

# The Dreamer Divide: Aspiring for a More Inclusive Immigrants' Rights Movement

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## INTRODUCTION

On June 16, 2015, real estate mogul and reality television star Donald Trump took the stage to announce he was officially running for President of the United States. Looking out over the crowd at Trump Tower in New York City, the then-candidate delivered one of the most memorable quotes from his campaign:

When Mexico sends its people, they're not sending their best. They're not sending you. They're not sending you. They're sending people that have lots of problems, and they're bringing those problems with us. They're bringing drugs. They're bringing crime. They're rapists. And some, I assume, are good people.<sup>1</sup>

This xenophobic and racist rhetoric towards immigrants became a hallmark of the Trump campaign. Trump, for instance, implied that federal judge Gonzalo Curiel, who presided over a class action against the for-profit Trump University, was biased against him because “[h]e’s a Mexican.”<sup>2</sup> And as President, Trump has executed a string of anti-immigrant actions. In less than one year into his term, Trump issued a ban on travelers from mostly Muslim-majority countries,<sup>3</sup>

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1. *Here’s Donald Trump’s Presidential Announcement Speech*, TIME (June 16, 2015), <http://time.com/3923128/donald-trump-announcement-speech> [hereinafter Trump Announcement].

2. Z. Byron Wolf, *Read This: How Trump Defended Criticism of Judge for Being ‘Mexican’*, CNN, <http://www.cnn.com/2017/04/20/politics/donald-trump-gonzalo-curiel-jake-tapper-transcript/index.html> (last updated Apr. 20, 2017, 10:21 PM).

3. *See Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats*, Proclamation No. 9645, 82 Fed. Reg. 45161 (Sept. 24, 2017), <https://www.whitehouse.gov/>

proposed extreme vetting measures for certain visa applicants,<sup>4</sup> slashed the refugee cap to the lowest it has been in decades,<sup>5</sup> reinforced his commitment to build a wall along the southern border,<sup>6</sup> and pardoned Sheriff Joe Arpaio—who was held in criminal contempt for violating a court order to stop his office’s aggressive racial profiling and detention of Hispanic residents.<sup>7</sup> The Trump Administration went one step further in September 2017 by rescinding the Deferred Action for Childhood Arrivals (DACA) program, which had protected approximately 800,000 young undocumented immigrants from deportation.<sup>8</sup>

To be sure, anti-immigrant rhetoric has existed in America since our founding,<sup>9</sup> and anti-immigrant efforts today are not isolated to the federal executive branch.<sup>10</sup> But the marked increase in anti-immigrant hostility across the nation over the last year—seized upon and intensified by the Trump Administration—has increased the urgency for advocates to fight on behalf of these vulnerable communities.

This Essay argues that, as advocates work tirelessly to counter the current surge in hate towards immigrants, it will be increasingly important to employ inclusive strategies that—whenever possible—avoid advancing the interests of some immigrants at the expense of other immigrants. In particular, at the time of writing this article, Congress promises to pass an immigration bill to create a replacement for DACA, and there is a risk that the legislative result will protect some subset of those whom the American public have come to call “Dreamers” but lead to greater enforcement against immigrants overall. Aiming for a more

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the-press-office/2017/09/24/enhancing-vetting-capabilities-and-processes-detecting-at-tempted-entry.

4. See BRENNAN CTR. FOR JUSTICE, *EXTREME VETTING & THE MUSLIM BAN 1-4*, 11-20 (2017), <https://www.brennancenter.org/publication/extreme-vetting-and-muslim-ban>.

5. See Julie Hirschfeld Davis & Miriam Jordan, *Trump Plans 45,000 Limit on Refugees Admitted to U.S.*, N.Y. TIMES (Sept. 26 2017), [https://www.nytimes.com/2017/09/26/us/politics/trump-plans-45000-limit-on-refugees-admitted-to-us.html?\\_r=0](https://www.nytimes.com/2017/09/26/us/politics/trump-plans-45000-limit-on-refugees-admitted-to-us.html?_r=0).

6. See Elliot Spagat, *Trump’s Border Wall Models Take Shape in San Diego*, ASSOCIATED PRESS (Oct. 20, 2017), <https://www.apnews.com/3d3e5ad46b7b477ebe0bca-add6ffd591>.

7. See Devlin Barrett & Abby Phillip, *Trump Pardons Former Arizona Sheriff Joe Arpaio*, WASH. POST (Aug. 25, 2017), [http://wapo.st/2ge7wsM?tid=ss\\_mail&utm\\_term=.9994ba45e849](http://wapo.st/2ge7wsM?tid=ss_mail&utm_term=.9994ba45e849).

8. Memorandum from Elaine Duke, Acting Sec’y, DHS, to James W. McCament, Acting Dir., USCIS, et al. (Sept. 5, 2017), <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>.

9. See SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY, *Immigration and U.S. History—The Evolution of the Open Society*, in U.S. IMMIGRATION POLICY AND THE NATIONAL INTEREST 161, 167-76 (1981) (discussing efforts in early American history to restrict immigration).

10. See, e.g., Julián Aguilar, *Attorneys Spar Over Texas Immigration Law in Federal Court*, TEXAS TRIBUNE (June 26, 2017, 7:00 PM), <https://www.texastribune.org/2017/06/26/attorneys-spar-over-texas-immigration-law/> (Texas’s anti-sanctuary act, SB 4); Max Morgan, *Feds Block Public List Of Immigrants In Georgia With Prior Felonies*, GA. PUB. BROADCASTING (June 29, 2017), <http://gpbnews.org/post/feds-block-public-list-immigrants-georgia-prior-felonies> (Protect Georgia Act).

inclusive immigrants' rights movement might lead to reforms that benefit a broader group of immigrants and better address our society's long-standing systemic discrimination against immigrant communities.

Part I provides examples of social movements that chose strategies that harmed the interests of other disadvantaged groups. Part II discusses one divide that has emerged in the current immigrants' rights movement—namely, the growing debate over whether to use the term “Dreamer.” Finally, Part III proposes some ways forward for advocates to try to advance the rights of all immigrants.

### I. LESSONS FROM HISTORY

Historians and legal scholars have documented numerous instances in which a social movement's campaign to advance the rights of some disadvantaged group ended up using strategies that actively harmed or left behind the interests of other disadvantaged groups.

Perhaps the most prominent example is the women's suffrage movement. There is substantial literature on strategies used by white women suffragists that divided the movement along racial lines. Research by historian Rosalyn Terborg-Penn, for example, demonstrates “white women for the most part campaign for their own enfranchisement,” not universal suffrage.<sup>11</sup> These white women suffragists often “either avoided the race question or openly opposed including Black women in the suffrage ranks.”<sup>12</sup> This choice to not fully include black women in the women's suffrage movement was strategic, if not a product of racial biases on the part of many white suffragists themselves. Many national suffrage leaders worried that full inclusion of black women in the movement “would create racial tensions among southern members and jeopardize the passage of the Nineteenth Amendment.”<sup>13</sup> Terborg-Penn argues that these strategies had a long-term negative impact on the right of black women to vote, finding that southern states implemented measures to disfranchise black women less than a decade after the Nineteenth Amendment.<sup>14</sup>

Closely related to the racial divide, mainstream suffragists divided the movement by education level and even advanced anti-immigrant arguments. Historian Lisa Tetrault explains that a central message of suffragists was that women's “intelligent votes and moral influence” were necessary to counter the “incoming tide of ignorant voters from Southern plantations and from the nations of the Old World.”<sup>15</sup> Tetrault also argues that prominent suffragists like Elizabeth Cady Stanton and Susan B. Anthony advanced a limited view of suffrage that included

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11. ROSALYN TERBORG-PENN, *AFRICAN AMERICAN WOMEN IN THE STRUGGLE FOR THE VOTE, 1850-1920* 9 (1998).

12. *Id.* at 11.

13. *Id.*

14. *Id.*

15. LISA TETRAULT, *THE MYTH OF SENECA FALLS: MEMORY AND THE WOMEN'S SUFFRAGE MOVEMENT, 1848-1898* 131 (2014).

literary tests—that is, they tolerated “just” disenfranchisement through means testing, compared to “unjust” disenfranchisement based on categories such as gender.<sup>16</sup>

In addition, legal scholar Rabia Belt explains that the women’s suffrage movement harmed the rights of the mentally disabled. Belt argues that suffragists employed rhetoric that “deployed and reified the category of compulsory ablemindedness.”<sup>17</sup> Women suffragists argued, for instance, that they should not “forever . . . be regarded as children or as lower than persons, along with criminals, idiots, and the insane.”<sup>18</sup> Such discrimination continues today as “nearly forty states disenfranchise people based on their mental status.”<sup>19</sup>

This dynamic has played out across many social movements. A more recent example is the gay rights movement’s struggle over whether and how to include transgender issues. Advocate Shannon Minter presented one influential account of this phenomenon, explaining that there was an active debate over the question: “Should the gay rights movement expand its borders to include transgender people?”<sup>20</sup> Minter argues that the mainstream gay rights movement excluded transgender people over time because the model of gay identity pushed by activists “shift[ed] from an older model of homosexuality as gender inversion to the dominant contemporary model of sexual object choice.”<sup>21</sup> In other words, the strategic focus in the gay rights movement on sexual orientation increased the isolation of gender-variant people, even though “a sizable percentage of transgender people also identify as lesbian, gay, or bisexual.”<sup>22</sup> Some of the pressures behind this shift, according to Minter, were leading activists who wanted to present a gender-normalizing model of gay identity—for instance, the image of someone who is lesbian, gay, or bisexual but embraces “straight middle-class conventions of decorum in their dress and style.”<sup>23</sup> This increased marginalization of gender-variant people led to the emergence of a “distinct constituency, or . . . what is now known as the transgender movement.”<sup>24</sup>

Minter observes that the “established gay groups have not responded to the sudden emergence of a ‘transgender’ constituency with immediate understanding or acceptance.”<sup>25</sup> This resistance is not necessarily out of animus, according to

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16. *Id.* at 132.

17. Rabia Belt, *Mental Disability and the Right to Vote 4* (2015) (Ph.D. dissertation) (on file with University of Michigan).

18. *Id.* at 31.

19. *Id.* at 1.

20. Shannon Minter, *Do Transsexuals Dream of Gay Rights? Getting Real About Transgender Inclusion in the Gay Rights Movement*, 17 N.Y.L. SCH. J. HUM. RTS. 589, 589 (2000).

21. *Id.* at 608.

22. *Id.* at 591.

23. *Id.* at 603.

24. *Id.* at 607.

25. *Id.* at 612.

Minter, but instead “reflects genuine confusion and concern about how to reconcile transgender issues with the modern, non-transgender model of gay identity that has dominated legal and political advocacy.”<sup>26</sup> Some gay advocates have gone so far as to argue that “transgender people must wait their turn and cannot expect to ‘piggyback’ or ‘ride on the coattails’ of the gay movement”—though Minter points out that “these arguments fail to acknowledge that transgender people have been present in gay liberation and gay rights struggles from the beginning.”<sup>27</sup>

Perhaps these strategies by the women’s suffrage and gay rights movements—choices that excluded certain marginalized groups—were important to achieve pivotal victories. And to be sure, this dynamic seems inherent in any social movement, as advocates are often pressured to assert some limiting principle to not seem unreasonable and to win over the general public and policymakers. But advocates should nonetheless learn from this history to at least think critically about whether certain strategies will ultimately pave a path towards greater equality for all or possibly leave some disadvantaged group even more disadvantaged.

## II. CURRENT IMMIGRATION REFORM EFFORTS & THE DREAMER DEBATE

These lessons from history are important to keep in mind today as the immigrants’ rights movement has a window to possibly pass momentous immigration reform, and, at the time of writing this article, Congress is debating whether to protect hundreds of thousands of young undocumented immigrants from deportation and possibly provide a path to citizenship. However, an increasing number of community members are speaking out against using one of the arguably most effective strategies to gain sympathy for immigrants—the “Dreamer” narrative.

President Trump recently reignited the potential for immigration reform when he rescinded the Deferred Action for Childhood Arrivals (DACA) program.<sup>28</sup> The Obama Administration created the DACA program in June 2012 after Congress failed to pass the then-most-recent version of the Development, Relief, and Education for Alien Minors (DREAM) Act and many advocates and activists kept up pressure for reform.<sup>29</sup> The DACA program, an exercise of pros-

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26. *Id.*

27. *Id.* at 599-600; see also Taylor Flynn, *Transforming the Debate: Why We Need to Include Transgender Rights in the Struggles for Sex and Sexual Orientation Equality*, 101 COLUM. L. REV. 392 (2001).

28. Memorandum from Elaine Duke, *supra*, note 8.

29. See Scott Wong & Shira Toeplitz, *DREAM Act Dies in Senate*, POLITICO (Dec. 18, 2010, 11:39 AM), <https://www.politico.com/story/2010/12/dream-act-dies-in-senate-046573>; *Remarks by the President on Immigration*, THE OBAMA WHITE HOUSE (June 12, 2012), <https://obamawhitehouse.archives.gov/the-press-office/2012/06/15/remarks-president-immigration>.

ecutorial discretion, provided temporary relief from deportation and work authorization for roughly 800,000 young undocumented immigrants.<sup>30</sup>

Despite being a very popular program among the public and many leading business executives,<sup>31</sup> DACA had powerful opponents. Trump repeatedly promised throughout his campaign to end DACA.<sup>32</sup> When he did not do so immediately upon entering office, ten states threatened to sue the federal government if the Trump Administration did not end DACA by September 5, 2017.<sup>33</sup> On September 5, 2017, Attorney General Jeff Sessions announced DACA's rescission.<sup>34</sup> He argued that the program was "unconstitutional" and in effect had "denied jobs to hundreds of thousands of Americans by allowing those same jobs to go to illegal aliens."<sup>35</sup> The Trump Administration clarified that the official end to DACA would be in six months—that is, March 2018—giving Congress the opportunity to act to protect these young immigrants.<sup>36</sup>

As Congress scrambles under this six-month deadline to try to create a replacement for DACA in a broader immigration reform bill, all eyes are on whether Congress will protect the group of immigrants the American public has come to call "Dreamers." Since the first version of the DREAM Act was introduced in 2001,<sup>37</sup> young undocumented immigrants have generally been called

30. Jens Manuel Krogstad, *DACA Has Shielded Nearly 790,000 Young Unauthorized Immigrants From Deportation*, PEW RESEARCH CTR. (Sept. 1, 2017), <http://www.pewresearch.org/fact-tank/2017/09/01/unauthorized-immigrants-covered-by-daca-face-uncertain-future>.

31. See, e.g., Rob Suls, *Less Than Half the Public Views Border Wall as an Important Goal for U.S. Immigration Policy*, PEW RESEARCH CTR. (Jan. 6, 2017) (72% of Americans support DACA), <http://www.pewresearch.org/fact-tank/2017/01/06/less-than-half-the-public-views-border-wall-as-an-important-goal-for-u-s-immigration-policy/>; Steven Stepard, *Poll: Majority Opposes Deporting Dreamers*, POLITICO (Sept. 5, 2017), <http://www.politico.com/story/2017/09/05/poll-trump-deporting-daca-dreamers-242343> (76% of voters think Dreamers should be allowed to stay); Tracy Jan, *Hundreds of Business Leaders Call on Trump to Protect 'Dreamers'*, WASH. POST (Sept. 1, 2017, 5:00 PM), [https://www.washingtonpost.com/news/wonk/wp/2017/09/01/hundreds-of-business-leaders-call-on-trump-to-protect-dreamers/?utm\\_term=.a6e2862195f4](https://www.washingtonpost.com/news/wonk/wp/2017/09/01/hundreds-of-business-leaders-call-on-trump-to-protect-dreamers/?utm_term=.a6e2862195f4) (letter from hundreds of business leaders).

32. See, e.g., "Trump Announcement," *supra* note 1 ("I will immediately terminate President Obama's illegal executive order on immigration, immediately.").

33. The states included Texas, Alabama, Arkansas, Idaho, Kansas, Louisiana, Nebraska, South Carolina, Tennessee, and West Virginia. See Letter from Ken Paxton, Att'y Gen. of Tex., et al., to Jeff Sessions, Att'y Gen., Dep't of Justice (June 29, 2017), [https://www.texasattorneygeneral.gov/files/epress/DACA\\_letter\\_6\\_29\\_2017.pdf](https://www.texasattorneygeneral.gov/files/epress/DACA_letter_6_29_2017.pdf). Tennessee later backed out, citing the "human element" of the issue. Letter from Herbert H. Slatery III, Att'y Gen. of Tenn., to Senators Lamar Alexander & Bob Corker (Sep. 1, 2017), <http://i2.cdn.turner.com/cnn/2017/images/09/01/dacaletter9-1-2017.pdf>.

34. Ryan Teague Backwith, *'We Cannot Admit Everyone.'* Read a Transcript of Jeff Sessions' Remarks on Ending the DACA Program, TIME (Sept. 5, 2017), <http://time.com/4927426/daca-dreamers-jeff-sessions-transcript>.

35. *Id.*

36. *President Donald J. Trump Restores Responsibility and the Rule of Law to Immigration*, WHITE HOUSE (Sept. 5, 2017), <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-restores-responsibility-rule-law-immigration>.

37. Immigrant Children's Educational Advancement and Dropout Prevention Act of

“Dreamers.” Since Obama created the DACA program, the media has discussed “DACA-recipients” and “Dreamers” mostly synonymously to generally refer to undocumented immigrants who came to the United States as children.<sup>38</sup>

The term “Dreamer” was originally employed by immigrants’ rights advocates and activists as a strategy to humanize and garner empathy for immigrants. In past efforts to pass the DREAM Act, leading advocacy groups highlighted immigrants who came to the United States as young children and went on to become high school valedictorians, Ivy League college students, and military members.<sup>39</sup> And when a group of undocumented youth staged a sit-in in Senator John McCain’s office, they wore their caps and gowns.<sup>40</sup> Such framing might have been necessary to win over policymakers and members of the public who were not initially supportive of immigration reform, and this strategy is credited with successfully raising the visibility of undocumented youth.

But this reliance on the Dreamer image has grown increasingly divisive in the current immigrants’ rights movement. This new debate was on full display at a press conference last fall by House Minority Leader Nancy Pelosi, where undocumented activists staged a protest. As Pelosi responded by saying that she has “been fighting the fight for the Dreamers,” protestors angrily shouted back, “We are not Dreamers!”<sup>41</sup> The protestors also chanted, “We are not a bargaining chip!” and later on Twitter declared, “All of us or none of us!”<sup>42</sup>

Why is this happening? Many of the same immigrants’ rights activists who identified and presented themselves as Dreamers during the last push for the DREAM Act are now speaking out against the term.<sup>43</sup> The problem, they say, is that the term Dreamers ultimately “may do more harm than good because the concept is rooted in exceptionalism.”<sup>44</sup> That is, the Dreamer narrative is a limited one of high-achieving youth with clean records and who strongly contribute to the economy. Some activists have come to believe that—instead of the public acceptance of Dreamers serving as a stepping-stone to less discrimination against

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2001, H.R. 1582, 107th Cong. § 2(b) (2001).

38. See John Daniszewski, *AP Style on ‘Dreamers’*, ASSOCIATED PRESS: THE DEFINITIVE SOURCE (Sept. 6, 2017), <https://blog.ap.org/behind-the-news/ap-style-on-dreamers>.

39. See, e.g., THE DREAM IS NOW (Organizing for Action Apr. 14, 2013).

40. Julia Preston, *Illegal Immigrant Students Protest at McCain Office*, N.Y. TIMES (May 17, 2010), <http://www.nytimes.com/2010/05/18/us/18dream.html>.

41. Roxana Kopetman & Alejandra Molina, *DACA Debate: Don’t Call Them ‘Dreamers,’ or Pawns*, ORANGE CTY. REG. (Sept. 22, 2017, 1:44 PM), <http://www.oregister.com/2017/09/22/daca-debate-dont-call-them-dreamers-or-pawns/>.

42. Ed O’Keefe, *Nancy Pelosi Confronted by Immigration Rights Protesters About Her DACA Talks with Trump*, WASH. POST (Sept. 18, 2017), [https://www.washingtonpost.com/news/powerpost/wp/2017/09/18/nancy-pelosi-confronted-by-daca-recipients-protesting-her-agreement-with-trump/?utm\\_term=.ea7f760c187b](https://www.washingtonpost.com/news/powerpost/wp/2017/09/18/nancy-pelosi-confronted-by-daca-recipients-protesting-her-agreement-with-trump/?utm_term=.ea7f760c187b).

43. Jorge Rivas, *Why You Should Stop Using the Term DREAMer*, SPLINTER NEWS (Aug. 25, 2017, 1:30 PM), <https://splinternews.com/why-you-should-stop-using-the-term-dreamer-1797908148>.

44. *Id.*

all immigrants—the term Dreamer might be used to the detriment of non-Dreamers. After all, if Dreamers are “deserving” of mercy from deportation because of these characteristics, the implication might be that other groups of immigrants are “less deserving.”

This potential problem with the Dreamer narrative plays out in two ways. First, youth who do not fit the Dreamer criteria might be shut out. As one undocumented activist explained, “We soon realized that Dreamer, instead of being something empowering, set a standard for undocumented youth.”<sup>45</sup> The millions of youth who do not fit into this mold are left vulnerable. For example, the 2010 DREAM Act would have limited the path to citizenship to undocumented immigrants who have earned a high school diploma, GED certificate, or were currently enrolled in college; came to the United States before they were 16 years old but were no older than 31 years old; and have not been convicted of a felony or certain misdemeanors.<sup>46</sup> DACA eligibility criteria largely mirrored the DREAM Act’s requirements.<sup>47</sup>

These requirements left hundreds of thousands of undocumented youth without protection. The high school diploma or GED criteria alone disqualified an estimated 426,000 undocumented youth who would have otherwise qualified for DACA.<sup>48</sup> Many youths with a criminal record were also ineligible for DACA. Convictions of misdemeanors such as drug sales, driving under the influence, or burglary were automatic disqualifiers.<sup>49</sup> Also, multiple minor run-ins with the law, including juvenile delinquencies or minor traffic offenses, served as possible bases for discretionary denial.<sup>50</sup> These criminal bars to DACA are in line with the broader hostility towards so-called “criminal aliens.” For instance, legal scholar Jennifer Chacón argues that such “problematically constructed notions of criminality” are central to the “longstanding false dichotomy of ‘good and bad immigrants,’” and do not take into account the reality that many immigrants live in “heavily policed, low-income neighborhoods.”<sup>51</sup>

Second, the Dreamer narrative might drive a wedge between young immigrants and older immigrants. The focus on immigrant youth has the potential to

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45. See Jonathan Perez, *Challenging the “DREAMer” Narrative*, HUFFINGTON POST (Nov. 16, 2014, 12:54 PM), [http://www.huffingtonpost.com/jonathan-perez/challenging-the-dreamer\\_n\\_6163008.html](http://www.huffingtonpost.com/jonathan-perez/challenging-the-dreamer_n_6163008.html).

46. DREAM Act of 2010, S. 3992, 111th Cong. § 4(a)(1) (2010).

47. See *Frequently Asked Questions*, U.S. CITIZENSHIP & IMMIGR. SERVS., <https://www.uscis.gov/archive/frequently-asked-questions#initial%20request> (last updated Mar. 8, 2018).

48. Cindy Carcamo, *Education Requirements Deter Many Would-be ‘Dreamers,’ Activists Say*, L.A. TIMES (Aug. 29, 2014), <http://www.latimes.com/nation/immigration/la-na-ff-dreamers-left-behind-20140830-story.html>.

49. UNDERSTANDING THE CRIMINAL BARS TO DEFERRED ACTION FOR CHILDHOOD ARRIVALS, IMMIGR. LEGAL RESOURCE CTR.

50. *Id.*

51. Jennifer M. Chacón, *Immigration and the Bully Pulpit*, 130 HARV. L. REV. F. 243, 252 (2017).



deprioritize reforms that would benefit older immigrants. In addition, a key aspect of the Dreamer narrative is that these youths are blameless—they were brought to the United States when they were children. As an undocumented activist described, “Nonprofits pushed a narrative in which we had no agency in coming to this country. So who was to blame? Our parents.”<sup>52</sup> This characteristic, for some members of the public and policymakers, is another way to separate the “good” and “bad” immigrants, casting in negative light undocumented immigrants who arrived as adults.

These potential consequences for immigrants’ rights advocates employing the Dreamer narrative are important to consider as legislators make imprecise and loose promises of “protecting Dreamers.” As Congress pushes to pass an immigration bill before the six-month deadline, much has to be determined—including exactly who will receive protection, the kind of protection they will receive, and what compromises will be made to get these protections.

This could play out in a number of ways. For example, some bills would create complicated paths to citizenships that would be available to fewer individuals than DACA protected and take over a decade.<sup>53</sup> And such limited paths would come with significant tradeoffs, such as expressly prohibiting these youth from ever sponsoring family members to stay in the United States and requiring certain visa holders to sign waivers to give up their rights to a hearing or any discretionary relief if they ever overstayed their visas.<sup>54</sup> One activist summarized this approach as one that “leaves out many immigrant youth, requires us to sign away our day in court and walk on eggshells for 15 years.”<sup>55</sup>

Such proposals do not include enough enforcement measures for President Trump, however, who issued a long list of additional must-have demands for legislation that replaced DACA—including funding the construction of a border wall, hiring 10,000 new Immigration and Customs Enforcement officers, tightening standards for asylum-seekers, and imposing greater restrictions on lawful immigration.<sup>56</sup>

When the undocumented activists confronted Congresswoman Pelosi at her

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52. Jonathan Perez, *Challenging the “DREAMer” Narrative*, HUFFINGTON POST (Nov. 16, 2014, 12:54 PM), [http://www.huffingtonpost.com/jonathan-perez/challenging-the-dreamer-na\\_b\\_6163008.html](http://www.huffingtonpost.com/jonathan-perez/challenging-the-dreamer-na_b_6163008.html).

53. One example is The Solution for Undocumented Children Through Careers, Employment, Education, and Defending Our Nation (SUCCEED) Act. *See* SUCCEED Act, S. 1852, 115th Cong. (2017); THE SUCCEED ACT, THOM TILLIS: U.S. SENATOR FOR N.C. (explaining the path would take 15 years, include “rigorous” background checks that opened them up to being rejected for a myriad of possible reasons, and create many complicated conditions).

54. *See* Seung Min Kim, *GOP Senators Unveil New ‘Dreamers’ Bill*, POLITICO (Sept. 25, 2017, 12:00 PM), <http://www.politico.com/story/2017/09/25/dreamers-republican-new-bill-243100>.

55. *See* Yamiche Alcindor, *Republicans Present Conservative Vision for ‘Dreamer’ Protection*, N.Y. TIMES (Sept. 25, 2017), <https://www.nytimes.com/2017/09/25/us/politics/republicans-daca-citizenship.html>.

56. *Trump Administration Immigration Policy Priorities*, WHITE HOUSE (Oct. 8, 2017), <https://www.whitehouse.gov/briefings-statements/trump-administration-immigration-policy-priorities>.

press conference, they were expressing their frustration about how the current push for immigration reform risks leaving behind—or actively disadvantaging—many immigrants in pursuit of protecting Dreamers. The creation of a path to legal status or citizenship for a subset of undocumented immigrants could certainly be a tremendous win for the immigrants’ rights movement, but many activists are increasingly concerned that these efforts might lose sight of the bigger goal of a more sensible and humane immigration system overall.

### III. POSSIBLE STEPS FOR A MORE INCLUSIVE IMMIGRANTS’ RIGHTS MOVEMENT

To address systemic issues of hate and discrimination towards immigrants within society, advocates should continuously question the long-term impact of strategies that perhaps unavoidably draw a line that excludes some immigrants from the reach of our advocacy. In this Part, I briefly offer three ideas for how advocates might cultivate a more inclusive movement.

First, advocates should try to focus on reforms that increase the pie, instead of making tradeoffs, if at all possible. Even the most recent version of the DREAM Act, which proposed increasing the number of immigrants who would receive protection from deportation, still excluded many seemingly less sympathetic immigrant groups, such as older undocumented immigrants, high school dropouts, and immigrants with criminal records.<sup>57</sup> Where to draw the line has always been a difficult task for immigrants’ rights advocates, who generally both accept the legitimacy and inevitability of national borders, but simultaneously fight for less restrictive immigration policies.<sup>58</sup> Advocates should nonetheless rigorously examine the terms of any legislative deal to see how it affects all immigrants and be conscious of the immigrants’ rights movement’s long-term goals.

Sustaining such focus will, in part, involve fighting human nature. After all, social psychology literature on “moral licensing” shows that after people do something “good” that demonstrates their lack of prejudice, people are more willing to let themselves off the hook to possibly do something prejudicial next time.<sup>59</sup> Advocates should remind the public and policymakers that one victory, such as a path to citizenship for a subset of undocumented youth, should not provide a license to disadvantage other marginalized immigrants—and that legislation alone is not enough to address society’s systemic discrimination against immigrants.

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57. Dream Act of 2017, S. 1615, 115th Cong. § 4(b) (2017).

58. See, e.g., Linda S. Bosniak, *Opposing Prop. 187: Undocumented Immigrants and the National Imagination*, 28 CONN. L. REV. 555, 573-96 (1996) (opponents to California Proposition 187, which denied public services to undocumented residents, were “constrained in the arguments they c[ould] make” because of “their own predominantly ‘national imaginations’”).

59. See Daniel A. Effron et al., *Endorsing Obama Licenses Favoring Whites*, 45 J. EXPERIMENTAL SOC. PSYCHOL. 590, 590 (2009); Benoît Monin & Dale T. Miller, *Moral Credentials and the Expression of Prejudice*, 81 J. PERS. & SOC. PSYCHOL. 33, 40 (2001).

Second, advocates must always be talking directly with the communities they serve. Given that needs and priorities of immigrant communities undoubtedly change over time, the immigrants' rights movement leaders should be aware of such changes and be willing to consider adapting strategies. Civil rights leader and legal scholar Derrick Bell discussed this need for advocates to stay connected to communities in his famous and controversial critique of the school desegregation campaign.<sup>60</sup> Bell argued that civil rights lawyers' tactics in hard-fought desegregation cases worked for a decade, but the lawyers' "single-minded commitment to racial balanc[ing]" over time fell out of sync with community needs.<sup>61</sup> As the school desegregation efforts lost momentum in the courts, "civil rights lawyers have not recognized the shift of black parental priorities" from racial balancing to educational improvements.<sup>62</sup> Similarly here, the complexities of immigration reform raise questions of a potentially "higher standard of professional responsibility"<sup>63</sup> for advocates to stay continuously attuned to their communities. Thus, as undocumented activists are now speaking out against the term Dreamers, advocates should pause to try to understand this resistance and grapple with whether they should alter any strategies.

Third, advocates should work together, across the many immigrants' rights organizations and individual practitioners. This is especially important because there is a practical limit to the capacity of a single advocate or organization, and advocates have an obligation to zealously represent clients—which might even include employing strategies such as the Dreamer narrative to prevail. As legal scholar Gerald López argues, advocates are better problem solvers when engaging in "extraordinary teamwork."<sup>64</sup> López's vision for "rebellious lawyering" requires that "co-eminent collaborators routinely engage and learn from one another and all other pragmatic practitioners."<sup>65</sup> Regardless of whether one believes in López's vision for change, it is clear that no individual can meaningfully represent the interests of all immigrants given the multitude of diverse communities and the reality that advocates must prioritize their clients' interests. Thus advocates who represent particular immigrant communities should regularly come together—informally in one-off meetings or formally through coalitions—to learn from each other and find overlapping interests. When legislative proposals for immigration reform are on the table, for instance, such collaboration might lead to stronger unified efforts to, whenever possible, push for the reforms that advance the rights of all immigrants.

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60. Derrick A. Bell, Jr., *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation*, 85 *YALE L. J.* 470, 490-91 (1976).

61. *Id.* at 515-16.

62. *Id.* at 471-72, 516.

63. *Id.* at 471.

64. Gerald P. López, *Keynote Address: Living and Lawyering Rebelliously*, 73 *FORDHAM L. REV.* 2041, 2048 (2005).

65. *Id.* at 2043.

CONCLUSION

Should advocates use the term “Dreamers”? The answer is not straightforward, especially since employing the Dreamer narrative might be an effective strategy to help protect hundreds of thousands of immigrant youth from deportation. But advocates should at least think critically about what the term means and recognize that the growing opposition to the term reflects a broader objection to perpetuating a narrative that excludes relatively less sympathetic immigrants. After all, aiming for a more inclusive immigrants’ rights movement might help ensure that the strategies used today not only help immigrants weather the current storm as much as possible, but also chip away at the systemic discrimination against immigrants in our society.