Court Orders Texas Schools To Enroll Aliens

From The San Diego Union's News Services

WASHINGTON — Supreme Court Justice Lewis Powell yesterday cleared the way for several thousand children of illegal aliens to enroll in Texas public schools for the first time in five years.

Schools in Houston planned to begin enrolling the youngsters immediately, but Dallas officials said they would await further court actions.

Texas passed a law in 1975 saying public funds could not be used to send children of illegal aliens to school.

On July 21, U.S. District Judge Woodrow Seals declared the law unconstitutional. He said such a policy guaranteed that most young illegals eventually would become wards of society.

Powell, in an eight-page ruling, agreed, vacating a stay of Seal's ruling handed down by the 5th U.S. Circuit Court of Appeals in New Orleans last month.

Seals' ruling was based on a finding that the 1975 state law, unique to Texas, violated the equal-protection rights of illegal alien children.

The law allows such children to attend public schools if tuitions are paid, but the trial court found that the tuitions are too expensive for illegal alien families.

Powell said "I conclude that the balance of harms weighs heavily on the side of the children, certainly in those school districts where the abili-

(Continued on A-6, Col. 4)

Texas Schools Told To Enroll Alien Children

(Continued from A-1)

ty of the local schools to provide education will not be threatened.

"Not only are the children consigned to ignorance and illiteracy, they also are denied the benefits of association in the classroom with students and teachers of diverse backgrounds," Powell wrote.

"Instead, most of the children remain idle or are subjected prematurely to physical toil, conditions that may lead to emotional and behavioral problems."

Powell said many of the affected school districts do not think that including illegal aliens in their classrooms will "unduly strain their abilities to provide a customary education to all their pupils."

However, he said, if a district could show enrollment of the children would severely tax its facilities, then a stay might be justified. Such school districts — or the state on their behalf — may apply for individual consideration, he said.

Powell's decision was an interim ruling handed down prior to a full hearing on the issue.

The civil rights lawyer who argued the case noted the state accepts taxes from working illegal alien parents of the potential students while keeping the children out of school.

"Justice Powell's decision ... was received by our clients with joy and tears," said Peter Schey, director of the National Center for Immigrant Rights. "For the children who now find the schoolhouse gate unlocked for the first time in five years, this is a magnificent day."

No one knows how many thousands of children are in the state illegally.

A spokeswoman for the Houston Independent School District, the largest in Texas, said undocumented children would be admitted immediately.

But in Dallas, public school officials said they had no plans to enroll the illegal alien children immediately.

"Dallas' local policy has always been that aliens are not citizens so they have no public school rights," said spokesman Rodney Davis. He said Dallas is awaiting a ruling by another federal judge in a separate alien enrollment case.

FYI — Peter

National Center For Immigrants' Rights

THE IMMIGRATION LAW CENTER

Peter A. Schey
DIRECTING ATTORNEY

1550 WEST 8th ST.
LOS ANGELES, CA 90017
(213) 487-2531

The New York Times

opyright © 1980 The New York Times —NEW YORK, TUESDAY, JULY 22, 1980— 30 cents beyond 50-mile zone from New Higher in air delivery cities.

TEXAS BAR TO ALIENS IN PUBLIC SCHOOLS VOIDED BY U.S. JUDGE

1975 Law Ruled Unconstitutional Violation of Due Process and Equal Rights Protection

Special to The New York Times

HOUSTON, April 21 — A Federal judge today declared unconstitutional a 1975 Texas law that effectively bars illegal alien children from attending the public schools.

In a long-awaited opinion that affects thousands of such children, Federal District Judge Woodrow Seals wrote here that by excluding the children from school, "we are creating an enormous public cost, both financial and social, to be borne in the not-so-distant future."

"It is, of course, the prerogative of the State Legislature to saddle the public with such a future public burden, provided they do so in conformance with the Constitution," Judge Seals went on. "That they have not done."

Suits Are Consolidated

In this, the judge sided with the attorneys for illegal aliens in 17 school districts, who argued in a protracted trial this spring that barring the children from school violated the Constitution's guarantees of due process and equal protection of the laws. The 17 suits were consolidated into one proceeding before Judge Seals.

The law struck down by Judge Seals prohibits illegal alien children from attending school unless they pay a tuition that is frequently prohibitive — $162 a month in Houston, for example. Some localities, including Dallas, bar such children from attendance altogether.

Texas is the only state to enact such prohibitions so far.But today's decision was regarded as potentially important to other states with heavy populations of illegal aliens, too, since such laws could be enacted elsewhere.

Urgency in Border States

The issue has taken on more urgency as the flood of illegal aliens across the Mexican border increases, placing additional public-service burdens on the border states of Texas, New Mexico, Arizona and California. Attorneys for Texas argued at the trial that the state would not have the resources to educate all children properly if the illegal aliens were admitted, and that educational quality would drop.

Judge Seals rejected this line of argument. "The court finds that the state has misstated the case," he said in his opinion. "Permitting undocumented children to attend the public schools clearly would affect state and local resources. The evidence does not indicate, however, that the state or the school districts lack the necessary funds."

In a formal order, the judge directed the state not to exclude any student aged 5 to 21 from the public schools "on account of their status under United States immigration law." Similarly, he enjoined

Continued From Page A1

the state from denying any of the benefits of state educational funds to such children. And he prohibited the state from charging tuition in the cases of illegal alien children.

In testimony at the trial, estimates placed the number of excluded illegal alien children in Texas at anywhere from 20,000 to 100,000. Judge Seals said that without a reliable estimate of the numbers of such children, it was difficult to gauge their financial impact. "Nevertheless," he wrote, "the evidence indicates that both the state and the local school districts together have sufficient funds to educate the undocumented children."

The judge based his ruling on the equal protection clause of the 14th Amendment: "The Constitution does not permit the states to deny access to education to a discrete group of children within its borders when it has undertaken to provide public education," he said in his opinion.

Excluded children from school "suffer great harm," the judge said, stating a fact stipulated by both sides in the case. But, Judge Seals went on, "the absolute deprivation of education prevents children from assimilating into society."

Asserting that most of the children are or will become permanent residents of this country, the judge said that by denying them access to education, "we insure tht most of them will become wards of society." Further, he wrote, "as a country which is re-examining our history and future as a home for persons of all nationalities and cultures, we cannot forget the role that the public schools have played [in] providing unity to our community of immigrants."

JUDGE ORDERS SCHOOLING FOR ILLEGAL ALIENS

By BILL CURRY
Times Staff Writer

HOUSTON—In a major civil rights victory for illegal aliens, a federal district judge ruled here Monday that children of such aliens have a right to a free public education.

He struck down as unconstitutional discrimination a Texas law barring the use of state funds for the schooling of illegal aliens' children and ordered the state to begin enrolling uncounted thousands of such pupils this school year.

Without such action, U.S. District Judge Woodrow Seals said, "It is possible to perceive . . . the creation of a permanent underclass of persons who will live their lives in this country without being able to participate in our society.

Please Turn to Page 10, Col. 1

TEXAS, ILLEGAL ALIEN EDUCATION

Continued from First Page

"Equal protection of the laws is meaningless unless it applies to the unpopular as well as the popular, the weak as well as the strong. The undocumented children residing in the state of Texas are entitled to that protection."

The ruling was praised by Latino rights groups, while state and local education officials estimated the decision will cost millions of dollars in state and local funds.

Seals' ruling is only the latest in a series of court cases and governmental actions on behalf of illegal aliens. It is the first, however, to address the question of whether the 14th Amendment's provision of equal protection of the laws applies to illegal aliens. It addresses, too, a question left unanswered by previous U.S. Supreme Court rulings on education—whether it is unconstitutional to deny a group of children a public education.

Appeal Is Expected

In both instances, Seals' answer was yes. The state is expected to appeal the ruling, as it has already done with an earlier court decision challenging the law but affecting only one small school district. Seals' decision affects all schools in the nation's third most-populous state.

His ruling came in a challenge to a 1975 law—unique to Texas—in which the state said it would no longer reimburse local school districts for the costs of educating illegal aliens. Some schools reacted by barring such pupils altogether while others imposed high tuitions on the largely poor alien families.

The result has been that thousands of children of illegal aliens have remained at home or on the streets. A few attend a handful of inadequate alternative schools around the state. It is not known how many children are affected. But Seals noted that the state had made no effort in 1975 to determine what impact illegal immigration had on the state's budget and quality of education and he dismissed as "inflated" state estimates of 110,000 illegal alien children.

Impact on Border Towns

The ruling is expected to have the greatest impact in impoverished Texas towns along the state's 1,248-mile border with Mexico, which have little local education money to add to state funds, and in major school districts, like those here and in Dallas, where significant local school spending augments the state aid.

But Seals criticized the state's handling of special problems in border and metropolitan schools, saying its approach "to alleviating overcrowding in the border school districts and to assist metropolitan school districts with teacher salaries is a drastic one. It is to exclude children from the schools."

Houston school officials projected that 13,927 children of illegal aliens might enroll at a cost of $12.4 million in local funds and $9 million in state funds. Dallas school officials estimate that 5,000 pupils may enroll, and they have a contingency fund of $4 million with plans to seek another $2.5 million from the state. As many as 200 new teachers could be hired there.

The judge rejected state contentions that illegal aliens pay no taxes and he decried the tuition charge as "nonsense," given the poverty of the illegal aliens.

He noted that illegal aliens pay property taxes through rent and added that the state has been collecting federal education funds based on census counts that include illegal aliens. He characterized the funds thus received as a "windfall" borne of discrimination against innocent children who are not responsible for their parents' migration.

Meanwhile, Seals pointed out, the state has a surplus of more than $2.15 billion in unappropriated funds.

Come for Jobs

Seals is a 63-year-old liberal Democrat who was an early integrationist and who was appointed to the bench by President Lyndon B. Johnson in 1966. The two-month-long trial leading to Monday's ruling included an exhaustive review of immigration policies and educational practices from experts and personal testimony from school-age children barred from neighborhood schools. In some cases, children told of how their brothers and sisters, born in this country, were admitted to school while they were not.

Seals noted that illegal alien workers come to Texas for jobs, not free schooling, and that Texas lobbyists have pressured for laws that in many cases have created those jobs. He took note of the state legislature's repeated refusal to consider laws penalizing employers for hiring illegals.

"The political process has made insufficient efforts to exclude undocumented persons from the country," he wrote, "and while they are here, the majority is quite willing to exploit them for their cheap labor."

He rejected arguments that under human rights policies and international treaties the children are entitled to education. He said the sole issue is education and that the children have a right to it under the 14th Amendment.

MEXICAN IMMIGRANT CHILDREN AND PUBLIC EDUCATION: INTERNATIONAL IMPLICATIONS FROM THE TEXAS CASE*

Estevan T. Flores
Sociology and Chicano Studies
University of New Mexico
Albuquerque, New Mexico

Prepared for
"Mexico-United States Relations:
A Focus on the Mexican American Community"
April 24-25, 1981
Symposium Sponsored by
Chicano Studies Research Center-UCLA
And
Fund for the Improvement of Post-Secondary Education
(FIPSE)

Draft #2
June, 1981

* This paper is to be published in a book: "Mexico-United States Relations: A Focus on the Mexican American Community," by the Chicano Studies Research Center of UCLA in the Fall of 1981.

INTRODUCTION *

On September 14, 1978, Judge William Wayne Justice of the Tyler Division of the United States District Court for the Eastern District of Texas ruled that

> . . . section 21.031 of the Texas Education Code violates the equal protection clause of the fourteenth amendment and hence is unconstitutional. Therefore, the defendants will be permanently enjoined from applying section 21.031 of the Texas Education Code and the policy adopted by the board of Trustees of the Tyler I.S.D. on July 21, 1977, so as to deny free public education to any children in the Tyler I.S.D. solely on the basis of their status as undocumented Mexican aliens (Doe v. Plyler, 1978:41).

The ruling, in effect, struck down section 21.031 of the Texas Education Code. Section 21.031 had been passed by the state legislature in 1975 to prevent the enrollment of undocumented immigrant school children in publically funded schools.[1] This particular ruling of Judge Justice applied only to the Tyler Independent School District (I.S.D.) and not to the other 1200 school districts in the state.

The decision was appealed at the Fifth Circuit Court in New Orleans. The Fifth Circuit upheld the Tyler verdict in a October, 1980 decision (cf. Doe v. Plyler and State of Texas, 1980). The essence of Judge Justice's ruling-- that undocumented Mexican immigrant children could attend the public schools of the Tyler I.S.D. without paying the $1,000 per year/per child tuition fee-- "set off grumblings throughout the state" and generated

* I would like to take this opportunity to thank Manuel Garcia y Griego of the Institute for Social and Demographic Research and Roberto Calderon of the History Department of UCLA for their comments and criticisms of an earlier version of this paper.

much debate in Texas (cf. Brown, 1978:1).

The favorable ruling to undocumented children was followed by a series of similar suits which also challenged the constitutionality of Section 21.031. This controversial ruling was acclaimed by many sectors of the Chicano community as a "preliminary victory" (cf. Torres, 1978). This ruling is considered a success in both an historical and social sense. It can be considered an important success given that the history of immigrants and people of Mexican descent in the United States has been one of social, legal and economic discrimination and oppression, regardless of immigration status (e.g. citizen, permanent or temporary resident alien or undocumented). The successful ruling was considered preliminary since a statewide ruling allowing undocumented children into the schools had not been affected. As mentioned above, Tyler I.S.D. was one of some 1200 Independent School Districts in Texas.

A total of seventeen school districts eventually filed suit (cf. figure 1 for the chronology of events). These suits were filed in part because access to 'free' public education for undocumented Mexican immigrants is an issue which goes beyond educational policy and also touches upon economic, social, political, legal and international considerations. This is apparent not only from the fact that other suits were filed, but also from a number of legal, political and social analyses of this issue prepared by social scientists, attorneys and community activists (cf. Schey, 1976; Mexican American Legal Defense and Education Fund, 1977; and Flores and Kane, 1976). These analyses treat the issue of undocumented immigration in the context of the broader questions of the relationship of educational policy to Chicanos

and of the development of historical and contemporary struggles waged by Chicanos to provide educational opportunities at all levels of education (cf. Casso and Roman, 1976 and Lopez, Madrid-Barela and Macias, 1976).

Not only has the objective been to develop educational opportunities but also to develop educational autonomy in program design and implementation. For example, in the mid-1960's adequate facilities and instructional materials were garnered for grade school children (educational opportunity) in many parts of the country. Yet a bicultural and bilingual emphasis was lacking. Autonomy here refers to the process by which Mexican origin teachers and administrators design and implement such a bicultural and bilingual curriculum (cf. Blanco, 1976).

As mentioned above educational opportunity and autonomy have for decades been goals and objectives of the Mexican origin population in the United States. However with the most recent wave of immigration from Mexico commencing in the 1960's and continuing through the 1970's, the issue of education for immigrant children surfaced. The issue initially surfaced as a state-by-state educational policy issue but began to take on national significance when Texas remained the only state barring undocumented children. Furthermore, the border status of Texas as well as the recent oil finds in Mexico brought to the issue international implications and considerations reminiscent of the Pan Americanist debates of the 1920's (cf. Acuna, 1981: 133).[2] This paper will (1) detail the historical development of this particular court case: (2) provide the educational, social and political arguments of the case; (3) provide social and demographic data on the parents of the children and discuss legal and undocumented children in the context of "social equity" and (4) discuss the international implications of this issue.

The Sociological Rationale For Research:

The rationale for research on undocumented Mexican immigration is complex and multi-demensional. There is no question that Mexican immigration to the United States is an integral aspect of the current social (politico-economic) position and status of Chicanos in the U.S. For over a century (and in cases for two centuries or more) Chicanos have maintained familial and social linkages with the Mexican people south of the border. These links, spanning a vast geographical area across one of the longest international boundaries in the world, have been and continue to be the object of intervention and manipulation by both governmental and economic institutions (e.g. during the Bracero Program of 1942-1964 and the International Monetary Fund imposed austerity measures of 1976).

The Mexican origin population has faced the manipulation of the "repatriation" (deportation) programs of the 1930's (cf. Hoffman, 1974) wherein local city governments provided train tickets to undocumented and, in many cases, citizens of Mexican origin. Again in the early 1950's the Border Patrol began "Operation Wetback" which deported, for example, over one million to Mexico in 1954 (cf. Samora, 1971). In sum, we have an historical immigration process continuing in the face of efforts to regulate and manipulate.

Immigration to the United States has taken many forms. With respect to Mexican immigration to the United States we have the temporary migration of workers sponsored by official government programs (e.g., Bracero Program and H-2 workers), economic migration, and migration to preserve the family unit. During the last 5-6 years, due to a multiplicity of factors, the INS has been unable to process immigrant visa petitions as rapidly as they are submitted. This has resulted in a backlog in the processing of some petitions which has continued to grow. Because of the backlog, immigrants often face a waiting

period of several years prior to receiving permanent resident (immigrant) status. Consequently, many are driven by the frustration of an extremely lengthy process to seek alternative means of migration.

This alternative means of migration has resulted in many unforeseen consequences to both the receiving society and to recent immigrants. In the last decade or so, the Mexican origin community in the U.S. has had to confront the issue of undocumented Mexican migration directly and indirectly. For example, raids on factories directly affected Chicano workers who toiled alongside undocumented Mexicanos. Indirectly, arguments to curtail immigration smacked of racist positions advanced in the 1920's, 1930's and 1950's. In addition, organizing efforts of unions, such as the Texas Farmworkers Union (TFW) the United Farmworkers Union (UFW) and the Maricopa County Organizing Project (MCOP) were hampered by the wage exploitation and utilization of undocumented farmworkers (cf. Flores, 1981 for the detailed discussion of the farmworker organizational dilemma and initial solutions).

Because of the reasons cited above which include violations of civil and human rights, an assessment of the relationship between undocumented immigrants and the Chicano community became increasingly important, particularly after the INS raided Chicano communities for the purpose of <u>expelling</u> undocumented residents. These raids and harassment were, and continue to be of concern to both communities. In addition, an academic and scholarly evaluation of the <u>role and functions</u> of Mexican immigration became necessary (cf. Cardenas, 1977a, 1977b, and Portes 1977).[3] The newspaper <u>Sin Fronteras</u> and other Chicano newspapers continued to publicize the variety of social and legal issues related to undocumented immigrants.

The context within which this policy of increased border control and apprehensions occurred and continues is important for our discussion of the education controversy in Texas. Apprehensions began to increase significantly during the years 1965 and 1966. During this same period began

-Table 1 about here-

what we have termed the "Chicano Movement."[4] Explicit statements and actions designed to militantly challenge the institutional and economic subordination of the Mexican people north of the border were advanced and carried out (cf. Gomez-Quinonez, 1975 and Acuna, 1981). The movement reflected a new consciousness of persons of Mexican origin in the U.S. Moreover, the new consciousness was set in motion in a variety of ways.

The response to the militant activities of persons who shared the goals of this movement by the agents of social control were predictable: police brutality and surveillance of any and all (whether conservative, moderate or radical) organizations of Mexicanos/Chicanos.[5] The term social control here goes beyond police functions of the state and includes:

> "the sum total of processes whereby society, or any sub-group within society, secures conformity to expectation on the part of its constituent units, individuals or groups (cf. Atencio, 1972:101 and Fairchild, 1944:279)."

In other words, in any of the institutional arenas where Chicanos took decisive initiative and did not conform to expectations, renewed and intensified efforts of social control were instituted.

A policy of social control administered with respect to both Mexicanos crossing from south of the border and Chicanos (Mexican Americans) north of the border was developed. This oppressive public policy treats the peoples of Mexican descent as a unit, that is, as a homogeneous group. As pointed

TABLE 1

MEXICAN MIGRATION TO THE UNITED STATES, 1960 - 1977[a]

Year	Legal immigrants admitted[b]	Illegal immigrants apprehended[c]
1960	32,084	29,651
1961	41,632	29,817
1962	55,291	30,272
1963	55,253	39,124
1964	32,967	43,844
1965	37,969	55,340
1966	45,163	89,751
1967	42,371	108,327
1968	43,563	151,705
1969	44,623	201,636
1970	44,469	277,377
1971	50,103	348,178
1972	64,040	430,213
1973	70,141	576,823
1974	71,586	709,959
1975	62,205	680,392
1976	62,000*	781,474
1977	40,000*	954,778
1978		976,641
1979		998,830

Notes

a. Abstracted from Cornelius (1978: Table 1, 4-5).

b. Sources: for 1924-1969: Samora (1975: 68); for 1970-1976: Annual Reports of the U.S. Immigration and Naturalization Service; for 1977: estimated on the basis of the ceiling for Mexican immigration determined by the 1976 amendments to the Immigration and Nationality Act, which became effective on January 1, 1977.

c. Sources: for 1924-1960: Bustamante (1978a: Table 1, p. 190); for 1961-1976: Annual Reports of the U.S. Immigration and Naturalization Service; for 1977: advance data from the Fiscal Year 1977 Annual Report of the U.S. Immigration and Naturalization Service. For 1978-1979: Annual Report of U.S. Immigration and Naturalization Service, 1979:3.

*Estimated from preliminary data.

out by Schwartz (1970) in an article "State discrimination against Mexican aliens," and by Richardson and Feagin (1979) both federal laws and the institutionalized practices of the Immigration and Naturalization Service discriminate against the Mexican alien. These practices include the harassment of "mexican-looking" peoples by the INS or the Border Patrol whereby detainment may result[6] and sets of immigration laws which restrict the civil rights of undocumented aliens (cf. Torres, 1980 and Schwartz, 1970).

On the one hand, discrimination exists against all Mexican origin peoples. On the other hand, there is a concerted effort to differentiate between the various components of the Mexican origin population by residency or legal status. The seemingly paradoxical nature of this phenomenon becomes clear when we discern the role and functions of immigrant labor in historical and contemporary contexts. As Galarza points out in <u>Farmworkers and Agribusiness, 1947-1960</u> (1977), the labor force for agriculture in California existed of three primary groups of Mexican descent peoples: the domestics or <u>locales</u> (U.S. citizens), the Braceros or contract laborers and finally the undocumented Mexicanos. It was the <u>strategy</u> of pitting one group against another through the Bracero Program and <u>creating a hierarchy of social and economic differences</u> between the groups that resulted in agribusiness' successes in the fields during the 1940s and 1950s. But that success was challenged and then defeated by union organizers and activists who were effective in organizing a broad coalition to end the Bracero Program in 1964.

The above example is an analysis of struggles of farmworkers against agribusiness in California. The struggle in the fields, however, took on a social research orientation as it became necessary to obtain copies of

"bracero contracts, payroll lists, piecework punch cards, notices of evictions, photographs, work sheets used by farm placement managers to determine labor needs, paycheck stubs, petitions of braceros crews for redress, sworn complaints, wage claims, lists of certified growers, etc. (Galarza, 1977:266)." The research orientation was needed to document the abusers and violations associated with the Bracero Program. Public disemination of these findings was important in the termination of the program in 1964.

There is a seeming contradiction, as stated earlier, in the implicit policy of social control with respect to Mexicanos. The policy does not differentiate among them, relegating all Mexican origin peoples to a subordinate status. Yet, economic, governmental and educational institutions function to create a hierarchy among the Mexican descent peoples; thus in operational terms, these institutions differentiate and discriminate among Mexican origin peoples based on citizenship. The strategy is to develop animosity and hostility between the groups along the hierarchy. Thus, the state and business hope that documented Mexicanos (Mexican Americans/Hispanos/Latinos), will blame the undocumented for the lack of jobs, of educational opportunity and for any other societal or community good which suddenly becomes 'scarce' in these economic unsure times. To the extent that this strategy is successful, Mexicans--irrespective of status--remain divided and powerless. Moreover, not only does capital (the state and business) hope to create discord among Mexican origin peoples but also among the public at large as occurred during the 1930s and 1950s.[7] Their strategy is to keep the subordinated groups at each others throats so that unity is never achieved.

We undertook our research taking this strategy of differentiating among Mexicanos--creating the hierarchy--into account. We also recognized that

the future "life chances" of the undocumented immigrant children hung in the balance. These children would continue as "third-class non-citizens" should the Texas policy continue in force. More importantly, the effects of a negative ruling may set a precedent which might be followed by other border states.[8] The precedent set would clear the way for the denial of other social and civil rights to undocumented persons.

We set out a survey research project recognizing this political context and the importance of research to effect change. Our perceptions were that the generation of data can be important since little is known about the subject and because many aspects of Texas educational policy (Section 21.031 of the Education Code) were based on opinions and conjecture rather than facts and analysis.

Issues Related to Research on Undocumented Children and Access to Public Education:

The issues related to this particular research endeavor are many and complex. Legal or constitutional arguments have been summarized by Flores, Kane and Velarde-Munoz (1977) and more recently updated in Garza et al. v. Reagan et al. (1979). The latter reference concerns the case in which the Houston Independent School District and sixteen other I.S.D.'s were sued. Economic issues and concerns have been analyzed by Cardenas (1977a) and Portes (1978). Cardenas article analyzes the historical and economic uses of immigrant labor in summary fashion. Portes (1978) utilizes a functional approach to study the economic uses of immigrant labor.

A political economy perspective has been advanced by Cardenas and Flores (1977), Santa Cruz Collective (1978), and Mora (1978). Cardenas

Cardenas and Flores developed the preliminary theoretical framework of a sociology of labor in order to theoretically evaluate the historical role and uses of immigrant labor. In addition, the authors began to analyze the growing number of struggles developed between agribusiness and the state against undocumented Mexicanos and Chicanos. The Santa Cruz Collective and the Mora pieces both address the issue of the use of immigrant labor as a "reserve army of labor."

A class struggle perspective is provided by Flores (1981) and Cleaver (1978). The former article analyzes the class struggles of the "multi-national Mexican workers"[10] and lays the rudimentary framework for analyzing the process of "political recomposition." Political recomposition refers here to the growing political unity of action between Chicanos and undocumented Mexicanos.[11] The Cleaver article provides a global analysis of the struggles of immigrant laborers around the world. Both articles emphasize the dialectic of conflict (the class struggle) and the successes of immigrant laborers in opposition to the state and business.

A critical theory sociological approach is found in Cardenas (1977a). In that work Cardenas argues that the INS acts according to political, technical and instrumental rationality in order to reproduce (perpetuate) itself as a bureaucratic agency. Data gathered by the INS is thus neither valid nor reliable for the social scientist.[12] Bustamante (1973) has argued that the undocumented immigrant is labelled by society a deviant, "a mojado" (wetback). Bustamante's approach is grounded in the labelling perspective of deviance theory.

In general, the authors cited analyze the issue of undocumented immigration to the United States in terms of the functions and roles that immigrants have played. It is a Chicano perspective, a perspective which

includes critical analyses of past and present discrimination to both undocumented and documented Mexican descent peoples. Or to use Juan Gomez-Quinonez' definition of Chicanismo, the concept translates into a "radicalization of politics:"

> "Chicano politics" emerged as a challenge to the dominant institutions, assumptions, politics, principles, political leaders and orgnizations within and without the community (Gomez-Quinonez, 1975:13).

In analyzing undocumented immigration from a Chicano perspective various theoretical links began to develop over the experiences of both the Chicano and the Mexican in the U.S. Of primary importance was the social phenomena of the immigrant experience of those persons coming from Mexico. The issues directly affecting the access of undocumented immigrants to public education in Texas (without tuition payment) are clear from the Doe v. Plyler (or Tyler) case. Three salient issues in that case which require research are: (1) undocumented immigrants contribute to the tax base in excess of their utilization of social services; (2) the parents of the children were almost all employed and renting their housing, and (3) immigrants who were previously undocumented comprise the majority of legal immigrants admitted, i.e., most legal immigrants from Mexico previously resided without documents in the U.S. (cf. Doe v. Plyler, 1978:8-9, 13 and 15). For example, Cue (1976) reported that 61.5% of legal immigrants admitted from Mexico had previously resided in the U.S. without documents. The study by Samora (1971) indicated similar findings. Dr. Gilbert Cardenas reported the Samora findings when he testified in the Tyler case (Doe v Plyler) that 67% of legal immigrants had previously resided in the U.S. without documents. In the Tyler case, the success of the suit

hinged largely, although not exclusively, on the research findings indicated above (cf. Appendix I for a brief review of previous research findings with regard to undocumented immigrants). For the case developing against the Houston I.S.D. it was clear that these findings and others as well would have to be presented.

Research on Education and Undocumented Immigration:

Post-Bracero undocumented immigration received little research attention until the late 1960's. Beginning with the border study of Dr. Julian Samora and his researchers in 1969 and culminating with the publication of Los Mojados: The Wetback Story (1971), academic, social and popular interest was stimulated. That piece of work, a landmark study, followed closely on the heels of increases in the number of apprehensions of undocumented immigrants which began around 1965-1966. The Department of Labor subsequently commissioned a series of studies by David North and his associates (1970, 1973) on a variety of topics related to immigration. The number of research projects on undocumented immigration has mushroomed in recent years, yet few of them deal with immigrant children. The research of Cardenas and Flores (1980), although a labor-market impact study indirectly addresses the problematic of undocumented children and their access to public, tuition-free education. The issue in that work over tuition-free education was discussed in terms of social equity. By social equity we mean (1) social justice according to a natural right; and (2) the societal obligation to provide community goods (such as education) to those who contribute to the society and/ or the economy.[13]

To adequately assess the problematic of education for undocumented children in the border states and elsewhere one needs to briefly discuss (1) educational values in the U.S. and (2) the access to education by

ethnic minorities. In the United States education has played an increasingly important role in the economy and in the functioning of the members of its society. However, the high value that society has placed on education has not meant that all of its members have had equal access to education and to the rewards that accrue from educational attainment.

The high value attached to education is readily apparent from the state laws that have been enacted throughout the country. These usually require that children remain in school up to their sixteenth birthday. Truancy is sanctioned both by the enforcement of these laws (i.e., the use of detention schools) and by societal norm (i.e., the stigmatization of the truant as a "juvenile delinquent").

Nevertheless, minority groups have not had equal access to education. The 1954 Supreme Court decision Brown v. Board of Education, which held that separate education facilities were not equal educationally was an explicit admission of this by a body at the highest level of government. The court observed that education must be made available to all on equal terms. Once the principle of equal educational opportunity was established it was and is the task of local governments (and with the courts and the federal government often intervening) to guarantee such access.

The right to equal access to educational facilities was, however, only a first step for Blacks and Chicanos in the broader struggle against racism. Busing has not been a satisfactory solution to both whites and peoples of color--the controversy continues.

Another important issue which had been festering in Chicano or Mexican American communities was the problem of inadequate eductional facilities. Because public education is funded in many states by ad valorem or property tax, school districts in wealthy neighborhoods had the means to provide for well-equipped and staffed educational systems. **Racial**

and ethnic groups as well as other sectors of economically disadvantaged communities which were de facto segregated could only provide minimum level educational facilities. Often these schools lacked basic texts, classroom materials and the means to attract quality teachers and administrators.

The educational question at issue here was whether education could and should be equalized. By equalization I mean the attempts to provide for a uniform per pupil expenditure across school districts. In Serrano v. Priest (1971) this issue was at the heart of the suit. Equalizing state aid formulas were offered as panaceas to the problem described in California by Berke (1974): "Districts such as Baldwin Park had to tax themselves at $5.48 per $100 of equalized value to spend $577 per pupil, whereas Beverly Hills could spend $1,230 per pupil with a tax rate of only $2.38." The question was: Should economically disadvantaged groups (and minorities) have educational systems of comparable quality and value as the rich and affluent? In Rodriquez v. San Antonio Independent School District (1973) the courts answered the question with a resounding no (cf. Yudof and Morgan, 1974:402). All that the state was bound to provide was the equal access to education. Moreover, the state must provide education for all children in absolute terms. But in relative terms the state is not compelled to provide quality of education. Rodriguez thus condemns economically disadvantaged groups and minorities to educational systems of substantially inferior quality with respect to those affluent communities which can afford greater expenditures.

It is with this historical background and the above considerations that the issue of educating another racially distinct group of persons--

undocumented Hispanics (Mexicans)--should be understood. Moreover, attacks on educational inequality must be based on analyses of racial, ethnic, legal and economic issues.

In terms of economic issues, the central concern that states have raised is that of the financing of public schools. The poses the following question: How have the various states, especially the states along the Mexican border, responded to the problem of funding school systems that may be perceived to have large numbers of non-resident/ non-citicen children enrolled. As we shall note below, not all state governmental jurisdictions have addressed this issue in the same manner.

In December of 1978, the New York City Board of Education ruled that all children regardless of immigrant status, could attend schools tuition free. The N.Y.C. Board of Education reasoned that school officials should not act as immigration authorities making immigrant status checks. Their's (N.Y.C.) was a legal "pre-emption" argument. This local Board of Education embraced the notion that by excluding undocumented children they would be regulating immigration, an action which is federally pre-empted. That is, authority and power is vested in the federal government (in this case in the Immigration and Naturalizaion Service) for a particular set of activities and not in the states or local governments.

In January, 1979, the Chicago Board of Education changed its policy of excluding certain types of alien children after a law suit was filed against them. The response of the state of California was different. Section 48200 of the state's Education code provides that:

> "Each person between the ages of 6 and 16 years ....is subject to compulsory full-time education. No exemption is made in the case of illegal aliens. Similarly, no such distinction is made in the provisions of the code relating to the computation of Average Daily Attendance.... It is.... a violation of the Education Code to refuse admission to those pupils" (Riles, 1978 in Community Research Associates, 1980).

In addition, Senate Bill 1432 in California, enacted into law in September of 1978 requires the elimination of the practice of identifying pupils within the school system according to whether they were nonimmigrants or noncitizens. California thus refused to attempt to regulate immigration (i.e. the federal pre-emption argument cited earlier) via the schools. In their own terms, they also overturned a "socially harmful practice."

The Tyler, Texas case, which was cited earlier was decided in September of 1978 and in 1980 was reaffirmed on appeal in the New Orleans Fifth Circuit Court. The Supreme Court has recently agreed to hear the case and plans to announce its decision in early 1982.

In reviewing the ruling on the education question in both California and Texas, one notes a paucity of data on the impact of educating undocumented children. Such data is neither available from the states themselves nor form independent researchers. Community Research Associates notes that SB 1432 was effective:

> In attempting to find data to assess the impact of undocumented aliens on the schools, the consultants contacted a number of school districts. In each case, the response was the same, i.e., no statistics are kept on the immigration status of pupils (Community Research Associates, 1980:139).

In Texas as well, no studies were available on how undocumented immigrant

children were impacting the schools prior to their exclusion in 1975 (cf., Alien Children Litigation, 1980:13 which is the Houston Case or Multidistrict Litigation No. 398).

Furthermore, a consultant for the state of Texas prepared what was termed an estimate of the "potential number of Texas Hispanic undocumented children," which was placed at 111,284. However, this estimate (by Criterion Inc.), the court concluded, "is actually an estimate of the children not enrolled in school, rather than of undocumented children... the Criterion Study does not represent an accurate estimate of the number of undocumented children in Texas (Alien Children Litigation, 1980:49 and 52)." Moreover, no other data on educational enrollments of undocumented could be secured.

The enrollment at border school districts has been studied to a greater extent. Nevertheless, the focus of the studies have been on documented or permanent resident school children. For example, Don Killough (1977) studied the impact of immigrant/alien students in Rio Grande City, (Tx.) Independent School District. This I.S.D. was considered to be a typical case of a Texas border I.S.D. on the basis of several criteria. Killough concluded that shortages of classroom space and staff resulted from the increased enrollments of immigrant/alien students. The Houston court reviewed both Killough's (1977) study and J.B. Hensley's (1976) study of the impact of resident aliens on selected border school districts. However, both these studies were concerned with documented aliens and not on undocumented school children. The data was thus minimally useful for the Houston case as that case centered on undocumented children.

Consequently, the Houston Federal District Court stated that "districts with relatively small amounts of taxable property and growing student populations have difficulty financing new structures ... The current condition afflicting some border school districts result in part from the influx of documented aliens (emphasis my own, Alien Children Litigation, 1980:47)." In addition, Hartman and Chavez' (1979) work documents the need all along the Texas border for more funds for buildings, teachers and the like. The Hartman and Chavez piece, however, fails to distinguish between documented/undocumented children. Their definition of 'Mexican resident alien' was: "a child born in Mexico, regardless of immigration status (Hartman and Chavez, 1979:4)." Their analysis leads them to conclude that border school districts face an influx of immigrants (whatever the status) which, in turn, necessitates federal impact monies.

Moreover, the primary concern of border states may be the ability and willingness to incorporate the small percentage of the undocumented population who are part of the stock or permanent addition of persons to the U.S. population. According to Dr. Jorge Bustamante only 9% of undocumented persons that enter the U.S. fit this category (cf., testimony by Dr. Gilbert Cardenas in the Alien Children Litigation Record or Transcript, Vol. I:68-71 and Vol. III:426, 430-431). Families would thus be included in the population of permanent additions to the population.

Educational Issues:

Killough, in his study of immigrant/alien children, noted that these students lagged behind in academic subjects except math (Killough, 1977:35) and that the children's attitudes toward school were as good as those of native children. Moreover, special programs, such as compensatory education and bilingual education were often necessary. This also holds true for undocumented children. It is worthwhile to note that the court reasoned

in the Houston case that even if large numbers of undocumented children were to be enrolled as a result of its decision, it was not convinced that the exclusion of these children was necessary to protect the rights of Mexican Americans and documented children (cf., Alien Children Litigation, 1980:59). Similarly, the court held that desegregation would not be impeded by the children's inclusion (cf., Alien Children Litigation, 1980:59-60).

Having reviewed the issues of primary importance to Multidistrict Litigation 398 we now focus on the court case itself and the findings of research by Cardenas and Flores (1980).

Summary of Findings in Houston, Texas:

Our research in Houston consists of a sample of 105 interviews of undocumented Mexican immigrants. The sample was gathered through contacting principals of special private schools set up for those undocumented children who were either turned away from the public schools because of inability to pay the exorbitant tuition fee required especially of them or who feared enrolling their children in the public schools because of exposure to the risk of deportation. We asked and received permission to interview parents of these children from the principals of the schools. Subsequently, we asked the parents themselves (who had gathered for a Parents Teachers Association meeting) for their cooperation in responding to our questionnaires. The sample thus consists of parents from three special private schools for undocumented children.[14]

The parents of the undocumented children were guaranteed anonymity -- no identifiers (names, addresses and the like) were requested or utilized. Confidentiality of the data on individuals was also guaranteed. The respondents were told that the data would be aggregated so that no individual responses would be discernible.

Characteristics of the Sample:

Most of the literature on undocumented Mexican immigrants has been drawn from particular samples and reflects certain common characteristics. According to these studies, the typical undocumented immigrant is male, between 20-30 years of age, relatively uneducated and single (cf., Samora, 1971; North and Houston 1976 and Bustamante, 1978). These three samples were based on apprehended migrants. Subsequent samples drawn from apprehended migrants corroborate these findings. Samples based on unapprehendeds residing in the U.S. have tended to include more women who may or may not be married. Those who are married have begun the process of bringing their children to the United States (cf., Melville, 1978; Van Arsdol et al., 1979 and Cardenas and Flores, 1980). The reunification of the family is thus taking place.

Our sample of immigrants consists of 105 individuals who are parents of undocumented children. As has been the case of most previous studies of undocumented immigrants, our study does not utilize a random probability sample since the obstacles to the drawing of such a sample in the Unites States are formidable, perhaps insuperable.[15]

One-hundred and five parents were interviewed during the months of November, 1978, February, March and October of 1979. Seventy-two females (68.6%) and thirty-three male respondents whose average age was 36.9 years (median, 35.5) were interviewed.

The overwhelming majority of respondents were from Mexico (91%), but more important was the variable "length of time in the U.S." The average length of time in the U.S. was over 6.5 years. Most of our sample of respondents were obviously here to stay, unlike the vast majority (some 90%) of undocumented immigrants who come to the U.S., work for some 3-6 months, <u>and</u> then <u>return</u> <u>to</u> <u>Mexico</u>. It is therefore not surprising that when

questioned about permanency only 12.5% (N=13) of the respondents indicated they intended to return to Mexico. In addition, 91.6% and 98% of the respondents planned to stay as long as possible and permanently, respectively. Their inability to earn a living in Mexico and the possibility of being able to provide for themselves in the U.S. was the basis for not intending to return to Mexico.

Generally, the household or the family unit was composed of five members, three of whom were children. Almost all of the family income reported was spent in the U.S.: 70.3% reported that they did not support anyone in Mexico. Almost 60% of respondents were employed. When analyzed by sex, we find that 94% of male respondents were employed, whereas this proportion was 40% for women. This is corroborated by the INS in Houston, which reports that 85-90% of immigrants apprehended in 1976 and two months of 1977, in the Houston District (comrising, at that time, metropolitan Houston, Dallas and Fort Worth) are employed at the time they are found. "Therefore, the aliens located in illegal statis generally are not working in agriculture and enjoy a higher hourly wage scale and sometimes fringe benefits (cf. Heston, 1977:3)."

Our sample of respondents (64% women) were found primarily in blue-collar occupations with most of the respondents employed in the services sector (50%), followed by contract construction (27.6%) and manufacturing (17.2%). We found that the spouses of female respondents were found predominantly in contract construction (35%) followed by services (30%) and manufacturing (26.7%). Sixty percent of all of the respondents had been employed for one year or more in their last occupation. One-third had been employed for three or more years. This indicates an impressive stability in the labor force when compared to most immigrants. While more than one half of the respondents

indicated that their respective employers knew of their undocumented status, over eighty percent of the respondents indicated that they were not treated differently from other employees at their place of work.

The immigrants reported an average wage of $4.17 per hour--a good wage in contrast to much literature on undocumented immigrants which indicates low-wage earners. The reported average wage here marks a slight increase over other studies. More recent studies (CENIET, 1977 and Maram 1980) report average wages in line with our findings. In addition, the total average monthly family income is $791; this would yield a yearly figure of $9,500, approximately, if they worked for twelve full months. The average household unit was previously shown to be over 5 members.

We pose the important question of "equity" defined as contributions to society (i.e., work payment of taxes and expenditures in the local economy) as oppossed to their consumption of services provided by society (i.e., participation in government sponsored and financed programs). In the terms defined above for social equity, we found that our sample of immigrants contribute more to society than they draw from it. Through their productive work, their expenditures (which in turn generate employment and further economic activity) and payment of local and federal taxes, the population we sampled show themselves to be undeniable assets to society in general, and to Houston in particular. We did not find them to be a burden to society as popular opinion would have us expect. In fact, the underutilization of health care, as found in our study, may inadvertently and adversely affect both immigrant and host populations. Van Arsdol, who conducted a similar project in Los Angeles makes a similar observation: without comprehensive, preventive and adequate health measures, the community will soon be a sick community. This is true

where one segment of the society is overrepresented in the services sector such as undocumented immigrants who work in restaurants, households and the like. The community at large is in danger of being exposed to communicable diseases. Again, all our data indicates that our sample of undocumented migrants are permanent residents. Medical and especially preventive and pre-natal care should be made available so that the health of the Houston community will be maintained.

Finally, with respect to the education of the undocumented children, we need to develop a research agenda. We need to find out what the effects of exclusion from public educational facilities are. Will these children become an "underclass" of society, despite the high aspirations and educational goals held by their parents? To what extent have the special schools that were created for undocumented children in Houston met the educational needs of these children? These questions and more need be researched and resolved in order that a more equitable and humane public policy with respect to undocumented children and education can be designed.

International Implications:

The issue of tuition-free education has yet to be settled by the Supreme Court despite the favorable ruling issued by Judge Woodrow Seals. However, his order created the means for undocumented children to attend public schools in Texas during the 1981-1982 academic year.[16] It has been calculated that only 10,000 or so undocumented children enrolled across the state of Texas. The figure of 111,284 potential undocumented Hispanic school-age children provided by Criterion Incorporated (1980) was grossly inflated and totally inaccurate as criticized via testimony by demographer Dr. David Alvirez (cf. Alien Children Litigation, 1980:48-52). The court found "that the Criterion study does not represent an accurate estimate of the number of undocumented children in Texas."

Besides the issue of the number of undocumented residing in Texas there were other issues related to international migration. The court had to deal with the issue of international treaties. Mexico's growing international power and the growing links being forged between the Mexican community (in Mexico) and the Chicano or Mexican American community were indirectly related issues. Each issue listed here was highlighted in the Houston case in a variety of ways. It should be noted that the Houston court dealt directly with the first issue of international treaties and indirectly felt the effects of the second and third issues listed above.

In terms of international treaties Marcos Ronquillo has outlined the basic thrust of the goals with respect to undocumented immigrants (cf. Ronquillo, 1980). In his analysis of the Universal Declaration

of Human Rights, the "Protocal of Buenos Aires" (which revised the Charter of the Organization of American States), and the European Social Charter, among others, Ronquillo argues that a host of social, economic and political rights accrue to undocumented immigrants.

> To understand the dilemma of the Mexican undocumented worker is to seek greater protection for them under both municipal and international law.... The historical and contemporary measures undertaken to safeguard the rights of all workers, combined with the rights, provide the general framework for the development of a most constructive plan or agreement between the United States and Mexico (Ronquillo, 1980:12).

The argument advanced by Ronquillo above is based on natural law which has been recognized in the international covenants cited. The Houston court decided however, that these covenants do not cover the issue of education for undocumented immigrants:

> Thus, although the United States is obligated to promote the right to education as an integral part of the "human rights and fundamental freedoms" guarded by the U.N. Charter, the states are not interfering with federal foreign policy when they interfere with that obligation (Alien Children Litigation, 1980:80).

The court thus rejected the argument of interference with foreign relations. In addition Judge Seals added: "There is no basis to conclude that the statute is an irritant to a foreign state, such as Mexico. Any conflict between section 21.031 and our friendly relations with Mexico is insubstantial (Alien Children Litigation, 1980:82)."

It is this basic point, Mexico's interest in the welfare of its citizens, that concerned the attorny's for the children. Of all the expert witnesses in behalf of the children there was only one resident

Mexican citizen (Dr. Jorge Bustamante of the Colegio de Mexico). No Mexican government official testified nor was there an official Mexican government position outlined or available for courtroom use as requested.[17] The explanation for the lack of an articulated legal position stems from Mexico's official stance on neutrality. That is, Mexico has an avowed international policy of non-interference in the internal affairs of other countries. The education case in Texas thus falls under internal affairs of another country.

One readily sees the limits of such a policy. Mexico was unable, as a national government, to advance a position in behalf of the undocumented children. This is not to say that the Mexican government, in the form of the consulate in the U.S., does not come to the aid of its citizens. On the contrary, both historically and in these times, the Mexican consulate provides special aid to immigrants in a multitude of ways,

However, the point remains that no Mexican position was advanced. This takes us to the second point: Mexico's growing economic power. There can be very little doubt that Mexico's growing economic power will, in the near future, be translated into political power. For example, "oil could be used to reduce Mexico's dependence on the United States, or at least to make it less harmful (Rosario Green, 1981:110)." In other ways as well, such as in the education case, Mexico might find itself able to burst its' shell of isolationism. The 1980's may be the decade not only of the Hispanic but also of the Mexican nation.

The final and third point cited above is directly related to the two groups above whose power (and population) continues to grow. In the Houston case, it was the successful linking of Chicanos, Mexican Americans and the undocumented Mexican population that provided for the pooling of resources and talent necessary to mount a statewide

campaign against section 21.031 of the Texas Education Code. The campaign involved the development of the seventeen lawsuits filed across the state. It also involved the sociological, demographic and historical research brought to bear in the trial itself. And finally, the campaign forged links between the undocumented population, in a number of Texas cities, and the Chicano population who sought to defend the immigrant child.

It is clear from the above analysis that the educational aims of the Mexican origin population (regardless of immigration status) fall in line over a period from 1954 on. More important is the international context where we find the Chicano, Mexican American, Anglo and undocumented populations establishing links with their counterparts in Mexico. It is this internationalization of struggle over common interests that may well prevent another inhumane practice as found in the Texas Education Code section 21.031.

Footnotes

1. We utilize the term undocumented worker/immigrant over the term "illegal alien" for several reasons. First, the act of crossing the border without proper documents is illegal, the person is not. Second, only an immigration judge can make the determination of "illegality"; and finally, the term alien implies a strangeness which is inappropriate to immigrants since historical patterns of immigration are recurring (cf. Orange County Task Force, 1978:3). In addition, the term has gained acceptance in both the federal and legal communities. Former Secretary of Labor, Dr. Ray Marshall, and Federal District Court Judge Woodrow Seals both use the term <u>undocumented</u>.

2. The Pan Americanist position or ideology on Latin America, including Mexico, fostered amicable international relations between the United States and the Latin American countries. This position was based on the attempts being made to foster international trade and the search for new U.S. markets in these countries. A final consideration was the exploitation of the natural resources, such as copper, that U.S. multinationals desired. The Pan Americanists thus argued against the imposition of restrictive immigration laws which <u>nativists</u> were clamoring for (cf. Baird and McCaughn, 1979:).

3. The role of immigrants is used here in terms of their social roles where undocumented immigrants are considered marginal members of society (cf. Bustamante, 1972 and Mazon, 1975). The functions of immigration refer to the economic utilization of immigrants such as the use of undocumented immigrants as strikebreakers (cf. Meister and Loftis, 1978), the use of immigrants as wage depressors and as working class dividers (Bustamante, 1973 provides this overall critique in his dissertation).

4. The Chicano Movement herein refers to the direct social action and political struggles by activists in a variety of institutional settings such as in education/higher education, bilingual education, the farmworkers movement, struggles against the government (e.g., against police brutality and the War in VietNam), civil rights struggles of community organizations to end discrimination in housing and employment and Welfare rights organizations (cf. Acuna, 1981). Note that the operational definition offered above encompasses a spectrum of activities and persons who may or may not have identified with the "Movement," especially if the term Chicano was used. The important point is the organizational activity of the groups in opposition to institutional or capitalist groups. The Chicano Movement utilized and was forged through a cultural nationalism binding all those affirming "Chicanismo" (cf. Limon, 1981 for a critique of the political limits of the term Chicano and Garcia, 1981 for a sociodemographic analysis of the usage of various self-identifiers).

5. By the agents of social control I mean basically the <u>state</u>. That is federal, (FBI, CIA or INS) state and local governments who employ police as direct

agents of social control. In addition, as indicated by the quotation from the Dictionary of Sociology, social control also refers to social processes of institutions whereby socialization techniques (e.g., the learned discipline in primary education) exact conformity.

6. More research is needed on this point since we do not know the extent or magnitude of harassment levels. However, at a conference on U.S.-Mexico Relations held in April of 1981 I informally surveyed ten of the Chicano professors making presentations. Each one of them had, within the last five years, been subject to unexpected questioning by Border Patrol or INS officials while in transit. All of the professors felt that they were singled out in discriminatory fashion.

7. One only needs to read the article, "Illegal Aliens: Big Threat to Black Workers," to see how a black sociologist--Dr. Jacquelyne Jackson--and a black oriented magazine (Ebony) misunderstood the question of undocumented immigration. Pitting immigrants against Blacks creates discord and disunity among subordinated ethnic groups and is, of course, in the interest of dominant groups be it capital such as agribusiness or the state.

8. A demand for social justice is also recognized, for children are a powerless group to confront societal institutions and rules. The issue of powerlessness in turn raises humanistic issues and ideals.

9. The legal issues of concern include: undocumented children as a suspect and/or irrational classification, education as a fundamental right, due process, substantive process, procedural due process and federal pre-emption. Other international legal considerations will be discussed in detail.

10. The term "multinational Mexican workers" refers to the way Mexicanos are classic national boundary crossers (e.g., working in the U.S. and Canada) in the same way that multinational corporations cross national boundaries. Clearly, the multinational corporation utilizes its legal mobility to further exploit people, land and natural resources while the multinational worker (at least with respect to North and South America) often crosses national boundaries without legal sanction. In addition, the multinational worker migrates in the search for work (cf. Samora, 1971 and Cardenas and Flores, 1980) or survival and not as an exploiter like the multinational corporation.

11. Gambino (1972) refers to the development of struggles wherein "The more class unity and confidence in struggle builds up, the more workers lose their identification with work. Their struggle, instead of being confined within the terms of work, now takes a more radical form - against the monotony and drudgery of capitalist work itself . . ." He goes on to say that, "the further stage is political recomposition, the stage where the process of redefining the content and goals of the struggle takes on an organized, political form."

12. For example, data on apprehension is compiled in Washington, D.C. from the regional offices who have gathered their data from the district offices. This data had been largely processed by hand and thus subject to reporting errors. With respect to political rationality, it is not inconceivable that inflated apprehension figures could be produced in order to secure increased funding in subsequent years.

13. Contributions to society are made through waged work <u>and</u> also through <u>non-waged work</u> such as the labor performed by housewives in the household.

14. Needless to say, the "schools for the undocumented" were developed due to the Texas ruling (Sec. 21.031 of the Education Code). The schools, Maranatha and Guadalupe Aztlan operated without harassment from the I.N.S.

15. Recall the 1977 Reyes and Associates million dollar funded study which attempted to draw a random probability sample across the U.S. This group was prematurely <u>defunded</u> for failure to remain on the research schedule and for overspending (cf. Weissler, 1978 and 1979). However, the CENIET (1978-79) study in Mexico has collected data from a random probability sample with an N of 60,000 households. This study on both internal migration (within Mexico) and international migration (to the U.S.) will, in all likelihood yield the most interesting, reliable and valid data to date.

16. As noted in Figure 1, Judge Seals order is an appeal to the Supreme Court. It has been reasoned by attorneys for the children that a ruling from the Supreme Court in favor of the undocumented children would not necessarily constitute a victory. As evidence from other suits, the legal reasoning embodied in various court orders provides the <u>legal</u> bases for ruling against undocumented immigrants in future litigation.

17. The attorney's for the case attempted to secure the Mexican governments aid in the case. However, there was no response to their request.