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Undocumented Students in Christian Higher Education: Theological and Legal Ramifications for Financing Student Leaders

A Case Study Submitted to The ACSD
New Professionals Collaborative

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Abstract

Private institutions in the United States of America are being forced to confront an increasing number of undocumented persons who seek employment, education, healthcare, and personal development. In this case study we considered the options which Christian colleges must weigh when interested in allowing undocumented students to serve in (traditionally) paid leadership roles on campus. Through research, interviews with student development professionals, and conversations with formerly undocumented students, this study provides a unique solution for Christian colleges to consider when faced with the consideration of undocumented students in leadership roles. The scope of our research is focused in three primary areas: brief national immigration history, the mission and responsibility of evangelical Christian colleges, and the legal implications of employing undocumented persons. This study seeks to illuminate one option that private colleges can consider, not provide a formulaic response for all schools.

When Sarah and her mother fled to the United States of America in the early 1990s, they were escaping the grip of an abusive father. Although they were unable to obtain the necessary paperwork at the time, the perils of staying home were too great. Once in the United States, Sarah's mother needed surgery. The financial costs of an unemployed parent were devastating for the family, and the resulting need required Sarah to work under-the-table jobs throughout high school.

Despite these challenging circumstances, Sarah excelled in school. Through the gracious giving of her church family and a new opportunity for undocumented students to gain full funding at certain private institutions, Sarah enrolled at a small Christian liberal arts college. She soon found, however, her problems would not end with college admittance and full scholarship. Instead, some of the students and faculty members had harsh and outspoken opinions regarding immigration. Many were largely uninformed. Early during her college experience, Sarah applied for and was offered a position on campus. In the process of investigating whether or not she would be able to fill the position, an employee of the college responded, "I knew you were going to be a problem if we let you in here." More than being denied the position itself, Sarah was discouraged by such alienating judgment. She ultimately could not accept the job for lack of legal documentation.

During her time as an undergraduate, Sarah overcame spiteful words, feelings of ostracism, and constant fear of deportation, to thrive and ultimately minister to other students on her campus. While it is unfit to suggest the words of a single staff member reflect either this particular institution's mission or the attitudes of an entire nation, the sentiments of indifference and suspicion are certainly not uncommon at other colleges in the United States. In an attempt to explore the concepts of immigration, undocumented students, and employment in Christian higher education, it is our hope that these issues would not be met with criticism. As an alternative, these matters might be approached as opportunities for the Consortium to set a tone for the 11.5 million undocumented immigrants who seek an identity and life in the United States (Department of Homeland Security, 2011). Recently, immigration has become a polarizing political topic and is commonly loaded with negative connotations. The researchers have found that immigrants are frequently labeled with such titles as alien, illegal, anchor baby, outsider, foreigner, and countless other derogatory epithets. Some Americans have little problem making vague generalizations that only further the boldly spoken judgment that those not born in the United States are unwelcome here. However, as student development professionals with a distinctly Christian perspective, we must resist these oversimplifications and look more deeply at the complex issues surrounding the subject of undocumented residents in higher education.

This case study provides an opportunity for an alternate response for undocumented students like Sarah (whose name was changed to maintain her privacy) in Christian higher education. In order to provide a comprehensive analysis of this case, we will first provide a general overview of current issues surrounding undocumented students. We will then consider the legal ramifications for both those who seek employment and those who seek to employ. In light of the evangelical heritage of each of our institutions, we will accordingly evaluate the case study with theological and scriptural lenses. Finally, we will submit a solution to the case study that encompasses creativity, biblical compassion and legal integrity.

Undocumented Students in America – Current Issues and Legal Introductions

According to a 2011 Department of Homeland Security survey, there are 11.5 million undocumented immigrants living in the United States and nearly three million are under the age of twenty-five (Department of Homeland Security, 2011). According to the 1982 Supreme Court case *Plyler vs. Doe*, undocumented children have access to elementary and secondary public education (Olivas, 2010). There are neither federal laws banning undocumented students from post-secondary education nor federal financial support or legal support which allow these students to pursue higher education. Undocumented students seeking an associate or bachelor's degree must rely entirely on privately funded scholarships and even then, depending on the state of residence, they may be denied admission on the basis of their legal status ("Financial Aid," 2012).

The reality for undocumented students appears bleak. However, the DREAM (Development, Relief, and Education for Alien Minors) Act, reintroduced into Congress in 2011, may soon pass into legislation. This bill would grant undocumented high school graduates with a conditional lawful permanent status if they have resided in the country for at least five years and arrived when under the age of sixteen. The conditional status is extended for a six-year period at the conclusion of which the individual may receive full legal status with proof of at least two years completion of a bachelor's degree or uniformed service ("The DREAM Act," 2012). DREAM Act students would be eligible for work-study and loans but would not have access to federal grants ("Financial Aid," 2012). On June 15th, 2012, the Secretary of the Department for Homeland Security issued a memo regarding prosecutorial discretion with undocumented individuals who may qualify for eligibility under the DREAM Act (Department of Homeland Security Memorandum, 2012). This memorandum created the foundation that is now referred to as Deferred Action for Early Arrivals or DACA. DACA began accepting applications in August of 2012 and as of March 2013 received a total of 453,589 applications, 245,493 of which have been approved (Deferred Action for Childhood Arrivals Process, 2013). The execution of this legislation is promising for the future of undocumented students, especially those seeking an undergraduate degree. Due to the financial and legal difficulties involved and the complexity of their situations, enrolled and undocumented students at any Christian College Consortium institution should be met with support, guidance and inclusion led by the student development staff.

The Consortium's Mission and Biblical Responsibility

The mission of the Christian College Consortium (CCC) is "to serve the cause of Christ in the world of higher education by encouraging and assisting members in the pursuit of their respective missions" (Christian College Consortium, 2011, para 1). Widely accepted pillars of evangelicalism include conversionism, crucicentrism, activism, and biblicism (Bebbington, 1989). Therefore, our identity as evangelical Christians demands a Scriptural response to this issue.

In his article, "Dying to Live: Theology, Migration and the Human Journey," Daniel Groody (2009) explored three biblical themes that are applicable to immigration at large, namely: the *Imago Dei* (The Image of God), *Dei Verbum* (The Word of God), and *Dei Missio* (The Mission of God). These themes solidify the theological basis for our discussion on Christian ethical and moral responsibility as it relates to this case study.

The first theological foundation, *Imago Dei*, affirms the creation of man in the image of God as stated in Genesis 11:26-27. The image of God affirms the inherent worth of all people. Daniel Groody (2009) emphasized, “The Imago Dei insists that we see immigrants not as problems to be solved but people to be healed and empowered” (p. 32). As it relates to the student in the given case study, the *Imago Dei* calls the Christian community to see the student as a person made in God’s image and worthy of dignity. In fact, as an active community member, there is reason to believe that the student is a Christian. Galatians 6:10 instructs Christians to take every opportunity to do good, especially to those in the family of believers. The second greatest commandment is to love one’s neighbor as oneself.

While consortium colleges must maintain integrity in their ethical and lawful responsibilities as employers, they must also exercise wisdom in empowering and doing good. The school should not deny neighborhood from students who are part of the campus community regardless of their immigration status. While ambiguity regarding political positions on immigration and undocumented persons may exist, the crux of the decision to be made is not primarily political. Based on the case study, the primary question is this: How do Christian student development professionals honor the dignity and inherent worth of individual students, regardless of immigration status, based on the *Imago Dei*?

First, student development professionals should affirm undocumented students’ abilities to lead and serve, rather than denying them opportunities on the basis of immigration status. By actively embracing the *Imago Dei*, they should advocate for an ethical response. Secondly, a resolved belief in the *Dei Verbum* (The Word of God) informs the lens through which distinctly Christian student development professionals make decisions. In the Old Testament, God conveyed himself as the welcoming King. He used people like Moses, who wandered in foreign lands, to call Israel to welcome strangers and exiles. In the New Testament, God similarly charges Christians to accept strangers with hospitality, reminding us of our migrant identities as citizens of heaven (Philippians 3:20, English Standard Version). When we examine the Scriptures, we see people migrating for a variety of reasons including lack of food and fear of death. Although legal immigration policies throughout those times were drastically different than those in the United States today, God continues to call his people to affirm the humanity of others, seek justice, love mercy and walk humbly (Micah 6:8).

Furthermore, in embracing *Dei Verbum* it is important to acknowledge the Scripture’s call to obey legal authorities (Romans 13:1-5). In order to possess a clear conscience and strong Christian witness, God’s people ought to keep the law by honoring governing authorities and loving their neighbors, specifically students. The apostles modeled this in Acts 5. After being delivered from prison by an angel to preach the gospel, they were again caught by the ruling body and questioned. Peter informed those in the court, “We must obey God rather than man” (Acts 5:29). Ultimately, when human law defies God’s law, the latter takes precedence. However, we also see in Christ’s example that when possible to “give to Caesar what is Caesar’s, and to God what is God’s” (Matthew 22:21), we are challenged to live both within the realm of governing authority but for the sake and hope of the Kingdom.

Finally, when people choose to become followers of Jesus, they adopt the *Dei Missio*, or the mission of God. In Matthew 28, God’s people receive the Great Commission from

the Savior to make disciples, and throughout the Scriptures God's people are repeatedly called to both love and justice. Love for God and people are known as the sum of the law and are considered the only debt that believers owe one another (Romans 13:8). Isaiah 61:8 and Psalm 37:28 both reiterate God's love and concern for justice. Eleven-and-a-half million undocumented residents living in the country, 26% of whom are between the ages of 18-25, qualify as neighbors worthy of love and justice. Even with clear biblical evidence that obliges engagement with immigration, legal implications must be considered. The obligation and mission of Christians is to advocate for undocumented students so they may have a voice as campus leaders.

Legal Implications of Employing Undocumented Students

Therefore, the challenge set before student development professionals is twofold: first, to support the student with care, and second, to walk justly within the means of the law. In response to the given case study, we contend it is equally necessary, if not imperative, that the institution upholds both with the highest integrity. Directly stated, the institution will not be asked and should not consider operating under unethical standards in order to assist the student. However, within the constructs of the institution, there are legally creative solutions whereby the student may be supported and simultaneously given an opportunity to exercise student leadership. In order to account for this process, it is first necessary to explain the legal structures and ramifications as they currently exist.

Admitted but undocumented students, like other undocumented persons, cannot be legally employed. In fact, significant legal ramifications exist for employers, and in this case, the higher education institution, for knowingly employing undocumented workers. According to the Immigration Reform and Control Act of 1986 (IRCA), it is unlawful for a person or entity to "hire, recruit, or refer for a fee for U.S. employment any alien knowing that such person is unauthorized to work," or to "continue to employ an alien knowing such person's unauthorized work status" (United States Government, 1985-1986). Unlawful action can be met with civil and/or criminal fines ranging from six months in prison to fines from \$3,000 to \$16,000. In order to verify that employers conduct ethical hiring practices, the IRCA also requires them to attest to the employee's work status as a citizen or authorized alien through identification pieces. Failure to do so may also result in fines ranging from \$110 to \$1,110 for each paperwork violation (United States Government, 1985-1986).

Significant risks are also involved for a student who pursues illegal employment. On occasion, an undocumented person may attempt to obtain a job through false documentation. Submitting false government paperwork is illegal, putting the student at risk of voluntary perjury. Additionally, the student may face fines, imprisonment, and deportation (B. Cauwels, personal communication, April 11, 2012). Risking illegal employment puts the student's education in jeopardy, eliminates any possibility of him or her benefiting from the terms of the potentially upcoming DREAM Act, and therefore bars him or her from eventual citizenship (Educators for Fair Consideration, 2011b).

While a Christian institution most likely would not follow legal protocol simply on the basis of foundational level behaviorism (i.e., for fear of punishment), the preceding legal arguments clarify the legal consequences at stake. Each institution should be advised not to hire the student out of compassion and compromise the institution's integrity in the

process. Rather, institutions should look for ways in which honesty and integrity may be upheld and further support these students.

A Proposed Solution – Integrating Integrity, Theology and Creativity

Although the student leadership position is nondescript in the given case study, we can assume the student has been selected for a leadership position because she was considered a trustworthy, capable, and valuable fit for the role. The institution faces a dual dilemma in that it cannot legally pay an undocumented student leader and is equally unable to legally offer the same position to the student without compensation. Consequently, we propose the college create a similar, yet slightly distinct, unpaid student leadership position. This student leadership position would be defined by a different name and a different job description in an attempt to prevent confusion between the paid and unpaid positions. The college should attempt to seamlessly integrate this position into campus life so the student does not feel ostracized by her peers. This leadership post could be a temporary or long-standing position that may be filled by any future student. In creating such a position, the student would be given access to a formative opportunity in student leadership. Additionally, the college would benefit from the integration of this student's unique vision and gifts in leading the student body.

Another aspect to address is the institution's care of the student. The college should exercise its creative abilities to ensure that the student (like any student under the auspices of student development) is equipped with the tools that make emotional, social, spiritual and physical success possible. For example, the college may steward its resources by connecting her with a community member or organization that might support the student holistically, such as matters of citizenship or asylum. Further methods of support may vary according to the individual situation.

Additionally, the institution should consider in what ways the college can physically or financially provide support in order to care for the student. Federal law prohibits loans and grants, but undocumented students are able to legally receive private scholarships. Pending permission from the Vice Presidents of Student Development and Finance at each given institution, an allotment of funds taken from the student development budget may be used to create a scholarship. This scholarship could not be based on a set of criteria such as work performance or volunteerism but should be awarded for supporting educational endeavors of undocumented students. The scholarship funds should be disbursed directly through the college in the student's name. This scholarship, by design, would be awarded to the student in addition to her current scholarships to help further her personal development and leadership skills as they pertain to this new position. Should the scholarship exceed her tuition needs, the student should have the option of withdrawing the surplus funds for other expenses. In this way, the college may support the student her effort to sustain an educational experience.

Conclusion

After critically evaluating the concerns associated with providing unique opportunities for undocumented students in higher education, we, the researchers, conclude that each institution that accepts undocumented students must consider several important factors. First, each institution must observe and function within the limits of United

States' law. Second, as various members of the CCC, institutions also must realize the weight of their missions as evangelical Christians in a predominantly secular culture, of which one component is spiritual and legal advocacy for all God's people. Each institution must also provide for the well-being of the undocumented student, that is, their spiritual, emotional, physical, and mental health. Due to these convictions, we propose an alternative arrangement that protects the student and the college from legal risk but allows for the developmental benefit of a student leadership position. First, student development professionals should form a new, voluntary role that allows the student a similar opportunity to exercise leadership. Secondly, the college should manage its internal and external resources responsibly in order to provide holistic support for the student, specifically as it pertains to the student's financial needs. An independent scholarship could meet these needs.

Given the complexity of this issue, it is not our intention to provide a uniform response for all Christian colleges. Rather, a foundational framework which can serve undocumented students on a case-by-case basis is provided. Based on the information we have gathered, Christian student development professionals can provide opportunities for students to partake in all of the benefits the institution has to offer, regardless of immigration status. In doing so we can maintain integrity, respond to God's call for believers, and develop all students on our campuses. 



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