15-1803)
Arkansas		No (University of Arkansas Board of Trustees Policy 520.8)	
California		Yes (AB 540, 2001-02 Cal. Sess. (Cal. 2001); CAL. EDUC. CODE §68130.5)	Yes (AB 130, 2011-12 Cal. Sess. (Cal. 2011); CAL. EDUC. CODE §68130.7 and §66021.7)
			Yes (AB131, 2011-12 Cal. Sess. (Cal. 2011); CAL. EDUC. CODE §68130.7 and §66021.6 and §69508.5 and §76300.5)
Colorado		Yes (SB 13-033, 69th Gen. Assemb., Reg. Sess. (CO 2013); CO REV. STAT. 23-7-110 and §24-76.5-103)	
Connecticut		Yes (HB 6390/6844, 2015 Leg., Reg. Sess. (Conn. 2015); CONN. GEN. STAT. §10a-29)	
Delaware		No (University of Delaware Registrar Section 5)	
Florida		Yes (HB 851, 2014 Leg., Reg. Sess. (FL 2014); FLA STAT. §1009.21)	
Georgia	No (USG Policy 4.1.6 and Policy 4.3.4)	No (SB 492 (d), 2007-08 Reg. Sess. (GA 2008); Ga. Code Ann. §20-3-519)	
Hawaii		Yes (School Board Policy- Title 20 Chapter 4)	
Idaho		Yes (SB 1280, 2016 Reg. Sess. (Idaho Code Ann. §33-3717B))	
Illinois		Yes (HB 60, 93rd Gen. Assemb., Reg. Sess. (IL 2003); 110 Ill.	Yes (SB 2185, 97rd Gen. Assemb., Reg. Sess. (IL 2011); (15 ILCS

		Comp. Stat.)	505/16.5))
Indiana		No (HB1402, 117th Gen. Assemb., First Reg. Sess. (IN 2011); Ind. Code § 21-14-11)	
Iowa		No (School Board Policy 681—1.4 (262))	
Kansas		Yes (HB 2145, 2003-2004 Leg., Reg. Sess. (KS 2004); K.S.A. §76-731a)	
Kentucky		Yes (13 KAR 2:045 Section 8-4(a))	
Louisiana		No (LSU PM-31 Section 5, ULL Residency Regulations C10)	
Maine		No (University of Main IV-G 6)	
Maryland		CC--> In-State (SB 167, 2011 Leg., Reg. Sess. (Md. 2011); MD. CODE ANN. § 15-106.8)	
Massachusetts		DACA yes (Board of Higher Ed decision)	
Michigan		No Statewide Policy	
Minnesota		Yes (SF 723, 88th Leg., Reg. Sess. (MN 2013); Minn. Stat. §135A.043)	Yes (SF 723, 88th Leg., Reg. Sess. (MN 2013); Minn. Stat. §135A.044)
Mississippi		No (MS Code § 37-103-23 (2015))	
Missouri		No (HB 3, 98th Gen. Assemb., Reg. Sess. (MO 2015) [would withhold funds])	No (HB3, 98th Gen. Assemb., Reg. Sess. (MO 2015) [would withhold funds])
Montana		No (Board of Regents of Higher Ed Policy 940.1.I.H(c))	
Nebraska		Yes (LB 239, 99th Leg., 1st Sess. (NE 2005); Neb. Rev. Stat. §85-502)	
Nevada		Yes (Board of Regents-Title 4, Chapter 15, Section 3)	
New Hampshire		No (HB 1383, 2012 Reg. Sess. (NH 2012); N.H. Rev. Stat. Ann. §187A: 16- 23)	
New Jersey		Yes (SB 2479, 2013 Reg. Sess. (NJ 2013); N.J. Rev. Stat. §18A: 62-4.4)	Yes (SB 2479, 2013 Reg. Sess. (NJ 2013); N.J. Rev. Stat. §18A: 71B-2)

New Mexico	Yes (SB582, 47th Leg. Reg. Sess. (2005); N.M.STAT. ANN. §21-1-4.6.)	Yes (SB 582, 47th Leg. Reg. Sess. (2005); N.M.STAT. ANN. §21-1-4.6.)	Yes (SB 582, 47th Leg., Reg. Sess. (NM 2005); N.M.STAT. ANN. §21-1-4.6.)
New York		Yes (S 7784, 225th Leg., 2001 NY Sess. (NY 2002); N.Y. EDUC. LAW §355(2)(h)(8))	
North Carolina		No (School Board Policy- IVB4)	
North Dakota		No (NDCC§15-10-19.1, 504.6(a))	
Ohio		No (Ohio Admin. Code §3333-1-10(d)(3))	
Oklahoma		Yes (School Board Policy 3.17.6)	
Oregon		Yes (HB 2787, 2013 Reg. Sess (OR 2003); OR. REV. STAT §352.287 (formerly 351.641))	Yes (SB 932, 2015 Reg. Sess. (2015) OR. REV. STAT. §348 and §352 (formerly 351))
			Yes (SB 81, 2015 Reg. Sess. (2015), OR. REV. STAT. §341.522)
Pennsylvania		No (22 Pa. Code §507.3 (2))	
Rhode Island		Yes (Council of Postsecondary Ed Residency Policy A-3)	
South Carolina	No (HB 4400, 117th Sess. (2008); S.C. Code Ann. §59-101-430)	No (HB 4400, 117th Sess. (2008); S.C. Code Ann. §59-101-430)	No (HB 4400, 117th Sess. (2008); S.C. Code Ann. §59-101-430)
South Dakota		No (S.D. Codified Laws §13-53-32)	
Tennessee		No (Tenn. Code Ann. § 4-58-103)	
Texas		Yes (HB 1403, 77th Leg., Reg. Sess. (Tex. 2001); TEX. EDUC. CODE ANN. § 54.052)	Yes (SB 1528, 79th Leg., Reg. Sess. (Tex. 2005); TEX. EDUC. CODE ANN. §54.052- §54.057)
Utah		Yes (HB 144, 54th Leg., Gen. Sess. (Utah 2002); UTAH CODE ANN. § 53B-8-106)	
Vermont		No Statewide Policy	
Virginia		DACA yes (AG (DACA), Va. Code Ann.§ 23-7.4. (no))	
Washington		Yes (HB 1079, 58th Leg., 2003 Reg. Sess. (WA 2003); Rev. Code. Wash. §28B.15.012)	Yes (SB 6523, 63rd Leg., Reg. Sess. (Wash. 2014); Rev. Code. Wash. §28B.92.010)

Washington DC		No (UDC Resolution No. 2015-24)	Yes (school policy)
West Virginia		No (W. Va. Code §133-25-7)	
Wisconsin		No (Wisc. Code §36.27.2(e))	
Wyoming		Yes (UW REGULATION 8-1-III-C-3)	