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Places to Dream

[Paulina Ochoa Espejo \(bio\)](#)

Abstract

The 2012 election showed that the Latino vote is a force that must be reckoned with, and this has revived discussions about the DREAM Act and Immigration Reform, particularly about the idea that those immigrants who are already here should be allowed to stay. But why does being physically present in a state's territory entitle you to rights that you would not otherwise have? This paper examines arguments to grant rights to Dreamers based on membership and territorial presence, and argues that relation to *place* gives us better grounds for claiming that Dreamers have a right to stay.

I. The Latino Vote in November 2012

Early in the summer of 2012, before the Republican Party had settled on its presidential candidate and before the election season began to heat up, president Obama issued an executive order offering deferral of deportation proceedings to a group of young people who were brought unlawfully to the United States as children. The resulting program of the Homeland Security Department is officially called Deferred Action for Childhood Arrivals (DACA), and it is designed to be modest in its scope and limited in its effects. DACA is a discretionary program aimed at a small group of eligible individuals whose legal immigration status does not change in the process of application, and who are not guaranteed of seeing any actual changes in their daily lives, as the provisions are explicitly temporary, and its continuation conditional on Obama's re-election. Yet, in spite of its modest scope, the significance of this program may have been enormous.

The executive order may have been the factor that ultimately won Obama his second term in office by breathing new life into the DREAM Act. The Act, which was quashed in Congress in December 2010, has become symbolically associated with sympathy towards Latino concerns, and thus, with significant Latino turnout and strongly Democratic voting in the election, and perhaps with the President's victory. Moreover, the flood of news articles that followed agrees that the fate of the DREAM Act matters because the Latino vote will be indispensable in the next presidential election, and will remain decisive as far into the future as the American political machines care to see. (The media is already buzzing about Susana Martinez, Ted Cruz, or Marco Rubio as indispensable to the next Republican ticket, and also about Rubio's own version of the DREAM act, an alternative called ACHIEVE). Yet, delivering "the key" to the next election may require a bit more work. The mainstream media has yet to parse out *why* the DREAM Act is especially important, or to explain why it is often used as a stand-in for Latino politics, and describe what it will actually sway.

The media loves the images and the stories of those affected by the Act, because these "Dreamers" can be reduced to attractive (and phenotypically predictable) pictures, that meld ideas of youth, jobs, growth, immigration, achievement, borders, education, rights, and civic inclusion. The pictures and stories can be used to suggest that these themes form a coherent whole, a stand-in for the proverbial key to the next election. But to anybody who cares to look closely it is obvious that neither Dreamers nor Latinos are a precise political demographic, nor is there one single Latino policy agenda. As Cristina Beltrán argues in *The Trouble with Unity*, "'Latino' is a political, rather than merely a descriptive category." Dreamers, like Latinos, do not embody a pre-existing group or cause. They do not represent an existing issue or an agenda. Instead, those who identify themselves as Dreamers and participate in politics as such create a cause and shape it as they become visible in the public realm. For this reason, the DREAM Act is more than a legislative bill that would affect a very specific group of individuals; it is rather "a site of political contestation."¹

Why should Dreamers be allowed to stay? Why would they *choose* to stay? Why would they fight for recognition of their right to stay? The answers to these questions are not stated explicitly in the Act or in the legal proceedings—they are being fought out as we speak. The Act, then, gives us the

opportunity to probe contesting views of political morality, particularly those underlying the intuition that those foreigners who were brought here as children—whether lawfully or unlawfully—should be allowed to stay. Asking *why* brings to the political table other questions that may not get asked otherwise: Who should have a say in American politics and why? Why is “good moral character” relevant to political participation, and who decides what that is? Who has a right to live and work in this country? Why should those who study or serve in the military have more rights than those who do not? When or why does a foreigner cease to be one?

In what follows I focus on one of these questions: *Why does being physically present in a state’s territory entitle you to legal and social rights that you wouldn’t otherwise have?* And I will emphasize an answer that political theorists often ignore: dreamers have rights and the country should legally acknowledge them because *they live here*. Here, however, is not the United States, but *here*: this auditorium, this neighborhood, this supermarket, this park, this school, this stretch of highway and the public and private spaces that surround all of these. In Part II, I argue that the Dream Act matters because the discussion surrounding it will set the agenda for immigration reform, and I show how the White House tries to justify the Act in terms of civic and national identity. These justifications, to which I turn in Part III, use *membership* based on participation and national belonging as the ground for granting rights to Dreamers, and they often overlook the fact that the DREAM Act is mostly about physical presence in a specific place. I return to this neglected theme of place in the last part of the paper to see why place and presence give us better grounds for claiming that Dreamers have a right to stay.

II. The DREAM Act

By the Thursday after the election it was a commonplace that the Latino vote had given Obama his victory. Even Fox News pundits had begun to change their tune, calling to put the anti-immigrant rhetoric aside, and already preparing to bring Latinos into the Republican fold in the next electoral round.² In post-election analysis, DACA and the DREAM Act appeared relevant mainly because they helped the Democratic Party win the presidency. Recall that just before the election, this outcome could not have been taken for granted. Those who in 2008 had trusted that President Obama would use his political capital and the Democratic majority in both houses to pass a comprehensive immigration reform were disappointed, and had good reasons to resent it. The Obama administration not only ignored immigration reform, but it also was particularly zealous about rounding up and deporting undocumented immigrants. (In the first two years of the Obama administration there was almost a 20 percent increase in the number of total deportations over the last two years of the Bush administration.³ This increase, moreover, took place at the same time that the rate of undocumented immigration to the US neared zero.⁴) Moreover, it sent unfriendly messages to Latinos by harping on the theme of control at the Southern border. So Democrats harbored a genuine fear that disaffected Latinos would not turn out for Obama on Election Day. From this perspective, the executive order and the DREAM Act mattered because they mended bridges with the Latino community, because they brought votes to the Democratic Party, and because they forced both Democrats and Republicans to “get serious about immigration reform.”

However, the Act’s importance cannot be reduced to this short-term political horizon for at least two reasons. The first is that the consolidation of the Latino vote is not secure. Those Latinos who voted for Obama are well aware that the Democratic Party may again take them for granted and once more put aside Latino concerns. (In Obama’s first term the administration blamed the Republicans for their inaction on this issue, but it is quite probable that inaction on immigration was a convenient strategy for moving other policies through Congress, and to avoid the difficult negotiations with labor unions that must accompany immigration reform.) This awareness may create a group of undecided voters who could leave the Latino vote as unsettled as it was before the election. Second, the immigration agenda is not consolidated, nor as clear as some may imagine it to be. General talk about immigration reform is no substitute for a serious discussion: and no such discussion has yet occurred. The current agenda consists of many issues of concern for different groups, issues which, by the way, may not even overlap with immigration. The main relevance of the Act then, is not that it

provides a short-term solution to a specific problem, but rather, that it opens up the possibility of bringing new problems to the table over the long term.

The Act matters because it may set the political tone as immigration reform moves forward in the next few years, but more importantly because it can start a wider conversation about the source and meaning of political rights. Such conversation is a political enterprise and it will take place in public forums, but political theorists may also observe and participate from a privileged perspective. It is our privilege to be able to stand outside these conversations and observe them as if they were laid out on a wide canvas. From up close, political, legal, and moral arguments appear as separate and discrete lines, but from a distance, political theorists can see how they get interwoven with superimposed or subjacent images that evoke unarticulated beliefs, fears and prejudices, and how these stand out against the background color provided by inspirations, feelings, or moods. Stepping for a second out of the rush of media information, we can stop to examine this canvas and then analyze, understand, critique and recast our positions in the discussion before jumping back in. Once we set these separate arguments before us it becomes clear that the relevance of the DREAM Act is not primarily about electoral politics: that the most vibrant colors and boldest strokes in the canvas surround arguments about rights. The main objects of concern in those arguments are the rights of those individuals at risk of being deported, but we can also see arguments about the rights of all citizens, and their relation to other people in the world. Taking such distance allows political theorists to reevaluate the terms and arguments in use, and perhaps even change some of the background feelings by shifting how we perceive the situation's elements, before we embark in the "inevitable" immigration reform that will come in the next few years. What, then, are the arguments that I am picking out of this debate?

One notable move in the conversation is the White House's justification for the executive order and the President's endorsement of the DREAM Act. In his speech of 15 June 2012, the President argued that the Act would make immigration policy "more fair, more efficient, and more just" for Dreamers.⁵ The president appealed to the moral intuition that we should not punish the innocent, by highlighting that those who were brought to the US as children have not done anything wrong. "Imagine you have done everything right in your entire life...only to suddenly face the threat of deportation."⁶ He argued that these people deserve to stay (at least a few years longer) for two main reasons. First, because they contribute their work and talent to American society, and they are not cumbersome or dangerous; and second, and more importantly, because they identify as Americans: "They are Americans in their hearts and in their minds, in every single way but one--on paper."⁷

The first rationale that the President and other proponents of the Act have used to justify it is mainly economic: the Act provides people with good incentives to contribute to society. But this economic argument is cast as one of merit and performance: it gives dreamers "a chance to contribute" and it is reserved for "the best and brightest [...] promising young people who have already grown up in America."⁸ A second rationale is membership in the community. These individuals are members because they self-identify as Americans and others recognize them as such: Dreamers are Americans "in their hearts and minds," but they do not yet have legal recognition of their true national identity. This view implies that rights need not be "given" to them: rather, their rights are recognized when their true identity becomes apparent. This implication establishes an important symbolic continuity with such political movements as Women's Rights, the Civil Rights Movement and the LGBT Movement. In each case, the struggle is not to be granted rights, but to demand their recognition and fulfillment by the state and the wider population. One can clearly see this parallel when Dreamers "come out" as undocumented immigrants.⁹ Overall then, in the President's view, the rights that the Act recognizes are grounded on economic contribution, civic performance, and membership acquired on the basis of identity.

III. Politics of Identity and Its Limits

The Dream Act is implicitly justified by two different arguments about identity and political belonging. The first could be construed along lines of civic virtue: Dreamers deserve to stay because and to the

extent that they participate in the life of the community, they contribute to the common good, and they display “good moral character.” (This is one of the official pre-requisites of eligibility built into DACA and the Act.) The second is the dimension of shared national identity. Dreamers self-identify as Americans, and other Americans perceive them as such. These arguments seem promising at first, yet they harbor internal contradictions that eventually undermine the cause of Dreamers and set a background tone to the canvas that may be counterproductive to some of the issues that Latino constituencies hold dear.

We can see the contradiction in the first rationale. The argument is that Dreamers deserve to stay because they live like Americans of “good moral character.” Yet, it is impossible for Dreamers to fully meet this standard because, in most people’s view, one of the main requirements of “good moral character” is lawabidance. Yet, Dreamers, as undocumented immigrants, have necessarily broken the law, even if it may not be their fault: this is their “original sin.” All their civic performance, then, is tainted by their original unlawful status. We can see that this contradiction is in fact perceived as such by lawmakers and the general public because the Act holds foreigners to much higher standards than nationals. Their conduct has to be almost saintly, as if they needed all the excellences to compensate for an initial moral failing. But if the criterion for belonging were simply civic virtue, why do Dreamers have to be, not only law-abiding, but also particularly productive members of society that earn degrees, start businesses, or render military service to a community to which they don’t officially belong? If the intuition is that they are here through no fault of their own, why should they have to go above and beyond the calls of duty and excellence? After all, those who were brought here without their consent are in the country on the same terms as a citizen who gets citizenship by birthright—they never consented to grow up in the country. Yet, nobody withholds a natural-born citizen’s political or social rights if they drop out of high school. The reason why the national poor, the national criminal, or the national unemployed do not have their social rights revoked when they misbehave is that they are “our” poor, “our” criminals, “our” unemployed. Yet Dreamers, even when they atone for a sin they did not commit still count as foreigners.

There is also an implicit contradiction in the argument that relies on shared national identity. American identity is seen as a necessary (but not sufficient) condition for membership, yet this identity is defined in civic terms. So, to share the national identity one needs to *already* have civil and political rights: identity cannot be a condition to accede to these rights. Unlike other countries’ cultural or ethnic identities, what makes you an American is not ethnic origin or participation in a culture, rather, American nationality is defined by subjection to common institutions and the right to join in the process of forging the Nation through active civic and political participation. But then, Dreamers cannot truly belong because they are denied the rights of civic and political participation. One can see this contradiction in Obama’s statement that Dreamers are American “in every single way but on paper.” If they really are, why not just give them the paper? Granting effective citizenship immediately would seem to be the logical implication of the argument. Yet the President also made clear that his order does not grant either amnesty, or immunity, and it does not extend a path to citizenship. There is something amiss: If the criterion of membership is shared identity, why is identity not sufficient for legal membership?

So, existing arguments for why Dreamers have a right to stay seem to undermine those very rights through internal contradictions. However, there is a third view of identity that may provide a solution that the White House did not articulate. In the last decade, political theorists have repeatedly pointed out the theoretical and political problems that arise from the politics of identity, and specifically from the type of identity implicitly espoused by the DREAM Act and DACA. This type of identity presupposes a core set of shared characteristics that can be established using explicit criteria of exclusion. Yet, neither Latinos in particular, nor Americans in general, can establish clear-cut criteria for belonging to their groups. A political identity does not have a unified core, and internal rifts often disrupt any thrust towards unification. If we consider this condition in the most positive light, these rifts can be temporarily overcome by fleeting (or “fugitive”— to use Sheldon Wolin’s term¹⁰) bonds between individuals and communities. These bonds emerge from a process of political contestation extending over time. Dreamers constitute their identities and their links to the political community through this process: they become a group by reaching out to each other, and by producing fleeting

political coalitions in their search for the recognition of their rights and their organized actions in the public realm.

Yet even this third conception of identity may be insufficient to ground the rights of Dreamers. These fugitive coalitions constituting political identities run up against two boundaries, one figurative and the other one literal. First, Dreamers may feel American and their friends may recognize them as American nevertheless under the DREAM Act, their identity falters when they hit the legal boundary. For legal purposes they remain foreigners. The second, and I think, the more important boundary is the literal one: the physical border. Identity, whether built either on active participation or culture is a trait that should stay with the individual as he moves, and generally it is like that for most individuals who share a national identity. However, this is not the case for Dreamers: their identity and their precarious legal rights depend on continuous physical presence in the territory of the United States. The rights they acquire through the DREAM act stop dead at the border, and their foreignness follows them like a shadow with the constant threat of “removal.” Participatory belonging over the Internet or through cultural national identity cannot compensate for the threat of actual separation and physical distance between the Dreamer and the place where she lives in the United States.

IV. Remember *this* Place

The main point of DACA and the DREAM Act is to prevent deportation. So the point is to allow young undocumented people to stay *here*. In the Act, place is important: to be eligible the alien must be “physically present in the United States for a continuous period of no less than 5 years before the date of enactment of this Act,” except for “brief, casual and innocent” absences. Yet, when we talk about the rights of immigrants and immigration reform few people ever talk about the work that place and territory do in the argument for justifying a right to stay. As we have seen, to answer the question, *Why does being physically present in a state’s territory entitle you to legal and social rights that you wouldn’t otherwise have?*, both politicians and theorists often focus on identity. Let us turn instead to “physical presence” and “state territory.”

The word “territory” is often used as a short hand for the dominant institutions and social structures in a particular country. We tend to think that “physical presence” in a territory is important because it stands in for the relationships that an individual who lives in a country develops to the state and other people in the community. Moreover, the place of physical presence is often overshadowed by the time of physical presence—we envision presence as the succession of events which link an individual to her community over time, rather than the sedimentation of physical causes and effects in a given place. What matters in this view, are the relations that, over time, link you to other people and create families, and thus link you ever more tightly to existing society. Following this line of thought, current immigration policy makes provisions for keeping families together, and one of the Act’s most appealing features is that it allows promising youth to preserve those relations that we do not want to see severed. The President’s speech appeals to the fear of finding yourself in a community where you lack any ties, in a country where you don’t speak the language. In short, being an alien is construed as strangeness, as the opposite of familiarity or acquaintance over time. The emphasis on relations among people established over time has blinded us to relations of things to a particular place.

Yet there is something deeply relevant about the particular place where we dwell. It may be that one can participate in the conversation from abroad, and no one can deny the importance of virtual communities on the Internet. But if the Internet were a true community, nobody would fear deportation. Yet we do. Physical distance keeps us from talking with others about the weather, tucking our children into their beds, cooking as we look out our window, walking familiar paths, sharing the shade of a familiar mountain top, and more generally, it keeps us from our things and from being the way we are. Familiarity also requires an acquaintance with a place that sustains a network of embodied relations. Even to those who believe that what matters about these relations are interactions with other people, we have to remember that these interactions always occur in specific configurations of spaces: aisles and classrooms, stadiums, highways, buildings, and fields. We enter

relations always in the midst of the interactions of spatially ordered stuff. (And don't forget: we ourselves are also made of stuff!). If we take place seriously, then we can recast the idea of "physical presence" and change the way it is used in the debate over the rights of immigrants and civic membership.

We can see that place matters in our everyday life in a town or city. Town life would be disrupted if we did not treat different spaces with appropriate attitudes. We are required to respect sacred spaces, share communal areas, and let others pass through. These spaces and their interrelations make the town: we cannot move a city to another place, any more than we can shift our soul to another body. That is why being "here," makes you what you are, and why your removal tears something from the fabric of everyday life and seriously affects the lives of those you leave behind. We can see, then, a close connection of place to identity. What we are is crucially dependent on how we are affected by and how we affect our surroundings: on how precise configurations of things, plants, animals and people are necessary to establish the social ties that ground a political order. As José Ortega y Gasset puts it, "I am myself and my circumstances."¹¹

So place matters to the DREAM Act because it grounds identity, but the relation of place to politics is even deeper because it also generates rights and duties *regardless* of personal identity. No matter who you are, or whether you consider yourself a member of a group, in any given place you will find yourself in the middle of a specific configurations of things that make demands on you. These things are often social institutions, but need not be. As Jane Bennett reminds us, things "not only impede or block the will and design of humans, but also act as quasi agents or forces with trajectories, propensities, or tendencies of their own."¹² Concrete places create particular obligations to those who live there and to the place itself. For example: the tendency of this street to flood during the rainy season makes special demands on the town's government, but it also makes demands upon me and my neighbors. It requires that I pay special attention to my gardening methods, and the types of materials that I may use for construction and how I arrange things in the backyard next to the ditch. It is the specific configuration of things, rather than the ties between people who live there, that creates those obligations.

Place, then, creates special obligations, and generates certain rights. These are strictly local and arise from the precise configurations of people and things. Physical presence in a town may entitle me to some rights that are given to all town dwellers just by virtue of being there, just as being in the town imposes upon me the duty to drive on the right side of the street and take out the trash. Now, according to democratic principles, to the extent that politics actively shapes those duties, those who are subject to them should also have a say in governing the processes that determine their exact content.

According to the rationales that the White House gave for the DREAM Act, being physically present in a state's territory may entitle you to legal and social rights, but only to the extent that you are a deserving member of the national community present in the state's territory. Yet, if we take place seriously, we can see that being physically present in a concrete locality—a town, a neighborhood, a university—and taking on local duties are prerequisites for having a decent life and giving a decent life to your neighbors. Thus local presence and participation entitles you to local rights regardless of your identity. Dreamers, as individuals who take on duties, should be granted full rights of participation in the local community—including the right to stay there. But to the extent that local politics are interconnected with state and national politics, your right to local participation may extend to rights at higher levels of government. This, of course, requires more elaboration, but it seems that complying with local obligations can give Dreamers and other immigrants a stronger moral ground for claiming a right to stay than identity-based membership. Physical presence has a moral and legal dignity that we may have lost of sight in the quest for identity.

The Latino vote may in fact be the key to the next election and the Latino community may indeed be critical for of American politics in the next generation. But the politics of identity is only a small part of the sea change that a comprehensive reform of immigration could bring about. The Dream Act opens up the possibility of introducing new topics of discussion and altering the tone of the

conversation and the hues of our sensibilities. One of the ways to enter the conversation is to think about local politics and the theoretical potential of thinking anew about place, and place-specific rights and duties.

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Notes

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