

THE IMMIGRANT RIGHTS MARCHES (LAS MARCHAS): DID THE “GIGANTE” (GIANT) WAKE UP OR DOES IT STILL SLEEP TONIGHT?

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INTRODUCTION

In the spring of 2006, between 3.5 and 5 million people poured into the streets demonstrating for more humane treatment of immigrants.¹ Immigrants, persons of color, union workers, white collar professionals, clergy, and sympathetic supporters marched in streets of every major city – New York, Los Angeles, Chicago, Detroit, Denver, Dallas, Atlanta, Washington, D.C., Phoenix, Las Vegas, Milwaukee, Nashville, Durham, Portland, and hundreds more.² Students and union workers holding placards reading, “we are workers and neighbors, not criminals” walked alongside young professionals, mothers and fathers holding the hands of their young children, and grandmothers and grandfathers. All of the marches were peaceful and law-abiding and conducted in a spirit of jubilation and celebration.³

The several *thousand* marches that unfolded from March to May 2006 turning out upwards of five million people were the single most successful civil rights action in terms of numbers and geographical breadth. Their success surprised everyone, from organizers to law enforcement to the very persons participating in the marches. The 2003 Immigrant Workers Freedom Rides to Washington, D.C. marked the only prior successful immigrant civil rights protest.⁴ In September and October 2003, grassroots migrant organizations in collaboration with worker organizations⁵ “came out from the shadows” to fight back against post-9/11 harsh measures against immigrants.⁶ Then, an estimated nine hundred persons boarded eighteen buses traveling from ten cities and descended on the U.S. capitol.⁷ The final stop in Queens, New York, sparked a demonstration of tens of thousands.⁸ By comparison, the Spring 2006 pro-immigrant marches involved an estimated five million marchers, protests were staged throughout the United States in hundreds of small and large cities, and marchers represented a wide cross section of American society.

¹ Xochitl Bada et al., *Immigrant Rights Marches*, (2006), <http://www.wilsoncenter.org/news/docs/Spring%202006%20Protests.xls> [hereinafter *Immigrants Rights Marches*]; see also WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS, *INVISIBLE NO MORE: MEXICAN MIGRANT CIVIC PARTICIPATION IN THE UNITED STATES* (Xochitl Bada, Jonathan Fox & Andrew Steele eds., 2006), available at <http://www.wilsoncenter.org/news/docs/Invisible%20No%20More1.pdf>.

² *Id.*

³ For further recent commentary on pro-immigration marches, see Ernesto Hernandez-Lopez, ‘Mamandogallo en los Andes’ Identifying Popular Culture and Law in Colombian Slang and U.S. Spanish-language Radio (unpublished manuscript, on file with Nevada Law Journal); Bill Ong Hing & Kevin R. Johnson, *The Immigrant Rights Marches of 2006 and the Prospects for a New Civil Rights Movement*, 42 HARV. C.R.-C.L. L. REV. 99 (2007).

⁴ See Julie Quiroz-Martinez, *Let Freedom Roll: Immigrants Hit the Road for Civil Rights*, NATION, Oct. 27, 2003, at 277; Eunice Moscoso, *Immigrant Workers Press for Protections*, ATLANTA J.-CONST., Oct. 2, 2003, at B1.

⁵ See Jonathan Fox, *Mapping Mexican Migrant Civil Society* 13-14 (2005), <http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1055&context=cgirs> (prepared for Mexican Migrant Civic and Political Participation Conference Nov. 4-5, 2005).

⁶ Bart Jones, *Out of the Shadows: Thousands Show Support for Immigrants*, NEWSDAY, Oct. 5, 2003, at A3.

⁷ Quiroz-Martinez, *supra* note 4.

⁸ Richard Brand, *Immigrants’ Tour Ends In Massive Rally*, MIAMI HERALD, Oct. 5, 2003, at A12.

Part I of this article documents the genesis of the March 2006 immigrant rights protests. "*Las marchas*" caught America by surprise. Never before had immigrants coordinated such a massive mobilization effort to take a visible role in a national policy discussion. Never have Latina/os so convincingly taken the national stage in political action.

H.R. 4437 was the emotional catalyst, which passed the House of Representatives on December 16, 2005 by an overwhelming vote of 239 to 182.⁹ Proposed by Jim Sensenbrenner (R-WI), then the Republican chairman of the House Judiciary Committee, H.R. 4437 criminalized illegal presence in the United States and made it a felony, with criminal penalties of up to five years, for anyone to "assist" knowingly or with "reckless disregard" any individual with illegal status.¹⁰ The bill also would have built a wall at the U.S./Mexico border for 700 additional miles, required government officials to detain undocumented people, mandated employer electronic background checks to verify employees' legal status, and numerous other provisions toughening up the consequences of illegal presence in the United States.¹¹ Republican backers championed H.R. 4437 as an "enforcement" bill. Immigrant groups and the clergy focused early on the implications of H.R. 4437 to immigrants and ethnic communities. To immigrants, H.R. 4437 represented a draconian and unjust measure against the estimated twelve million undocumented immigrants.¹² They began to organize local protests with modest ambitions.

⁹ Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005, H.R. 4437 109th Congress (2005-2006); see Final Vote Results for Roll Call Vote 661 (Dec. 16, 2005), <http://clerk.house.gov/evs/2005/roll661.xml>.

¹⁰ The legislation toughened immigration law by (1) criminalizing "unlawful presence;" undocumented immigrants would have to serve jail time and would be barred from future legal status and from re-entry into the country; (2) suspending release practices, meaning that all alleged unlawful immigrants, including asylum seekers, victims of human trafficking, victims of domestic abuse, and children who are apprehended along an international border or at a port-of-entry would be detained until such time as they are removed from the nation or otherwise provided immigration relief; (3) subjecting any person or organization who "assists" an individual without documentation "to reside in or remain" in the United States knowingly or with "reckless disregard" as to the individual's legal status to criminal penalties and five years in prison. Any person assisting others through a Church or a social service organization is subject to seizure of assets of the organization involved in such assistance; (4) using expedited removal, without providing an opportunity to appear before an immigration judge or qualified adjudicator, would be mandated within 100 miles of the border and within fourteen days of a person's entry into the country; (5) creating a new seven-hundred-mile fence along the Southwest border; (6) creating new authorization for State and local law enforcement to enforce federal immigration laws; refusal to participate would subject local entities to the loss of federal funding; (7) barring asylum seekers and refugees who are convicted of a minor offense, such as petty theft, from permanent legal residence and eventual citizenship; (8) defining document fraud as an aggravated felony and barring re-entry; (9) indefinitely holding any individual determined by the Department of Homeland Security to be a "dangerous alien;" and (10) eliminating the diversity visa lottery program. See Immigrant Legal Resource Center, Legal Alert: Dangerous Immigration Legislation Pending in Congress! (2005), <http://www.ilrc.org/HR4437.php>.

¹¹ *Id.*

¹² *Id.* For example, the Immigrant Legal Resource Center, an immigrant rights group, described H.R. 4437 as sparking "panic . . . upon the immigrants' rights community [because] . . . if passed, H.R. 4437 could signal some of the most sweepingly dramatic changes in immigration law." The National Immigration Forum, another immigrants rights

The clergy, believing that the provisions of H.R. 4437 were unchristian and threatened ministering to the faithful, weighed in on immigration policy reform.¹³ In particular, Cardinal Roger Mahony of the Roman Catholic Archdiocese of Los Angeles, the largest diocese administering to Latinos and immigrants, led the attack with courageous entreaties to his flock and to politicians, and with organizational support. In January he wrote an open letter to the President voicing his moral opposition to H.R. 4437.¹⁴ In a *New York Times* editorial, Cardinal Mahony pledged civil disobedience.¹⁵ Mahony wrote that the clergy, as "disciples [of Jesus Christ], . . . are called to attend to the last, littlest,

nonprofit organization, described H.R. 4437 as a "bill [that] attacks the rights of immigrants, both legal and undocumented . . . it would make "unlawful presence" an "aggravated felony," making criminals out of millions of undocumented immigrant workers and family members The bill broadens the definition of "smuggling" so that anyone aiding undocumented immigrants could be fined, imprisoned, or have property confiscated." National Immigration Forum, *Enforcement Only Will Not Fix Our Broken Immigration System* (2007), <http://www.immigrationforum.org/DesktopDefault.aspx?tabid=777>). See also PEW HISPANIC CTR., *SIZE AND CHARACTERISTICS OF THE UNAUTHORIZED MIGRANT POPULATION IN THE U.S.: ESTIMATES BASED ON THE MARCH 2005 CURRENT POPULATION SURVEY* (2006), <http://pewhispanic.org/reports/report.php?ReportID=61> (for further population estimates).

¹³ Bansal Monisha, *Clergy Join Immigration Reform Protests*, CNSNEWS.COM, Mar. 28, 2006, <http://www.cnsnews.com/ViewPolitics.asp?Page=%5CPolitics%5Carchive%5C200603%5CPOL20060328a.html> (describing march of three hundred clergy to U.S. Capitol to plead for immigration reform).

¹⁴ Cardinal Mahony wrote an open letter to President Bush in December 2005, protesting the unchristian provisions of H.R. 4437. Letter from Cardinal Roger M. Mahony to President George W. Bush (Dec. 30, 2005), available at http://www.archdiocese.la/news/pdf/news_704_President%20Bush%20Letter.pdf. Cardinal Mahoney complained that H.R. 4437 "has enormous implications and ramifications for all of us in this country" and would "require of all personnel of Churches and of all non-profit organizations to verify the legal immigration status of every single person served through our various entities" forcing priests, ministers, rabbis, and others involved in various Church-related activities to become "quasi-immigration enforcement officials." *Id.* Cardinal Mahony described the spiritual challenge of H.R. 4437: "One could interpret this Bill to suggest that any spiritual and pastoral service given to any person requires proof of legal residence. *Id.* Are we to stop every person coming to Holy Communion and first ask them to produce proof of legal residence before we can offer them the Body and Blood of Christ? . . . [S]uch restrictions are impossible to comply with." *Id.* Cardinal Mahoney concludes, "[i]t is staggering for the federal government to stifle our spiritual and pastoral outreach to the poor, and to impose penalties for doing what our faith demands of us." *Id.*

¹⁵ Cardinal Roger Mahony, Op-Ed, *Called by God to Help*, N.Y. TIMES, Mar. 22, 2006, at A25. Cardinal Mahoney wrote:

Some supporters of the bill have even accused the church of encouraging illegal immigration and meddling in politics. But I stand by my statement. Part of the mission of the Roman Catholic Church is to help people in need. It is our Gospel mandate, in which Christ instructs us to clothe the naked, feed the poor and welcome the stranger Providing humanitarian assistance to those in need should not be made a crime, as the House bill decrees. As written, the proposed law is so broad that it would criminalize even minor acts of mercy like offering a meal or administering first aid That does not mean that the Catholic Church encourages or supports illegal immigration. Every day in our parishes, social service programs, hospitals and schools, we witness the baleful consequences of illegal immigration. Families are separated, workers are exploited and migrants are left by smugglers to die in the desert.

See also Editorial, *The Gospel vs. H.R. 4437*, N.Y. TIMES, Mar. 3, 2006, at A22.

lowest and least in society and in the church.”¹⁶ At the beginning of Lent Season, which fell in March 2006, Cardinal Mahony asked for special prayers for immigrants¹⁷ and called H.R. 4437 a “blameful, vicious” bill.¹⁸

It was the Spanish media that focused the attention of its listeners and galvanized opposition.¹⁹ Without the Spanish disc jockeys’ help, the marches would not have been as successful. Radio is the main media for Latina/os, particularly immigrants,²⁰ and it was the means through which marchers got their information about the protests.²¹ Radio could reach the “factory worker in Waukegan and the person selling ‘elote’ [corn on the cob] on 18th Street and the woman who works as the cashier at the Dollar Store on 47th Street.”²² A handful of Spanish-speaking DJs and the Spanish TV stations consciously took on the role of educating and informing the Latina/o public of the implications of H.R. 4437’s criminalization provisions. In the process, the DJs reframed the American immigrant narrative in terms that their Latina/o audience understood and could make their own. The *new* immigrant narrative was about risking one’s life to cross the border, working tirelessly in difficult jobs to make a better life for oneself and one’s children, living in fear of deportation but somehow hanging on until one could legalize immigration status. In this new narrative, the immigrant, whether authorized or unauthorized, was part of America and could lay claim to the American dream, too. It was this narrative that unified those who lived comfortable middle class lives and the unauthorized. It was this narrative that emboldened so many to march.

The marches of 2006 were truly a spontaneous grassroots movement. Millions who, up until then, had been absent in the political dialogue rose up in unison to express their opposition to, even indignation with, the tenor and substance of proposed immigration reforms. More importantly, this movement began to forge a new political Latina/o common identity and break down the identity silos that have divided Latina/os.

Part II is a micro- and macro-analysis of the events that unfolded to provide further insight as to why this mobilization was so successful. For our micro-analysis we focus on Las Vegas, Nevada. This city has many immi-

¹⁶ Cardinal Mahony, Lenten Message: Making Room (2006), <http://www.archdiocese.la/news/story.php?newsid=720>.

¹⁷ See *id.*

¹⁸ John Pomfret & Sonya Geis, *Grass-Roots Movement of Immigrants Hopes to Use Power of Numbers to Sway*, WASH. POST, Mar. 28, 2006, at B1.

¹⁹ See Oscar Avila, Radio Show Isn’t Just Fun, Games; Disc Jockey Rafael Pulido’s On-Air Talks on Plans for Immigration Reform Have Helped Bring a Movement to Life, CHI. TRIB., Apr. 23, 2006, at 3.

²⁰ Fox, *supra* note 5. See also Hernandez-Lopez, *supra* note 3 (noting that the Spanish and American mainstream media are very separate from each other).

²¹ See NILDA FLORES-GONZALEZ ET AL., IMMIGRANT MOBILIZATION PROJECT: GENERAL SURVEY FINDINGS 3 (2006), <http://www.wilsoncenter.org/news/docs/uicstudy.pdf> (in survey of May 1 Chicago march reporting that half of the marchers in the May 1 demonstration had received information about the marches through the Spanish media).

²² Scott Fornek, *Chicago ‘Giant’ Puts Rest of Country on Notice: Massive March Put Together in Three Weeks; Repeat Set for May 1*, CHI. SUN-TIMES, Apr. 2, 2006, at A17; see also Anna Johnson, *Chicago’s March Sets Tone for All Immigration Rallies*, DAILYILLINI.COM, Apr. 17, 2006, <http://media.www.dailyillini.com/media/storage/paper736/news/2006/04/17/News/Chicagos.March.Sets.Tone.For.All.Immigration.Rallies-1857000.shtml>.

grants but few immigrant organizations and no notable history of political activism. The marches would change that. New players, students, and hometown associations would have to invent coalitions and strategies. The students were new kids on the block, and they led the political action. Hometown immigrant associations, such as Culinary Union Local 226 and churches, comprised the coalition that organized the largest civil rights march that Las Vegas had ever witnessed. On May 1, 2006, an estimated 63,000 demonstrators closed down the Strip. This case study shows how important emotion and the reaction to the threat and injustice of H.R. 4437 were in generating this grass-roots social movement. Field interviews document the anger and fear that stirred students to stage the Las Vegas walkouts. There was also conflict between the new players and the older more established organizations. The sides realized the importance of the movement and worked together to make the May Day demonstration in Las Vegas and across the nation a key moment for immigrant rights. For those who were there it was "electric," "common humanity and hope," "deeply moving," "power on the streets," and "historical." Even tourists were caught up in the wave of solidarity.

Part III assesses the impact. Did the "*gigante despierta*" (giant awaken) as a sign in a store proclaimed,²³ or does it still sleep tonight? Part III.A evaluates the promise, or threat, of "*hoy marchamos, mañana votamos*" (today we march, tomorrow we vote). Using traditional measures of political effectiveness, voter turnout and party preference, the 2006 elections data are inconclusive as to whether the marches influenced the Latina/o electorate. Immigration was not a deciding issue in the 2006 election either for the general public or the Latina/o electorate. Latina/o voters turned out in slightly higher numbers and were *much* more likely to vote Democrat. But immigration did not appear to trump all other issues for the vast majority of Latina/o voters, nor did it trump all other issues for other voters. "*Hoy marchamos, mañana votamos*" may take several election cycles to show tangible numerical results.

The intangible measures of achievement are more positive. Part III.B argues that the marches connected the different Latina/o identities that fall under the label "Hispanic" or "Latino" into a more cohesive political identity. Cuban Americans, Mexican Americans, foreign-born and native-born, perceive a common interest and purpose around the issue of immigration. More specifically, as Part III.C sets forth, the perceived backlash against Latina/os and the disproportionate measures taken against the unauthorized have forged a heightened political consciousness. The heated debate around H.R. 4437 reminded Latina/os that they are not another White ethnicity in America, but rather are a raced ethnicity. The marches helped create a more solid political identity for Latina/os. As the follow-up marches of 2007 show, immigration has become an issue over which Latina/os and other ethnic groups are likely to mobilize politically. This is likely to be the most enduring legacy of H.R. 4437 and the marches of 2006.

Finally, Part III.D describes the powerful counter-narratives created by the marchers and their leaders. One counter-narrative is based on human rights. Belonging in America can be based on the merit of hard work and human

²³ See Johnson, *supra* note 22.

dignity. Another counter-narrative is reconstructing how one can claim to be an American. The most recent wave of immigrants, predominantly Latina/o, many unauthorized, are "Americans, too."

I. "EL GIGANTE DESPIERTA": THE GIANT AWAKENS

In Spring 2006, a new phrase entered the American lexicon: "H.R. 4437." For many, H.R. 4437 was the catalyst of the marches.²⁴ Not until early Spring 2006, when the Republican-led Senate began to consider H.R. 4437 and other proposals, did word begin to filter into immigrant communities that if the Senate passed some version of H.R. 4437, conditions would change radically for unauthorized workers and the service professionals, family members, and friends who helped them. As bills began to be considered in the Senate, Spanish media began to discuss H.R. 4437,²⁵ and immigrant groups began to mobilize opposition.²⁶ Small protests were staged in December 2005 through February 2006.²⁷

A. *Chicago, the Traditional City of Immigrants, Produces a "Political Miracle"*

The first major march took place in Chicago on March 10, 2006. An estimated 100,000 to 300,000 persons chanting and waving American flags peacefully demonstrated along a two-mile long stretch from Union Park to Federal Plaza,²⁸ bringing traffic to a standstill.²⁹

National umbrella groups had been discussing plans for massive mobilization throughout the nation,³⁰ but it was Chicago's long-established grassroots immigrant organizations who moved first. According to newspaper accounts, fifteen to twenty Latina/o community leaders discussed the idea at a church, hoping at least to get their own groups involved in a rally against the Sensenbrenner bill.³¹ According to a national activist, "[t]he local organizers took [the

²⁴ See e.g., Oscar Avila & Antonio Olivo, *A Show of Strength: Thousands March to Loop for Immigrants' Rights*, CHI. TRIB., Mar. 11, 2006, at 1 (reporting that H.R. 4437 had a strong influence in galvanizing the marches).

²⁵ Alexandra Starr, *Voice of America: The Spanish-Language DJs Behind the New Wave of Latino Activism*, SLATE, May 3, 2006, <http://www.slate.com/id/2141008/ft/rss>.

²⁶ See, e.g., Immigrant Solidarity Network, *February U.S. Immigration Alert!: Take Actions to Defeat Anti-Immigrant Sensenbrenner-King Bill!* 1-2 (2006), available at <http://www.immigrantsolidarity.org/Newsletter/Feb06.pdf>.

²⁷ See generally Gaiutra Bahadur, *Workers Step from Shadows*, PHILA. INQUIRER, Feb. 15, 2006, at A1 (reporting on a march of 1000-2000 protesting H.R. 4437); Johnson, *supra* note 22 (reporting on small marches in December).

²⁸ See *Fight for Rights: Tens of Thousands March for Immigration Reform*, CHI. TRIB., Mar. 13, 2006, at 8; Frank Main Sweet, *In Overwhelming Display, Immigrants Protest Bill: Up to 100,000 March Against Plan to Criminalize Undocumented Workers*, CHI. SUN-TIMES, Mar. 11, 2006, at 6.

²⁹ Sweet, *supra* note 28. See also CHI. TRIB. photo gallery (2006), <http://www.chicago.tribune.com/news/custom/photos/chi-rally060310-photogallery,1,1618075.photogallery?coll=chi-pod-rail&index=3> (pictures of marchers and signage).

³⁰ Johnson, *supra* note 22 (reporting that groups in Chicago had already been meeting before December and had staged a smaller pro-immigration rally last summer).

³¹ Fornek, *supra* note 22.

idea], they ran with it and produced a political miracle.”³² In three short weeks, radio advertisements, fliers, chain letters, and union announcements spread word of the march.³³ The message “*el gigante despierta*” (the giant awakens) appeared in shop windows.³⁴ While most participants were Latina/os, European, Asian, and African immigrant groups were also visible.³⁵ Politicians lined up to support the event including Chicago Mayor Daley, Governor Blagojevich, Congressman Gutierrez, and Senator Durbin.³⁶ Mayor Daley aptly summed up the feeling of the crowd, “those who are undocumented, we are not going to make criminals out of them Everyone in American is an immigrant.”³⁷

Hundreds of students did not show up for class.³⁸ A Loyola Academy High School student said that on March 10, “[w]e marched for all our relatives and neighbors afraid to show their faces or raise their voices because of their undocumented status.”³⁹

Rafael Pulido, known in the Spanish radio airwaves as “El Pistolero,” embarked on a public education mission, barraging his listeners with information about H.R. 4437, its consequences on families, and folksy political commentary. Pulido argued,

[i]f you go back into history, that’s what the founding fathers of this country did. Who can tell me that the Pilgrims who came to this country to build this country, who stayed here to work, who can prove to me that they got a visa, that they went the ‘legal’ way?⁴⁰

Pulido subsequently contacted other Spanish DJs throughout the nation. They agreed to put competition aside and jointly promote this civil rights event.

Chicago’s success inspired subsequent marches.⁴¹ Within days, civil rights groups from Milwaukee, Philadelphia, and Los Angeles were calling for help to organize their own rallies.⁴²

B. Los Angeles: The Massive “Gran Marcha”

The population of Los Angeles is one-third immigrant. It is also among the most multiracial cities in the country with 13% Asian American and almost

³² Johnson, *supra* note 22.

³³ *Id.*

³⁴ *Id.*

³⁵ Pomfret & Geis, *supra* note 18.

³⁶ Sweet, *supra* note 28.

³⁷ *Id.*

³⁸ Dawn Turner Trice, *Students Rally for Own Future and Immigrants*, CHI. TRIB., Apr. 10, 2006, at 1.

³⁹ *Id.*

⁴⁰ Avila, *supra* note 19.

⁴¹ Oscar Avila et al., *Rally Stirs Both Sides: Across U.S., Immigration Supporters, Foes View Chicago Rally as Catalyst*, CHI. TRIB., Mar. 12, 2006, at 1.

⁴² *Id.*

half Latina/o.⁴³ It is estimated to be the home to the largest undocumented population in the country.⁴⁴

Not surprisingly, Los Angeles was the home of the largest pro-immigration march. Initially expected to have only about 20,000 people,⁴⁵ official estimates of the Saturday, March 26 demonstration ranged from 500,000 to 1.3 million⁴⁶ and as high as even two million.⁴⁷ Regardless of the exact number, the massive pro-immigration march was the largest ever witnessed in California, or the nation,⁴⁸ surpassing the 70,000 that protested Proposition 187.⁴⁹ Koreans, Latina/os and Whites, farm workers, delivery boys, students, union workers, and politicians all wore white shirts, chanted “*Si Se Puede*,” (yes we can) played kazoos, and waived American flags in the massive peaceful demonstration that covered twenty city blocks and culminated at City Hall.⁵⁰ Signs read “Amnistia/Amnesty,” and “We are the Future.”⁵¹ At City Hall, Antonio Villaraigosa, the first Latino mayor of Los Angeles, addressed a cheering crowd, “[w]e cannot criminalize people who are working, people who are contributing to our economy and contributing to the nation.”⁵²

Cardinal Roger Mahony, leading the largest and most heavily Latina/o and immigrant archdiocese in the United States,⁵³ spoke against H.R. 4437 since Christmas 2005.⁵⁴ A coalition of churches, community organizers, and immigrant nonprofits started meeting in February in the oldest church in Los Angeles, Our Lady Queen of Angels.⁵⁵ The protest plan started out modestly.

⁴³ U.S. CENSUS BUREAU, QUICK FACTS LOS ANGELES COUNTY (2005), available at <http://quickfacts.census.gov/qfd/states/06/06037.html> (reporting from 2005 Census).

⁴⁴ See JEFFERY PASSEL, PEW HISPANIC CTR., SIZE AND CHARACTERISTICS OF THE UNAUTHORIZED MIGRANT POPULATION IN THE U.S. (2006), <http://pewhispanic.org/reports/report.php?ReportID=61>; B. LINDSAY LOWELL & ROBERTO SURO, PEW HISPANIC CTR., HOW MANY UNDOCUMENTED: THE NUMBERS BEHIND THE U.S.-MEXICO MIGRATION TALKS, (2002), available at <http://pewhispanic.org/reports/report.php?ReportID=6>.

⁴⁵ Teresa Watanabe & Hector Becerra, *The Immigration Debate: How DJs Put 500,000 Marchers in Motion*, L.A. TIMES, Mar. 28, 2006, at A1, A12 [hereinafter Watanabe & Becerra].

⁴⁶ Teresa Watanabe & Hector Becerra, *500,000 Pack Streets to Protest Immigration Bills*, L.A. TIMES, Mar. 26, 2006, at A1; [hereinafter Watanabe]; Richard Winton & Cynthia Cho, *The Immigration Debate: For Those With a Stake, Crowd Size Does Matter*, L.A. TIMES, Apr. 1, 2006, at B1, B11 (organizers had put number at 1.3 million).

⁴⁷ James Sterngold, *500,000 Throng L.A. to Protest Immigrant Legislation*, S.F. CHRON., Mar. 26, 2006, at A1 (quoting state Sen. Gilbert Cedillo: “I believe there were 2 million people here today.”).

⁴⁸ Pomfret & Geis, *supra* note 18 (“the greatest mobilization since the days of Cesar Chavez.”).

⁴⁹ Watanabe & Becerra *supra* note 45; Anna Gorman et al., *L.A. Marchers Voice Support for Immigrants: Record Crowd of 500,000 Protests Proposed Federal Crackdown*, Hous. CHRON., Mar. 26, 2006, at A3. (Proposition 187 was a California Initiative that voters passed to deny any public benefits to illegal immigrants).

⁵⁰ Watanabe & Becerra, *supra* note 45; Pomfret & Geis, *supra* note 18.

⁵¹ Rachel Uranga & Lisa Soddors, *500,000 Rally in L.A.: Biggest Protest in City History Hits Tough Immigration Bill*, DAILY NEWS (L.A.), Mar. 26, 2006, at N1.

⁵² Watanabe & Becerra, *supra* note 46.

⁵³ Watanabe & Becerra, *supra* note 45. There are five million parishioners in the Los Angeles Archdioceses. *Id.*

⁵⁴ See *supra* notes 13-18 and accompanying text.

⁵⁵ Watanabe & Becerra, *supra* note 45.

Organizers planned to stage news conferences, petitions, and visits to representatives. Sociologist Jesse Diaz and journalist Javier Rodriguez are credited for setting higher goals, and they jointly called for a massive protest march that would equal the Proposition 187 demonstrations.⁵⁶

The first week of March was critical. On March 2, the organizers announced their plans for a massive march.⁵⁷ On Ash Wednesday, Cardinal Mahoney called H.R. 4437 “a blameful vicious” bill, and he urged his flock to demonstrate peacefully against it.⁵⁸

The Spanish language media was the key factor in the success of the marches.⁵⁹ The local Spanish TV station broadcasted the organizers’ press conference.⁶⁰ The next day the host of Los Angeles’s most popular radio program,⁶¹ Eduardo Sotelo, known on the airwaves as El Piolín (Tweety Bird), dedicated portions of his program to the issues and to interviewing the organizers, students, and other participants.⁶² Within days, Sotelo, who at one time had been an undocumented immigrant, embraced the idea of the march and persuaded colleagues from Los Angeles’s eleven other Spanish language stations to promote the marches and educate listeners about H.R. 4437.⁶³ The programs interspersed information with stories of immigrants, including El Piolín’s tale of immigrant hardship. The pivotal moment was El Piolín’s “Minuteman” interview.⁶⁴ The Minuteman returned the invitation to discuss immigration policy by insulting all Latina/os on the air, charging that all should be deported, even El Piolín himself.⁶⁵ This rant convinced listeners that anti-immigrant sentiment was real and very ugly, and it shook many out of complacency. In contrast to the vitriol, Sotelo played the peacemaker and grassroots cheerleader, asking would-be protestors to wear white shirts, the symbol of peace, and carry U.S. flags to “show affection for the United States.”⁶⁶ Families were asked to bring their children and marchers were asked to provide their own water and trash bags.⁶⁷ Piolín told his audience, “we need to be united to demonstrate that . . . we’re not criminals.”⁶⁸

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Pomfret & Geis, *supra* note 18.

⁵⁹ Hernandez-Lopez, *supra* note 3.

⁶⁰ Watanabe & Becerra, *supra* note 45.

⁶¹ Eduardo Stanley, “A las Calles: To the Streets” *Hispanic Media Drive Immigration Demonstrations*, NAT’L CATHOLIC REP., Apr. 7, 2006 (on file with author).

⁶² *Id.*

⁶³ Gillian Flaccus, *Latino Media Played Role in L.A. Immigrant Protests: Marches Organized, Promoted as Demonstration of Pride*, SAN JOSE MERCURY NEWS, Mar. 29, 2006, at B5. Sotelo told his listeners that he had crossed the border illegally as a teenager. *Id.* Subsequently he married a U.S. citizen and legalized his status. *Id.*

⁶⁴ Stanley, *supra* note 61. The Minutemen are a civilian organization that volunteered to patrol the border in order to report unauthorized entry. They formed after the first pro-immigration marches. See also Minuteman Civil Defense Corps, Inc., MinutemanHQ.com (2007), <http://www.minutemanhq.com/> (stating mission statements).

⁶⁵ Stanley, *supra* note 61.

⁶⁶ *Id.*; see also Susan Ferriss, *Why Come Here? “To succeed!”: Student Protests and a Series of Marches Across the Country Show the Determination of Latinos to Fight Restrictive Measures Being Debated in Congress*, SACRAMENTO BEE, Mar. 29, 2006, at A1.

⁶⁷ *Id.*

⁶⁸ Flaccus, *supra* note 63.

Prior to the march, ten primetime Spanish television news anchors asked demonstrators to show respect.⁶⁹ Los Angeles's major Spanish-language newspaper, *La Opinión*, provided extensive details about the planned march.⁷⁰ The collective message was march, make your presence known, but do so "in a way where there is pride . . . when you're done."⁷¹

The Korean media also weighed in. H.R. 4437 would penalize employers of undocumented labor. This struck a chord with the thousands of Korean small businesses.⁷²

Students staged "walkouts" for three consecutive days following "*la Gran Marcha*." On the first day, an estimated 26,000 students from Los Angeles Unified School District (which is now three-quarters Latina/o) walked out.⁷³ Students followed in San Jose,⁷⁴ Long Beach,⁷⁵ and San Diego.⁷⁶ In Santa Ana, Riverside,⁷⁷ San Pedro,⁷⁸ and Long Beach,⁷⁹ students marched on the freeways. Los Angeles Police Chief William Bratton quipped, "these kids might end up cleaning up the freeways they were demonstrating on."⁸⁰ State wide school officials and law enforcement reacted with alarm. Mayor Antonio Villaraigosa joined school and law enforcement officials scolding that "students belong back in school."⁸¹ Piolín urged students to return to the classroom.⁸² Law enforcement gave out hundreds of citations to demonstrating students for truancy⁸³ and threatened parents⁸⁴ and other involved adults.⁸⁵

⁶⁹ *Id.*

⁷⁰ Stanley, *supra* note 61.

⁷¹ *Id.*

⁷² Watanabe & Bacerra, *supra* note 46.

⁷³ Josh Kleinbaum, 26,000 L.A.U.S.D. Students Protests, DAILY NEWS (L.A.), Mar.28, 2006, at N1; see also Cynthia H. Cho & Anna Gorman, *The Immigration Debate: Massive Student Walkout Spreads Across Southland*, L.A. TIMES, Mar. 28, 2006, at A1.

⁷⁴ Claudia Mel, *Students Walk Out of Class, March to City Hall: Salinas: Protesters Demonstrate Against Immigration Legislation*, MONTEREY COUNTY HERALD, Mar. 28, 2006, at A1 (four hundred students walked out).

⁷⁵ Greg Mellen et al., *Students Brave Rain, School Lockdowns; Protesters Undeterred: Immigration: Rallies Peaceful in L.B.; Some Violence Reported in Other Area Cities*, LONG BEACH PRESS-TELEGRAM, Mar. 29, 2006, at A1 (rain, lockdowns, and threats from administrators did not deter one thousand or more high school and middle school students from walking out for two consecutive days).

⁷⁶ Hiram Soto, *Student Protests Continue: Young Activists Are "Learning a Big Lesson" in Bid to Effect Change*, SAN DIEGO UNION-TRIB., Mar. 30, 2006, at B1 (students walked out for three straight days and congregated in Chicano Park downtown).

⁷⁷ Kleinbaum, *supra* note 73.

⁷⁸ Mellen et al., *supra* note 75 (about five hundred students marched a stretch of the Harbor Freeway leading to citations of one hundred students for truancy).

⁷⁹ *Id.* (law enforcement, with the help of student leaders, was able to divert the student marchers, who were chanting "freeway, freeway" to the safety of a local park).

⁸⁰ Rick Orlov & Josh Kleinbaum, *Return to Class: Mayor Advises Truant Protesters to Face Penalties*, DAILY NEWS (L.A.), Mar.29, 2006, at N1.

⁸¹ *Id.* On the first day of the student walkout, L.A.U.S.D. lost close to one million dollars in state funding. *Id.*

⁸² *Id.*

⁸³ *Supra* note 73.

⁸⁴ Orlov & Kleinbaum, *supra* note 80.

⁸⁵ *Id.* Sheriff Baca was under the belief that adults helped organize the student protests.

Students' political consciousness was awakened. They felt indignation at the hate messages and solidarity with their families and others who might share the punitive measures that H.R. 4437 such as the criminal measures that would arise from supporting unauthorized peoples. The students were determined to be heard: "[e]ven though we're kids . . . we're letting everyone know that we deserve to be heard."⁸⁶ Politics became personal because their parents and other family members could be ripped away and deported under H.R. 4437.⁸⁷ The few who were not in the United States legally, a very small number according to statistical data,⁸⁸ understood the threat of H.R. 4437, being sent back to a homeland they no longer knew, ending their American Dreams. There was a conscious sense that there was a new political identity forming. A student said, "[w]e're doing this for our people."⁸⁹ For others it was a matter of ethnic dignity and solidarity with other Latina/os. A student called El Piolín and explained "[w]e're marching because Mexicans are not criminals."⁹⁰ For many who are U.S.-born and English-speakers, the anti-Latino and anti-immigrant message of H.R. 4437 threatened to relegate them and their families to second class citizenship. One protested, "[i]mmigrants are what this country was built on . . . I have family that are illegal immigrants, but the Mayflower was full[, too]."⁹¹ A student labeled the anti-immigrant rhetoric as racist.⁹² Understanding the significance of this moment, some parents allowed their sons and daughters to cut class and protest, as long as "they behaved."⁹³ Their children were empowered and found a new political consciousness in solidarity with other immigrants' and sometimes that of their own parents' plight.⁹⁴

II. LAS VEGAS: IN A NEW CITY, THE STRUGGLE TO FORM A CIVIL RIGHTS MOVEMENT FOR IMMIGRANTS

In the Las Vegas pro-immigrant marches, Latina/o high school students, not the established organizations or powerful trade unions, led the immigrant civil rights protests. Because of Las Vegas's proximity to Los Angeles, the California actions influenced what unfolded in Las Vegas. Students and adults tuned into radio stations carrying El Piolín's syndicated program. The students reacted.

Like many other growth cities, in the last fifteen years, immigrants, particularly Latina/o immigrants, have transformed Las Vegas. From 1990 to 2005, Clark County registered the greatest growth nationally of Latina/o immigrant population. In this immigration wave, Las Vegas went from having a small

⁸⁶ *Id.* (L.A.U.S.D. Superintendent Romer warned parents that they would be prosecuted if their children were chronically truant).

⁸⁷ *Id.*

⁸⁸ PEW HISPANIC CTR., FACT SHEET: ESTIMATES OF THE UNAUTHORIZED MIGRANT POPULATION FOR THE STATES, (2006), available at <http://pewhispanic.org/files/factsheets/17.pdf>. The Pew Center's estimates are based on the March 2005 Current Population Survey.

⁸⁹ Orlov & Kleinbaum, *supra* note 80.

⁹⁰ Ferriss, *supra* note 66.

⁹¹ Kleinbaum, *supra* note 73.

⁹² Ferriss, *supra* note 66; Mellen et al., *supra* note 75.

⁹³ Mellen, *supra* note 75.

⁹⁴ *Id.*

Latino population, for a Western state, at 10% in 1990, to one where Latina/os represent a significant chunk at 26%.⁹⁵ Among the school age population, Latina/os represent just about half of all students attending Clark County School District.⁹⁶ Construction, landscaping, and service industries related to the casinos are dominated by Latina/o workers.⁹⁷ However, the estimated 120,000 undocumented persons in Clark County make up less than 5% of the county's population.⁹⁸ Locals, however, viewed immigration as the second biggest problem for the region, second only to the dreaded traffic snarl.⁹⁹

Such rapid growth of immigrants and other newcomers to Las Vegas points to the city's strength as well as its weakness. With so many newcomers, the needs of the community have outstripped established institutions because everything and everyone are new. Other cities with immigrant communities established over decades and even centuries, like San Francisco, Chicago, Los Angeles, and New York, have institutions that are expert at political action and organizing immigrant communities. In a new global city, like Las Vegas, institutional wisdom derived from settled practices and custom is nonexistent. New players have to invent coalitions and strategies as they go along, but this environment also means opportunities for new emerging voices to make an impact. That is what happened with the immigrant civil rights marches. The students were new kids on the block, and they led the political action with the support of newly formed grassroots organizations of Mexican migrants in the United States, hometown immigrant associations, and the Culinary Union, which is heavily represented by immigrants.

A. *Middle and High School Students Walk Out and Lead*

The first walkout¹⁰⁰ occurred on March 28, 2006, Cesar Chavez Day, simultaneously with the California student walkouts. It was entirely a student

⁹⁵ U.S. CENSUS BUREAU, STATE AND COUNTY QUICK FACTS, CLARK COUNTY, NEV. (2005), available at <http://quickfacts.census.gov/qfd/states/32/32003.html>.

⁹⁶ Antonia Planas, *Clark County School District: Hispanic Students Outnumber Whites*, LAS VEGAS REV.-J., Nov. 18, 2006, at A1.

⁹⁷ See U.S. Census Bureau (2000), <http://www.census.gov> (follow Census 2000 EEO Data Tool); see also Leticia Saucedo, *Labor and Employment Implications of the New Global City: The Las Vegas Market* (presentation at LatCrit XI conference, Oct. 7, 2006) (presentation slides available at <http://www.law.unlv.edu/latcrit/>). Her estimate is that Latina/os represent 35% of construction workers in Las Vegas.

⁹⁸ William Cope & R. Keith Schwer, UNLV Center for Business & Economic Research, *Unauthorized Immigrants in Nevada* (June 22, 2006) (copy on file with author).

⁹⁹ Lynette Curtis, *Valley Immigration Views Polled*, LAS VEGAS REV.-J., Mar. 31, 2006, at B5; PEW HISPANIC CTR., AMERICA'S IMMIGRATION QUANDARY: NO CONSENSUS ON IMMIGRATION PROBLEM OR PROPOSED FIXES (2006), available at <http://pewhispanic.org/reports/report.php?ReportID=63> [hereinafter 2006 PEW POLL GENERAL VIEWS ON IMMIGRATION]; see also PEW HISPANIC AND PEW RESEARCH CENTER FOR THE PEOPLE & THE PRESS POLL (2006), available at <http://people-press.org/reports/display.php3?ReportID=274>, [hereinafter 2006 PEW POLL GENERAL VIEWS ON IMMIGRATION].

¹⁰⁰ Underlying racial tensions from rapid demographic transformation spurred two isolated student walkouts in the beginning of March 2006. In the first week of March, one hundred students walked out in protest against perceived civil rights violations of minorities students in affluent suburban Green Valley High School. Emily Richmond, *Student Walkout Raises Questions: Uneven Treatment of Minorities Claimed*, LAS VEGAS SUN, Mar. 3, 2006, at A3. One hundred students walked out after police officers used pepper spray to break up a fight

affair. An estimated one thousand students from seven of the largest predominantly Latina/o high schools walked out in two groups and took over major thoroughfares of Las Vegas, chanting familiar farm worker slogans like "*La Raza Unida jamás será vencida*" (the race united will never be defeated).¹⁰¹ Students displayed flags, mainly Mexican and Latin American.¹⁰² One group of 250 students marched to the end of the Strip amid cheers from tourists, while the other group of 750 students ended their march at a local high school.¹⁰³ Clark County School District officials, worried about security, decided to use school buses to bus the group back to their respective schools.¹⁰⁴ Police blocked traffic and escorted the peaceful and orderly students.¹⁰⁵

The idea for the Las Vegas student walkouts sprouted as students witnessed Los Angeles's Gran Marcha and protests in Phoenix, Chicago, Milwaukee, Denver, Puerto Rico, Cleveland, Columbus, and Detroit. They listened to the television and radio programs imported from Los Angeles, like El Piolin's. The idea spread by word of mouth, but most efficiently by new technology: cell-phone text messaging, Internet instant messaging, MySpace.com,¹⁰⁶ and email bulletins.¹⁰⁷ Modern communication flattened out demands for organizing political action; everyone knew instantly what was being planned. Some-

between minority students. Minority students claimed that the principal and faculty were treating them unfairly compared to White students. A small walkout followed the following week, on March 17, 2006, at Del Sol High School when twenty Latina/o students protested a class discussion of immigration legislative proposals deemed to be racist. Among the remarks made by the civics teacher that had infuriated the students was "you guys should be thankful you're in school right now because you're immigrants." Twenty students missed one period when the civics class began discussing proposed immigration reform. The teacher commented that illegal immigrants should not be in the country and that the teacher could get into trouble for teaching illegal immigrants. Antonio Planas, *Kids Leave Class*, LAS VEGAS REV.-J., Mar. 17, 2006, at B1.

¹⁰¹ Lynnette Curtis, *L.V. Students March in Solidarity with Protesters Nationwide*, LAS VEGAS REV.-J., Mar. 29, 2006, at A1. The high schools involved were Rancho, Chaparral, Southern Nevada Vocational Center, El Dorado, Canyon Springs, and Western. Rancho High School, which is heavily Latina/o and immigrant, seemed to have the largest contingent.

¹⁰² *Id.*

¹⁰³ *Id.* One group "met near Tropicana and Maryland Parkway and then marched west to Las Vegas Boulevard, then took the strip to Flamingo Road." *Id.* The other group ended their march at Clark County Courthouse. *Id.*

¹⁰⁴ Lisa K. Bach, *Student Walkout Echoes in Valley*, LAS VEGAS REV.-J., Mar. 30, 2006, at A1. There would be subsequent complaints, but school officials defended the action as a matter of safety. Additional reasons that could have influenced the school district's decision to be student friendly were the prior accusations of racial bias in the early March student walkouts and the fact that school funding formulas in Nevada are not based on daily attendance.

¹⁰⁵ *Id.*

¹⁰⁶ MySpace is a social networking website offering an interactive network of blogs, user profiles, groups, photos, and an internal e-mail system, see <http://www.myspace.com>. See also interview with Stephanie Record, Student at Mike O'Callaghan Middle School, in Las Vegas, Nev. (May 30, 2006) (on file with author).

¹⁰⁷ Bulletins are mass e-mail messages sent to all of the contacts of one student.

times students got the news the same morning of the march on their cell phones.¹⁰⁸

The students jumped on the idea, realizing that they could make a difference and that they would be heard as they joined the national wave. No adult leaders or established community organizations were involved. The injustice of H.R. 4437 stirred deep emotions. One student leader, Steph Record, explained that the high school walkouts started “because we knew that our own kind were treated with injustice.”¹⁰⁹ Another leader, Jairo Castellero, saw the demonstrations as a statement of “students saying we care . . . when we stay quiet in any form it is when injustice happens like the quote, ‘in the absence of light dark prevails.’”¹¹⁰ Some participated in marches elsewhere close to Las Vegas.¹¹¹ Others did it for their families, who were either recent immigrants or unauthorized¹¹² themselves.¹¹³

From the beginning the students showed political consciousness. Gabriel Benitez, one of the organizers from El Rancho High School, which has a predominantly Latina/o population, put it this way: “[w]e refused to be naïve . . . we knew if we didn’t do anything about it, nobody else was going to.” Some students self consciously compared themselves to the civil rights era of the 1960s: “some teachers said we are making a fool out of ourselves[,] so does that mean that when Martin Luther King marched and all the little African American kids [did as well] . . . [that] they look[ed] stupid?”¹¹⁴

Student walkouts, small and large, continued the week of March 28 and into the following week. On Thursday, March 30, one hundred middle school students mimicked their high school peers and marched through the streets around their campuses.¹¹⁵ After a while they returned to their classrooms.¹¹⁶

The next day, on Friday, March 31, 2006, the largest student walkout took place. An estimated 2800 students, drawn from at least nineteen area schools, marched to City Hall and then to the Regional Justice Center, which houses the area’s courts, before finishing the rally at Freedom Park, located in a predomi-

¹⁰⁸ See interview with Jairo Castellero, Student at Community College High School, in Las Vegas, Nev. (May 30, 2006) (on file with author).

¹⁰⁹ See interview with Stephanie Record, *supra* note 106.

¹¹⁰ See interview with Jairo Castellero, *supra* note 108.

¹¹¹ General Panel, LatCrit Conference, Student and Community Activism in Nevada on Behalf of Immigrants (Oct. 7, 2006). Panel included Gabriela Benito (Student Organizer), Stephanie Moreno (Student Organizer), Evelyn Flores (Student Organizer), Luz Marina (Director United Coalition of Immigrant Rights), Anita Revilla (Assistant Professor at UNLV), Julieta Marquez (UNR), as well as several UNLV law school faculty in the audience.

¹¹² See interview with Stephanie Record, *supra* 106 (“my personal reason was because my parents were undocumented and I wasn’t going to sit here and watch as they treat human beings like that. I couldn’t just watch as my people were being put down.”); see also interview with Claudia, Student at Mike O’Callaghan Middle School, in Las Vegas, Nev. (May 30, 2006) (on file with author) (stating she marched out of school because her “family immigrated from Mexico”).

¹¹³ One of the leaders of the march, Emanuel is an undocumented student who is a MECha student leader and graduated from UNLV the year of the marches.

¹¹⁴ See interview with Claudia, *supra* 112.

¹¹⁵ Bach, *supra* note 104 (reporting that Woodbury, Courtney, West, and O’Callaghan the middle schools contributed students to the walkout).

¹¹⁶ *Id.*

nantly Latina/o neighborhood.¹¹⁷ The demonstrators beat drums and carried both U.S. and Mexican flags.¹¹⁸ Signs read "Not criminals, but Just Undocumented."¹¹⁹ A heavy police escort monitored the marchers throughout the day, but the crowd was peaceful with only one arrest.¹²⁰ This time, the school district did not provide return transportation for the students.¹²¹ Like the Tuesday march, notice of the Friday march spread among the students by the modern technology of text messaging, MySpace.com, and emails.¹²² One student said, "this is for the Latino community . . . [i]t's a cause to be proud of."¹²³ The Friday march also sparked a small counter-protest of about fifty people by the White People's Party.¹²⁴

Interviews of "the person on the street" did not show much support for the walkouts. The local newspaper editorials and viewer commentary had more negative reactions than positive. Even the Spanish language media had harsh words. The criticism of the students was expressed in two ways: first, that the students were disloyal by flying foreign flags and second, that the students were not serious and had staged walkouts as an excuse for "ditching" school.

Schools began to crack down on students; some gave unexcused absences, and some threatened expulsion.¹²⁵ Clark County school officials were harshly criticized for providing transportation to the student protestors. Students felt the pressure, too, but stood firm. They realized early that if they stood together they would be immune to discipline; as one student leader stated, there was "no fear when we went together."¹²⁶ The school district announced that all students that participated in the protests would be given unexcused absences, and subsequent participation would carry the same penalty as "other students who choose to skip school."¹²⁷

In the early marches, student protestors waved foreign flags from their or their parents' homeland as a prominent part of the demonstration.¹²⁸ There were chants of "VIVA MEXICO."¹²⁹ The local newspaper found this flag-waving to be an affront to patriotism and argued that student marchers showed that their real loyalty belonged to their family's original homeland.¹³⁰ The students would eventually go on radio shows to explain that the Mexican flag was

¹¹⁷ Antonio Planas, *L.V. Students March Again*, LAS VEGAS REV.-J., Apr. 1, 2006, at A1 [hereinafter *L.V. Students March Again*]; see also Antonio Planas, *School Officials Try to Discourage Another Walkout*, LAS VEGAS REV.-J., Mar. 31, 2006, at B5 [hereinafter *School Officials Try to Discourage Another Walkout*].

¹¹⁸ *L.V. Students March Again*, *supra* note 117.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² See interview with Jairo Castellero, *supra* note 108; interview with Stephanie Record, *supra* note 106; and interview with Claudia, *supra* note 112 [hereinafter collectively *Various Interviews with Student Leaders*].

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *School Officials Try to Discourage Another Walkout*, *supra* note 117.

¹²⁶ Evelyn Flores, *supra* note 111.

¹²⁷ *School Officials Try to Discourage Another Walkout*, *supra* note 117.

¹²⁸ Planas, *supra* note 100.

¹²⁹ *L.V. Students March Again*, *supra* note 117.

¹³⁰ Interview with Jairo Castellero, *supra* note 108.

raised as an issue of ethnicity and common heritage bonds, not loyalty to the Mexican government. In later efforts, they would self-censor and tailor their message to take the attention away from the disloyalty charge and make sure that their message of immigrant rights was heard more clearly.

There were also accusations that many of the students were exploiting an opportunity to ditch school instead of marching as a form of civil activism.¹³¹ The question was “why can’t they demonstrate during weekends?” As evidence that the students were more interested in skipping school, the media pointed to students’ lack of knowledge about the ongoing immigration debate.¹³² To be sure, some students were interested in “ditching.” Gabriel Benito, a high school leader, admitted that some of the students did not really know what the march was about, but had joined the marches because the word had spread through MySpace, instant messaging, and cell phones.¹³³ However, field interviews of high school leaders found that the students were offended by this accusation. One explained, “We WERE NOT ditching . . . we were fighting for a cause and we weren’t doing anything bad . . . and they say we shouldn’t leave school to make our voices be heard then it’s sad that we HAVE to leave school in order to make our voices heard.”¹³⁴ A middle school leader put it in more practical terms: “At first they weren’t listening so it was like the only way they would listen [was] if we skipped school.”¹³⁵

Though there were certainly students who did not grasp the issues, our field interviews document that anger and fear stirred the students to stage the Las Vegas walkouts. Estimates of the undocumented population in Las Vegas place the number at only 5% of the total population;¹³⁶ however, among the students interviewed, there was a feeling that H.R. 4437 threatened just about everyone in their communities, family members, friends, or acquaintances and in some cases even the student. Further, H.R. 4437 seemed so unjust that it was un-American. The students felt that criminalizing and deporting the undocumented was “inhumane” or just plain “not fair.”

Beyond the media, students had to deal with their families. In a culture where education is considered the primary door to success, many parents were leery of allowing their children to ditch school to march. A local middle school student related the conflict: “My family wasn’t all that convinced [that I should march] either, they didn’t think that it should involve [ditching] school.”¹³⁷ However, a Las Vegas high school student offered another viewpoint: “How

¹³¹ Jane Dowling, Commentary, *Merely Ditchers*, LAS VEGAS REV.-J., Apr. 3, 2006, at B8.

¹³² L.F. Cooney, Commentary, *Two Simple Questions on Immigration*, LAS VEGAS REV.-J., Apr. 3, 2006, at B8.

¹³³ Gabriel Benito, *supra* note 111.

¹³⁴ See interview with Stephanie Record, *supra* note 106; see also Antonio Planas, *Students Protest at City Hall*, LAS VEGAS REV.-J., Apr. 4, 2006 at B1 [hereinafter *Students Protest at City Hall*] (interviewing Desert Pines High School Senior, Pedro Ramos. The response to the ditching charge was “[w]e’re not going to have a chance at school because they’re trying to kick us out . . . we might as well protest now . . . while we’re here.”).

¹³⁵ Interview with Claudia, *supra* note 112.

¹³⁶ See Cope & Schwer, *supra* note 98.

¹³⁷ Interview with Stephanie Record, *supra* note 106.

are they going to say we are wrong, when you don't do anything to find out."¹³⁸

The student walkouts had strong passion and spontaneity, but lacked a clear message. With the obvious amateurism of the first marches, the Las Vegas establishment seemed confused over what they were witnessing.¹³⁹ The Latin Chamber of Commerce, for example, never endorsed the student's political actions. After almost three weeks of student walkouts, the Las Vegas Diocese eventually weighed in and came out in support of "human dignity" and "comprehensive reform."¹⁴⁰ However, parents and friends of these predominantly first generation Latina/o students were the most supportive. Like the students who suggested that they were marching for their country and family, parents and friends recognized that the students took on the task of fighting for immigrants' rights on their and others behalf. Many of these parents and friends belonged to hometown associations, which have sprung up in Las Vegas in the last five years representing Mexicans, Guatemalans, and Nicaraguans. These are social networks of immigrants from the same town or village in their home country that established groups in the U.S. communities.¹⁴¹ They have traditionally organized around social events, like important "fiestas" celebrated in the hometown.¹⁴² Now these hometown associations wanted to be part of the protests. The array of a dozen hometown associations became organized under the umbrella of the Hermandad Mexicana (Mexican Brotherhood) and agreed to participate in the organizational coalition, United Coalition for Immigrant Rights, to plan further marches with the students, which included the Culinary Union and the churches.

B. *The Students Reorganize: The Movement Grows*

Two small rallies followed the Friday walkout.¹⁴³ In addition, University of Nevada, Las Vegas students had been observing. Many had cousins, brothers and sisters, or friends who were involved in the walkouts. Student organizations including MEChA,¹⁴⁴ Student Organization of Latinos ("SOL"), and

¹³⁸ Interview with Jairo Castellero, *supra* note 108.

¹³⁹ See Timothy Pratt, *Hispanic Protest in L.V. Lack L.A. Punch*, LAS VEGAS SUN, Mar. 29, 2006, at 1.

¹⁴⁰ Timothy Pratt, *Devil's in the Details*, LAS VEGAS SUN, Apr. 10, 2006, at 1-2.

¹⁴¹ See Immigrants Rights Marches, *supra* note 1, at 5.

¹⁴² See *id.* at 5-8. Other social events include soccer leagues. In some areas these hometown associations make common economic investments back in their hometowns. *Id.* at 6.

¹⁴³ After the Friday walkout, students who had not wanted to miss classes organized a Saturday rally on April 1st. The Saturday march, at 150 persons, including adults, workers, and family members, was one of the smallest. The group, waving U.S. and Mexican flags, marched two miles to City Hall, where they recited the Pledge of Allegiance. K. C. Howard, *School Was Out for the Day, but Most Student Protesters Weren't*, LAS VEGAS REV.-J., Apr. 2, 2006, at B1; *Students Protest at City Hall*, *supra* note 134 (noting that the last student-led protest occurred the following Monday, on April 3, when about one hundred students, primarily from the majority Latina/o Desert Pines High School, marched from their school to Las Vegas City Hall).

¹⁴⁴ MEChA is a national student organization that promotes Aztlán culture, history, education, and self-determination. Movimiento Estudiantil Chicano de Aztlán (2007), <http://www.nationalmecha.org> (follow "About Us" hyperlink).

the Latino Student Union, reached out to help the high school students. Only several years older and concerned about the negative press that the high school walkouts garnered, the university students wanted to give a voice and direction to the high school student actions. They organized a new group, Students Stand Up, comprised of middle school, high school, and college students.¹⁴⁵

The university students reinvigorated the nascent political movement. They brought an understanding of the larger issues, the political consciousness learned in the classroom, insight as to how to stage protest actions, and the savvy to communicate with national organizations and the local establishment. MEChA, in particular, previously staged protests and marches on immigrant rights and other civil rights issues and had this experience to draw on. University students also had access to professors who encouraged their activism and helped them strategically frame their message on immigrant rights.¹⁴⁶ The students developed a strategy with the media and designated spokespersons. They also started networking with the Latina/o establishment. The SOL, in particular, had ties to the Las Vegas political establishment.¹⁴⁷ They decided to stage teach-ins so students would become more educated about immigration issues and why they were marching.

During the first week of April, Students Stand Up met almost daily as part of the organizational umbrella group, United Coalition for Immigrant Rights, which included Mexican, Guatemalan, and Nicaraguan hometown associations and religious groups, as well as the Culinary Union, which the students had invited to join. They organized the next march to coincide with what national groups dubbed the National Day of Action for Immigrant Justice aimed at influencing the immigration debate in the Senate.¹⁴⁸ On Sunday, April 10, 2006, in the largest march up to that date, approximately 3500¹⁴⁹ adults as well as students, workers, professionals, and families participated.¹⁵⁰ Heeding national calls that the pro-immigrant message dominate, U.S. flags were numerous and most wore white shirts.¹⁵¹ In Reno, Nevada, whose population is less than half of Las Vegas,¹⁵² the demonstration drew 5000.¹⁵³

Elsewhere, the National Day of Action for Immigrant Justice drew large crowds. Across the nation, in more than 100 cities, from "farm towns to sky-

¹⁴⁵ See also Antonio Planas, *Students Plan Biggest L.V. March Yet*, LAS VEGAS REV.-J., Apr. 8, 2006, at A1. [hereinafter *Students Plan Biggest L.V. March Yet*].

¹⁴⁶ MEChA faculty advisors, Prof. Cristina Morales (Sociology) and Prof. Anita Revilla were very active in assisting Students Stand Up and MEChA in devising strategies.

¹⁴⁷ MEChA and SOL leadership were in agreement as to the larger issue that protest actions should be staged to fight for better immigration reform, but disagreed as to tactics, with SOL being more vocal that students should not march while school was in session.

¹⁴⁸ Antonio Planas, *What Happens Here, Happens Elsewhere*, LAS VEGAS REV.-J., Apr. 11, 2006, at A1 [hereinafter *What Happens Here, Happens Elsewhere*]; see also *Students Plan Biggest L.V. March Yet*, *supra* note 145.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ See generally Maria Newman, *Immigrants Display Boldness in U.S. Rallies*, INT'L HERALD TRIB., Apr. 11, 2006, at 6; see also *What Happens Here, Happens Elsewhere*, *supra* note 148.

¹⁵² U.S. CENSUS BUREAU, STATE AND COUNTY QUICK FACTS, RENO, NEV. (2005), available at <http://quickfacts.census.gov/qfd/states/32/3260600.html>.

¹⁵³ *What Happens Here, Happens Elsewhere*, *supra* note 148.

scraper canyons," the crowds were unprecedented, uniformly exceeding the expectations of organizers and police.¹⁵⁴ Dallas's "Mega-marcha," estimated between 350,000 and 500,000 participants, was the second largest march and astounded everyone.¹⁵⁵ In Phoenix, Arizona, the crowd of 100,000 to 300,000 set a local record for a civil rights demonstration.¹⁵⁶ New York's march drew 100,000. Elsewhere the numbers were unprecedented as well: in San Diego, California, 50,000; in Atlanta, Georgia, 40,000 to 80,000; in St. Paul, Minnesota, 30,000 to 40,000; in San Jose, California, 25,000; in Salt Lake City, Utah, 20,000; in San Antonio, Texas, 18,000; in Houston, Texas, 10,000; in Denver, Colorado, from 7,000 to 10,000; in Boston, Massachusetts, 10,000; in Indianapolis, Indiana, 10,000; in Salem, Oregon, 10,000; in Madison, Wisconsin, 10,000; in Memphis, Tennessee, 10,000; in Omaha, Nebraska, from 8,000 to 10,000; in Lincoln, Nebraska, 4,000.¹⁵⁷ The ending march in Washington, D.C., drew from 400,000 to 870,000, making it one of the largest demonstrations at the Capitol.¹⁵⁸ The demonstrations also hit small town America; in communities like Hyde Park, New York; Garden City, Kansas; Belle Glade, Florida; and Silver City, North Carolina, thousands demonstrated.¹⁵⁹ *The Giant did awaken!*

Back in Las Vegas, the April 10 march finally put the focus on the message of immigration reform with justice, rather than on the subsidiary issues on which Las Vegas had theretofore been focused, the manner of the student walkouts. The mixed crowd of adults, youths, families, and workers flew U.S. flags and capped the demonstration by pledging allegiance to the flag in front of the federal courthouse. Students Stand Up delivered five written requests to local government workers (no politician attended the event although invited):¹⁶⁰ (1) avoid classifying illegal immigrants as criminals, (2) reject the fence along the border, (3) improve working and living conditions for immigrants, (4) create an easier/more certain path towards citizenship, and (5) take measures to help reunify families.¹⁶¹ In addition, they delivered 2000 letters to Congressional representatives and local officials.¹⁶²

¹⁵⁴ See generally *Immigration Rallies Flood Cities Small and Large: Protesters Gathered in Farm Towns in the Midwest and in the Skyscraper Canyons*, USA TODAY, Apr. 11, 2006, at 1 [hereinafter *Immigration Rallies Flood*]; see also Bada et al., *supra* note 1.

¹⁵⁵ Bada et al., *supra* note 1; Anabelle Garay, *Immigration Rallies Attracts Crowds; If We Don't Protest They'll Never Hear Us*, ABERDEEN AM. NEWS, Apr. 10, 2006, at A1; *Churches Led Latinos from Pews to Protests*, DALLAS MORNING NEWS, Apr. 15, 2006, at B5 (relating that churches were a key influence in the marches).

¹⁵⁶ *Immigrants Rights Marches*, *supra* note 1; see *Immigration Rallies Flood*, *supra* note 154.

¹⁵⁷ *Immigrants Rights Marches*, *supra* note 1.

¹⁵⁸ *Id.*; see also Maura Reynolds & Faye Fiore, *The Immigration Debate*, L.A. TIMES, Apr. 11, 2006, at A1 (reporting as a comparison the 1969 rally opposing the Vietnam War estimated at 600,000; the fabled Dr. Martin Luther King, Jr. "I have a dream" speech on the Mall of 1963 at 250,000; and the 2004 March For Women's Lives estimated at 750,000).

¹⁵⁹ *Immigrants Rights Marches*, *supra* note 1; Newman, *supra* note 151.

¹⁶⁰ See *What Happens Here, Happens Elsewhere*, *supra* note 148.

¹⁶¹ *Id.*

¹⁶² *Id.*

The community reaction turned from overwhelmingly negative to more of a debate with commentary from both sides.¹⁶³ Teachers wrote into the local paper to approve of the patriotism demonstrated by the marchers. More welcomed the honest demonstrations and commentary based on immigration. The community media was now focused more on the actual issues of immigration, instead of whether the students should or should not miss school to participate in the protests.¹⁶⁴ The goal of making the humanity of immigration reform the central focus of debate was finally achieved.

C. *May Day: A Day Without Immigrants*

Following the success of the weekend of demonstrations on April 10, organizers nationally and locally announced the biggest planned march of all, a Day Without Immigrants, for May 1, 2006. They hoped to harness the energy of the March and April marches to foment a nationwide walkout to demonstrate immigrants' economic clout and importance to the function of the U.S. economy.¹⁶⁵ Modeled on the movie with the same name,¹⁶⁶ the "Day Without Immigrants" boycott would bring home the fact that much of America could not function without immigrants by asking the entire immigrant community and supporters of immigrant civil rights to skip work, not buy any products manufactured by U.S. companies, and instead demonstrate on the streets. The boycott was international; in Mexico there was an ongoing campaign to buy "nothing gringo."¹⁶⁷

As May 1 drew closer, many within and outside of the immigrant rights movement became increasingly nervous and critical. One concern was that a national boycott would have unintended consequences and potentially hurt workers because skipping work could lead to being dismissed. Employers would be hurt as well, and many were sympathetic to the pro-immigrant movement and opposed H.R. 4437. Some feared that such a plan might result in a backlash and new crackdowns on those employing predominantly ethnic workers on the grounds that such workplaces would likely contain undocumented

¹⁶³ See Dowling, *supra* note 131 and Cooney, *supra* note 132, and accompanying text; see also Commentary, *District Will Bus Ditchers, Not Athletes*, LAS VEGAS REV.-J., Apr. 3, 2006, at B6. Predictably, the editorials and opinion pieces of the only local paper, the LAS VEGAS REVIEW-JOURNAL, were generally negative, and negative letters from readers outnumbered positive ones by about three or four to one.

¹⁶⁴ *Id.* The negative reactions became a bit more poignant. Many members of the community found the requests of the march to be a bit much. Readers of the *Las Vegas Review-Journal* felt that the protests were asking for something for nothing. Essentially, one could not go to Mexico and make these requests, why should our government bend to the political pressure of the marches.

¹⁶⁵ Marcel Sanchez, *Immigration Movement Presses Ahead*, SEATTLE POST INTELLIGENCER, Apr. 21, 2006, at B6; see also Evelyn Flores, *supra* note 111.

¹⁶⁶ A DAY WITHOUT A MEXICAN (Altavista Films 2004).

¹⁶⁷ Laurence Iliff, *Poll: Mexicans Believe Immigrants in U.S. Doing Necessary Work*, DALLAS MORNING NEWS, Apr. 16, 2006, at A1. *U.S. Firms Say Mexican 'Nothing Gringo' Boycott Could Backfire*, FOXNEWS.COM, (Apr. 26, 2006), [HTTP://WWW.FOXNEWS.COM/STORY/0,2933,193264,00.HTML](http://www.foxnews.com/story/0,2933,193264,00.html). Mexicans were encouraged to boycott Wal-Mart, McDonald's, and other U.S. retailers doing business in Mexico. *Id.*

workers.¹⁶⁸ Others criticized the date, since May Day is associated with communist and anarchist demonstrations¹⁶⁹ and the infamous Haymarket riots in 1886 during which police killed protesting workers.

The momentum of the early spring marches made it clear that in spite of criticism and potential backlash, there would be a massive march on May 1. Immigrant rights groups counseled caution. Local political figures and businesses that were content to observe the unfolding protests now paid attention and urged pragmatic compromise. From city to city what unfolded was local improvisation with local flavor. In Denver, the Colorado Grassroots Movement for Immigrant Justice that organized the March 25 and April 10 marches decided not to participate in the May 1 events.¹⁷⁰ In Los Angeles, Mayor Antonio Villaraigosa, who embraced the marchers in March, and Cardinal Mahony, who was among the first public figures to denounce H.R. 4437, urged a less radical approach and asked people to join in a peaceful after work protest.¹⁷¹ In New York, the coalition of immigrant rights organizations that produced the April 10 rally of 100,000 called on people to leave work or school at noon and form "human chains" for twenty minutes, holding up signs that proclaimed "WE ARE AMERICA and "I Love Immigrant New York!"¹⁷² This "do what's comfortable" approach was picked up by Spanish DJs and media, who urged listeners to participate in whatever form listeners chose and not to risk their jobs.¹⁷³

Locally in Las Vegas, key players who were observing the immigration marches from the sidelines now became actively involved in ensuring that the May Day boycott did not affect Las Vegas's key industry, gaming. Immigration has been a key issue for the Culinary Union Local 226, which has more than 60,000 members that do the "back of the house" work in the Strip casinos such as making beds and preparing food. About 45% are Latina/o; many are immigrants.¹⁷⁴ The Culinary Union pays attention to immigration issues. In 2002 during contract negotiations, the Culinary Union obtained an agreement from employers not to penalize an employee's seniority status if an employee's immigration papers were in transition.¹⁷⁵ The Union also helped organize the

¹⁶⁸ Myung Kim, *Backlash, Crackdown Impede Plans for Immigrant Boycott*, DENVER ROCKY MOUNTAIN NEWS, Apr. 21, 2006, at A5.

¹⁶⁹ Sarah Ferguson, *No Justice, No Work: Immigrants Tap May Day's Radical Roots*, VILLAGE VOICE, Apr. 28, 2006, available at <http://www.villagevoice.com/news/0618,ferguson,73040,6.html>.

¹⁷⁰ See Kim, *supra* note 168.

¹⁷¹ Tyche Hendricks & Joe Garofoli, *Spanish-Language Radio DJs Tone Down Call for Action on May 1*, S.F. CHRON., Apr. 26, 2006, at A4; Hector Becerra & Andrew Blankenstein, *L.A. Authorities Brace for Huge Immigration Marches*, L.A. TIMES, Apr. 28, 2006, at A1.

¹⁷² Ferguson, *supra* note 169.

¹⁷³ Hendricks & Garofoli, *supra* note 171.

¹⁷⁴ Interview Pilar Weiss, Political Director, Las Vegas Culinary Union, in Las Vegas, Nev. (Jan. 3, 2007); Interview Punam Mathur, Senior Vice President of Corporate Diversity, MGM-Mirage Corporation, in Las Vegas, Nev. (Jan. 2, 2007) (transcripts on file with author). We interviewed Punam Mather and Pilar Weiss to see how the negotiations started and why they were successful.

¹⁷⁵ Interview Pilar Weiss, *supra* note 174. Immigration status often shifts from one category to another, as personal circumstances change or a visa holder actively tries to change

2003 immigration freedom rides from Las Vegas, sponsoring several buses to Washington, D.C.¹⁷⁶ Its political arm monitors immigration issues both locally and nationally. The Union lobbied the Nevada legislature to stave off anti-immigrant legislation and collaborated with UNLV law school faculty in staging educational events for members and the public. Employers, too, were conscious that immigration was a big issue. At the MGM-Mirage, the largest employer on the Strip with Nevada's largest unionized work force, at least 40% of the workforce is immigrant and/or Latina/o.¹⁷⁷ Moreover, the casino industry takes a sophisticated view of immigrant labor. An international workforce, which includes Cirque de Soleil acrobats, French chefs, and Japanese-speaking hosts, has helped the lucrative Las Vegas Strip hotels evolve from desert casinos to a rich corporate enterprise that appeals to an increasingly global affluent clientele.¹⁷⁸

When the boycott and marches for May 1 were announced, they were planned for the daytime because the intent was to have a large negative economic impact and demonstrate how dependent employers and retail businesses are on immigrant labor. The relationship between the Culinary Union and employers has not been confrontational for many years; particularly on the issue of immigration, there has been cooperation in support of sensible immigration reform.¹⁷⁹ The Culinary Union contacted casino employers to discuss how to hold the May 1 march to minimize the impact on the Strip business and yet allow employees to be heard on this important issue.¹⁸⁰ "Casinos were nervous about [walkouts]," and members of the union were scared by the pressure of having to walkout,¹⁸¹ explained Pilar Weiss, the Culinary Union's political director. The casinos "were thrilled with the idea (of working together) . . . [t]hey did not want to be the oppressor employer."¹⁸² With such a large immi-

her status to a more favorable one. Only certain visas allow the holder to work. Technically, an employee should be immediately fired when her status shifts to a visa that does not allow her to work legally in the United States; when such an employee is rehired in the event that her visa is normalized, she would have to start working on her union seniority from point zero. For example, an employee who is in the process of obtaining permanent resident alien status (a green card) may at some point in the process be unauthorized to work. What the Culinary Union negotiated was that such an interruption in the legal status of a worker would not affect an employee's benefits of seniority.

¹⁷⁶ *Id.*

¹⁷⁷ Interview Punam Mathur, *supra* note 174. (This information is based upon MGM's Human Resources Department's employee facts).

¹⁷⁸ *Id.* ("As we have evolved, immigrant labor has increased . . . [b]ecause we thrive off of each other. French Chefs, Chinese Acrobats . . ." remarked Mather about the multi-cultural scene in the casino industry).

¹⁷⁹ Interview Pilar Weiss, *supra* note 174 ("a lot of people were surprised that this happened, but we worked with them for years . . . this is a result of years and years of collaboration."); Interview Punam Mathur, *supra* note 174 (the industry's position on immigrant labor is the same as [the Union's] because we thrive off each other").

¹⁸⁰ Interview Mathur, *supra* note 174 ("the union probably approached us" but the groups had a long history together in Las Vegas and they had already been in contact over what the employees would do during the march).

¹⁸¹ Interview Pilar Weiss, *supra* note 174.

¹⁸² *Id.* ("A lot of people were surprised that this happened, but we worked with them for years . . . this is a result of years and years of collaboration."); Interview Punam Mathur, *supra* note 174.

grant and Latina/o workforce, a walkout could wreak havoc. Both sides quickly saw that for a billion dollar enterprise, one day work stoppage would not have significant long-term impact, but tourists who were in Las Vegas that day would be inconvenienced.¹⁸³ After the idea of working together was raised, both sides wasted little time in working on a “no pain” approach. Las Vegas is so dependent on immigrant labor, both authorized and unauthorized, that it was senseless to hurt the gaming industry and local businesses just to make such an obvious point.¹⁸⁴

The casinos and the Culinary Union agreed to move the May 1 march to after work hours. A twilight rally would be staged at the Fremont Street Experience, and marchers would proceed along a five-mile route to the New York-New York, which is at the beginning of the lucrative Strip properties, in front of Las Vegas’s miniature version of the Statue of Liberty, providing a poetic ending to the demonstration. There would be another rally there. The church weighed in to support the rally by staging a vigil on behalf of immigrant workers.

Both sides still had to persuade the workers not to ditch work. The Union and employers came up with an incentive for workers to stay on the job on May 1 by offering a joint petition to sign and send Congress. It was almost identical to the Students Stand Up April 1st petition, and it asked Congress to “adopt a plan for comprehensive immigration reform that includes [1] a path to citizenship; [2] plans for the future flow of workers and family members; [3] protects workers; reunites families; and [4] helps communities promote citizenship and civic participation.”¹⁸⁵ Chairmen and CEOs of Harrah’s, Wynn, MGM-Mirage, and Boyd Gaming were the first to sign the petition at the press conference held a week before the march.¹⁸⁶ This solution worked, for the most part; only three out of 49,000 workers missed work at MGM-Mirage properties on May 1.¹⁸⁷ Miguel Abad, a table busser at the Paris Hotel and Casino stated that he signed the petition instead of leaving work because “[o]ne day [of work] is not going to make a difference . . . [r]ather than stay out of work, we have to send a message to Congress.”¹⁸⁸ Both sides felt it would be more powerful if the casino industry stood together with their workers in demanding sensible immigration reform. For the workers, “the idea that Gary Loveman [CEO of Harrah’s] and Terry Lanni [CEO of MGM-Mirage] were going to say to the establishment that we support those housekeepers and the rest . . . [was] powerful.”¹⁸⁹ From the Union’s point of view, a strong joint statement was more politically powerful and longer lasting than a temporary shutdown.¹⁹⁰ The Union and the industry agreed to deliver the petition jointly to Congress; execu-

¹⁸³ *Id.*

¹⁸⁴ See also Interview Punam Mathur, *supra* note 174 (“Everyone knows that the community is full of immigrant labor.”).

¹⁸⁵ Howard Stutz, *Casinos Push Petition*, LAS VEGAS REV.-J., Apr. 27, 2006, at A4.

¹⁸⁶ *Id.*

¹⁸⁷ Jennifer Robinson, *Boycott’s Effects Mixed*, LAS VEGAS REV.-J., May 3, 2006, A1.

¹⁸⁸ Stutz, *supra* note 185.

¹⁸⁹ Interview Pilar Weiss, *supra* note 174.

¹⁹⁰ *Id.*

tives, Union officials, and workers formed a joint delegation and personally lobbied Congress for immigration reform.¹⁹¹

Students led the early rallies and demonstrations, but now the adults were taking over. Given their different philosophical approaches, the students and the Culinary Union clashed. The involvement of other groups, like Los Angeles-based A.N.S.W.E.R.,¹⁹² and the United Coalition for Immigrant Rights,¹⁹³ did not dilute the conflict. Yet, it fell on the Culinary Union to be the go-between and negotiate with the casino employers, the church, the political establishment, and the police.¹⁹⁴ The college students, in turn, saw the Culinary Union as “selling out” and as co-opting an important grassroots movement.¹⁹⁵ Because of their leadership role in the early protests, the students saw themselves as the authentic voice of the immigrant movement.¹⁹⁶ They viewed their investment of labor and organizational efforts as entitling them to a key leadership role.¹⁹⁷

Taking an active role in the May 1 demonstration was not without risk. The Culinary Union risked alienating membership.¹⁹⁸ Commentary and opinions within the town remained sharply divided. The Union also put on the line the relationships that they established over many years of work and organizing labor protests. They had a disciplined style of running rallies. “We are good at it,” said Weiss,¹⁹⁹ and that credibility would be put on the line. In spite of difficulties, the Culinary Union recognized that this was a very important issue.²⁰⁰ They put their entire wherewithal into the effort.

¹⁹¹ Stutz, *supra* note 185.

¹⁹² A.N.S.W.E.R. is a PAC coalition whose stated purposes are to campaign against U.S. intervention in developing countries and to campaign for economic justice for the U.S. working classes. For further information about this organization go to http://answer.pephost.org/site/PageServer?pagename=ANS_homepage.

¹⁹³ Lynette Curtis, *Demonstrations Took Toll on Police, Sheriff Says*, LAS VEGAS REV.-J., May 4, 2006, at A1.

¹⁹⁴ Interview Pilar Weiss, *supra* note 174 (“[T]here was relatively little contact between the students and the Las Vegas establishment . . . we would meet with the companies, we were the common thread between the college students and the companies. We then became the conduit . . . we had a tough time to facilitate the conversation.”). Interview Punam Mathur, *supra* note 174 (“[W]e did not actually speak with the students at all.”).

¹⁹⁵ Interview Pilar Weiss, *supra* note 174; *see also* Anita Revilla, *supra* note 111 (“Our group felt like we had been left out of the loop at that point . . . we didn’t talk with the Union or anyone.”).

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ The first question to be considered by the Union was whether they really wanted to be part of the rallies; this was, after all, a national movement, and there would have been some kind of a march in Las Vegas no matter what. There was a risk of alienating its own members that were not immigrants or minorities by possibly ‘taking sides’ on the debate. However, Weiss was not concerned about tensions within the Union between ethnicities or other separations, stating “I’ve found that with workers in Las Vegas, there is an unbelievable amount of tolerance compared to others.” They are in close quarters in high stress in environments, which creates a more tolerant environment. *See* Interview Pilar Weiss, *supra* note 174. Due to the large amount of integration that had already transformed the Union work force, the Union did not believe that their participation in the pro-immigrant movement would create significant conflicts within the union itself. *Id.*

¹⁹⁹ Interview, Pilar Weiss, *supra* note 174.

²⁰⁰ *Id.*

The students clashed with the Culinary Union over key organizational points. The key point of conflict was that the students and other grassroots groups, like the Los Angeles based A.N.S.W.E.R., disagreed on whether moving the rally to nighttime followed the spirit of the boycott because the purpose was to raise awareness as to what it would be like if immigrant workers were not on the job for one day.²⁰¹ Students Stand Up and A.N.S.W.E.R. organized a daytime march and urged workers to skip work and students to walkout.²⁰² Second, the student groups were largely Latina/o, and they wanted more Latina/o speakers at the rallies.²⁰³ By contrast, the Union and the casino industry wanted to avoid any inference that this was a Latina/o led event; they preferred a multi-ethnic feel and spirit.²⁰⁴ The Culinary Union is proud that their multi-ethnic membership is tolerant and works together well.²⁰⁵ Third, the student groups wanted a permit that would close the Strip down. The Culinary Union felt that obtaining such a permit would be tricky and pragmatically elected to work directly with the police, permit or no permit, as they had in past worker rights marches.²⁰⁶ The May 1 rally was not to be permitted; instead, the Union would post an insurance bond for potential damages, and the organizers would work to manage a peaceful demonstration.²⁰⁷ The groups did work together on publicity. Students Stand Up and A.N.S.W.E.R. issued press releases and papered the Latina/o neighborhoods with fliers, while the Unions used their connections with local Spanish television and radio stations.²⁰⁸

Nationally, groups around the nation expected huge turnouts, as well as in Las Vegas.²⁰⁹ But nothing prepared the organizers for the size of the rally, estimated by a local paper using aerial photographs at 63,000, and by the

²⁰¹ The students wanted the march to occur during the daytime, while the Union worked tirelessly to make sure that it was at night. Students accused the Union of laying down to corporate interests by switching the rally time to the night. Regardless, the students benefited from the change in time. The evening time made it unnecessary to ditch school, and if they did, they only missed a fraction of the day. The school once again gave unexcused absences to those students who missed; in addition, teachers who skipped were subject to discipline. El Dorado High School reported the highest level of absenteeism. See Mike Kalil, *Thousands March on Strip*, LAS VEGAS REV.-J., May 2, 2006, at A1; Mike Kalil & Antonio Planas, *Local Organizers Expect Big Turnout*, LAS VEGAS REV.-J., May 1, 2006, at A1.

²⁰² See Kalil & Planas, *supra* note 201 (A.N.S.W.E.R. and the students staged a march that started at 8:00 a.m. designed to honor the boycott; their fliers urged students to skip school).

²⁰³ General Panel Discussion, *supra* note 111.

²⁰⁴ The casino industry especially has evolved due to an influx of immigrants and the rapid expansion of the industry in town. The Culinary Union also had an interest in keeping the rally as multicultural as possible. Their organization has people of all races and they did not want to alienate any of their members who were not Hispanic. Their fliers and advertisements are always published in five to seven languages, showing the diversity within the Union. Interview Pilar Weiss, *supra* note 174.

²⁰⁵ Interview Pilar Weiss, *supra* note 174. ("I've found that workers in Las Vegas, there is an unbelievable amount of tolerance . . . , [e]normous casinos have people in close quarter and high stress creates a more tolerant environment. There is some tension, but not . . . much. We've always connected to civil rights and connections between all groups[.]").

²⁰⁶ *Id.*

²⁰⁷ *Id.*; see also Curtis, *supra* note 193.

²⁰⁸ Interview Pilar Weiss, *supra* note 174.

²⁰⁹ See Kalil & Planas, *supra* note 201.

organizers as between 80,000 to 100,000.²¹⁰ The workers, families, professionals, and students who marched from downtown Las Vegas to the Strip wore mostly white T-shirts and waved mostly U.S. flags, as the Spanish media flyers instructed.²¹¹ The human mass closed down half of the Strip;²¹² only the fabled Las Vegas New Year's Eve revelry came close to this feat. During the five-mile, five-hour trek, some joined, parking their cars and jumping out to join the demonstrators,²¹³ while others peeled off and took buses home.²¹⁴ Traffic was tied up for hours.²¹⁵ About 220 police officers were on duty.²¹⁶ Because there was no permit for the event, the police could have shut down the march at any time, but the Sunday peaceful afternoon feel of the march,²¹⁷ its size, and the will of the group made it clear that the crowd would reach the endpoint, Las Vegas's version of the Statue of Liberty. Stunned tourists stood outside their hotels²¹⁸ and joined in the crowd's chants of "*Sí Se Puede*" (yes we can). One exclaimed, "this is wild. I have never seen anything like this before . . . this is history."²¹⁹ Some in the crowd risked their jobs.²²⁰ Others forced their bosses to close their businesses.²²¹ Several Latina/o-owned businesses closed in support of the marches.²²² Mexican restaurants and strip malls catering to the Latina/o buyer were empty.²²³ The daytime boycott march did not garner comparable response and enthusiasm to the nighttime event, but for the organizers, this march was more in line with the national marches.

For those involved in the May 1 evening march, it was an electrical moment of common humanity, perhaps even life-changing. Evelyn Flores, one of the student leaders of Students Stand Up, said "I have never lived, felt, such intense emotions in my life."²²⁴ Yazel Navarette, another student leader, "felt the power on the street."²²⁵ Punam Mather, an MGM-Mirage executive who addressed the crowd at the Fremont rally, described emotions as "very electric and inclusive . . . a celebration of humanity here in Vegas . . . a very positive

²¹⁰ David Kihara, *Figures a Big Debate*, LAS VEGAS REV.-J., May 9, 2006, at B1. The local police estimated the crowd at 8000, but there was general agreement by all involved that this estimate was too low. *Id.*

²¹¹ See Kalil, *supra* note 201.

²¹² *Id.*

²¹³ *Id.*

²¹⁴ This was the experience of the author. The crowd was organic and estimates probably undercounted the size of the crowd.

²¹⁵ Curtis, *supra* note 193.

²¹⁶ *Id.*

²¹⁷ Interview Pilar Weiss, *supra* note 174.

²¹⁸ See Kalil, *supra* note 201.

²¹⁹ *Id.*

²²⁰ *Id.* (reporting that one interviewed worker recounted that his construction company boss had threatened all workers that they would be fired if they skipped work the day of the march).

²²¹ *Id.*; see also Robinson, *supra* note 193.

²²² Henry Brean, *Restaurant Owner Cheers Dreamers*, LAS VEGAS REV.-J., May 2, 2006, at A9. (for example, the Doña Maria restaurant closed for the first time in twenty-five years).

²²³ Robison, *supra* note 187.

²²⁴ Evelyn Flores, *supra* note 111.

²²⁵ Timothy Pratt, *Immigrants Celebrate "This Historic Moment,"* LAS VEGAS SUN, May 3, 2006, at 1, 3.

experience.”²²⁶ Pilar Weiss, the political director of the Culinary Union and one of the key organizers of the event, observed that the multi-ethnic staging worked. The crowd at the Fremont Street Experience rally, which was predominantly Latina/o, erupted at the conclusion of the Japanese Tarkio drum performance and fell quiet when the African American gospel choir sang *Amazing Grace*.²²⁷ The largest cheers came when speakers spoke of human dignity that all are due and that immigrants were contributors to the American Dream. The moment was one of “common humanity and hope.”²²⁸

After the rally, the student groups issued a press release claiming responsibility and credit for the march.²²⁹ For the Culinary Union and other organizers of the May 1 event, it was a quizzical moment.²³⁰ In a less public venue, the students claimed that the Culinary Union had “used” their labor in passing out flyers and in organizational efforts.²³¹ The tension between the students and the union giant, the Culinary Union, was not unique to Las Vegas. In other venues, parties that had never worked together before were thrown together in a common purpose and a moment that all understood as important for immigrant rights.²³² In other cities, the unions, with their muscle, experience, and finances, were instrumental in making the marches successful;²³³ consequently, it felt natural for unions to take the lead. Students, on the other hand, had taken the early lead on the issue, but they did not have the vast political and organizational experience of other groups. For hometown associations, this was their first time out in staging a major political event. These diverse groups were thrown together. The newcomers tended not to appreciate the history of civil and worker rights protests and the tremendous struggle of those who had forged the way; youthfulness and emotion made it unlikely that they would defer to experience. The old hands insisted on making the marches multi-ethnic and about immigrants, while the students wanted to tie the marches to the Latina/o immigrant experience. The differences were not only about strategy, but also about viewpoint and identity. The two sides did not meld, and it is unclear whether either side learned from the other. Each has now gone its separate way.

²²⁶ Interview Punam Mather, *supra* note 174.

²²⁷ Interview Pilar Weiss, *supra* note 174.

²²⁸ *Id.*

²²⁹ Press Release, United Coalition for Immigrant Rights, Learn the Truth, at UNLV Housels House (May 4, 2006) (on file with author).

²³⁰ Interview Pilar Weiss, *supra* note 174 (“We found it interesting to work with the students . . . [i]t was puzzling for them to tell us we didn’t understand sacrifice . . . [they didn’t understand the] pretty detailed history of the Culinary Union and the work we’ve done here forever.”).

²³¹ Evelyn Flores, *supra* note 111 (“we stayed up until midnight for days on end . . . and they “stole” our labor).

²³² Interview Leslie Frane, Executive Director of Local 503 of the Service Employees International Union, in Brooklyn, N.Y. (Nov. 27, 2006) (recounting similar tensions with students and other newcomer immigrant rights groups).

²³³ *Id.* See also Teresa Wantanabe & Joe Mathews, *Unions Helped to Organize “Day Without Immigrants”*, L.A. TIMES, May 3, 2006, at B1, B9 (recounting that labor’s organizational efforts in managing the myriad of details accounted for the success of the two Los Angeles marches).

One could speculate whether the May 1 evening demonstration was unique to this location, another example of the city's titillating slogan that "what happens in Vegas stays in Vegas." Shutting down the Strip, without a permit and as part of a civil rights protest was a tremendous feat, one that is not likely to repeat itself in such a profit-oriented city. Yet the cooperation between protestors and the establishment was extraordinary.²³⁴ The Culinary Union's organizational work was essential to making the rally run smoothly, but what pushed the protest were the less established groups, the immigrant hometown associations, newly-formed civil rights groups, and coalitions of student activists, mostly Latina/o first generation university students and high school students.

Without the grassroots newcomers there would not have been a single march. Because Las Vegas is one of the cities that has experienced the greatest absolute growth in its immigrant population in the last fifteen years, the Las Vegas establishment (which includes the unions) desires good relations with the immigrant community. There is such high demand for the unskilled and skilled labor unauthorized workers provided that "everyone knows" Las Vegas owes its prosperity to all the hard working immigrants. The casino industry and many others, like construction, landscaping, and restaurant services, cannot survive without the hard working immigrant workforce. Even so, thousands of casino jobs go unfilled every month. Each casino employs hundreds of thousands of workers, and in the last decade, Las Vegas has been constantly opening new and more audacious casinos. Cutting off immigrant flows would cut off the very life blood that makes the city prosperous. The unions do not count undocumented workers in their work force, at least not officially, but many documented immigrant workers, including casino workers, are part of a mixed family; that is, some member of their extended family or a close friend is undocumented. Las Vegas, which claims to be a global city, is a place where its population is increasingly immigrant and foreign-born. Although plenty express hostility to immigrants, underneath it all, "everyone knows" that immigrants are like the goose that lays the golden egg. Their work and ambition is essential to the welfare of the city, and killing the goose would make all the golden eggs vanish.

III. MAY DAY ELSEWHERE

The success of the marches was real and undeniable. On this day, images of over one million people,²³⁵ mostly Latina/os, demonstrating joyfully and peacefully, filled television screens as they carried signs, such as "*hoy marchamos, mañana votamos*" and "I am not a criminal."²³⁶ Immigrants,

²³⁴ The "man on the street" did perceive something funny was going on. How could it be possible to have such a massive demonstration, without a permit, and with police escort? Curtis, *supra* note 193 (interview questioning why the demonstration occurred without a permit).

²³⁵ The news services reported 1.1 million marching in over two dozen cities. *Immigration Marches Across the U.S.*, MSNBC.COM, May 1, 2006, <http://www.msnbc.msn.com/id/12573992>.

²³⁶ See photo gallery, *supra* note 29.

many of them unauthorized, discovered the power of collectivity. The trigger was the controversial H.R. 4437 bill and its criminalization provisions. But by May 1 the bill had taken a back seat; it was clear that H.R. 4437 was dead in the Senate. The boycott achieved its goal of making America recognize the extent to which the unauthorized, in the thousands, were part of their communities, and the authorized, in the millions, cared about how immigrants are dealt with. Workers were willing to forfeit pay to make their presence known and their voices heard. When over one million demonstrate on one day, they shut down streets, traffic, and businesses. Some small businesses were hurt, and many more that depended on immigrant or Latina/o labor improvised.²³⁷ Local governments and police nationwide cooperated with the organizers. Everyone in America took notice, whether they wanted to or not.

A. Los Angeles

Los Angeles claimed one of the largest rallies with an estimated 650,000 to 700,000 demonstrating in a festive mood.²³⁸ Throughout the city, thousands of businesses were shut down.²³⁹ Trucking companies that served the ports of Los Angeles and Long Beach estimated that up to 90% of their drivers did not report to work.²⁴⁰ There were massive student walkouts; nearly 72,000, or roughly one in four Los Angeles Unified School District students²⁴¹ skipped school and attended the rally. There were also marches throughout the rest of the valley including Huntington Beach, Santa Ana, Santa Barbara, and the inland towns.²⁴² The Los Angeles marches were openly supported by many powerful political figures, including Mayor Antonio Villaraigosa, who served as spokesperson for the protestors and goodwill ambassador in multiple televi-

²³⁷ Agriculture, restaurant services, construction, landscaping, meatpacking, and private home care services (like house cleaning and nanny care) are all industries heavily dependent on immigrant labor, much of it estimated to be unauthorized. See PEW HISPANIC CTR., FACT SHEET: THE LABOR FORCE STATUS OF SHORT-TERM UNAUTHORIZED WORKERS (Apr. 13, 2006), available at <http://pewhispanic.org/files/factsheets/16.pdf>. One industry that was visibly affected (because there are only a handful of employers) was meat packing. Tyson Foods, the world's largest meat producer, shut down about a dozen of its plants through the Midwest. Eight of fourteen Perdue Farms chicken plants closed. Businesses heavily dependent on unauthorized workers were also reportedly affected. According to reports around the country, many landscaping businesses and construction sites had to pare down. *Immigration Marches Across the U.S.*, *supra* note 235; see also Barbara Rose et al., *Work Slows but Goes On: As Many Businesses Find Workarounds, Others Close for Day*, CHI. TRIB., May 2, 2006, at 1.

²³⁸ Immigrants Rights Marches, *supra* note 1. The L.A. Times estimate was 250,000 to 400,000 demonstrators. See Anna Gorman et al., *Immigrants Demonstrate Peaceful Power*, L.A. TIMES, May 2, 2006, at A1. It is clear that the cost of the rallies to local governments was significant. No figures have been compiled nationally of the cost to local governments of the thousands of demonstrations involving well over two million marchers. In Chicago alone, police estimated that the marches cost \$670,000 in staffing and other costs. See Esther Cepeda et al., *U.I.C. Study, May Marchers Mostly U.S. Citizens: Immigration Rally set Wednesday to Call for Stop to Raids*, CHI. SUN-TIMES, Jul. 18, 2006, at A17.

²³⁹ Gorman et al., *supra* note 238.

²⁴⁰ *Id.*

²⁴¹ *Immigration Marches Across the U.S.*, *supra* note 235.

²⁴² *Id.*

sion interviews, and the archbishop. As in Las Vegas,²⁴³ unions were key sources of funding and provided organized security for the marches.²⁴⁴

B. Chicago

Chicago laid claim to staging the largest demonstration on May 1, with an estimated 400,000 to 700,000.²⁴⁵ The May 1 rally was even more successful than the March immigrant rights rally, the catalyst for the immigrant rights protests.²⁴⁶ Meat packing plants idled, retail stores serving the Latina/o community shut down, and elsewhere, businesses improvised with skeleton crews and rescheduled operations.²⁴⁷ Because of its immigrant roots, in more than any other city, Chicago demonstrators from multi-ethnic immigrant groups such as Irish, Bosnians, Poles, Africans, Filipinos, and Asians were visible.²⁴⁸ Still, Latina/os were the dominant ethnic group, representing approximately three-quarters of the demonstrators.²⁴⁹ Also in Chicago, there was a concerted attempt to link the immigrants' rallies to African Americans' push for civil

²⁴³ There were key differences between the Las Vegas and the Los Angeles marches. The first and most important difference is that there was a lot of communication and cooperation between the Unions and the industries in Las Vegas. Most of the Las Vegas businesses closed for symbolic reasons to call attention to and support the night-time marches. Second, there were not many notable politicians seen at the Las Vegas rally. Due to the timing differences, Los Angeles students had to miss school to go and they attended en masse. The Las Vegas march also had many students; since it occurred at night, students did not have to ditch school. Also, one must note that the Los Angeles marches had a lot of people participate that were undocumented workers and their absence was very important in closing businesses around the town. Third, the Los Angeles march was primarily a Latino-supported movement: Latin PAC's and Mexican flags were still quite dominant. The Unions and the Casinos had an important goal of making this a multicultural event. In Las Vegas, the rallies were hosted and supported by an industry with lots of immigrants, but nearly all employees are documented, legal immigrants. Lastly, many different groups organized the early marches. Political action committees, the media, and the Unions all helped create La Gran Marcha, while the Las Vegas marches were spontaneous student-led movements.

²⁴⁴ Watanabe & Mathews, *supra* note at 233. Other organizations and PACs helped with funding and promotion, but the unions did the most. The Unions that were part of the march allowed and encouraged their workers to attend. The Unions involved also had undocumented people in their membership that were encouraged to be part of the marches; the open support of the undocumented perhaps differed from their past official positions. The Union also worked in conjunction with the city to decide which roads to close down and to map the routes for the marchers to walk down.

²⁴⁵ Immigrants Rights Marches, *supra* note 1 (other estimates are lower). See Associated Press, *Power in Numbers*, CHI TRIB., May 2, 2006, at A6 (estimating 400,000 to 600,000).

²⁴⁶ See *supra* Section I.B.

²⁴⁷ Rose et al., *supra* note 237.

²⁴⁸ The supporting organization included Council for Islamic Organizations, the Alliance of Filipinos for Immigration Rights, the Chicago Celts for Immigration Reform, and the Polish National Alliance. Each of these groups also represented undocumented workers from their native countries. Eric Herman, *It Won't Just be Latinos Marching*, CHI. SUN-TIMES, Apr. 30, 2006, at A9. See also Neil Steinberg, *Marching With Other Flags, to Different Drums*, CHI. SUN-TIMES, May 2, 2006, at 24 (reporting that flags and significant contingents from Poland, Ireland, Denmark, Sweden, and Morocco).

²⁴⁹ Chicago sociologists conducted the only survey of May Day protestors. See NILDA FLORES-GONZALEZ ET AL., U.I.C. IMMIGRANT MOBILIZATION PROJECT: GENERAL SURVEY FINDINGS (2006), available at <http://www.wilsoncenter.org/news/docs/uicstudy.pdf>. This is an ongoing online project conducted by the U.I.C. Sociology Department.

rights.²⁵⁰ Prior to the rally, Jesse Jackson's Rainbow/PUSH coalition²⁵¹ pledged support and attendance.²⁵² Local religious leaders, including Jewish, Catholic, and Muslim groups voiced their support for immigration reform.²⁵³ Many Chicago politicians, including state and federal Senators, the state governor, and the mayor, attended the rally.

University of Chicago sociologists scientifically surveyed the crowd of over half a million.²⁵⁴ According to these results, nearly three-quarters were U.S. citizens, and two-thirds said that they vote.²⁵⁵ The median age of the interviewed population was twenty-eight years old, and almost half had children.²⁵⁶ Not surprisingly, 99% of those surveyed supported allowing undocumented people to stay in the U.S., but only a little over one-third thought that this should be done through a guest worker program that eventually forced immigrants to return to their country of origin.²⁵⁷ Close to two in five knew someone who had been deported.²⁵⁸ Half were foreign-born, and nine out of ten expressed strong love for the United States.²⁵⁹

Chicago is also the only location where discernible public activism around immigrant rights continued after the spring marches. This again most likely reflects the strength and endurance of the groups that organized the original immigrant rights protests. Unlike other locations, the enthusiasm and emotion engendered in March has not fully dissipated, although it clearly has waned. In the middle of summer, on July 20, organizers led another march at the same location as the first to protest raids of undocumented people's houses by police and federal agents.²⁶⁰ The turnout of 10,000 was lower than expected, but still significant.²⁶¹ In the fall, 2000 protestors filled six blocks near the home office

²⁵⁰ PUSH most visibly supported the immigrant rights protests. But there was friction within the Black community whether to support the movement or not. The primary reason is that there is a widespread belief among low-income Blacks that there is competition between them and undocumented workers for blue collar jobs. See Oscar Avila, *Blacks Split on Support for Illegal Immigrants: Many are Backers, but Fight for Jobs Spurs Foes*, CHI. TRIB., Apr. 23, 2006, at A1.

²⁵¹ The Rainbow PUSH Coalition is a PAC founded by Jesse Jackson whose stated purpose is to create social change for the working class, women, and minorities. Rainbow Push Coalition, About RPC (2007), <http://www.rainbowpush.org/about>.

²⁵² Mark Konkol, *Chicago Immigration Gets PUSH Support: Jackson Pledges Participation, Says Blacks Need Not Fear*, CHI. SUN-TIMES, Apr. 26, 2006, at 48.

²⁵³ *Local Religious Leaders Lend Voices for Immigration Reform*, CHI. TRIB., Apr. 24, 2006, at 9.

²⁵⁴ See FLORES-GONZALEZ ET AL., *supra* note 249. The simple size of survey respondents was 410. See also Cepeda et al., *supra* note 238.

²⁵⁵ See FLORES-GONZALEZ ET AL., *supra* note 249.

²⁵⁶ *Id.*

²⁵⁷ *Id.*

²⁵⁸ *Id.*

²⁵⁹ *Id.*

²⁶⁰ Shamus Toomey, *Immigration March Draws 10,000: Heat, Fading Interest Blamed for Massive Drop from May Rally*, CHI. SUN-TIMES, Jul. 20, 2006, at A18. Labor, religious leaders, and local politicians organized the march; however it did not have the wide range of supporters as the earlier marches did. *Id.*

²⁶¹ *Id.* The organizers had expected around 30,000. *Id.* Organizers claimed that a combination of heat, waning enthusiasm, and reluctance to miss more work combined to cause the shortfall. *Id.*

of U.S. Speaker of the House Dennis Hastert, yelling “*Si Se Puede*” and “We Are America.”²⁶² The protestors wanted the then-Speaker to offer legislation legalizing unauthorized immigrants and “to put a moratorium on raids and deportations.”²⁶³ Hastert did not even show.²⁶⁴

Although in the fall the effect of the marches seemed already to be waning, given the demonstrated potency of Chicago’s immigrant organizations, it is probable that demonstrations, albeit smaller in size, will continue to be part of the arsenal deployed by immigrant rights groups to have their voices heard.

IV. WERE THE IMMIGRATION CIVIL RIGHTS MARCHES AN ENDURING MOVEMENT OR JUST A PASSING MOMENT?

The marchers came, rallied, marched, and boycotted, and then what?²⁶⁵ This section will assess the impact of the marches using two kinds of measures, first, in Part III.A, traditional political measures, such as voter turnout and party preference. Part III.B argues that the marches connected many different Latina/o national origin identities that come under the label “Hispanic” or “Latino” into a more cohesive political identity. Part III.C argues that this new political identity is likely to be a permanent legacy of H.R. 4437. Part III.D argues that the marchers have reframed immigration debate. One counter-narrative is based on human rights. Belonging in America can be based on the merit of hard work and human dignity. Another counter-narrative is reconstructing how one can claim to be an American. The most recent wave of immigrants, predominantly Latina/o, many unauthorized, are “Americans too.”

A. “*Hoy Marchamos, Mañana Votamos:*” *Did the Marches Have an Impact on Electoral Politics?*

The marchers chanted and held up signs that stated “*hoy marchamos, mañana votamos*” – today we march, tomorrow we vote. Latina/os are a growing group in the American electorate.²⁶⁶ From 2004 to 2006, Latina/o eligible voters grew from 16.1 million to 17.2 million, an increase of 1.1 million.²⁶⁷ Almost every group involved in the organization of the marches also staged

²⁶² Sara Olkon, *Four-Day Protest Reaches End: Immigrant Activists Met by Critics, not Hastert*, in *Batavia*, CHI. TRIB., Sept. 5, 2006, at A1.

²⁶³ *Id.*

²⁶⁴ *Id.*

²⁶⁵ I am borrowing the lead of a newspaper story; see Teresa Watanabe & Nicole Gaoette, *Next: Converting the Energy of Protest to Political Clout*, L.A. TIMES, May 2, 2006, at A1 (“they’ve rallied, they’ve marched, they’ve boycotted, so now what?”).

²⁶⁶ ROBERT SURO ET AL., PEW HISPANIC CTR., *HISPANICS AND THE 2004 ELECTION: POPULATION, ELECTORATE AND VOTERS* (2005), available at <http://pewhispanic.org/files/reports/48.pdf> (noting that Latino/as as a voting group has been growing, albeit, in small increases) [hereinafter *HISPANICS AND THE 2004 ELECTION*].

²⁶⁷ See PEW HISPANIC CTR., *HISPANICS AND THE 2006 ELECTION* (2006), available at <http://pewhispanic.org/files/factsheets/24.pdf>. Latina/os as compared to other ethnic groups have much lower participation rates. In part because a much lower portion of the Latina/o population is eligible to vote; only 39% of Latina/os are eligible to vote versus 77% of the White population. The Latina/o population is much more youthful and more likely to be foreign born. *Id.* at 1-3.

voter registration drives.²⁶⁸ Hopes were high that Latina/os would make their voices heard in the ballot box, as they had in the marches. Did the marches influence voting? There are two parts to answering this question. First, did Latina/o voters turnout at higher levels than before? Second, did they vote differently based on the influence of the politics around immigration reform? Both parts reflect that immigration was not the all-deciding issue in the 2006 elections that some predicted.

1. *Latina/o Voter Turnout in 2006*

The data shows that Latina/os did not turn out at significantly higher rates in 2006. Independent exit polls of Latina/os voters for the 2006 elections²⁶⁹ show that Latina/o voter turnout in November 2006 (58.9%) was only slightly higher than it was in the last midterm elections of 2002 (57.9%).²⁷⁰ By comparison, turnout statistics for the entire electorate edged up very slightly by 0.7%, from 39.7% in 2002 to 40.4% in 2006.²⁷¹ These small differences do not necessarily show that Latina/os were more motivated to vote in this election cycle.²⁷² Voter turnout in the United States is low and has been steadily falling. Some political scientists believe that this is due to elections becoming less interesting to the voter.²⁷³ Strategies that protect incumbents (which include

²⁶⁸ Rachel Uranga, *Did Rally Change Minds? Backer Plan Voter Drives; Foes Press Own Proposals*, DAILY NEWS (L.A.), May 3, 2006, at N1; Watanabe & Gaouette, *supra* note 265. Another way to see this issue is that every campaign has a voter registration component. Candidates and national parties are registering new voters as part of campaign efforts, as well as promoters of single issues on ballot initiatives. See Katherine Corcoran, *Effort to Register Latinos After Spring Protests Lags*, SAN JOSE MERCURY NEWS, Nov. 6, 2006, at A1.

²⁶⁹ WILLIAM C. VELASQUEZ INSTITUTE, 2006 TURNOUT RESULTS (2006), http://www.wcvi.org/latino_voter_research/polls/national/2006/2006turnout.htm [hereinafter W.C.V.I. TURNOUT RESULTS]. William C. Velasquez Institute conducted exit polls to measure how Latinos voted during the November 2006 General elections. The survey was administered by trained interviewers in both English and Spanish. Pollsters interviewed 1215 Latino voters in fifty-three precincts in Florida, Arizona, New Mexico, California, Texas, New York, New Jersey, and Illinois, which comprise 82% of all registered Latino voters.

²⁷⁰ See W.C.V.I. TURNOUT RESULTS, *supra* note 269.

²⁷¹ W.C.V.I. estimates are very close to estimates by the United States Election Project of national voter turnout (41.19%). See UNITED STATES ELECTION PROJECT, 2006 VOTING-AGE AND VOTING-ELIGIBLE POPULATION ESTIMATES (2006), http://elections.gmu.edu/Voter_Turnout_2006.htm. Other exit poll data shows that Latinos in California did not significantly surge in the 2006 elections; they have made up 12% of the electorate since 1998, although they make up 35% of the population. See *id.* See also Teresa Watanabe & Nicole Gaouette, *Latinos Throw More Support to Democrats; Analysts Say GOP Candidates' Stance Against Immigration Helped Defeat Them*, L.A. TIMES, Nov. 10, 2006, at A27 [hereinafter *Latinos Throw More Support to Democrats*].

²⁷² Other reports lend support to the conclusion that Latina/o voter turnout remained steady and did not significantly increase. For example, the Southwest Voter Registration Education Project, which aimed at turnout out 1.5 million voters in California. was able to yield a turnout of only 1.2 million voters. See *Latinos Throw More Support to Democrats*, *supra* note 271. This was the largest get-out-the-vote effort in a non-presidential year, which included placing 250,000 phone calls on election day. See Corcoran, *supra* note 268.

²⁷³ See Michael P. McDonald, *Rocking the House: Competition and Turnout in the 2006 Midterm Election*, 4 FORUM 3 (2006), available at <http://www.bepress.com/forum/vol4/iss3/art4>.

drawing favorable districts and huge advantages in raising campaign funds) have made most races non-competitive. Under this view, voters go to the polls when they think that their votes matter. Accordingly, focusing on Latina/o vote turnout may not be a good measure of whether the immigration marches influenced the Latina/o electorate. Latina/o voters act like all other voters, they turn out when candidates are competitive and issues are interesting.

2. *Did Latina/os Vote to Reflect the Anger of the Marchers?*

Republican leadership was responsible for pushing H.R. 4437 through the House of Representatives. Did Latina/o voters turn away from the Republican party? Exit polls show that in the 2006 elections Latina/os were more likely to vote for the Democratic congressional candidate. According to exit polls, two-thirds voted for the Democratic Congressional candidate.²⁷⁴

Some have seen this as a decided “adiós” to the Republican party.²⁷⁵ Although more Latina/os identify themselves as Democrats than Republicans,²⁷⁶ support for the Democrats is weak. In a 2006 poll, only 37% of Latina/os identified the Democratic party as being more concerned for Latina/os; a like proportion believed that NEITHER party was concerned.²⁷⁷

Did immigration politics influence 2006’s Latina/o preference for Democratic candidates? When Latina/os go to the polls, immigration is one of many issues that influence their vote,²⁷⁸ as it is for the American public.²⁷⁹ In the 2006 exit poll of Latina/o voters, two-thirds said that they were not satisfied with the direction that the country had taken.²⁸⁰ They cited first dissatisfaction with the economy (20%), the war in Iraq (18%) and public education (18%)

²⁷⁴ WILLIAM C. VELASQUEZ INSTITUTE, 2006 NATIONAL EXIT POLL RESULTS (2006), http://www.wcvi.org/latino_voter_research/polls/national/2006/EXITPOLL2006_112006_national.ppt#6 [hereinafter W.C.V.I. NATIONAL EXIT POLL RESULTS]. Only 29% pulled the lever for the Republican candidate. This is in line with analysis of CNN national exit poll data that showed a slightly higher proportion, at 69%, opted for Democratic candidate in the 2006 elections. A.P.I.A. VOTE: THE A.P.I.A. VOTE.ORG NEWSROOM, 2006 CNN EXIT POLLS (2006), <http://news.apivote.org/65.html> (analysis by Edison Media Research).

²⁷⁵ Andres Oppenheimer, *Immigration Issue Doomed GOP*, MIAMI HERALD, Nov. 9, 2006, at A6 (“Latina/os said “*adiós*” to President Bush’s Republican Party in Tuesday’s midterm, voting in much greater numbers for Democratic candidates in an apparent rejection of the ruling party’s efforts to blame much of the nation’s problems on undocumented migrants.”); see also *GOP Blew It: Latinos Are Moving Toward the Democratic Party*, NEW AMERICA MEDIA (2006), http://news.newamericamedia.org/news/view_article.html?article_id=cf26c237842ac9b296c0ff050b7723d7 [hereinafter *Bendixen 2006 Latino Electorate*] (interview with Sergio Bendixen, national pollster).

²⁷⁶ See PEW HISPANIC CTR., JULY 2006 LATINO IMMIGRATION STUDY – TOPLINES (2006), available at <http://pewhispanic.org/files/other/68.1.pdf> [hereinafter 2006 LATINO IMMIGRATION POLL] (breakout of each opinion poll questions). *Id.* at Q. 46 (33% of Latina/os identified themselves as Democrats and 19% as Republicans).

²⁷⁷ *Id.* at Q. 40.

²⁷⁸ Accord *Bendixen 2006 Latino Electorate*, *supra* note 275 (Hispanics are also interested in what is going on in Iraq, corruption in Washington, and the national economy).

²⁷⁹ See 2006 PEW POLL GENERAL VIEWS ON IMMIGRATION, *supra* note 99, at 2 (only 4% of Americans view immigration as the most important problem facing the country, after the war in Iraq, dissatisfaction with government, terrorism and other issues).

²⁸⁰ See W.C.V.I. NATIONAL EXIT POLL RESULTS, *supra* note 274.

before naming immigration (10%) as being the key issue that determined who they voted for in Congressional and Senatorial contests.²⁸¹

Candidate selection by both Latina/os and the general public also shows that immigration policy is just one of many concerns.

In sum, the 2006 elections data are inconclusive as to whether the marches influenced the Latina/o electorate. Latina/o voters behaved differently from they did in prior elections. They turned out in slightly higher numbers and were *much* more likely to vote Democrat. But immigration did not appear to trump all other issues for the vast majority of Latina/o voters, as it did not trump all other issues for other voters. The promise – or threat – of “*hoy marchamos, mañana votamos*” may take several election cycles to show tangible numerical results.

B. Forging a New Consciousness: Can You Hear Us Now?

Perhaps “*hoy marchamos, mañana votamos*” should be interpreted as a declaration of a new attitude towards political participation and civic involvement, rather than as a promise of imminent political action. Measured with this coin, the marches can be seen as shifting how Latina/os see themselves politically. The emotional connections of the marches were a significant step in the maturation of Latina/os as a political group.

Latina/os voice in American politics has not been commensurate with their population representation. In the most recent elections, Latina/os represented 8% of the electorate.²⁸² Yet, they are the largest minority group in the United States, representing 14% of the population.²⁸³ This large gap is explained by two demographic factors, nativity and youthfulness.²⁸⁴ The former has been most significant in impeding the formation of a political common identity among Latina/os.

Latina/os, like Asian Americans, is a group that is heavily immigrant. Around 40% of Latina/os are foreign-born, or first generation immigrant, as are 66% of Asian Pacific Islanders.²⁸⁵ By comparison only 4% of the White population is foreign-born.²⁸⁶ There is a schism between the 60% who are native-born – the second, third, and fourth generation Latina/os – and the 40% who are foreign-born. This schism has prevented the creation of a stronger voting bloc/unified political identity for Latina/os.

They differ significantly in political views, most particularly, immigration. To generalize, native-born Latina/os views on immigration are less liberal toward immigrants than are the views of foreign-born Latina/os. On the other hand, foreign-born Latina/os and those in mixed immigration families are more likely to favor amnesty. For example, polls indicate that in the current debate

²⁸¹ *Id.*

²⁸² See HISPANICS AND THE 2004 ELECTION, *supra* note 266.

²⁸³ See Press Release, U.S. Census Bureau, Nation's Population One-Third Minority (May 10, 2006) available at <http://www.census.gov/Press-Release/www/releases/archives/population/006808.html>.

²⁸⁴ See HISPANICS AND THE 2004 ELECTION, *supra* note 266.

²⁸⁵ See PEW HISPANIC CTR., A STATISTICAL PORTRAIT OF THE FOREIGN-BORN POPULATION AT MID-DECADE tbl. 4 (2006), <http://pewhispanic.org/reports/foreignborn/>.

²⁸⁶ *Id.*

over immigration policy, native-born Latina/os are less likely to favor unconditional amnesty for the estimated twelve million unauthorized immigrants, more likely to favor measures that would close down the porous border, and more likely to favor a national identification card.²⁸⁷ By contrast the general public wants the federal government to “fix” the immigration “problem,” seal porous borders, deal with unauthorized immigration, and achieve normalization of the twelve million unauthorized immigrants working and living in the shadows in some kind of fair (and unspecified) way (not necessarily punitively).²⁸⁸

Nativity also corresponds to another factor that divides Latina/os politically: national origin identity. The Latina/o or Hispanic label masks that national origin groups who come from countries with very different histories are being lumped together; for example, Mexicans who were “crossed by the border” because of the Mexico-U.S. War of 1848 and Cubans fleeing Fidel Castro; Sandinista refugees from Nicaragua and Puerto Ricans who are U.S. citizens at birth by virtue of being born in a U.S. territory governed as a colony; and European Spaniards and indigenous peoples from Guatemala. These groups have traditionally seen their political interests in very different terms.

Further, each individual Latina/o creates his or her own version of Latina/o-ness in the U.S. For one native-born youth it may mean being a “cool bato” from East Los Angeles. For another youth it may mean observing the traditions of a family closely bound to agricultural Mexico.

These many differences in histories, experiences, and individual identities have been so great that historically, unified political action has been difficult for Latina/os.²⁸⁹ But because of the marches, Latina/os made progress in forging a common political identity. First, Latina/os themselves perceive that

²⁸⁷ In a 2004 survey, Latina/os were more likely to favor immigration policies that would allow immigrants the opportunity to stay and become citizens. The temporary worker visa program, proposed by President Bush, that allowed immigrants to work and then forced them to go home after a period of up to seven years, was not favored by most Latina/os, as it was viewed as punitive and not rewarding the labor effort of immigrants. See PEW HISPANIC CENTER & KAISER FAMILY FOUNDATION, THE 2004 NATIONAL SURVEY OF LATINOS: POLITICS AND CIVIC PARTICIPATION (2004), available at <http://pewhispanic.org/files/reports/33.pdf>. In the 2006 survey conducted by this same organization, Latina/os were overwhelmingly opposed to measures, like those proposed by H.R. 4437, which would immediately deport anyone who is unauthorized in the United States. See ROBERT SURO & GABRIEL ESCOBAR PEW HISPANIC CENTER, 2006 NATIONAL SURVEY OF LATINOS: IMMIGRATION DEBATE 20 (2006), available at <http://pewhispanic.org/files/reports/68.pdf> [hereinafter 2006 NATIONAL SURVEY OF LATINOS] (93% of those polled believe that the unauthorized should be allowed to remain under some sort of conditions).

²⁸⁸ See Tamar Jacoby, Essay, *Immigration Nation*, FOREIGN AFFAIRS 5 (2006), available at <http://www.foreignaffairs.org/20061101faessay85606/tamar-jacoby/immigration-nation.html> (summarizing several polls and observing that the U.S. public is far less divided on immigration, an overwhelming majority of Americans want a combination of tougher enforcement and earned citizenship for the estimated twelve million illegal immigrants in the country); see also 2006 LATINO IMMIGRATION POLL, *supra* note 276, at 1-3 (Americans are increasingly concerned about immigration . . . yet the public remains . . . split over many of the policy proposals . . . illegal immigration stirs public anxiety. . . six in ten say illegal immigration represents a bigger problem than legal immigration).

²⁸⁹ See generally Jose Itzigsohn, *Latino Panethnicity: Assessment and Perspectives*, in NANCY FONER & GEORGE FREDRICSON, NOT JUST BLACK AND WHITE: IMMIGRATION, RACE, AND ETHNICITY IN THE UNITED STATES 197-216 (2004).

things changed. The 2006 Pew Latino poll asked Latina/os whether the marches “represented the beginning of a new social movement in the United States”; two in three Latina/os, – both foreign- and native-born – thought so.²⁹⁰ A minority, only 22%, believed that the marches did not represent an important moment for the collective Latina/o community.²⁹¹ Latina/os also perceive that they were moving together in a common political cause. According to the poll, almost 58% of Latina/os agreed that “today we are working together to achieve common political goals.”²⁹² This represents a flip from what the same poll recorded four years earlier when a plurality, at 49%, did *not* believe that the community was working together.²⁹³

Second, the narratives of the marchers demonstrated a new consciousness of common political identity. As discussed in Parts I and II, motivations for marching varied, but there were common themes that invigorated the marchers. For example, a young student from East Los Angeles confessed that the hostile rhetoric around H.R. 4437 forced him and other Latina/o high school youths to realize their common ground with immigrant classmates who they previously “all looked down on . . . and were practically invisible.”²⁹⁴ That all changed when “the intolerant tone of conservatives only served to remind[] us of our roots.”²⁹⁵ Another student from Los Angeles explained that he was walking out “for our people.”²⁹⁶ One explained, “we’re marching because Mexicans are not criminals.”²⁹⁷ El Piolín, the DJ who was instrumental in making the Los Angeles marches a success, reminded his listeners, “we need to be united to demonstrate that . . . we’re not criminals.”²⁹⁸ The students from Las Vegas knew from the beginning of the walkouts that they were making an important political statement on behalf of *all* Latina/os, and that walking out was the only way that they would be heard.

²⁹⁰ 2006 LATINO IMMIGRATION POLL, *supra* note 276 at Q. 3. Most telling is that on this question there was a significant consensus between the native- and foreign-born. Sixty-two percent of the native-born and 64% of the foreign-born polled agreed that the marches marked the beginning of a new social movement. The difference is not significant. *See* 2006 NATIONAL SURVEY OF LATINOS, *supra* note 287 at 8.

²⁹¹ *Id.* The remaining percentage, around 12%, responded “I don’t know.” There was not a significant difference in the country of origin in answering this question. *See* 2006 NATIONAL SURVEY OF LATINOS, *supra* note 287 at 8.

²⁹² *See* 2006 NATIONAL SURVEY OF LATINOS, *supra* note 287, at ii, 11. Again, on this question there was a significant divergence between the views of the foreign- and native-born. The foreign-born were more likely to perceive a new unity, around 62%, while the native-born were at 52%, 10 percentage points lower. *Id.* at 11.

²⁹³ *Id.* at 11. Around 8% answered “I don’t know.”

²⁹⁴ Raul Reyes, *Latinos Can You Hear Us Now?*, USA TODAY, Dec. 29, 2006, at A13 (recounting that “In my East Los Angeles high school, [Latino youth who often fought with each other in gangs and] had only one thing in common, we all looked down on another group: our immigrant classmates who occupied the bottom rung of the social ladder and were practically invisible.”).

²⁹⁵ *Id.*

²⁹⁶ *See* Orlov & Kleinbaum, *supra* note 80.

²⁹⁷ *See* Ferriss, *supra* note 66.

²⁹⁸ *See* Flaccus, *supra* note 63.

C. *H.R. 4437: The Catalyst of a New Latina/o Political Consciousness*

H.R. 4437 was the fuel that sparked the increased political common consciousness that crossed Latina/o ethnicities, foreign- versus native-born, class, and individual differences in interpreting one's own ethnicity. No plan of the middle class political leadership and no Latina/o political organization would have been able to accomplish as much. H.R. 4437 was an accidental catalyst for action and unity. This may be its most important legacy.

There are at least two reasons as to why H.R. 4437 had such a unifying impact. First, the harsh provisions of H.R. 4437 cast a wide net on those who would be criminalized. The absolute number of unauthorized immigrants within the ethnic immigrant enclaves is estimated at around twelve million,²⁹⁹ which is small relative to the size of the total population of no more than 5% in any large city. However, H.R. 4437 would criminalize all those "who would assist" unauthorized immigrants. "Criminals" would include nuclear and extended families, friends, acquaintances, employers, social service workers, teachers, and clergy.³⁰⁰ The multiplier effect of the criminalization provisions went from targeting the ten to twelve million unauthorized to impacting potentially hundreds of millions.³⁰¹ "The laws worry me,"³⁰² said one Dallas marcher in an honest moment. Although a U.S. citizen, family members and friends were unauthorized, so the effect of H.R. 4437 might reach him and those close to him.

Second, being labeled a criminal packed an emotional punch, another aspect that Washington politicians apparently did not foresee. Criminals are rapists, thieves, and child molesters. H.R. 4437 linked the law-abiding and well-meaning to the unauthorized, and labeled them all criminals. Signs proclaimed "*not criminals, just undocumented*."³⁰³ Being called a criminal when all you wanted to do was to come to this country to work was demeaning, and being blamed for Americans' economic woes was infuriating. The Latina/o community felt "insulted."³⁰⁴

Third, H.R. 4437 reminded Latina/os that they are a racialized minority. Although among themselves, Latina/os national origin identity makes them vastly different, in America they are all Latina/os, a racialized minority group.

²⁹⁹ See PASSEL, *supra* note 44.

³⁰⁰ H.R. 4437, 109th Cong. §§ 205, 608 (2005).

³⁰¹ Section 205 mandates much stricter punishments, fines, and imprisonment for those that aid unauthorized peoples. This is found to be especially harsh, because the text was ambiguous and could have affected many families with mixed citizenship. *See id.* *See also* PASSEL, *supra* note 44 for population statistics; *see generally* David Thronson, *You Can't Get Here From Here: Toward a More Child-Centered Immigration Law*, 14 V.A. J. Soc. POL'Y & L. 58 (2006).

³⁰² Video broadcast: Immigration Rally, Family Key Issue at Protest (Dallas Morning News broadcast Apr. 9, 2006), <http://www.dallasnews.com/sharedcontent/VideoPlayer/videoPlayer.php?vidId=59064&catId=104>.

³⁰³ *See* L.A. TIMES, Apr. 11, 2006, at A1 (depicting photos of the marchers); *see generally* L.A. TIMES, May 2, 2006.

³⁰⁴ *Accord Bendixen 2006 Latino Electorate*, *supra* note 275 (Hispanics were . . . reacting to . . . the way the Hispanic community was framed – in a sense – as being partly responsible for many of the problems that the U.S. has with illegal immigration. They did not like many of the so-called reactionary solutions being proposed, and they did not appreciate the rhetoric being utilized).

The discussion of immigration reform brought out racial politics that remain mostly subsumed. The mobilization of millions of Latina/os pouring out into the streets ratcheted up the rhetoric on television, in the newspapers, and on the streets. The backlash was strong enough for Latina/os to perceive themselves as under siege. In the 2006 Pew Latino poll, more than half (54%) said they saw the debate over immigration policy increasing discrimination.³⁰⁵ Also, the 2006 Latina/o poll marked the highest level of perceived discrimination since the inception of the poll; a supermajority, or 58%, saw discrimination as affecting their lives in a *major* way, compared to a minority (44%) reporting so in 2002.³⁰⁶

Acts of discrimination that occurred around the marches are too ephemeral to document, but anecdotes abound. Examples range from the cries of by-passers, “go home,”³⁰⁷ “speak English” and “illegals are criminals” to acts of vandalism, like the graffiti spray-painted on a store using a Spanish name – “No more illegal aliens.”³⁰⁸ Recall that in El Piolín’s crusade to bring Latina/os to the first giant march in Los Angeles, the pivotal moment was his on-the-air interview of a “Minuteman.” His rant that Latina/os should be deported, even El Piolín himself, convinced listeners that anti-immigrant sentiment was real and shook many out of complacency enough to turn out and march.

The heated debate produced another kind of unity, the solidarity that is produced when a minority racial group feels that it is under siege from the race-based hostility of the majority racial group. The backlash reminded Latina/os that they are not just another ethnicity in America, like Irish Americans and Italian Americans, who can eventually become White.³⁰⁹ The racialized rhetoric heard around the marches cast Latina/o immigrants as criminals, accused immigrants of undermining the economy, and more generally, depicted Latina/os as not being good Americans because they refused to assimilate (they should learn to speak English, not march in the streets). This kind of discrimination clearly does not reflect what all Americans believe or feel, but the anti-immigrant and anti-Latina/o rhetoric and hostile actions were so bountiful that Latina/os were reminded of their racialized status. Those who discriminate and hurl epithets do not pause to question whether the “Mexican” that looks foreign

³⁰⁵ See 2006 NATIONAL SURVEY OF LATINOS, *supra* note 287 at 5. Fifty-seven percent of the native-born and 51% of the foreign-born population saw discrimination as having increased. *Id.* at 8.

³⁰⁶ *Id.* at 4.

³⁰⁷ Here is a sampling from the letters to the editor reprinted in the LAS VEGAS REVIEW-JOURNAL. One letter said “You proved your point. Now go home.” *Supra* note 136. Another said during the march “I was able to understand every word I heard around the valley. Let’s do this again . . . and really make us understand what it would be like if you were not here.” A third repeated the Lou Dobbs commentary on CNN during the marches, “what other country would allow criminals to demonstrate in the streets in protest of the laws that make them criminals? What’s next . . . rapists?”). See Commentary, *Marches Full of Disturbing Irony*, LAS VEGAS REV.-J., May 3, 2006, at B8.

³⁰⁸ Bach, *supra* note 104 (recounting that several stores catering to Latino and Spanish-speaking clients were vandalized with phrases like “no more illegal aliens and speak English.” The owner of one of the stores was a native-born Californian).

³⁰⁹ See generally Sylvia R. Lazos Vargas, *Deconstructing Homo[geneous] Americanus: The White Ethnic Immigration Narrative and Its Exclusionary Effect.*, 72 TUL. L. REV. 1493 (1998).

or the Latina/o who is speaking Spanish is a second, third, or fourth generation American. The insults are hurled at anyone that looks or sounds "Mexican." This is a reason to bind with other Latina/os and find common ground in a political identity that stands for civil rights and non-discrimination.

Questions remain whether this newly-formed political consciousness will be permanent. The anger around the marches has subsided, as the discussion in Part III.A of the Latina/o vote in 2006 shows. This consciousness can have permanence only if this nascent political identity has become internalized among most Latina/os.

There are indications that, at least for youth, the marches were a deeply transformative moment, and this new political consciousness will have a long-term effect. Our study of Las Vegas student leadership indicates that for student leaders who led the walkouts this event was transformative. First, the experience was deeply emotional. Evelyn Flores, one of the student leaders, described the emotions that she felt on May 1 as "the deepest emotions I have ever felt."³¹⁰ Second, from students' vantage point, they experienced racism when they demonstrated. Some of the media commentary was not just harsh, it was condescending and hostile. The counter-protestors were more racially explicit. Passersby hurled insults. Studies show that youths' reactions to discrimination have a deep effect in terms in how they form their group identity.³¹¹ Finally, the students experienced the empowerment of political activism and the success of a political moment that is unlikely to be equaled in their generation. For one spring, they led, they challenged the establishment of Las Vegas, they ignored the Latin Chamber of Commerce, they negotiated with the Las Vegas police department, among the best in the country, and they fought with the Culinary Union. On May 1 they were rewarded by seeing 63,000 follow them down the streets of Las Vegas to shut down the Strip. They now know that they can lead and make a difference.

Our field work also shows that the civic activism of hometown associations marked a decisive step to become involved in U.S. politics.³¹² Immigrants, even if they think of themselves as settled in the United States, fix their gaze back "home" and continue to identify with their foreign area of origin. They have what sociologists call a binational perspective.³¹³ One explanation as to why conversion rates to U.S. citizenship among Mexican immigrants are so low, is that binational perspective also means a split in emotional civic connections. Getting involved in U.S. politics means increased connection and commitment to American civic identity. Missing work to march and risking being fired meant that this group of recent immigrants made a commitment to becoming more involved in U.S. civic participation. Immigrants were buying

³¹⁰ Flores, *supra* note 111.

³¹¹ See generally J. Aleinikoff & Rubén Rumbaut, *Terms of Belonging: Are Models of Membership Self-Fulfilling Prophecies?*, 13 GEO. IMMIGR. L.J. 1 (1998).

³¹² See generally JONATHAN FOX, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS, NO LONGER INVISIBLE: MEXICAN MIGRANT CIVIC PARTICIPATION IN THE UNITED STATES 1-7 (2006), available at <http://www.wilsoncenter.org/topics/pubs/Invisible%20No%20More.pdf>.

³¹³ *Id.*

into the new idea that they were part of the American democratic process and that their participation could make a difference in U.S. political dialogue.

D. Fashioning Counter Narratives: "We are Humans, Not Aliens" and "We are Immigrant America"

Finally, the most poignant legacy of the marches may be the counter-narratives. H.R. 4437's legalistic narrative was that all unauthorized are criminals, they should be immediately deported, and their labor in this country should not be recognized or rewarded; in sum, the unauthorized and those who aid them do not have a legitimate place in American civic society.

Marchers created two counter-narratives, somewhat conflicting. The first is about human rights and dignity for immigrant labor that does not rest on citizenship or how one crossed the border. Marchers believed that H.R. 4437 was immoral. They framed immigrant rights as human rights, civil rights, and workers' rights. The marchers claimed a human universal right to be treated humanely. One marcher in Washington, D.C. said, "What Congress has done is wrong. They want to hunt us down like we are criminals. We are not criminals and we are not terrorists; we are only workers."³¹⁴ As Professor Saskia Sassen notes, this universalistic human rights claim is distinct from the desire to become Americans.³¹⁵ The claim for humane treatment does not attach to any particular nation's citizenship, but instead focuses on universal human rights.³¹⁶

The human rights claim is also about recognizing dignity inherent in labor. The marchers advocated respecting the hard work of unauthorized immigrants and their contributions. A protest sign in New York read, "We built the World Tower, we did not destroy it." Another demonstrator put it this way, "we are the backbone of what America is, legal or illegal, it doesn't matter."³¹⁷ The message of the unauthorized essentially claims that all they want to do is work hard, pay taxes, live without fear, and keep their heads up. "We are taxpayers" proclaimed one sign. A gardener in Los Angeles explained, "I have lived for 15 years in America . . . all that time I have lived with my head down. On Saturday all these people [the Spanish DJs] were telling me to put my head up."³¹⁸ These proclamations are similar to the Lockean principle stating that by the virtue of one's labor and contributions to society, one becomes entitled to becoming a legitimate civic participant.³¹⁹

³¹⁴ *U.S.: Over a Million Protest Against Anti-Immigrant Legislation*, World Socialist Website (2006), <http://www.wsws.org/articles/2006/apr2006/immi-all.shtml>.

³¹⁵ Saskia Sassen, *Border Battles: The U.S. Immigration Debates*, *The Bits of the New Immigration Reality: A Bad Fit with Current Policy* (2006), <http://borderbattles.ssrc.org/Sassen/>. This is written for SSRC, the Social Science Research Council.

³¹⁶ *Id.*

³¹⁷ *Jubilant Marchers Grab Nation's Attention: Immigration Rallies*, SEATTLE TIMES, May 2, 2006, at A10.

³¹⁸ See Pomfret & Geis, *supra* note 18.

³¹⁹ See generally JOHN LOCKE, *TWO TREATISES OF GOVERNMENT* (Peter Laslett ed., Cambridge Univ. Press 1988) (1690).

Jonathan Fox adds something slightly different - that the marchers' narrative was a new way to conceive binationalism.³²⁰ By claiming a right to human dignity, regardless of whether their status is legal or illegal, immigrants are building a shared identity that claims that as foreign nationals working and living in the United States they deserve humane treatment.³²¹

In this new narrative of human rights, immigrants, authorized and unauthorized can come out of the shadows and demand human rights because they reject a criminalized or blameworthy identity as "illegal aliens," who have no rights once they step foot in the United States. Status should not matter. One marcher said, "This is who we are. Most of the time we're invisible to society, but this is who we are. We're not criminals. We're families. We're mothers, we're fathers, we're workers."³²²

The second narrative is a claim based on the American immigrant meta-narrative. This is a nation of immigrants, who worked hard, played by the rules, and made it. Placards declared: "Immigrants are the Backbone of America" and "I love immigrant New York."³²³ Spanish DJs played a key role in giving voice to this new American immigrant narrative. There was a "telenovela" (soap opera) aspect to the dramatic stories revealed on the air. El Piolín recounted on the air that he, too, had been an undocumented immigrant, that he hid in the back of the car to cross the border, that he suffered a great deal while he did not have his papers, and he was at risk of being deported several times.³²⁴ Eventually, in this immigrant tale, he finally found an avenue to becoming a legal resident. His talents as a DJ, his tenacity, and his hard work have given him success and standing within the States. This was a new version of the American dream and the American immigrant story, one with which many of his listeners identified. Latina/o immigrants were remaking the American immigrant story. Another DJ told listeners that the unauthorized were like immigrants who came on the Mayflower - they did not have papers - and like the immigrants of today, authorized or unauthorized, they were searching for freedom and opportunities. One sixteen-year-old's essay put it this way: "Immigrants founded the U.S., so I don't think any person has a greater right to this country than another."³²⁵

Now the marchers are claiming a place in America by virtue of paying their dues much as immigrants did before them. Mayor Daley in Chicago told the crowd, "everyone in America is an immigrant." Marchers waved American flags, sang the National Anthem, and recited the Pledge of Allegiance.³²⁶ "We are Americans too"³²⁷ they said. To proclaim "We are American," was to

³²⁰ Cf. Fox, *supra* note 5, at 13-15 (making this argument in the context of the mobilization of the Freedom Rides of 2003).

³²¹ *Id.*

³²² See Pomfret & Geis, *supra* note 18.

³²³ Michelle O'Donnell, *The Immigration Debate*, N.Y. TIMES, May 2, 2006, at A18; see *Jubilant Marchers*, *supra* note 317.

³²⁴ Flaccus, *supra* note 63.

³²⁵ Jennifer Escoto, *Breaking Boundaries: Walk Out and Take a Stand*, NEW MOON, Jan. 1, 2007, at 12.

³²⁶ Frank Main Sweet, *In Overwhelming Display, Immigrants Protest Bill: Up to 100,000*, CHI. SUN-TIMES, Mar. 11, 2006, at A6.

³²⁷ See Video broadcast, *supra* note 302.

announce a new identity, and lay claim on behalf of their families that they too had a place in the community that is America.

V. CONCLUSION: A CIVIL RIGHTS BEGINNING

Anyone who witnessed the marches knew that she was witnessing something special. It was history in the making. From three to five million ordinary people were angry and scared that American politics could take such an ugly turn. Millions of Latina/os, whether native- or foreign-born, regardless of ethnicity and national origin, found a reason to come together and become politically involved. In the process Latina/os became more American, but on their terms.

First, Latina/os made a deeper commitment to political action. H.R. 4437 was a "blameful and vicious" bill that would criminalize millions and those who felt human sympathy for them. People took to the streets with the urging of clergy, the organization of the unions and the emotional appeal of radio DJs. They came together in a stronger political identity, one that allows Latina/os and a new generation of immigrants to claim the civil rights legacy. Many consciously likened what they were doing to the struggles of Cesar Chavez and Martin Luther King, Jr. A protestor at the May Day Las Vegas demonstration, who expected to be fired from his job for being there, was asked whether he thought the marches would make a difference. His answer, "When Martin Luther King organized and had a million people march did it not help?"³²⁸ He was doing his bit to be like Martin Luther King, Jr.

Second, Latina/os created new counter-narratives of citizenship and belonging. They tweaked the American meta immigrant narrative to include *every* immigrant, the authorized and unauthorized. They even playfully appropriated the Mayflower as part of an immigrant story that includes all, authorized and unauthorized. Alternatively, belonging in America does not mean having to be legal. Because under the alternative narrative created by the marchers, belonging in America is based on dignity of work, and based on universal human rights. The marches were as much about protest as they were about celebrating a new sense of belonging and a new identity as Americans.

Finally, just as a community was transformed, so were individuals. The Las Vegas experience shows how deeply H.R. 4437 touched Latina/os, particularly youths. Like the Civil Rights marches of the 1960s, students led their elders, showed more courage than their parents, and showed up the professional elites who run casinos, unions, and professional ethnic organizations. They understood the challenge immediately; H.R. 4437 was unjust and Latina/os must come together as a political community to challenge it. From this generation will come the Latina/o political leaders of tomorrow.

VI. EPILOGUE: THE MARCHES ONE YEAR LATER

May 1, 2007 marked the one-year anniversary of last year's "A Day Without Immigrants" marches across the country. The turnout was not as dramatic

³²⁸ Kalil, *supra* note 201.

as 2006, when over one million turned out; in 2007, nationwide the crowds added up to a quarter million.³²⁹

Tellingly, the largest march took place in Chicago, the city with long established immigration organizations that served as an example to other organizers and sparked the spring marches in 2006. An estimated 150,000 marched shoulder to shoulder in white shirts, waving U.S. flags, and chanting.³³⁰ The Spanish language disc jockeys urged listeners to “make a statement.”³³¹ Chicago’s Mexican community gave the march its momentum.³³² Signs in Grant Park read “keep families United.”³³³

In Los Angeles, the country’s largest immigrant city, which in 2006 had staged a rally of 650,000, managed to stage an effort of an estimated 35,000.³³⁴ The mostly peaceful march resulted in an embarrassing late evening scuffle between the police and demonstrators, which was captured on Spanish language network and played and replayed for a national and international audience.³³⁵ The following day, Police Chief Bratton said that the tactics the police used on the crowd, including rubber bullets, were not appropriate.³³⁶

New York had a surprisingly small turnout; only a few thousand people gathered in parks in Manhattan.³³⁷ Participants pinned paper leaves on a “family tree” made of paper to symbolize the major theme of this years rallies, the separation of families.³³⁸

In Atlanta, there was not even a single event planned because of the community-wide fear of raids.³³⁹ In Denver an estimated ten thousand demonstrated.³⁴⁰ In Las Vegas somewhere between one to five thousand demonstrators rallied to show their “passion” for reform.³⁴¹ Approximately 700 students walked out from local schools and skipped class to congregate in

³²⁹ Eileen Truax, *Claman Legalización: Miles Marchan en Los Angeles para Exigir que se Regularice a los Indocumentados*, LA OPINIÓN DIGITAL, May 2, 2007, <http://www.laopinion.com/primerapagina/?rkey=00000000000001597940>.

³³⁰ See Antonio Olivo & Sara Olkon, *Thousands March for Immigrant Rights: We’re Proud of Our Lives*, CHI. TRIB., May 1, 2007, at C1.

³³¹ *Id.*

³³² *Id.*

³³³ Darryl Fears, *Immigration Rallies Focus On Keeping Families Intact*, WASH. POST, May 2, 2007, at A5.

³³⁴ Teresa Watanabe & Francisco Vara-Orta, *Small Turnout, Big Questions: Rallies Draw a Fraction of Last Year’s Crowd as Activists Ponder the Movement’s Future; Clash Erupts in Evening*, LA TIMES, May 2, 2007, at A1.

³³⁵ *Id.*

³³⁶ *Los Angeles Police Chief William Bratton Says Officers Used Inappropriate Tactics During Immigration Rally*, FOXNEWS.COM, May 2, 2007, <http://www.foxnews.com/story/0,2933,269616,00.html>.

³³⁷ See Randall C. Archibold, *Immigrant Rights Rallies Smaller than Last year*, N.Y. TIMES, May 2, 2007, at A18.

³³⁸ *Immigrant Rights Groups Rally Across the U.S.: Protestors in Phoenix, N.Y., Chicago Demand Path to Citizenship for Illegals*, MSNBC.COM, May 3, 2007, <http://www.msnbc.msn.com/id/18411370/>.

³³⁹ *Id.*

³⁴⁰ See Archibold, *supra* note 338.

³⁴¹ Lynette Curtis & Antonio Planas, *Keep Families Together, Marchers Say: Thousands of Demonstrators Rally in Downtown Las Vegas, Call for Immigration Reform*, LAS VEGAS REV.-J., May 2, 2007, at A1.

parks.³⁴² They expressed concern about proposals of English-only legislation as well as possible denial of state-funded scholarships for unauthorized students.³⁴³

All around the country, organizers did not succeed in bringing out the crowds as they had in 2006. In Las Vegas one attendee said, "We want the world to know and especially the United States [that] May 1 will become synonymous with justice and it will become a new holiday."³⁴⁴ However, the fear of being apprehended during the event, the lack of organizing coordination, and the lack of publicity were all part of the varied reasons given for the low turnout.³⁴⁵ Typical of nascent movements, division among grassroots organizations plagued many cities. In Las Vegas, for example, the relations between the students and the union that were tattered at the end of 2006 had not been mended, which prevented a more impressive effort.³⁴⁶

Frustration with vaunted immigration reform and fear seemed to have dampened spirits. Event organizers spoke of the urgency felt by immigrants that the issues not get placed on "the back burner" before next year's elections.³⁴⁷ The rallies centered on ending raids and subsequent deportations that rip families of mixed immigration status apart, namely undocumented parents and their U.S.-born children.³⁴⁸ But the pleas, although emotional and sincere, seemed just to hang in the air. In Chicago, an organizer stated hopefully, "I think we accomplished what we set out for . . . we sent a very strong message to Congress. The immigration movement is still here and it hasn't died."³⁴⁹ The ongoing raids, increased deportations, and rising anti-immigrant sentiment seem to foretell that this movement cannot die. One Spanish media commentator concludes, "There will be the [continuing] need for the people to rise up again."³⁵⁰

³⁴² *Id.*

³⁴³ *Students Take to the Streets in Protest* (KVBC News 3 Las Vegas Television Broadcast May 2, 2007) (on file with author).

³⁴⁴ Aaron Drawhorn, *Rally, Vigil Held Mayday to Highlight Immigration Reform*, LASVEGASNOW.COM, May 1, 2007, http://www.klas-tv.com/Global/story.asp?S=6453157&nav=menu102_1.

³⁴⁵ Judith Torrea, *Los Ausentes de la Marcha*, ELDIARIO NY.COM, May 2, 2007, <http://www.eldiariony.com/noticias/detail.aspx?section=17&desc=Locales&id=1632459>

³⁴⁶ Representatives of last year's march sponsor, the Culinary Union, viewed the efforts of this year as not efficiently attacking the situation. Pilar Weiss, the union's political director, explained that while comprehensive immigration reform is still desired, boycotting, especially by students, "doesn't bring us any closer to that." Curtis & Planas, *supra* note 352. Other supporters of immigration reform expressed similar views. Miguel Barrientos, United Immigrant Families of Nevada's president, encouraged a more politically active participation by local supporters. He said, "We think we should be sending letters and making phone calls to Congress and the Senate to push immigration reform instead of doing a march that really doesn't help much at this point." *Id.*

³⁴⁷ *Immigrant Rights Groups Rally Across the U.S.*, *supra* note 339.

³⁴⁸ *Id.*

³⁴⁹ Olivo & Olkon, *supra* note 331.

³⁵⁰ Pilar Marrero, *Un Año Despues*, LA OPINIÓN DIGITAL, Mar. 26, 2007, <http://www.laopinion.com/columnist2/?rkey=00070325194941169443>.