

## BE CAREFUL WHAT YOU ASK FOR: *EDUCACIÓN PARA TODAS/OS*, THE PERILS AND THE POWER

Jessica Solyom, Jeremiah Chin, and Kristi Ryuijin  
with Nicol Razón, Thanhung Thantrong,  
and X. Yvette González\*

Demonstrations supporting human and civil rights, while often romanticized as a phenomenon of the past, are becoming more pervasive today, reflecting the continued forms of discrimination and oppression undocumented workers, individuals, and families experience. In the past few years, Utah residents have been engaged in their own battle to determine the level of support the state is willing to extend students of color interested in attending institutions of higher education. On the “frontstage”<sup>1</sup> many of the state’s universities echo a rhetoric of support for diversity. Some even go as far as to outline their commitment to diversity as part of the institution’s mission statement. Yet a closer look “backstage” provides a more accurate understanding of local political practices that makes clear that only some students of color are welcome (namely documented students who can afford the cost of tuition, resident or nonresident rates notwithstanding), while others are treated with overt hostility. The struggle for knowledge and survival is intertwined with resistive

\* Jessica Solyom is a research associate for the Center for the Study of Empowered Students of Color and a master’s student in the Department of Communication at the University of Utah. Her areas of academic interest include interpersonal communication, intercultural communication, and social justice. Jeremiah Chin is a research associate for the Center for the Study of Empowered Students of Color and an undergraduate student pursuing a Social Justice degree from the Bachelor of University Studies Program at the University of Utah. His areas of interests include legal theory, cultural criticism, and social justice. Kristi Ryuijin is the Director of the Utah Opportunity Scholarship and Grant Programs at the University of Utah. She is a graduate student in the Department of Education, Culture and Society. Her research interests include the recruitment and retention of students of color at predominantly white institutions. In addition, Kristi teaches in the Ethnic Studies program.

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<sup>1</sup> In the spirit of the theme of the 2006 LatCrit XI conference, “Working and Living in the Global Playground: Frontstage and Backstage,” we use the metaphor of “frontstage” and “backstage” to talk about issues surrounding legislation that manifest themselves in obvious public ways (i.e., on the frontstage) while the tolls of resistance and discriminatory legislation are dealt with privately (i.e., backstage).

efforts within and without the academy. This Article centers on discussions between students and faculty regarding Utah House Bill 144, which exempts Utah high school graduates, including undocumented immigrants, from having to pay the nonresident portion of college tuition<sup>2</sup> and Utah House Bill 7, which sought to repeal House Bill 144. This Article also examines the ways survival within the academy and in the larger community is, in and of itself, an act of resistance.

The goal of this discussion is to imbricate the major tenets of Latino/a Critical Race theory (LatCrit) with the experiences of students living in a predominantly White state and attending a predominantly White institution.<sup>3</sup> Using Critical Race Theory (“CRT”) themes as a foreground for LatCrit theory, this discussion, first and foremost, acknowledges that racism is endemic; that it affects structures, processes, and discourses; and that it intersects with multiple other forms of oppression such as immigration status, gender, and language. From this, LatCrit encourages scholars to acknowledge that a discourse must move beyond a strictly relational discourse of a black/white binary view of race, toward an intersectional discourse that takes into account these differing forms of oppression. This discussion honors the transdisciplinary nature of LatCrit and CRT by drawing from different academic fields and employing an interdisciplinary knowledge base that incorporates Cultural Studies, Performance Theory, and LatCrit legal and educational scholarship to understand better the experiences of students of color at the university. The authors maintain the centrality of experiential knowledge by using personal testimonials and composite stories, and above all, sustain an enduring commitment to social justice in education through the resistance to House Bill 7 described in the Article and beyond.

## I. BACKGROUND INFORMATION

On July 1, 2002, Utah passed House Bill 144 (“H.B. 144”), which modified the State System of Higher Education code.<sup>4</sup> To qualify for exemption from the nonresident portion of tuition under the bill, students are required to (a) have attended high school in the state for three or more years; (b) have graduated from a Utah high school or received the equivalent of a Utah high school diploma; and (c) have registered as an entering student at an institution of higher education not earlier than the fall of the 2002-03 academic year.<sup>5</sup> In addition to the requirements under subsection one, a student without lawful immigration status must file an affidavit with the institution of higher education stating that the student has filed an application to legalize his[/her] immigration status or will file an application as soon as he[/she] is eligible to do so.<sup>6</sup>

<sup>2</sup> “Nonresident tuition” is defined as tuition charged to individuals who are not state residents. State residency can be attained by living in the state for two years or, for students who are nonresidents, reaching a sixty-hour threshold of student credit hours.

<sup>3</sup> Our understanding of these tenets comes primarily from the works of Tara J. Yosso, Daniel G. Solórzano, Dolores Delgado-Bernal, Richard Delgado, Robert Chang, and Bryan Brayboy.

<sup>4</sup> H.B. 144, 54th Gen. Assemb., Reg. Sess. (Utah 2002).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

According to a letter sent to Commissioner of Higher Education Richard E. Kendell from Assistant Attorney General William Evans in response to the validity of H.B. 144,<sup>7</sup>

[a]t the time of the passage of H.B. 144 in 2002 there was discussion in Congress about the passage of the DREAM Act which would have provided opportunities for some undocumented aliens to legalize their immigration status. H.B. 144 was passed in anticipation of that federal legislation, though the DREAM Act was never passed . . . . Since H.B. 144 was enacted, there has been ongoing debate on the wisdom and legality of the statute, specifically with respect to the eligibility of some undocumented alien students to take advantage of its tuition benefits.<sup>8</sup>

The debate over the bill was divisive and remains so today, even after it passed into law. On the one hand, proponents argue that the bill (1) gives undocumented students, who, for the most part, are unable to afford out-of-state tuition, a greater chance of acquiring a higher education; (2) allows undocumented students who receive higher education to become contributors to their community and serve as role models for others in similar situations;<sup>9</sup> and (3) promotes a more equal society by encouraging a more equitable educational system.<sup>10</sup> On the other hand, opponents argue that (1) undocumented students take away admission spots from residents; (2) Utah citizens are rewarding illegal behavior by allowing the Act to go into effect; (3) the Act will attract more undocumented families to Utah; and (4) even if undocumented students were allowed to obtain a college or university education, graduates would not be able to contribute to the economy upon graduation due to their immigration status.

In 2004, 2005, and 2006, Representative Glen Donnelson sponsored a bill to repeal H.B. 144, House Bill 7 (“H.B. 7”). In the last legislative session of 2006, H.B. 7 gained considerable support from state representatives and almost passed. Of great concern to students of color, documented and undocumented alike, was the environment of fear Donnelson’s bill created in communities where immigrants make up a large portion of the population.<sup>11</sup> Some residents in the state became divided over support of the bill, rekindling the pre-existing

<sup>7</sup> In this letter, the Assistant Attorney General provides an argument in support of the wisdom and validity of the Utah statute, which had recently come under question. This letter was drafted in response to a request for additional research to update a letter addressed to then-president of the University of Utah, Dr. Bernie Machen. This letter also outlined Utah’s statute in relation to similar statutes passed in other states.

<sup>8</sup> Utah Sys. of Higher Educ., Press Release: Attorney General Concludes Tuition Statute is Valid (2006) (on file with the Utah System of Higher Education).

<sup>9</sup> Here the argument is speaking to a particular kind of “contributor” as education is treated as a means to take these individuals *out* of the service industry.

<sup>10</sup> H.B. 144 alters the current admissions programs to enhance educational opportunities for underrepresented students. This ultimately benefits society because we have not only an educated student but that student, in turn, educates majority students who, in turn, may become more willing to question the status quo of education and societal belief systems.

<sup>11</sup> Anonymous, Letter to the Editor, *Don’t Hurt Undocumented Students*, DAILY UTAH CHRON., Jan. 31, 2006, available at <http://www.dailyutahchronicle.com> (follow “archive” hyperlink; then follow the date published; then follow the title of the article). See also Ana Breton, *Panel Urges Education for All: Discussion on H.B. 7 Should Focus on Children’s Need, Panelists Say*, DAILY UTAH CHRON., Feb. 10, 2006, available at <http://www.dailyutahchronicle.com> (follow “archive” hyperlink; then follow the date published; then follow the title of the article).

debates surrounding H.B. 144.<sup>12</sup> At the University of Utah, many students of color united in arguing over the morality of the bill. Students advocated maintaining H.B. 144 by holding demonstrations, giving speeches, and lobbying. Students fought for the recognition of undocumented immigrants as long-term residents of the state.<sup>13</sup>

The University of Utah campus climate, measured through editorials and letters to the editor in the school newspaper, revealed this debate was not confined to the issue of tuition rates.<sup>14</sup> Many residents and students across the University's campus espoused beliefs that frame Latinos/as as alien to the United States, undocumented, criminal, and therefore undeserving of the most basic human rights.<sup>15</sup> For many, the bill revealed a discriminatory undertone regarding legal status, intellectual ability, and the right to an education.<sup>16</sup> Overall, H.B. 7 sought to erase or remove undocumented students from the university environment; this is but a mere reflection of a larger societal sentiment that exists toward undocumented workers in the U.S.<sup>17</sup> That is, undocu-

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<sup>12</sup> Compare J.D. Bowns, Letter to the Editor, *HB 7 Helps Undocumented Workers*, DAILY UTAH CHRON., Feb. 10, 2006, available at <http://www.dailyutahchronicle.com> (follow "archive" hyperlink; then follow the date published; then follow the title of the article) (asking for voters to support H.B. 7 and prevent undocumented students from paying in-state tuition), with Shontol Burkhalter, Wendy Dalton & Heidi Hall, Letter to the Editor, *Legislature Needs to Listen to Citizens on HB7*, DAILY UTAH CHRON., Feb. 6, 2006, available at <http://www.dailyutahchronicle.com> (follow "archive" hyperlink; then follow the date published; then follow the title of the article) (arguing that legislative hearings were not inclusive of those opposed to H.B. 7).

<sup>13</sup> See generally Ana Breton, *U Students Raise Awareness About HB 7*, DAILY UTAH CHRON., Feb. 24, 2006, available at <http://www.dailyutahchronicle.com> (follow "archive" hyperlink; then follow the date published; then follow the title of the article) (one of many student outreach efforts to spread information about undocumented immigration, H.B. 144 and H.B. 7).

<sup>14</sup> We measured campus climate by reading editorials and examining student responses, using our experiences as students to gauge the climate, rather than relying on any formal method. See generally Christina Coloroso & Jessie Fawson, Editorial, *Point/Counterpoint: Give Me Your Tired, Your Poor . . . Or Don't: Q-and-A on Illegal Immigration*, DAILY UTAH CHRON., Apr. 17, 2006, available at <http://www.dailyutahchronicle.com> (follow "archive" hyperlink; then follow the date published; then follow the title of the article) (representative of discussions occurring within Letters to the Editor of the Daily Utah Chronicle).

<sup>15</sup> "The subject of 'undocumented residents' should concern every U student, as well as every U.S. citizen. 'Undocumented residents' are illegal aliens. Illegal. Period." J.D. Bowns, Letter to the Editor, *Illegal Immigrants Should Not Get Resident Tuition*, DAILY UTAH CHRON., Nov. 7, 2005, available at <http://www.dailyutahchronicle.com> (follow "archive" hyperlink; then follow the date published; then follow the title of the article). See also Kenny Williams, Letter to the Editor, *The Chronicle Reported the Protest Well*, DAILY UTAH CHRON., Apr. 13, 2006, available at <http://www.dailyutahchronicle.com> (follow "archive" hyperlink; then follow the date published; then follow the title of the article); Bowns, *supra* note 12.

<sup>16</sup> See generally Ryan Hamilton, *HB 144 Rewards Those Who Don't Respect the Law*, DAILY UTAH CHRON., Mar. 28, 2006, available at <http://www.dailyutahchronicle.com> (follow "archive" hyperlink; then follow the date published; then follow the title of the article) (referring to undocumented students as people in need of a handout); see also Bowns, *supra* note 15.

<sup>17</sup> See generally Nina Bernstein, *100 Years in the Back Door, Out the Front*, N.Y. TIMES, May 21, 2006, § 4, at 4. See also Breton, *supra* note 11.

mented immigrant communities are only useful when they remain hidden behind bushes and trees as they offer their physical labor stocking U.S. grocery stores with fruits and vegetables. In this case, it is clear to these community members that their intellectual labor is not and will not be valued or desired.

For the authors of this Article, H.B. 144 and H.B. 7 were a personal affair. It was not only a matter of maintaining in-state residency for undocumented students at the University of Utah, but also a matter of sustaining equal rights for all. Although our reasons varied for protesting H.B. 7, we agree that this bill served to marginalize further and villainize those who were already members of marginalized, oppressed, and exploited communities. We recognize that we are interdependent with undocumented Latinos. We are all members of the same community, and, therefore, an affront to them is an affront to all of us. We all had different privileges at stake when we chose to engage in our resistance; some were citizens and/or documented immigrants while others were not. We feel we all should share the responsibility of educating the children of the undocumented, for we owe them a huge debt when we consider all they do for us.

On the frontstage, H.B. 7 was designed to address rising complaints from some U.S. citizens who consider in-state tuition rates for undocumented students a violation of their own rights.<sup>18</sup> Backstage, however, the bill served to induce fear in communities of undocumented immigrants, causing unrest. It had a terrorizing effect as it put into question what constitutes local, state, and national residency and who has a right to an education. Residency was (re)framed to exclude a basic understanding that residency is really about – where people belong, where they feel safe, where they break bread, where they create community, what they call home, and what they hope for in the future. Their story reveals the tensions and moments of vulnerability they experienced, individually and collectively, as they fought to define what constitutes local, state, and national residency and who deserves the right to education.

## II. POST-RESISTANCE DISCUSSION

This discussion will examine how differing intersections of class, gender, language, immigration status, phenotype, culture, and ethnicity positioned the authors in unique places within the debate; the terror it has generated; and its social, political, and economic implications.<sup>19</sup> Solórzano and Yosso use storytelling as a CRT method with a long tradition in the social sciences, humanities, and the law. Storytelling is “used to examine how race and racism shape the experiences of students of color in higher education.”<sup>20</sup> Counterstorytelling is a method used to expose the experiences of those whose stories have generally not been told or heard. Counterstories also work as tool for challenging and critiquing the dominant discourse.<sup>21</sup> This Article serves as a conduit for dis-

<sup>18</sup> See Hamilton, *supra* note 16.

<sup>19</sup> The discussion draws largely on the works of Kevin Johnson, Richard Delgado, Daniel Solórzano, and Dolores Delgado-Bernal.

<sup>20</sup> Daniel G. Solórzano & Tara J. Yosso, *A Critical Race Counterstory of Race, Racism, and Affirmative Action*, 35 EQUITY & EXCELLENCE IN EDUC. 155, 156 (2002).

<sup>21</sup> Solórzano and Yosso explain:

cussions, *testimonios*, and experiences of students, through the tradition of (counter)storytelling.

This Article uses counterstorytelling to illustrate the way in which students' experiences affected their understanding of first, media framing; second, visibility on campus, public-private space, and campus climate; third, racial battle fatigue; and finally, the Model Minority Myth. This discussion centers upon questions of what is at stake for students when they engage in various forms of resistance. Specifically, the discussion centers upon what happens when legislation is proposed that could potentially limit who deserves the right to a university education, what role the media plays in how protests are understood, how the university community responds, what is at stake for students of color when/if they choose to protest the proposed legislation, and who has the right to protest.

### III. DECOMPRESSING IN PRUDENCE'S OFFICE

The following story is a "decompression" following the protests and lobbying efforts against H.B. 7, where students and teachers met, informally, to relieve stress by talking through their experiences. In this story there are six composite characters: Jessi, Yvette, Tung, Nicol, Jeremiah, and Prudence McKinley.<sup>22</sup>

The conversation begins on a warm spring morning as Jessi walks into the main office of the Center for the Study of Empowered Students of Color where she works as a Research Associate. As Jessi walks past the office of Prudence, the Center director, Prudence puts down her copy of the University's student newspaper *The Daily Utah Chronicle* (also referred to as the *Chronicle* or the *Chrony*), and calls out for Jessi to come in, pull up a chair, and sit down across from her.

"Hey Jessi, how are you doing?" Prudence asks as Jessi walks into her office and clears a stack of books and papers off one of the chairs across the desk.

"Fine," Jessi responds absentmindedly as she struggles to drag the chair closer to Prudence's desk. The chair catches on the carpet and Jessi groans in

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Critical race counterstories can serve several pedagogical functions: (1) they can build community along those at the margins of society; (2) they can challenge the perceived wisdom of those at society's center; (3) they can open new windows into the reality of those at the margins of society by showing the possibilities beyond the ones they live and showing that they are not alone in their position; (4) they can teach others that by combining elements from both the story and the current reality, one can construct another world that is richer than either the story or the reality alone; and (5) they can provide a context to understand and transform established belief systems.

*Id.*

<sup>22</sup> These characters are composites of the panelists in the original LatCrit Panel in Las Vegas and mentors at the University of Utah who helped us think through our presentation. Jessi is a graduate student in Communication. Yvette is a junior majoring in Social Justice in Education and is affiliated with the Hinckley Institute of Politics as a student worker and intern. Tung is a senior in Philosophy. Nicol is a junior in the Actor's Training Program. Jeremiah is a sophomore in Social Justice, and Prudence McKinley is the Director of a scholarship program for underrepresented students and professor with a joint appointment in the Department of Ethnic Studies and the Department of Education, Culture and Society.

frustration, stops pulling on the chair, and instead plops down in the seat. She smiles unconvincingly across the desk and avoids making eye contact, as she looks at all the papers strewn on the desk before her. Prudence studies Jessi for a second and smiles warmly.

“No, how are you *really* doing?” Prudence insists.

“Well to be honest, not so great. I’m really upset with the way the media is reporting these protests and the whole H.B. 7 debate.” As Jessi responds, it is clear that these issues have been bothering her as her voice takes on a strained tone and her smile fades.

“Did you see the headline in – I can’t remember what paper it was in, but it read, *Did Student Protestors Cross the Line?* It was about whether or not students should have carried the Mexican flag as they protested,”<sup>23</sup> Jessi asked, leaning forward to cross her legs and adjust herself in the seat. As she settled back in the chair Prudence responded.

“I think so, what upset you the most about it?”

“How the media is framing student civic engagement in a manner that ends up trivializing student’s efforts. In my Youth Cultures class, we’ve been talking about the media’s role in the representation of youth – how they get talked about, when they get talked about, etc., using the term ‘framing.’”

“Say more,” Prudence encouraged.

“Framing is the process of calling attention to some aspects of reality while obscuring others, which leads to different reactions from those consuming the media. In the beginning I saw articles that supported and celebrated the civic engagement of students and it seemed like the general public was echoing this rhetoric of support and pride in student activism but not long after that the media and community leaders began to discredit the efforts of students. Media framing shifted from presenting protests as a form of youth empowerment to presenting protests as an excuse for students to miss school. The media especially criticized the visual cues, like the flags, students brought with them as they marched. Take for example the article entitled *Protestors Need to be Careful About the Messages they Send*.<sup>24</sup> In it, the author argues that

[m]iddle school students walking out of school does little to convince people that immigrants have respect for the rule of law. Encouraging those who are ignorant about the issues to participate in the protest can also backfire – although it makes the protest bigger and more noticeable, these people cannot articulate the larger, stated goals of the protest itself.<sup>25</sup>

“It ends with questioning the legitimacy and rationale behind marching and waving the Mexican flag, rather than the United States flag, ultimately closing by encouraging activists not to rally at all, but to engage in protest quietly by [g]etting involved at local caucus meetings, pooling resources to

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<sup>23</sup> See generally Ruben Navarrette Jr., Editorial, *Mexican Flag-Waving Seems to Threaten Americans*, SALT LAKE TRIB., Aug. 4, 2006 (discussing the meaning of flag bearing for protestors involved in immigration marches).

<sup>24</sup> Editorial, *Protestors Need to Be Careful About the Messages They Send*, DAILY UTAH CHRON., Apr. 6, 2006, available at <http://www.dailyutahchronicle.com> (follow “archive” hyperlink; then follow the date published; then follow the title of the article).

<sup>25</sup> *Id.*

lobby government, letter-writing campaigns and engaging local political parties'<sup>26</sup> by writing to their representatives," Jessi finished.

Prudence thought a moment as she gazed down at the newspaper she had just been reading, returned her gaze to Jessi, and responded.

"But this framing is all very intentional. In the realm of protest in a public forum think about the way in which the language of critique is distanced from the object of critique. This distancing serves to reduce performances to their individual components while failing to do justice to their totality. This is problematic because it ignores structural barriers and takes the focus off the larger issues that are being addressed by protestors. By focusing on the individual actions of the protestors, it trivializes what is being protested and prevents those reading and viewing the events from having to critically think about the human and civil rights issues for which they are fighting."

Jessi paused and thought about how to respond. She said, "Exactly. Remember the headline I was talking about? It's one of many examples of how the media used language that kept the reader from understanding and considering the larger issue, that communities of color were being targeted by a racist piece of legislation. Instead, it focused on whether or not the U.S. flag should have been used in place of the Mexican flag. Use of the Mexican flag was framed by the larger, White community as an overt sign of hostility from communities of color. The Mexican flag was framed as a way youth were demonstrating their resistance to adopting American ideology."

Prudence folded up the newspaper she had been studying and replied, "Did you notice how after the reframing of student protests in the media took place, students were encouraged by the media and by teachers to change their form of protesting or stop marching altogether? If students *were* encouraged to protest, they were told *how* to do it and encouraged not to bring Mexican/non-U.S. flags. But we have to think about what the absence of the United States flag is really saying. For many of the students who protested, the United States flag can be interpreted as a symbol of rejection. For many people, the flag symbolizes a place where their communities are encouraged to remain invisible and provide labor. Their work is welcome only so long as they remain backstage, invisible, and silent."

"And what the Mexican flag did was bring visibility to the community that was being targeted by H.B. 7," Jessi said as she picked up the Slinky on Prudence's desk and began using it as a way to relieve her stress.

"I agree. The Mexican flag was a way for students to point out that this bill, in this case, was targeting certain undocumented students from south of the border. It seems that H.B. 144 serves to make higher education more affordable for them, but at the same time requires them to prove their commitment to the United States. What the media failed to bring out is why H.B. 7 and H.B. 144 never questioned the reason why children of working class immigrant parents – who are often overworked and underpaid – cannot afford the high cost of attending institutions of higher education regardless of whether it's at resident or non-resident rates."

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<sup>26</sup> *Id.*

Prudence was interrupted mid-sentence by a knock on her door, followed by Nicol peeking around the corner as she slowly opened the door.

“Oh, sorry, I didn’t know you had a meeting,” Nicol said as she began to leave.

“No, come in! Jessi do you mind?” Prudence asked.

“Not at all, you can sit next to me. We were just talking about the way the *Chrony* and the rest of the media are trying to (re)frame the student protests.”

“Really? I was just coming in to ask Prudence for some help with a paper I have to write about the way the *Chronicle* is reporting on H.B. 7 and the protests. I think that the *Chrony* is creating a space that promotes a hostile campus environment for many students. Additionally, I think the *CHRONY* also became a hostile space. The editorials and articles published served to polarize opposing factions of students. While the *Chrony* gave visibility to students who are usually not visible, it also served as a space for many other students to submit their racist rants and let students who are undocumented, and the beneficiaries of H.B. 144, know they are not desired or welcome on campus,” Nicol explained.

“But the students who speak out in favor of H.B. 144 also have a lot at stake when entering a potentially hostile media space. Remember last semester when I had you read the piece by Solórzano, Ceja, and Yosso? It talked about the need for students to have academic and social counterspaces,” Prudence reminded them.<sup>27</sup>

Nicol leaned forward in her seat and began speaking excitedly. “Yeah, it referred to physical spaces where students can safely commune in order to counteract the effects of micro- and macroaggressions<sup>28</sup> they feel in the predominantly White and aggressive spaces they occupy on a daily basis. I found that of the sixty-one articles concerning undocumented students and immigration issues over the last two years, over half of them were found using the key words ‘illegal’ and ‘alien’ versus words like ‘immigrant’ and ‘student protest.’” As Nicol finished her sentence, Prudence spoke.

“From what you’re telling us, the overwhelming results found using the words ‘illegal’ and ‘alien’ is especially problematic because of the baggage these words carry with them. ‘Illegal’ suggests that the beneficiaries of H.B. 144 consciously broke the law and are criminals, when, in reality, many migrated with their parents as children. They did not have a choice to remain in their native country nor were they likely included in decisions determining under what circumstances they entered the county. The word ‘alien’ is another matter entirely. It is such a dehumanizing term and suggests that anyone labeled as ‘alien’ is not even from the planet earth! The use of these words is conscious and their prevalence in how the media and larger society refer to immigrants is telling about the overall societal sentiment that surrounds how undocumented workers are perceived. It makes it easy for a student to pick up

<sup>27</sup> Daniel Solórzano, Miguel Ceja & Tara Yosso, *Critical Race Theory, Racial Microaggressions, and Campus Racial Climate: The Experiences of African American College Students*, 69 J. NEGRO EDUC. 60, 68-70 (2000).

<sup>28</sup> “Microaggressions are subtle insults (verbal, nonverbal, and/or visual) directed towards people of color, often automatically or unconsciously.” *Id.* at 60. For a more in-depth understanding of this, see generally *id.*

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the newspaper and see exactly where the writer stands without even reading the article.”

Jessi put down the Slinky and reached for a stack of articles from her backpack. “In my Performance and Cultural Studies class, we talk about the politics of public space. In this case we can think of media, like the *CHRONY*, as a space in which the body is both representational and presentational. Look at the pictures of protestors in the newspaper and on TV. When students of color engage in resistance in public spaces, they are engaging in an intersection of the personal and the political. Their vested interest is available on their body for all to see, or, in the case of print media, in their Latino/a names. Their bodies are used to represent the political legislation they are protesting, yet the way the media writes about their brown bodies is presentational because it offers a specific way of interpreting their image.”

“According to Performance scholar Diana Taylor,” Jessi continued looking down at her papers, “one way to define a performative is as language that acts or has the potential to normalize a concept such that it becomes invisible.<sup>29</sup> Public protests position the body in ways that allow discourse to define how those bodies are read. Bodies engaged in the performance<sup>30</sup> of resistance can be interpreted as cultural artifact, as threatening alterity, or as living proof of radical difference. They can be anything the spectator wants them to be, except human.”

“And then think about the way referring to undocumented immigrants in the media as ‘illegal aliens’ normalizes the conception that undocumented aliens are criminals, thus invoking stereotypes of crime, danger, and ultimately of people who do not conform to laws or established rules and ethical and moral standards of the majority,” Prudence said.

“That’s true. Any media form is a stage where ideas are presented. The key here revolves around who writes the script and who directs the action on the stage. The media (re)presents immigrants in the following ways: as criminal, dangerous, and without moral regard. Jessi, do you remember when Yvette and I got into a debate with another student through the *Chrony’s* Letter to the Editor section?” Nicol added.

“What was his name, B.J.?”

“Yeah, that’s the one. He started out writing a Letter to the Editor of the *CHRONY* that was responding to an article published in *THE SALT LAKE TRIBUNE* concerning a University student named Yesenia who was denied access to her checking account for using a Driver’s Privilege Card.<sup>31</sup> I don’t know how he connected it, but he started to rant about how students like Yesenia shouldn’t be at the University at all, urging his peers to oppose legislation like H.B. 144.”

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<sup>29</sup> DIANA TAYLOR, *THE ARCHIVE AND THE REPERTOIRE: PERFORMING CULTURAL MEMORY IN THE AMERICAS* 5-6 (2003).

<sup>30</sup> Taylor explains performance as a physical act used to transfer knowledge and foster a sense of identity with a group. *Id.*

<sup>31</sup> “Driver’s Privilege Card” refers to a permit given in place of a driver’s license to people using an Individual Taxpayer Identification Number. The privilege card allows people to drive and get automobile insurance, but because it looks different from a regular license, it cannot be used as identification for other purposes.

“It seems like B.J.’s letters get printed a lot in the *Chronicle*,” Prudence remarked with disdain.

“You’re not kidding. I think that in the *Chronicle*’s attempt to remain an ‘objective’ space for students to discuss political issues it tries to present a balance between both sides of an issue by constantly trying to egg on competition between conservative and liberal factions on campus. What it really ends up doing is exploiting the two sides of the issue in ways that make issues that are really important for people a spectacle, sensational, and divisive,” Nicol added.

“But what did you and Yvette do to keep yourselves safe in an exploitative forum space?” Prudence inquired.

“Well, Yvette and I can afford to enter social spaces without fear of being ‘outed’ as undocumented,” Nicol said as she glanced at Jessi.

“My favorite images from last April were the ones captured by helicopters high over the hundreds of thousands of people marching around the country. Many of the protestors were undocumented, but protected from the media and from legal action by the anonymity the crowd provided. This form of resistance was often criticized in relation to the way ‘conscious citizens’ protested through letters and calls to their senators, using their own name, which is really an act undocumented people can’t engage in for fear of deportation or losing a job. But those of us who are documented have privilege. We enter these spaces and speak for our brothers and sisters who cannot afford recognition. When Yvette and I were debating with B.J., we didn’t use a typical counter-space maneuver of using pseudonyms, so we were subject to public scrutiny, not just through the paper, but in our classes and social spaces on campus where our names were recognized.”

Prudence heard another knock at her door and waved Yvette and Jeremiah in as Jessi quickly told Yvette and Jeremiah what the conversation was about. Nicol continued her story.

“A few weeks ago when I was at the Union handing out information on H.B. 7 and H.B. 144, B.J. approached our table to talk to me specifically since I had sent him an email message wanting to find out why he was so vehemently in favor of House Bill 7. He came by our table on his way to class in a big hurry and told me he opposed illegal immigration and all incentives for it, like in-state ‘tuition breaks,’ because a worker from his family’s farm in Idaho was shot and killed by a *coyote*<sup>32</sup> on his way back to work from a funeral in Mexico. He culminated with the tragic fact that this worker left a fifteen-year-old son in the U.S. now orphaned and ‘illegal’ without any resources in Idaho. Speaking earnestly and with a lot of emphasis so I would understand his sentiments he told me of the ‘blood smeared on his family’s farm’ because of this worker’s death – blood that could have easily been prevented if the worker hadn’t crossed the border simply to come work illegally in the U.S.

“At this point we were far from the table, since he had been inching his way out of the building to get to class. It was obvious he wanted to convey to me that he considered it his duty to stop illegal immigration to help save peo-

<sup>32</sup> The term *coyote* refers to an individual who, for a fee, helps individuals and families make illegal/undocumented border crossings.

ple's lives. When he was done telling me his story, he was able to merge into the crowd, and I was left standing in the middle of the Union wondering why he had never brought this story up before," Nicol concluded. A silence fell over the group as they thought about the story that had just been shared. Finally, Jeremiah spoke.

"I think the physical location of where this happened says a lot about student visibility and helps to explain why he never told this story in a public forum. B.J. found you because you were offering information about legislation that you were passionate about, but also something you are perceived to physically represent through your embodiment of 'brownness.'"

Prudence nodded and reminded the students, "That's especially important given the media spin this bill was given. It's framed as a problem affecting solely Latino/a communities. B.J.'s involvement in the debate took place in a newspaper editorial section. This space, in addition to his Whiteness, afforded him added visibility in ways that were safe because he would not be targeted as the beneficiary of this bill. This public space affords him visibility that is safe; he is not embodied in the text in ways that he will be targeted and attacked by other students who may recognize him on campus. If anything, his European last name means that he could potentially be any one of the thousands of White males hanging around campus. At the end of the conversation and the debate he's able to just disappear into the sea of white students, while you are left to stand out in the midst of the crowd."

"Exactly," Jeremiah continued. "The place where he tells his story allows him to conceal the particularity of his argument and keeps him hidden as he subscribes to a larger grand narrative. He is able to position himself as a man acting in the interest of others while situating his argument in a public forum that gives him a voice. Also, *how* the story is told – by focusing on the particular instance where there is 'blood spilled' on his family farm – he's able to displace his guilt or burden of the death of this person. Now the focus is not on his family and the fact that they hired an undocumented worker to work in the fields. The story isn't framed as the story of a man who lost a hard-working and committed employee, and it isn't the story of a man who lost his life trying to come back to work; instead, this 'undocumented' worker is framed as having abandoned his family and left a strain on the U.S. economy. The story paints the undocumented immigrant male as a man who deserts his family and brings with his 'illegal' reentry into the U.S. more crime and violence."

"One of the most apparent tensions I see in Nicol's example is a dialectical tension between having visibility, or participating on the frontstage, while also maintaining invisibility, or remaining backstage," Jessi said as Yvette asked:

"Jessi, hold on, what do you mean by 'dialectical tension?'"

"The term refers to the interplay of tension between unified oppositions. In other words, it's when two or more interdependent forces, factors, or themes simultaneously support and negate one another.<sup>33</sup> It's like earlier when Nicol said that the two of you entered the frontstage and were speaking out for those

<sup>33</sup> See generally LESLIE A. BAXTER & BARBARA M. MONTGOMERY, *RELATING: DIALOGUES AND DIALECTICS* (1996).

who remained backstage because they had too much at stake to enter the public arena, say for fear of being ‘outed’ as undocumented; your speaking out brought visibility to their plight, but still left them invisible to public scrutiny.” Jessi explained.”

She continued on to say, “No matter how hard we struggle to maintain invisibility, it’s nearly impossible for us to do. As brown bodies we embody something that forces us to engage in these issues. Our embodiment determines who gets to talk, where, and when.”

“But it’s important to keep in mind where the institution is in all of this,” Prudence added as she lifted up the paper she had been reading earlier.

“Just look at this article: *Students March on State Capitol*.<sup>34</sup> Students of color are being located on the frontstage in the rhetoric around the academy’s prestige as a source of pride for the institution. The pictures of brown faces in the media, identified as University students, are tangible evidence that students of color are present and actively involved on the campus in pursuit of the institution’s commitment to social justice. Yet, as soon as dissent sets in, faculty, staff, and community members begin to get nervous and try to preempt student action. This takes me back to what Jessi and I were talking about earlier when we were discussing how the media was (re)framing the students’ use of the Mexican flag. After the initial marches, some folks thought the use of the Mexican flag was problematic and attempted to *tell* students how to protest by suggesting they not carry the Mexican flag and only carry the United States flag if they wanted to continue waving a flag.”

Nicol interjected, “I really want to keep this going, but I have a class to get to. I’ll talk to you all later so you can fill me in.”

Prudence and the other students said their goodbyes and Prudence resumed her analysis.

“Going back to this idea of being told *how* to protest, I remember being privy to an email exchange between community and University leaders. In this exchange a debate arose on whether these leaders, some of whom served as mentors to student protestors, should discourage students from protesting or taking to the streets because of heightened visibility. One email respondent even claimed that students’ actions should be preempted because, historically, protests had not proven to be very effective and might even work *against* the protestors. Instead, according to this community leader, students should be encouraged to participate in letter-writing campaigns to their representatives. For some, it is completely acceptable to handle business ‘behind closed doors’; not surprisingly those who are granted an audience with representatives and *heard* are generally White men. Sometimes it’s not even individuals who silence communities; the system itself can silence people.” Prudence’s comment seemed to resonate especially with Yvette because as she finished her thought, Yvette turned to address the group.

“And that silence can have an emotional and physical toll. I remember when I had the privilege of serving an internship at the Utah State House of

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<sup>34</sup> Patrick Muir & Dustin Gardiner, *Students March on State Capitol*, DAILY UTAH CHRON., Jan. 31, 2006, available at <http://www.dailyutahchronicle.com> (follow “archive” hyperlink; then follow the date published; then follow the title of the article).

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THE PERILS AND THE POWER

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Representatives with the only African American elected official in the State Legislature. In the beginning I was excited for the upcoming session. As it unfolded, there were a number of bills introduced that intrigued me, but none like H.B. 7. I was excited because as a member of M.E.Ch.A.<sup>35</sup> and a former employee of a local school district, I had the privilege of working with many undocumented students and their parents – *familias* with whom I forged strong long-lasting relationships.

“I stayed attuned to the developments concerning H.B. 7 and took on the task of informing the rest of the MEChistAs and community members.”

“Yes, Yvette, you became a translator trying to do good by your community which is an important and honorable position,” commented Jeremiah.

“But I didn’t think of myself in that way. What I concerned myself with was the fact that students began to worry as they saw the coverage regarding this legislation, calling me in hopes of hearing good news, but all the media coverage seemed to be in favor of H.B. 7. I strove to maintain a positive attitude, but enduring the long and stubborn debates on the floor of the House only made me more pessimistic and hopeless. Nevertheless, the impression of faces of worried students and parents propelled me towards actively organizing and fighting against this legislation.”

“I remember meeting with you during the debates, and you all seemed worn out,” Prudence smiled as she nodded toward the students seated around her desk.

“Yeah, I felt exhausted,” Yvette continued. “On the frontstage, I maintained an appearance of strength for the students and did everything in my capacity to lobby against the bill both internally and externally. But on the backstage, I lacked sleep, and my eating became irregular. I experienced powerful headaches, which only worsened when I was told to ‘halt all my lobbying efforts’ by the intern manager, and I suffered from multiple ulcer reactions. I was condescendingly reprimanded for participating in lobbying activity and reminded that accepting the internship implied relinquishing some rights, including those of lobbying or any form of public statement, irrespective of my legislator’s stand on the matter. I found myself in a predicament. On the one hand, my academic life, on the other, my personal passion and commitment to social justice were at stake. I was spending so much time getting information to my community and helping them prepare information pamphlets that I hardly had the energy to focus on my academic studies. Not only that, but this bill, which was so important to me, concerning the members of my very own community, was something I was forbidden from speaking out against if I wanted to continue my experience as an intern. I couldn’t give up the position that afforded me access to information that I could disseminate, which would help my community understand what was happening in the legislature.”

Yvette paused a moment to silence her vibrating cell phone before continuing. “During the entire debate, the most anticipated event was the Education Committee hearing. Expectedly, the proponent of H.B. 7 was to describe the

<sup>35</sup> M.E.Ch.A. stands for *el Movimiento Estudiantil Chicano/a de Aztlán*. It is a national student organization dedicated to confronting educational and social justice issues facing the Mexican American, Chicano/a, Latino/a communities today. See National MEChA: About Us, <http://www.nationalmecha.org/about.html> (last visited Apr. 14, 2007).

bill and bring in an attorney who could legally articulate his intent and purpose. As I heard word of the date the hearing would be held, I contacted faculty, staff, students, and community members to attend and present their testimony in opposition to the bill. Sadly, as had taken place in previous years, the committee chair utilized her power to silence those in opposition, and awarded an arduous hour to the supporting attorney. These faculty, staff, students, and community members had all channeled their efforts toward composing fact sheets, emails, and literature, and making phone calls – all for nothing! We all sat in that crowded room waiting for our chance to speak, while we listened to this man describe people unknown to us, people whom he called ‘tax burden,’ ‘self-interested,’ ‘problematic,’ and ‘illegal-alien.’ We all knew what he was saying didn’t reflect our experiences, but we were not given a chance to refute his points.

“As the hearing came to a defining vote, with every ‘yes’ we heard in favor of H.B. 7, our eyes glazed, our heads dropped, our hearts cringed, and our faces flushed with hopelessness. Shortly after the Committee Hearing, we all gathered in the hallway and wept while we held one another. Students were interviewed on TV, and all that was seen was their tears and their pain transcribed in their beautiful brown faces. We all knew this was a stepping stone in the passing of this legislation. During the remainder of the session, we stayed on our toes. Many missed class to lobby and organize in their respective communities. Many hours of outside work were put forth, for one cause: ‘*Educación Para Todos*.’”

“I remember being so busy at that time. Luckily the legislation was retained in Rules Committee by one vote,” Jessi agreed.

Prudence nodded and added, “Unfortunately, we all know the threat still stands and will revive itself this upcoming legislative session in the spring of 2007. One thing that worries me the most about this legislation that just won’t die is the toll it takes on all of us. For people of color, the context varies, but the feelings are consistent. Remember in the Introduction to Ethnic Studies class I taught when we talked about ‘racial battle fatigue’? People of Color are very familiar with it, as they experience it day-in and day-out. The concept of racial battle fatigue allows us to analyze and deepen our understanding of the physical, psychological, and physiological effects that micro- and macroaggressions produce for students of color by looking into the inseparable relationship of the academic and the personal.<sup>36</sup> They are connected and one has an effect on the other.”

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<sup>36</sup> Examples of physiological symptoms include: (a) tension headaches and backaches, (b) elevated heart beat, (c) rapid breathing in anticipation of racial conflict, (d) an upset stomach or ‘butterflies,’ (e) extreme fatigue, (f) ulcer, (g) loss of appetite, and (h) elevated blood pressure. [In addition,] the psychological symptoms of racial battle fatigue include: (a) constant anxiety and worrying, (b) increased swearing and complaining, (c) inability to sleep, (d) sleep broken by haunting conflict-specific dreams, (e) intrusive thoughts and images, (f) loss of self-confidence, (g) difficulty in thinking coherently or being able to speak articulately under racial stressful conditions (cf., stereotype threat), (h) hypervigilance, (i) frustration, (j) denial, (k) emotional and social withdrawal, (l) anger, anger-suppression, and (non-)verbal expressions of anger, (m) denial, (n) keeping quiet, and (o) resentment. See William A. Smith, *Black Faculty Coping with Racial Battle Fatigue: The Campus Racial Climate in a Post-Civil Rights Era*, in A LONG WAY TO GO: CONVERSATIONS ABOUT RACE BY AFRI-

“Those feelings can really push students into some dark places,” Jessi commented as she fumbled through her stack of papers once again to read from her notes. “Earlier this year I read a report on the University’s Center for Ethnic Student Affairs (“CESA”); the committee that wrote the report talked about the mental health status and experiences of minority students on campus. It reported that ‘preliminary results from a survey of 500 students found an approximately 12% suicide attempt rate for minority students, with 4% of the 12% reporting multiple attempts.’<sup>37</sup> That’s much higher than the 1.5% reported in a survey distributed to 16,000 students nationally by the National American College Health Association, the authors of the CESA report cited.<sup>38</sup> Additionally, approximately 20% of ethnic minority students on our campus could be diagnosed as having major depression during the past two weeks based on their responses.’<sup>39</sup> Even though this was just a preliminary study, what the survey indicates about the mental health status of minority students at the University of Utah is alarming.”

“Proposing legislation that is so controversial doesn’t *just* jeopardize a student’s tuition status at the University but openly questions their nationality and citizenship, their most fundamental human rights, and, not surprisingly, greatly affects that student at an emotional level.” Prudence added, “I remember reading the CESA report as well. Other reports are also showing that Utah is very rapidly becoming a more diverse state.”<sup>40</sup>

“You say that like it’s a bad thing,” Jeremiah interjected.

“Well, in a way it is,” Prudence replied, “at least it is for the students. Since Utah is such a historically White state it isn’t equipped, especially academically, to deal with the needs of students of color. Even though structures like CESA exist to help the students of color, they aren’t given the institutional support they need to help everyone. Other departments are constantly seeking out CESA advisors to speak on other diversity-related issues on campus, but that can lead to the advisors getting over-extended and unable to help students to their fullest capacity.”

“That reminds me of an article by Solórzano and Yosso, in which they talk about a tipping point for White students in the academy,” Jessi added.

Prudence nodded and continued. “They make the point that as the number of people of color grows the perceived threat to white privilege causes White

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CAN AMERICAN FACULTY AND GRADUATE STUDENTS 181 (Darrell Cleveland ed., 2004). See also Claude M. Steele, *A Threat in the Air: How Stereotypes Shape Intellectual Identity and Performance*, 52 AM. PSYCHOL. 613, 619-24 (1997) (detailing the impact of stereotypes on the psyche of students); William A. Smith, Tara J. Yosso & Daniel G. Solórzano, *Challenging Racial Battle Fatigue on Historically White Campuses: A Critical Race Examination of Race-Related Stress*, in FACULTY OF COLOR: TEACHING IN PREDOMINANTLY WHITE COLLEGES AND UNIVERSITIES, 300-1 (Christine A. Stanley ed., 2006) (listing potential physical symptoms of racial battle fatigue).

<sup>37</sup> Review of the Ctr. for Ethnic Student Affairs (CESA) (Mar. 22, 2006) (on file with author).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* A May 2006 study of Utah’s population showed that the percentage of people of color nearly doubled between 1980 and 2000, growing from 7.6% in 1980 to 14.7% in 2000. See Pamela S. Perlich, *Long Term Demographic Trends Impacting Higher Education* (2006), [http://www.business.utah.edu/bebr/bebrFiles/2655\\_bebr\\_HighEdTrends.pdf](http://www.business.utah.edu/bebr/bebrFiles/2655_bebr_HighEdTrends.pdf).

students to enroll elsewhere, similar to White flight in housing when an African American family moves into an all-White neighborhood.<sup>41</sup> In Utah the tipping point is manifesting somewhat differently; the perceived threat to White privilege is met with a war of attrition where services for students aren't receiving the proper support to retain students. Even though our enrollment numbers for students of color are up on campus, the retention is severely lacking, because these students are being driven away by a hostile environment. It's disheartening to think about, but that's partially where we see the suicidality on campus. Those statistics you mentioned, Jessi, are evidence that you can't back away from, yet the University still hasn't taken any measures to increase support."

A heavy silence took over the room until Jessi mustered the courage to continue.

"While we all chose to engage in resistance, I think it's clear that resisting came at a cost. The fatigue we talked about earlier takes a different toll for those who don't have the option of visibly engaging in voicing our opinions and advocating for issues that deeply affect us, like H.B.144. In the beginning, I felt I couldn't speak up because I was undocumented and silence offered me the ambiguity of neither affirming nor disconfirming my legal status for those who might have questioned it. Fear drove my silence. Even after I received my citizenship, some of my family members were still undocumented, and if I brought that visibility to myself, the spotlight would jeopardize them as well. I was too afraid to join our community openly as other people of color united. I was trapped in a social paralysis and found myself constantly asking myself, 'am I, by entering this public space, endangering, in any way, the possibility of an education for the younger members of my family?' For a person living with a vulnerable status the factors influencing whether or not to engage in protest are innumerable!"

"Did I come at a bad time?" Tung said as she walked into the room and quietly closed the door behind her.

"No, have a seat; we were just talking about H.B. 7," Prudence replied as Yvette dragged in a chair from the adjoining office. Yvette set the chair between her and Jessi and turned to Prudence as she and Tung took their respective seats.

"Going back to what we said about being silenced and issues of visibility, I think that the way that the debate is framed strictly around the Latina/o community overlooks the extensive ramifications of H.B. 7 on other communities of color. As debates around H.B. 7 surged, secondary school students mobilized and planned marches in protest of the proposed legislation," Jeremiah began.

"But this new generation of students took up organizing in a progressive light by using their technological ability to disseminate information quickly. They sent text messages, posted information on internet social networks like Myspace and Instant Messenger, and used word-of-mouth to plan school walk-outs. Yet, efforts to make the resistance inclusive for all students who wanted to participate were thwarted by teachers and educators," remarked Jessi.

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<sup>41</sup> Solórzano & Yosso, *supra* note 20, at 158.

“Right, and even though all this information was out there, some teachers used their authoritative positions to terrorize students indirectly so that they would not engage in joining the protest. My sister attends a local high school and told me about how her White male teacher put up the front that he was supporting student activism by reminding students that a walk-out and protest were scheduled at a certain time. At the same time that he made this announcement, he prevented students from participating in the protest by only permitting Latino/a students to leave. When one of her classmates, who is Japanese American, asked for permission to join the student protestors, the student was told she could not participate. Even though she did not ask verbally to leave, the teacher created a space where my sister, who is also Jamaican Chinese American, felt unable to,” Jeremiah added.

“I felt the same way,” Tung said. “I was at the Capitol last spring during the protesting of House Bill 7 and the peaceful immigration reform march. As a Vietnamese woman, I searched the crowds of protesters and wished that I had seen more Asians in the crowds. There were several Asian Americans involved, but they weren’t representative of the number of Asian Americans enrolled at the University. Before I entered the Capitol I knew that I would be one of the only Asian Americans lobbying against House Bill 7. In order to capture the attention of the mostly White policymakers I dressed up in my nicest clothes and brought my infant son to the Capitol with me. Because of the policy that prohibited protesters holding posters inside the state Capitol building, I pinned a large sign on my child that read ‘H.B. 7 VICTIMIZES CHILDREN.’ I used their perceptions of me as the ‘model minority’ to speak with the representatives who were in favor of H.B. 7. I argued against the bill from the perspective of a parent and college student. Unsurprisingly, I noticed that when the representatives would ignore the Latino/a student protesters, they would stop for me when I approached them.”

“Did you try to get other Asian Americans you knew to participate?” Prudence asked.

“I did before I went to lobby at the Capitol,” Tung replied. “I had approached several of my Asian American schoolmates at the University and asked them to participate in activism against H.B. 7. I was surprised by the reaction I received. I found out that there were undocumented students at the University who were Asian, but they paid international tuition for fear of being ‘outed.’ They felt that if they applied for H.B. 144, they would be deported or expelled from the University. I tried to correct their misconceptions, but I was informed by other students that they did not want to be arrested and that the bill was not about an issue involving the Asian community. I was dismissed and received cruel comments about my participation from other University students and staff; one student even accused me of being ‘White washed’ for trying to get involved politically. They thought that I was going to cause problems for the undocumented Asians on campus who were not protesting the racist policies. I was told that I was not being an obedient Asian woman and that my behavior was shameful.”

“A staff member on the University’s diversity board accused me of ethnic fraud because of the fact that I was not Latina or undocumented and that my son was only half Latino. The fact that my husband is Mexican was used

against me as people interpreted my efforts as being driven, not by the fact that I am a person of color, but because I am in an interracial relationship with one of those assumed ‘undocumented’ students.”

“I think what you’re talking about, Tung, is all directly connected to the Model Minority Myth that silences the intersection of issues for Asian Americans,” Jeremiah said.

“I remember you telling me about that, but I can’t remember exactly what the Myth itself is,” Jessi inquired.

“Robert Chang explains it as a result of the ‘positive’ stereotype of Asian Americans as hard working, intelligent, successful,<sup>42</sup> good at math, submissive, and so on. What the Myth actually does is conceal the unique discrimination faced by Asian Americans and permits the dominant culture to ignore and marginalize the needs of Asian Americans. It comes back to the idea of being silenced, like we were talking about earlier, except the false visibility provided to Asian Americans through the Model Minority Myth renders their oppression invisible. Because Asian Americans are associated with success and achievement, they aren’t considered for anything that is below their false status in the way of social services, like H.B. 144. Yet when Asian Americans speak out about dealing with the oppressions that are concealed by their Model Minority status, they are attacked by Whites because the Myth has concealed that oppression, and unveiling that oppression provokes anger.”<sup>43</sup>

“And the Myth doesn’t extend to all Asian Americans either,” Prudence added. “It’s specifically related to Chinese, Japanese, and Korean Americans. Robert Teranishi did a study of four California high schools, two with predominantly Chinese and two with predominantly Filipino student populations.<sup>44</sup> By comparing the treatment of students by counselors, Chinese students were tracked into college by school counselors, while Filipino students were tracked and stereotyped into vocational schools and told to focus on just graduating from high school.<sup>45</sup> Yet both groups reported that teachers stereotyped all Asians as immigrants with little English proficiency.”<sup>46</sup>

“The way Asian Americans are silenced is so selective,” Jessi commented. “It reminds me of what Derrick Bell terms as ‘Interest Convergence.’<sup>47</sup> It seems as if the Model Minority Myth works to reinforce the dominant power structure by selectively attributing privilege to some groups of Asian Americans as a contrast for all other people of color. Yet that privilege can be easily disregarded in applying the label of ‘foreign’ to alienate all Asian Americans.<sup>48</sup> I remember learning about Vincent Chin, a Chinese American industrial drafter

<sup>42</sup> Robert S. Chang, *Toward an Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space*, 81 CAL. L. REV. 1241, 1258, 1261 (1993).

<sup>43</sup> *Id.* at 1260-61.

<sup>44</sup> Robert T. Teranishi, *Asian Pacific Americans and Critical Race Theory: An Examination of School Racial Climate*, 35 EQUITY & EXCELLENCE IN EDUC. 144,147 (2002).

<sup>45</sup> *Id.* at 148-49.

<sup>46</sup> *Id.* at 150.

<sup>47</sup> Derrick Bell, *Brown v. Board of Education and the Interest Convergence Dilemma*, 93 HARV. L. REV. 518, 522-23 (1980).

<sup>48</sup> Chang, *supra* note 42, at 1258.

working in Detroit in the early 1980s.<sup>49</sup> He was beaten to death by two White male factory workers because they thought he was Japanese and they believed that the growth of Japanese industry had taken their jobs. Yet, after the case went to trial, the factory workers ended up paying less than four thousand dollars in court fees and never spent a single day in jail!”

“And we can see the same argument about job-stealing coming back today with immigration from south of the border,” Yvette concluded.

“I’m really proud of the way you all are making connections between the classroom and your own lives,” Prudence said. “What strikes me the most is the way the University lets these myths and misconceptions fly around campus without ever taking a stand to protect the students. Instead of taking a proactive stance against hurtful stereotypes related to the immigration debates, it uses the students to display proudly that there is diversity at the institution. It is interesting to note that the University is willing to spend three hundred thousand dollars to combat legislation allowing concealed weapons on campus,<sup>50</sup> yet support services for students of color continue to go under-funded and no money is given toward protecting a significant portion of its students in diversity and immigration related issues.

“Instead, it treats diversity like it’s a passing trend that will one day be as dated as the keyboard necktie. Rather than supporting the students engaged in active resistance, it props them up before the media and remains ‘neutral,’ leaving the students without services to help cope with the ramifications of their political engagement.”

“Like the effects of racial battle fatigue,” Yvette exclaimed.

“What frustrates me is that we are doing *exactly* what the academy often espouses on paper – we are working within the realm in which scholarship intersects with advocacy. Yet, how many of us didn’t have our academic work suffer because of it? Too many of these things get ignored when we think about how students of color go out to advocate for social justice, yet the institution is spared from having to take a position on the issues,” Jeremiah added.

“It’s amazing that despite the fact that students like us are aware of the social and academic implications of engaging these endeavors, these implications take a second tier to our commitment to our communities and social justice in general,” Yvette replied.

“And the fact that it’s a general social justice concern reminds us that the debate over H.B. 7 and H.B. 144 isn’t some localized conflict; it’s a global matter of Human Rights and equity,” Prudence said.

“I just wish that it wasn’t so damn hard,” Tung joked, rolling her eyes in frustration as the entire group laughed in agreement.

Prudence stopped laughing, looked very seriously at the students and said, “But it is. And it’s not going to stop anytime soon, but neither are we. Remember the quote by Mari Matsuda that I gave you at the beginning of class last semester:

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<sup>49</sup> See, e.g., William Wei, *An American Hate Crime: The Murder of Vincent Chin*, TOLERANCE.ORG, June 14, 2002, [http://www.tolerance.org/news/article\\_hate.jsp?id=552](http://www.tolerance.org/news/article_hate.jsp?id=552).

<sup>50</sup> Dustin Gardiner, *Gun Ban Has Been Pricey Battle*, DAILY UTAH CHRON., Nov. 14, 2006, available at <http://www.dailyutahchronicle.com> (follow “archive” hyperlink; then follow the date published; then follow the title of the article).

To the extent that critical scholars can see themselves as the daughters and sons of heroic people who would walk a thousand miles for freedom; who have survived chains and dogs, guns and gas, as well as false legal doctrine; who have stood in the river of history and altered it's course, they can see themselves as people who must – and will – prevail.<sup>51</sup>

The group sat in a humbled, thoughtful silence until Prudence's assistant popped her head in the door and reminded her that she had an appointment with a student fifteen minutes ago. The students shuffled out of the office and thanked Prudence for the long talk, rejuvenated and ready to continue their everyday resistance in the academy.

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<sup>51</sup> Mari Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 349 (1987).