

LATINXS RESHAPING LAW & POLICY IN THE U.S. SOUTH

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ABSTRACT

This article addresses the key law and policy levers affecting Latinxs in what the U.S. Census Bureau designates as the South. Since the rise of the Latinx population from the 1980s onward, few legal scholars and researchers have participated in a sustained dialogue about how law and policy affects Latinxs living in the South. In response to this gap in legal research, this article provides an overview of the major law and policy challenges and opportunities for Latinxs in this U.S. region. Part II examines the geopolitical landscape of the South with special focus on the enduring legacy of Jim Crow and White supremacy, as well as provides a brief demographic overview of Latinxs in this part of the county. Part III delves into law and policy issues related to political mobilization, immigration, education, and economic opportunity. We explore each policy area by drawing on a diverse universe of knowledge: U.S. Census data, research papers and projects, published interviews, legislation, social science research, newspaper and media profiles, and judicial opinions. Part IV of this article offers a vision for building Latinx political power in

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the South rooted in coalition building and identifying networks of activism.

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I. INTRODUCTION

In 2017, National Public Radio (“NPR”) producers Zakiya Gibbons and Jeanne Montalvo, traveled with Latinx¹ radio program host Maria Hinojosa (of LatinoUSA)² through the southern region of the United States.³ The purpose of the road trip was to help provide a better understanding of the Latinx community in a region of the country that has experienced the fastest growing Latinx population in the nation.⁴ The trip resulted in a two-part podcast that focused on Latinx contributions to the Southern urban center of Atlanta and rural communities in Alabama. The podcast series explores key issues that expose the complexity of Latinxs in the United States, including the diversity of the Latinx community, the White-Black binary rooted in a history of slavery, and the impact of immigration on the political and economic life of Latinx in Southern communities. The podcast further interrogates how class dynamics implicate the racialization of Latinxs, many who often find themselves caught somewhere in between their proximity to Whiteness and the experiences of exploitation and oppression that Black communities have long faced in the South.

This paper offers a similar journey through the South, but specifically explores the law and policy implications of the Latinx experience in the region. For purposes of this analysis, we follow the U.S. Census designation of the Southern region and include the following states: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Texas, Tennessee, Virginia, and West Virginia.⁵

In Part II, we examine the geopolitical landscape of the U.S. South as it relates to Latinxs. We offer an overview of the demographic data of the region and discuss how the legacy of slavery is kept alive through social

¹ Throughout this article, we employ the term “Latinx.” In so doing, we reject the gender binary that is linguistically inherent in both “Latino” and “Latina.” While Census data does reference the identity “Hispanic,” we do not engage with this term because it privileges Spanish and Spanish-descendent identities (*Hispano* and *Hispanola*). The term “Latinx” is both gender-neutral and does not exclusively honor Spanish origin.

² For more information on LatinoUSA, please visit www.latinousa.org.

³ Latino USA, *Southern Roadtrip (Part 1)*, NPR (Sept. 15, 2017) [hereinafter *Southern Roadtrip (Part 1)*], <https://www.latinousa.org/episode/southern-roadtrip-part-1/> [<https://perma.cc/JKW5-S8RJ>].

⁴ *Id.*

⁵ *Census Regions and Divisions of the United States*, U.S. CENSUS BUREAU, https://www2.census.gov/geo/pdfs/maps-data/maps/reference/us_regdiv.pdf [<https://perma.cc/69MA-Q4WA>].

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conservatism often manifested through religion.⁶ We also discuss how religious institutions have created spaces for Latinx immigrants to enjoy community life despite the strict regulation on their movements and actions. Finally, we explore the need to combat the Black-White binary to challenge the legacy of White supremacy in the South that inhibits the ability of Latinxs to integrate and lead into the region.⁷

Part III explores the status of law and policy in four key areas defined by the American Bar Foundation's project, *The Future of Latinos in the United States*: civic engagement, immigration, education, and economic participation.⁸ We begin by providing an overview of Latinx political representation in the South and highlight the controversy surrounding redistricting in Texas, which many view as an attempt to limit Latinx political power. We explore the anti-immigration sentiment expressed in laws passed in numerous Southern states, including Alabama, Georgia, South Carolina, and Texas, that impacts how Latinxs are perceived and incorporated. We also discuss the impact of immigration policy on the education of Latinx children by exploring the impact of parent deportation and Deferred Action for Childhood Arrivals ("DACA") student policies. We end this section with a discussion of the economic opportunity that lures low-wage workers to the South and their ability to find sustainability through entrepreneurship that taps into the market created by Latinx population growth.

Part IV theorizes how Latinxs can build political power in the South. It considers the context of the region and the current political climate in

⁶ See Noel Rae, *How Christian Slaveholders Used the Bible to Justify Slavery*, TIME (Feb. 23, 2018, 3:30 PM), <https://time.com/5171819/christianity-slavery-book-excerpt/> [<https://perma.cc/MF6M-PQYP>] (analyzing how slaveholders used their religious beliefs to justify slavery).

⁷ While filming for his documentary *Hate Rising*, award-winning journalist Jorge Ramos met an imperial wizard of the Ku Klux Klan in Texas. *Latino USA, Jorge Ramos on Hate, Politics and the Trump Effect*, NPR (Oct. 28, 2016, 3:13 PM) [hereinafter *Jorge Ramos on Hate*], <https://www.npr.org/2016/10/28/499773342/jorge-ramos-on-hate-politics-and-the-trump-effect> [<https://perma.cc/EZD7-WM7Y>]. The imperial wizard was under the impression that he was talking to the director of the documentary, Catherine Tambini, not Jorge Ramos. *Id.* Right before the interview started, Catherine Tambini and Jorge Ramos switched seats. *Id.* During the interview, the imperial wizard said, "White people are so much higher than any other race." *Id.* Jorge Ramos then asked, "Do you think you are [more] superior than me simply because I am a Latino?" which he replied, "Oh yeah, sure do." *Id.* Ramos explains that the imperial wizard went to shake Ramos' hand, but pulled back. *Id.* Ramos realized the imperial wizard did not want to touch him because he is Latino. *Id.*; see also Hana E. Brown, Jennifer A. Jones & Andrea Becker, *The Racialization of Latino Immigrants in New Destinations: Criminality, Ascription, and Countermobilization*, 4 RUSSELL SAGE FOUND. J. SOC. SCI. 118, 119 (2018).

⁸ Project News Page of *The Future of Latinos in the United States: Law, Opportunity and Mobility*, AM. BAR FOUND., <https://futureoflatinos.org/news/> [<https://perma.cc/8EHL-GZHX>].

making recommendations for future work on law and policy. Specifically, we focus on the importance of coalition building, political engagement, and solidifying paths to education and training. Part IV also discusses the importance of linking Latinx rural communities that have scarce resources with Latinx communities in urban centers, which generally have better-developed infrastructures.⁹ We argue that technology can be better employed to organize Latinx communities locally by connecting them to broader networks of activism. Although it is hard to imagine that an increasing Latinx population will change the ingrained geopolitical landscape in the South, it is worth envisioning a future that not only transcends the White-Black binary, but also perhaps offers a more egalitarian future.

II. UNDERSTANDING THE GEOPOLITICAL LANDSCAPE

Before delving into the state of Latinx law and policy in the South, it is important to briefly review the history and demographic profile of Latinxs in the South, as well as understand how “Latinidad”¹⁰ within the context of this region emerges and changes the landscape.

A. BRIEF HISTORY

While an in-depth discussion of Latinx history and demographics in the South is outside the purview of this paper, a brief understanding of how Latinxs have historically and demographically shaped the South will contextualize the discussion of law and policy. Latinxs have long been

⁹ See Amelie Ramirez, *Research: Latino Rural Migration Led to Housing, Transportation Inequities*, SALUD AMERICA (May 10, 2019), <https://salud-america.org/research-latino-rural-migration-led-to-housing-transportation-inequities/> [<https://perma.cc/A9DE-DMUE>] (“A pattern of Latino migration to small town and rural areas in the Southeast and Midwest instead of to traditional urban centers has led to the formation of isolated, segregated rural Latino communities with unique housing and transportation needs.”). See generally INST. OF MED., REBUILDING THE UNITY OF HEALTH AND THE ENVIRONMENT IN RURAL AMERICA: WORKSHOP SUMMARY 15–23 (James Merchant et al. eds., 2006) (discussing how “people in rural America are uninsured, more often have inadequate access to health care services, and must often commute long distances to seek and receive such care”).

¹⁰ “Latinidad” is an overarching term used broadly to refer to shared experiences of individuals from Latin America and their descendants. It traces political economic histories across the region and into the diaspora, identifying experiences of migration, racialization, and cultural imaginaries that can, to varying extents, be experienced collectively. See, e.g., Frances R. Aparicio, *(Re)constructing Latinidad: The Challenge of Latina/o Studies*, in THE NEW LATINO STUDIES READER: A TWENTY-FIRST-CENTURY PERSPECTIVE 54, 61–62 (Ramón A. Gutiérrez & Tomás Almaguer eds., 2016).

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present in many areas in the South, in large part due to the colonial history of the southeastern United States.¹¹ New Spain was the first Spanish-governed territory in the Americas and included present day Mexico, Central America, the Philippines, Guam, Mariana and Caroline Islands, Florida, and most of what we know today as the southwestern and central territory of the United States.¹² While race became an important legal category in the Spanish colonial Americas beginning in the late fifteenth century,¹³ Latinxs of all racial backgrounds (Indigenous, Black, and White) in the United States became implicated in this process and *collectively racialized* through U.S. settler colonialism.¹⁴ As White European interests and peoples moved westward and southward well into the nineteenth century, they displaced Indigenous peoples, enslaved people of African descent, and exploited immigrant labor to build the infrastructure of expansion and imperialism. The southeastern portion of what is now called the United States was not immune from this process.

Texas, in particular, was one site for this transformation due to its history as part of Mexico and their continued relationship.¹⁵ The Texas-

¹¹ See generally Patrick Wolfe, *Settler Colonialism and the Elimination of the Native*, 8 J. GENOCIDE RSCH. 387 (2006) (discussing the relationship between genocide and settler colonialism in the United States).

¹² See generally THE INQUISITION IN NEW SPAIN, 1536–1820: A DOCUMENTARY HISTORY 22–24 (John F. Chuchiak ed., trans., 2012) (identifying and describing inquisition commissariats founded in New Spain).

¹³ See Pilar M. Hernández Escontrías, *Excavating Undocumented Lives on the Borderland: Colonial Marketscapes, Private Property, and the Materiality of Raced Citizenship in 17th Century Moquegua, Perú 75–76* (2016) (Ph.D. dissertation, Northwestern University) (on file with author).

¹⁴ See generally EDWARD M. TELLES & VILMA ORTIZ, *GENERATIONS OF EXCLUSION: MEXICAN-AMERICANS, ASSIMILATION, AND RACE* 12 (2008) (explaining the way in which Latinxs, specifically Mexicans, have been racialized). We do not identify Latinxs as a racial category, as Latinxs can be of African descent, of Indigenous descent, and of European/White descent. As other scholars have noted, anti-Black and anti-Indigenous racism within the Latinx community is prevalent. Tanya Katerí Hernández, *Hate Speech and the Language of Racism in Latin America: A Lens for Reconsidering Global Hate Speech Restrictions and Legislation Models*, 32 U. PA. J. INT'L L. 805, 815–16 (2011). We therefore do not position Latinxs as a race. We do, however, acknowledge that Latinxs have been implicated in the race-making process that was central to U.S. imperialism and that, at various junctures in history, they have been *collectively racialized* as “Other.” See PILAR M. HERNÁNDEZ ESCONTRÍAS, *SHIFTING LATINX DEMOGRAPHICS AND THE INFRASTRUCTURE OF SUPPORT FOR THE LATINX COMMUNITY OF CALIFORNIA* (Nov. 7, 2016), https://flpabf2.files.wordpress.com/2016/12/final_shifting-latinx-demographics-and-the-infrastructure-of-support-for-the-latinx-community-of-california.pdf [https://perma.cc/A5E4-3N4N] (report prepared for the Network for Justice: Creating Legal and Legislative Support for U.S. Latino Communities Summit, UCLA).

¹⁵ See RICHARD GRISWOLD DEL CASTILLO, *THE TREATY OF GUADALUPE HIDALGO: A LEGACY OF CONFLICT* 62–66 (1990); see also Francisco Arturo Rosales, *Repatriation of Mexicans from*

Mexico relationship is reinforced through social, historical and familial networks, but it also has a financial dimension. Mexico is Texas' principal trade partner in both imports and exports.¹⁶ The Texas-Mexico economic relationship produces more than \$4 trillion and ranks sixth in the world in terms of size.¹⁷ While Florida has the second strongest trade relationship with Central America and the Caribbean countries, Mexico is the largest foreign trading force in the Southern states.¹⁸ These trade relationships offer additional context to the impact of Latinxs in the South.

B. DEMOGRAPHIC PROFILE

Across the nation, the median growth rate of Latinxs was approximately 27% from 2007 to 2014.¹⁹ In recent years, economic opportunities have led Latinxs to areas that historically did not have sizeable Latinx populations. Manufacturing and agricultural jobs attracted many Latinxs to North Carolina in the 1990s, and growth in the region has steadily increased in the last two decades.²⁰ In 2014, the state of Georgia was within the top ten states with the largest Latinx population.²¹ Between 2000 and 2007, 8 of the 10 fastest growing Latinx counties were in the

the U.S., in 2 THE PRAEGER HANDBOOK OF LATINO EDUCATION IN THE U.S. 399, 400–03 (Lourdes Diaz Soto ed., 2007); Juan F. Perea, *A Brief History of Race and the U.S.-Mexican Border: Tracing the Trajectories of Conquest*, 51 UCLA L. REV. 283, 296 (2003) (Mexicans were not given citizenship immediately, but rather were promised it as soon as possible); MATT S. MEIER & FELICIANO RIBERA, MEXICAN AMERICANS/AMERICAN MEXICANS: FROM CONQUISTADORS TO CHICANOS 66 (Hill & Wang rev. ed. 1993).

¹⁶ W. MICHAEL COX & RICHARD ALM, WILLIAM J. O'NEIL CTR. GLOB. MARKETS & FREEDOM, TEXICO: THE TEXAS MEXICO ECONOMY AND ITS UNCERTAIN FUTURE 6 fig.2 (2018), [https://www.smu.edu/-/media/Site/Cox/CentersAndInstitutes/ONeilCenter/Research/AnnualReports/SMU-Cox-ONeil-2018_Annual-Report_100118_Final_web-\(1\).pdf?la=en](https://www.smu.edu/-/media/Site/Cox/CentersAndInstitutes/ONeilCenter/Research/AnnualReports/SMU-Cox-ONeil-2018_Annual-Report_100118_Final_web-(1).pdf?la=en) [https://perma.cc/2KRC-2LVQ].

¹⁷ *Id.* (noting that this is a bigger economy than Russia).

¹⁸ 2018 *U.S. Import and Export Merchandise Trade Statistics*, U.S. CENSUS BUREAU [hereinafter 2018 *U.S. Import & Export Statistics by State*] (on file with author).

¹⁹ Renee Stepler & Mark Hugo Lopez, *U.S. Latino Population Growth and Dispersion Has Slowed Since Onset of the Great Depression*, PEW RSCH. CTR. (Sept. 8, 2016) [hereinafter *Growth and Dispersion*], <http://www.pewhispanic.org/2016/09/08/latino-population-growth-and-dispersion-has-slowed-since-the-onset-of-the-great-recession/#fn-24948-1> [https://perma.cc/9XMG-FX9D].

²⁰ *Id.* See also *Southern and Western Regions Experienced Rapid Growth This Decade*, U.S. CENSUS BUREAU (May 21, 2020), <https://www.census.gov/newsroom/press-releases/2020/south-west-fastest-growing.html> [https://perma.cc/PY7E-B9C9].

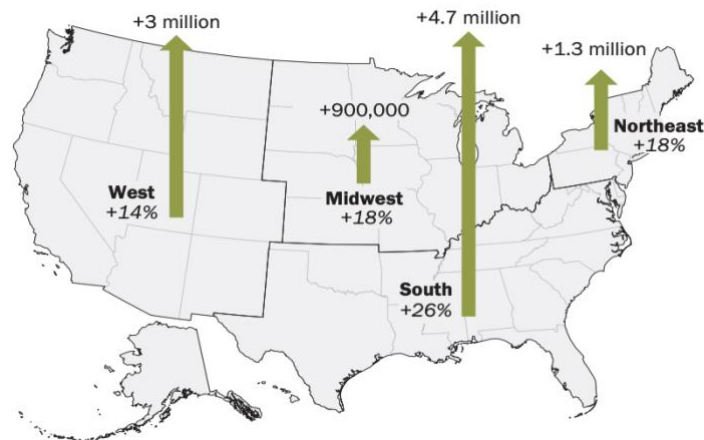
²¹ Renee Stepler & Mark Hugo Lopez, *4. Ranking the Latino Population in the States*, PEW RSCH. CTR. (Sept. 8, 2016) [hereinafter *4. Ranking the Latino Population in the States*], <http://www.pewhispanic.org/2016/09/08/4-ranking-the-latino-population-in-the-states/> [https://perma.cc/CCY4-X6M3].

Southern states.²² From 2007 to 2014, the South accounted for the largest share of the U.S. Latinx population increase.²³

Between 2010 and 2019, the Latinx population in the South increased 26%, as compared to an increase of 14% in the West (see [Image A](#)).²⁴ Across the Southern states, the increase in the Latinx population from 1980–2015 more than quadrupled, with the highest percentage increases occurring in Arkansas, Georgia, North Carolina, and Tennessee (see [Table A](#)).²⁵

Image A

Demographic Increase of Latinxs in the Regions (2010–2019)



²² *Growth and Dispersion*, *supra* note 19.

²³ *Id.*

²⁴ See Luis Noe-Bustamante, Mark Hugo Lopez & Jens Manuel Krogstad, *U.S. Hispanic Population Surpassed 60 Million in 2019, but Growth Has Slowed*, PEW RSCH. CTR. (July 7, 2020), <https://www.pewresearch.org/fact-tank/2020/07/07/u-s-hispanic-population-surpassed-60-million-in-2019-but-growth-has-slowed/> [https://perma.cc/YWB8-UCN6].

²⁵ The countries of origin for Latinos in the South in 2015 were 60.1% Mexican, 18.3% Cuban, Puerto Rican, and Dominican, 9.4% Central American, and 7.3% from South America. AMELIE F. CONSTANT & DOUGLAS S. MASSEY, *LATINOS IN THE SOUTHERN UNITED STATES: TRENDS & PATTERNS* 2–3 (2019).

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| State | 1980 | 2019 Projections ²⁶ | Percentage Increase ²⁷ | % Latinx of State Population, 2019 ²⁸ |
|----------------|-------------------------|--------------------------------|-----------------------------------|--|
| Alabama | 33,299 ²⁹ | 219,296 | 559% | 4.4% |
| Arkansas | 17,904 ³⁰ | 231,951 | 1,196% | 7.6% |
| Florida | 858,158 ³¹ | 5,663,629 | 560% | 26.3% |
| Georgia | 61,260 ³² | 1,042,642 | 1,602% | 9.8% |
| Kentucky | 27,406 ³³ | 168,017 | 513% | 3.7% |
| Louisiana | 99,134 ³⁴ | 250,203 | 152% | 5.3% |
| Mississippi | 24,731 ³⁵ | 90,143 | 264% | 3.0% |
| North Carolina | 56,667 ³⁶ | 1,022,995 | 1,705% | 9.7% |
| Oklahoma | 57,419 ³⁷ | 438,106 | 663% | 11.0% |
| South Carolina | 33,426 ³⁸ | 298,478 | 793% | 5.8% |
| Tennessee | 34,077 ³⁹ | 389,127 | 1,042% | 5.7% |
| Texas | 2,985,824 ⁴⁰ | 11,524,842 | 286% | 39.7% |
| Virginia | 79,868 ⁴¹ | 828,154 | 936% | 9.7% |
| West Virginia | 12,707 ⁴² | 26,823 | 111% | 1.5% |

²⁶ Table Showing 2019 State Populations of *Hispanic or Latino Origin*, U.S. CENSUS BUREAU (2019) [hereinafter *2019 Hispanic or Latino Origin Populations by State*], <https://data.census.gov/cedsci/table?q=B03003&tid=ACSDT1Y2019.B03003>.

²⁷ The authors' calculations are based on the 1980 U.S. Census Bureau data, *see infra* notes 29–42, and 2019 projections by Statistica, *see infra* note 28.

²⁸ *Percentage of State Population in the United States in 2019, By State*: STATISTICA (Jan. 20, 2021), <https://www.statista.com/statistics/259865/percentage-of-hispanic-population-in-the-us-by-state/> [<https://perma.cc/VV5P-4TBK>].

²⁹ Campbell Gibson & Kay Jung, *Historical Census Statistics on Population Totals by Race, 1790 to 1990, and by Hispanic Origin, 1970 to 1990, for the United States, Regions, Divisions, and States* 33 tbl.15 (U.S. Census Bureau, Working Paper No. 56, 2002).

³⁰ *Id.* at 36 tbl.18.

³¹ *Id.* at 42 tbl.24.

³² *Id.* at 43 tbl.25.

³³ *Id.* at 50 tbl.32.

³⁴ *Id.* at 51 tbl.33.

³⁵ *Id.* at 57 tbl.39.

³⁶ *Id.* at 66 tbl.48.

³⁷ *Id.* at 69 tbl.51.

³⁸ *Id.* at 73 tbl.55.

³⁹ *Id.* at 75 tbl.57.

⁴⁰ *Id.* at 76 tbl.58.

⁴¹ *Id.* at 79 tbl.61.

⁴² *Id.* at 81 tbl.63.

Latinxs are still heavily concentrated in metropolitan areas, as illustrated in Table B. Some of the largest Latinx metropolitan areas are also some of the largest cities in the states and in the South. In Texas, Latinxs account for more than 90% of the metropolitan areas of McAllen-Edinburg-Mission, Brownsville-Harlingen, and Laredo.⁴³ Outside of the U.S.-Mexico border region, the metropolitan areas with the largest percentage share of Latinxs are San Antonio and Miami at 55.6% and 45.8%, respectively.⁴⁴ The concentrations of Latinxs in additional key Southern cities such as Atlanta, Dallas, and Houston demonstrate that Latinxs have a significant imprint in the economic, social, and political life of these Southern hubs.

| Metropolitan Areas | 2018–2019 Population ⁴⁵ | Percentage Share ⁴⁶ of Latinx |
|--|------------------------------------|--|
| Miami-Fort Lauderdale-West Palm Beach, FL | 2,841,433 | 45.8% |
| Houston-The Woodlands-Sugar Land, TX | 2,682,311 | 37.9% |
| Dallas-Fort Worth-Arlington, TX | 2,219,072 | 29.3% |
| San Antonio-New Braunfels, TX | 1,420,687 | 55.6% |
| Washington, Arlington, Alexandria, DC-VA-MD-WV | 1,021,386 | 16.2% |

⁴³ See *infra* Table B.

⁴⁴ *Id.*

⁴⁵ All figures are for 2019, except for three following metro areas, which are represented by 2018 data: Austin-Round Rock, Texas; Atlanta-Sandy Springs-Roswell, Georgia; Miami-Fort Lauderdale-West Palm Beach, Florida; and Raleigh, North Carolina. Table Showing 2019 Metro Area Populations of *Hispanic or Latino Origin*, U.S. CENSUS BUREAU (2019) [hereinafter *2019 Hispanic or Latino Origin Populations by Metro Areas*], https://data.census.gov/cedsci/table?q=B03003&g=310M300US12420,16740,26420,47900_310M400US12060,33100,39580_310M500US15180,15980,18580,19100,21340,29700,32580,34980,36420,36740,41700,45300&tid=ACSDT1Y2019.B03003&hidePreview=true; Table Showing 2018 Metro Area Populations of *Hispanic or Latino Origin*, U.S. CENSUS BUREAU (2018) [hereinafter *2018 Hispanic or Latino Origin Populations by Metro Areas*], https://data.census.gov/cedsci/table?q=B03003&g=310M300US12420,16740,26420,47900_310M400US12060,33100,39580_310M500US15180,15980,18580,19100,21340,29700,32580,34980,36420,36740,41700,45300&tid=ACSDT1Y2018.B03003&hidePreview=true.

⁴⁶ See *2019 Hispanic or Latino Origin Populations by Metro Areas*, *supra* note 45; *2018 Hispanic or Latino Origin Populations by Metro Areas*, *supra* note 45.

| Table B: Latinx Population in Metropolitan Areas, 2018–2019 | | |
|---|----------------------|----------------------------|
| Metropolitan Areas | 2018–2019 Population | Percentage Share of Latinx |
| McAllen-Edinburg-Mission, TX | 803,455 | 92.4% |
| El Paso, TX | 699,471 | 82.9% |
| Orlando-Kissimmee-Sanford, FL | 832,426 | 31.9% |
| Austin-Round Rock, TX | 707,964 | 32.6% |
| Atlanta-Sandy Springs-Roswell, GA | 646,761 | 10.8% |
| Tampa-St. Petersburg-Clearwater, FL | 656,969 | 20.5% |
| Brownsville-Harlingen, TX | 380,862 | 90.0% |
| Corpus Christi, TX | 272,675 | 63.5% |
| Laredo, TX | 263,899 | 95.3% |
| Charlotte-Concord-Gastonia, NC-SC | 279,017 | 10.5% |
| Oklahoma City, OK | 194,888 | 13.8% |
| Cape Corral-Fort Meyers, FL | 173,497 | 22.5% |
| Nashville-Davidson-Murfreesboro-Franklin, TN | 146,971 | 7.5% |
| Raleigh, NC | 146,870 | 10.7% |

On the other hand, Latinxs comprised a relatively small percentage of rural inhabitants in the South as of 2019 (estimates) (see [Table C](#)). Latinxs comprise 7.2% of the total rural population nationwide.⁴⁷ Given that the increase in the Latinx population in the South is attributable to the need for agricultural laborers in agricultural and processing markets in rural geographies,⁴⁸ it is surprising that the majority of states in the South continue to have a rural Latinx population that accounts for less than 5% of the total rural population.⁴⁹ However, in Florida 13.16% of the rural

⁴⁷ See *infra* Table C.

⁴⁸ See William Kandel, *Meat-Processing Firms Attract Hispanic Workers to Rural America*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (June 1, 2006), <https://www.ers.usda.gov/amber-waves/2006/june/meat-processing-firms-attract-hispanic-workers-to-rural-america/> [<https://perma.cc/Z7HF-QMD2>].

⁴⁹ See *infra* Table C.

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population are Latinx.⁵⁰ In addition, Georgia, Oklahoma, and North Carolina have slightly higher concentrations of Latinxs as part of their rural populations.⁵¹

| State | Percentage ⁵² |
|-----------------|--------------------------|
| Alabama | 3.5% |
| Arkansas | 4.5% |
| Florida | 13.1% |
| Georgia | 5.2% |
| Kentucky | 1.6% |
| Louisiana | 3.3% |
| Mississippi | 1.9% |
| North Carolina | 7.1% |
| Oklahoma | 5.8% |
| South Carolina | 3.9% |
| Texas | 26.3% |
| Tennessee | 2.5% |
| Virginia | 3.6% |
| West Virginia | 1.0% |
| National | 7.2% |

Given the size of the Latinx population in Texas and Florida, Latinxs undoubtedly will continue to play an important role in the development of law and policy in rural communities.

C. THE IMPACT OF SLAVERY & RELIGION

It is impossible to understand the role of Latinxs in the South without recognizing how the long history of slavery and Jim Crow entrenched anti-Blackness in the region. Slavery was a foundational aspect of settler colonialism and was the basis upon which the colonial economy thrived

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² See Table Showing 2019 Rural Populations by State of *Hispanic or Latino Origin*, U.S. CENSUS BUREAU (2019) [hereinafter *2019 Hispanic or Latino Origin Rural Populations by State*], https://data.census.gov/cedsci/table?q=B03003&g=0100043US_0400043US01,05,12,13,21,22,28,37,40,45,47,48,51,54&tid=ACSDT1Y2019.B03003&hidePreview=true.

across the Americas from the early fifteenth century onward.⁵³ In the continental United States, 1619 marks the moment when the first enslaved people of African descent were brought to Jamestown.⁵⁴ From that moment forward, the beginning of the American story centered around displacing and murdering Native populations, forcing surviving populations westward, and establishing agricultural economies of sugarcane and cotton.⁵⁵ As was the case throughout the colonized Americas, Christianity was a potent tool deployed to justify the violent and deadly institution of slavery.⁵⁶

Religious legitimization of oppression of non-Whites continued after slavery into the Reconstruction era and beyond, perhaps most famously evidenced by the rise of the Ku Klux Klan (“KKK”), which held religious rites to baptize their children into the “ideals of Americanism” and their commitment to segregation.⁵⁷ Terrorist groups such as the KKK have used religion as the foundation for their systemic hatred of Black populations, Jews, and other non-evangelical Protestant Whites, such as Catholics.⁵⁸

Christianity today in the South continues to be dominated primarily by evangelical Protestants. The highest number of evangelical Protestants are found in Tennessee, Alabama, Kentucky, Oklahoma, Arkansas, and Mississippi.⁵⁹ In a 2018 study conducted by the Public Religion Research

⁵³ See generally CEDRIC J. ROBINSON, *BLACK MARXISM: THE MAKING OF THE BLACK RADICAL TRADITION* (1983) (arguing that Black radicalism must be linked to the unique experiences of Black people on western continents, such as the experiences of seventeenth-century maroon settlements in the Americas).

⁵⁴ Olivia B. Waxman, *The First Africans in Virginia Landed in 1619. It Was a Turning Point for Slavery in American History—But Not the Beginning*, TIME (Aug. 20, 2019, 12:53 PM), <https://time.com/5653369/august-1619-jamestown-history/>.

⁵⁵ Khalil Gibran Muhammad, *The Sugar that Saturates the American Diet Has a Barbaric History as the ‘White Gold’ that Fueled Slavery.*, N.Y. TIMES (Aug. 14, 2019), <https://www.nytimes.com/interactive/2019/08/14/magazine/sugar-slave-trade-slavery.html>; see also Ernst Pijning, *New Christians as Sugar Cultivators and Traders in the Portuguese Atlantic, 1450–1800*, in *THE JEWS AND THE EXPANSION OF EUROPE TO THE WEST, 1450–1800* 485–500 (Paolo Bernardini & Norman Fiering eds., 2001).

⁵⁶ See Rae, *supra* note 6.

⁵⁷ See Erin Blakemore, *‘Ku Klux Kiddies’: The KKK’s Little-Known Youth Movement*, HIST. (Jan. 8, 2019), <https://www.history.com/news/kkk-youth-recruitment-1920s> [<https://perma.cc/VF82-SVFC>].

⁵⁸ See generally KELLY J. BAKER, *GOSPEL ACCORDING TO THE KLAN: THE KKK’S APPEAL TO PROTESTANT AMERICA, 1915–1930* (2011) (contending that the KKK’s justification for its hate of minorities was based on a specific brand of Protestantism that explicitly excluded Jews and Catholics).

⁵⁹ See Sharon Omondi, *US States by Evangelical Protestant Population*, WORLDATLAS (Mar. 21, 2019), <https://www.worldatlas.com/articles/us-states-by-evangelical-protestant-population.html> [<https://perma.cc/SDY6-XRB2>].

Institute (“PRRI”), 54% of White evangelical Protestants say that the shifting demographics of the United States from a majority-White to a majority non-White nation will be negative.⁶⁰ The 2020 American Values Survey by PPRI found that 57% of White evangelical Protestants respondents find that American culture has changed for the worse since the 1950s.⁶¹ According to PPRI, White evangelical Protestants are more likely than White mainline Protestants to favor immigration restrictions.⁶² The PPRI survey revealed that 71% of White evangelical Protestants believe that immigrants create a burden by their use of social services, and 62% expressed a belief that immigrants increase crime.⁶³

According to the Southern Poverty Law Center, there are 355 hate crime organizations in the South, with 154 of those being “general hate” groups, six clearly self-identifying as “Christian identity” groups, and seven self-identifying as “anti-immigrant” groups.⁶⁴ Two of these Christian identity hate groups, Christogenea in Florida and Sacred Truth Ministries in Tennessee, have online forums that allow their members to post and discuss their anti-Latinx, anti-immigrant and anti-diversity views.⁶⁵ Arkansas, the headquarters of Knights of the Ku Klux Klan and the Christian Revival Center,⁶⁶ does not provide any hate crime protection

⁶⁰ ROBERT P. JONES, DANIEL COX, ROB GRIFFIN, MAXINE NAJLE, MOLLY FISCH-FRIEDMAN & ALEX VANDERMAAS-PEELER, PARTISAN POLARIZATION DOMINATES TRUMP ERA: FINDINGS FROM THE 2018 AMERICAN VALUES SURVEY 28 (2018), https://www.ppri.org/wp-content/uploads/2018/10/Partisan-Polarization-2018_AVS-C.pdf [<https://perma.cc/2UK4-HW6L>].

⁶¹ ROBERT P. JONES, NATALIE JACKSON, DIANA ORCÉS & IAN HUFF, DUELING REALITIES: AMID MULTIPLE CRISES, TRUMP AND BIDEN SUPPORTERS SEE DIFFERENT PRIORITIES AND FUTURES FOR THE NATION 9 (2020), https://www.ppri.org/wp-content/uploads/2020/10/PRRI-Oct_2020_AVS.pdf [<https://perma.cc/M5XE-6CGG>].

⁶² ROBERT P. JONES, NATALIE JACKSON, DIANA ORCES, IAN HUFF, OYINDAMOLA BOLA & DANIEL GREENBERG, FRACTURED NATION: WIDENING PARTISAN POLARIZATION AND KEY ISSUES IN 2020 PRESIDENTIAL ELECTIONS 40 (2019), https://www.ppri.org/wp-content/uploads/2019/10/PRRI_Oct_AVS-web.pdf [<https://perma.cc/FRU9-BYX6>].

⁶³ *Id.*

⁶⁴ *Hate Map by Ideology*, S. POVERTY L. CTR., <https://www.splcenter.org/hate-map/by-ideology> [<https://perma.cc/DEZ7-49Q9>].

⁶⁵ Forums Page, CHRISTOGENEA, <https://boards.christogenea.org/> [<https://perma.cc/6EKU-VPH5>]; Home Page, SACRED TRUTH PUBL’G, <https://sacredtruthministries.com/> [<https://perma.cc/93VC-F743>].

⁶⁶ *Knights of the Ku Klux Klan*, S. POVERTY L. CTR., <https://www.splcenter.org/fighting-hate/extremist-files/group/knights-ku-klux-klan> [<https://perma.cc/7598-MJW5>] (noting that the new headquarters is in Arkansas); *Active Christian Identity Groups*, S. POVERTY L. CTR., <https://www.splcenter.org/fighting-hate/intelligence-report/2015/active-christian-identity-groups> [<https://perma.cc/DCU2-4BRW>].

outside of religious affiliation.⁶⁷ However, after the 2019 El Paso mass shooting, Arkansas' Governor Asa Hutchinson called for "harsher penalties for crimes targeting people because of their race, ethnicity or religion."⁶⁸ The 2020–2021 Arkansas legislative session considered hate crime legislation, but it did not pass.⁶⁹

| State | Number |
|----------------|--------|
| Alabama | 20 |
| Arkansas | 14 |
| Florida | 68 |
| Georgia | 29 |
| Kentucky | 13 |
| Louisiana | 16 |
| Mississippi | 9 |
| North Carolina | 29 |
| Oklahoma | 12 |
| South Carolina | 20 |
| Tennessee | 34 |
| Texas | 54 |
| Virginia | 33 |
| West Virginia | 4 |

Despite the presence of violent religious extremists located throughout the South, churches likewise offer spaces of refuge and community-building for new immigrants who find unwelcome and hostile

⁶⁷ South Carolina and Wyoming do not have any hate crime statutes. See *Federal Hate Crime Laws*, U.S. DEP'T OF JUST., <https://www.justice.gov/hatecrimes/laws-and-policies> [<https://perma.cc/S8C5-SMQ6>]. In contrast, Georgia enacted hate crime law on June 26, 2020. H.B. 426, 2019 Gen. Assemb., Reg. Sess. (Ga. 2020).

⁶⁸ Andrew DeMillo, *Arkansas, Home to Supremacist Groups, Weighs Hate Crime Laws*, FOX31 (Aug. 26, 2019), <https://wfxl.com/news/southeastern-news/arkansas-home-to-supremacist-groups-weighs-hate-crimes-law-08-26-2019> [<https://perma.cc/M8JW-W96M>].

⁶⁹ H.B. 1020, 93d Gen. Assemb., Reg. Sess. (Ark. 2021). See Andrew DeMillo, *Effort in Arkansas to Enact Hate Crime Legislation in Jeopardy*, AP NEWS (Jan. 8, 2021), <https://apnews.com/article/race-and-ethnicity-arkansas-legislature-bills-wyoming-d020ee6334142936fd1d62bdb907972a> [<https://perma.cc/J9QL-TZ76>]; Bill Status History of HB 1020, ARK. STATE LEGISLATURE, <https://www.arkleg.state.ar.us/Bills/Detail?id=HB1020&chamber=House&ddBienniumSession=2021%2F2021R>.

⁷⁰ *Hate Map by State*, S. POVERTY L. CTR., <https://www.splcenter.org/hate-map/by-state> [<https://perma.cc/A2XT-5JFM>].

environments in their new communities. In her research on Latinx immigrants in Atlanta, Professor Mary Odem highlighted the role of Catholic churches in combatting harshly restrictive laws and ordinances that prohibited immigrants from enjoying free movement in the city.⁷¹ Her work discusses how day-labor centers located in church basements allowed for Latinx immigrants to seek employment in a safe environment, free from the fear of state or federal authorities.⁷² Further, as the Latinx evangelical population grows, more Spanish-speaking services are emerging across the South, creating spaces for Latinxs to share in fellowship and create community with others who share in their faith and experience.⁷³

D. CHALLENGING THE BLACK-WHITE BINARY

In order to have a constructive dialogue on the state of Latinx law and policy in the South, it is important to situate it within the specific framework of Black suffering, resistance, and power that has spanned hundreds of years in the region. It is also important to recognize that while some Latinx are racially classified as White, the history of Latinxs in the South is one that has elements of exclusion and discrimination that are familiar to the experiences of Black Americans in the South.⁷⁴

The NPR podcast interviewed members of the Montalvo Family—originally from the Dominican Republic. In the late 1980s, they settled in Brewton, Alabama—then a small town of about 5,000 people.⁷⁵ They discussed how, despite their neighbors’ welcoming Southern hospitality,

⁷¹ See Mary E. Odem, *Our Lady of Guadalupe in the New South: Latino Immigrants and the Politics of Integration in the Catholic Church*, 24 J. AM. ETHNIC HIST. 26, 34–46 (2004). See generally LATINO IMMIGRANTS AND THE TRANSFORMATION OF THE U.S. SOUTH (Mary E. Odem & Elaine Lacy eds., 2009) (analyzing how immigration from Mexico and Central and South America is changing the U.S. South and how immigrants adapt to the southern context).

⁷² Mary E. Odem, *Unsettled in the Suburbs: Latino Immigration and Ethnic Diversity in Metro Atlanta*, in TWENTY-FIRST CENTURY GATEWAYS: IMMIGRANT INCORPORATION IN SUBURBAN AMERICA 105, 128 (Audrey Singer et al. eds., 2008).

⁷³ See Bekah McNeel, *Latino Immigrants Are Evangelizing America*, CHRISTIANITY TODAY (Jul. 24, 2019, 10:20 AM), <https://www.christianitytoday.com/news/2019/july/hispanic-church-planting-survey-immigration-evangelism.html> [<https://perma.cc/68K5-7VW3>].

⁷⁴ See generally Juan F. Perea, *The Black/White Binary Paradigm of Race: The “Normal Science” of American Racial Thought*, 85 CAL. L. REV. 1213, 1213–14 (1997) (demonstrating the existence of a Black/White paradigm that excludes Latinos/as from membership and participation in racial discourse).

⁷⁵ Latino USA, *Southern Hospitality? The Montalvo Story*, NPR (Sept. 15, 2017, 4:19 PM), <https://www.npr.org/2017/09/22/551349460/southern-hospitality-the-montalvo-story> [<https://perma.cc/PKC4-2FHW>].

they worried about the impact that prejudicial views of non-Whites would have on them. The father was familiar with the history of the South and was nervous about how others perceived his immigrant family, which is racially White, but culturally does not fit within the Black and White paradigm.⁷⁶ Their status as professionals permitted their entry into White families who cared about them enough to share information about how to navigate the town—in order to stay out of harm’s way. The Montalvos explained that they were forced to choose either a White or Black identity since this racial binary is well-established and only understood in those terms. Socorro Montalvo, a teacher at the junior college, explained that her students told her that “we don’t [a] have middle” because they only knew the two races. Jeanne Montalvo explained, “You were either Black or you were White.” Socorro described how, while her husband was out of town, she received a call from her cousin, who advised her to leave town because there was going to be a KKK march. Given her experiences seeing KKK signs and knowing students who attended their meetings, she was scared enough that she packed up the car with her two young kids and left town. The Montalvos ended up in Southern cities with larger Latinx populations.

The best-known examples of Latinx inability to fit within the Black and White binary are from Texas. Before Texas became a state, Latinxs were subjected to state-sanctioned mob violence and massacres.⁷⁷ A 1918 massacre in Porvenir, Texas has recently received media attention as a result of a new documentary.⁷⁸ In January of 1918, Texas Rangers raided the homes of Mexican families and killed fifteen men and boys.⁷⁹ A legislative investigation found that Texas Rangers killed approximately 5,000 Mexicans between 1914 and 1919.⁸⁰ Recent research found that between 1848 and 1879, there were 473 lynchings for every 100,000

⁷⁶ The Montalvo family refers to themselves as something between Black and White. *Id.* At one point, Jeanne Montalvo remembers that she identified herself as “tan” when she was trying to explain where she fit within the Black and White paradigm. *Id.*

⁷⁷ See generally WILLIAM D. CARRIGAN & CLIVE WEBB, FORGOTTEN DEAD: MOB VIOLENCE AGAINST MEXICANS IN THE UNITED STATES, 1848–1928 1–2 (2013) (discussing the “scale of mob violence against Mexicans” and the “larger questions of racial and ethnic conflict in American history”).

⁷⁸ Cat Cardenas, *A New Documentary Exposes the Dark Truth of a West Texas Massacre*, TEXASMONTHLY (Oct. 4, 2019), <https://www.texasmonthly.com/the-culture/porvenir-texas-massacre-documentary-texas-rangers/> [https://perma.cc/JCT2-572U].

⁷⁹ *Id.*

⁸⁰ *Id.*; see also *Texas Legislature Committee Proceedings, 1919*, BRISCOE CTR. AM. HIST., <https://legacy.lib.utexas.edu/taro/utcah/01471/cah-01471.html#a0> [https://perma.cc/2LWM-LL2B].

people of Mexican ancestry.⁸¹ That rate declined to 27.4 lynchings per 100,000 “by the turn of the twentieth century” and was generally lower than that of African Americans in the South.⁸² Much of the anti-Mexican violence in the early history of Texas was promulgated by pro-slavery forces that fought to ensure that White supremacy remained embedded in the new state.⁸³ These forces worked to keep the legacy of slavery intact. As a result, many Latinxs in Texas fought and continue to fight for equal rights in education, jury selection, employment discrimination, housing segregation, and voting rights.⁸⁴

John Marquez, discussing Black-Brown solidarity in the South, refers to the relationship of Latinxs in the South as one that relies on “foundational Blackness,” which he defines as:

African American history, or the normalization of anti-black violence in the region as an essential component of its law enforcement apparatuses and racial/colonial dynamics, has been significant both in concrete acts of violence and in the symbolic justification and glorification of such violence to the ways the South’s growing Latino/a population has experienced the racial state of expendability.⁸⁵

In acknowledging the historical violence of slavery, reconstruction, and Jim Crow, the South presents a unique racial and historical lens through which to examine how law and policy in the South has evolved, and the extent to which Latinxs have participated in that evolution. As a burgeoning population in the South, Latinxs have found themselves enmeshed in a historical maelstrom of labor exploitation, political hacking, and exclusionary politics.

⁸¹ Matthew Wills, *The Untold History of Lynching in the American West*, JSTOR DAILY (Mar. 26, 2019), <https://daily.jstor.org/the-untold-history-of-lynching-in-the-american-west/> [<https://perma.cc/8VQX-4RC7>].

⁸² *Id.*

⁸³ *Id.*

⁸⁴ See, e.g., Victoria Soto, *Fifty Years Later, Latinos Still Fighting for Civil Rights*, MSNBC (Apr. 7, 2014, 4:01 PM), <http://www.msnbc.com/msnbc/latinos-fight-civil-rights-immigration-lbj> [<https://perma.cc/7ZZ5-NXY2>].

⁸⁵ JOHN D. MÁRQUEZ, *BLACK-BROWN SOLIDARITY: RACIAL POLITICS IN THE NEW GULF SOUTH* 32–33 (1st ed. 2013).

III. KEY LAW AND POLICY CONSIDERATIONS

The key law and policy issues that we consider as impacting Latinxs in the South are focused on civic engagement, education, immigration, and economic opportunity.

A. CIVIC ENGAGEMENT

On October 5, 2017, Governor Roy Cooper of North Carolina created a Hispanic/Latino advisory council when he signed Executive Order No. 23.⁸⁶ Acknowledging the “vital role in the economy and diverse society of North Carolina” that Latinxs play, he selected fifteen Latinx individuals who would meet quarterly to advise the governor as to key law and policy issues of importance to their community in North Carolina.⁸⁷ Almost two years later, on August 2, 2019, Texas Governor Greg Abbott sent out an anti-immigrant, anti-Latinx fundraising letter encouraging his supporters to “defend Texas” and “take matters into [their] own hands” when it came to U.S. Immigration and Customs Enforcement (“ICE”) apprehensions at the border.⁸⁸ The next day, there was a tragic shooting spree in El Paso that took the lives of twenty-two people.⁸⁹ When a reporter asked Governor Abbot to reconcile his words and the possibility that they may

⁸⁶ See *Governor Cooper Proclaims Hispanic Heritage Month, Names Hispanic/Latino Advisory Council*, NC GOVERNOR ROY COOPER (Oct. 5, 2017), <https://governor.nc.gov/news/governor-cooper-proclaims-hispanic-heritage-month-names-hispaniclatino-advisory-council> [<https://perma.cc/NYS4-T3YX>].

⁸⁷ See N.C. Exec. Order No. 23 (Oct. 5, 2017).

⁸⁸ *BREAKING: Governor Abbott Sent Out a Racist, Anti-Latino, and Anti-Immigrant Fundraising Letter One Day Before El Paso Terrorist Attack*, TEX. DEMOCRATS: MEDIA (Aug. 22, 2019), <https://www.texasdemocrats.org/media/%F0%9F%97%A3-breaking-governor-abbott-sent-out-a-racist-anti-latino-and-anti-immigrant-fundraising-letter-one-day-before-el-paso-terrorist-attack/> [<https://perma.cc/7ZBC-HZ3H>]. Governor Abbott is not alone. Lieutenant Governor Dan Patrick is also known for anti-immigrant rhetoric. See Gus Bova, *Dan Patrick's Long History of Toxic Anti-Immigrant Bashing*, TEX. OBSERVER (Aug. 6, 2021, 1:20 PM), <https://www.texasobserver.org/dan-patrick-history-anti-immigrant-rhetoric/> [<https://perma.cc/ZSJ4-725G>].

⁸⁹ Simon Romero & Nicholas Bogel-Burroughs, *El Paso Shooting: Massacre That Killed 20 Being Investigated as Domestic Terrorism*, N.Y. TIMES (Aug. 4, 2019), <https://www.nytimes.com/2019/08/04/us/el-paso-shooting-updates.html> [<https://perma.cc/R7TU-T8SV>]; Simon Romero, Caitlin Dickerson, Miriam Jordan & Patricia Mazzei, *'It Feels Like Being Hunted': Latinos Across U.S. in Fear After El Paso Massacre*, N.Y. TIMES (Aug. 6, 2019), <https://www.nytimes.com/2019/08/06/us/el-paso-shooting-latino-anxiety.html> [<https://perma.cc/UQ5D-H2T8>].

have lent support to fear-mongering, he simply responded “mistakes were made.”⁹⁰

These two gubernatorial acts provide a lens into the ways in which Latinxs are presented in the political imaginary. On the one hand, Latinxs are viewed as crucial sources of economic livelihood, necessary elements of an ever-shifting global market; on the other, Latinxs are presented as threats to the safety and well-being of America’s communities. Caught between these polarizing attitudes, Latinxs in the South continue to face political battles for equal representation and mobilization. Here, we briefly discuss political mobilization, Latinx political representation, voting age population, and voting rights challenges that we view as key factors for civic engagement in the South.

1. Political Mobilization

The South has a long history of resistance to racism and social injustice. Many of these movements are linked to the activism beginning in the 1940s, with the establishment of groups such as the Southern Regional Council (“SRC”) in 1944,⁹¹ the Southern Christian Leadership Conference (“SCLC”) in 1957,⁹² and the Student Nonviolent Coordinating Committee (“SNCC”) in 1960.⁹³ These organizations embarked on projects designed to increase voter registration, school desegregation, and ensure greater citizenship rights for Black people across the region and the nation.⁹⁴

⁹⁰ Justin Miller, ‘Mistakes Were Made’: Greg Abbott’s Non-Denial Denial on Anti-immigrant Rhetoric, TEX. OBSERVER (Aug. 30, 2019, 1:04 PM), <https://www.texasobserver.org/mistakes-were-made-greg-abbotts-non-denial-denial-on-anti-immigrant-rhetoric/> [<https://perma.cc/J7Q3-R2ZE>].

⁹¹ Randall L. Patton, *Southern Regional Council*, NEW GA. ENCYCLOPEDIA (Oct. 12, 2007), <https://www.georgiaencyclopedia.org/articles/government-politics/southern-regional-council> [<https://perma.cc/529V-693R>].

⁹² *Southern Christian Leadership Conference (SCLC)*, MARTIN LUTHER KING, JR. RSCH. & EDUC. INST., <https://kinginstitute.stanford.edu/encyclopedia/southern-christian-leadership-conference-sclc> [<https://perma.cc/GUY3-UDPH>].

⁹³ *Student Nonviolent Coordinating Committee (SNCC)*, MARTIN LUTHER KING, JR. RSCH. & EDUC. INST., <https://kinginstitute.stanford.edu/encyclopedia/student-nonviolent-coordinating-committee-sncc> [<https://perma.cc/UTG5-QAXL>].

⁹⁴ See CAROL ANDERSON, *ONE PERSON, NO VOTE: HOW VOTER SUPPRESSION IS DESTROYING OUR DEMOCRACY* 99 (2018). See generally ARI BERMAN, *GIVE US THE BALLOT: THE MODERN STRUGGLE FOR VOTING RIGHTS IN AMERICA* (2015) (chronicling the impact of the Voting Rights Act of 1965 on American democracy and narrating the continued efforts to resist new efforts to disenfranchise minorities).

Much of the Latinx activism in the South began as an outgrowth of the Chicano movement in the 1960s and 1970s, centered in California and Texas.⁹⁵ Chicanos founded civil rights organizations across the Southwest, such as the Mexican American Youth Organization (“MAYO”),⁹⁶ and political parties, such as La Raza Unida.⁹⁷ The idea behind the Chicano movement was that establishment politics and established institutions did not serve the needs of the Mexican-American population.⁹⁸

Today, non-profits and community groups in the South address racial inequity,⁹⁹ civic participation,¹⁰⁰ workers’ rights,¹⁰¹ immigration,¹⁰² and other social justice causes through coalition efforts. While there certainly exist organizations that explicitly focus on Latinxs,¹⁰³ the majority of law and policy organizations emerged in the South as reactions to Jim Crow and Southern racism.¹⁰⁴ Today, grassroots activism, particularly amongst younger Americans, often takes hold on social media and by text

⁹⁵ CARLOS MUÑOZ, JR., *YOUTH, IDENTITY, POWER: THE CHICANO MOVEMENT* 61–91 (rev. ed. 2007) (discussing the Chicano organizing efforts in Texas and California).

⁹⁶ *Id.* at 71 (discussing the founding of MAYO and La Raza Unida by José Angel Gutiérrez in San Antonio and Crystal City respectively); see also Teresa Palomo Acosta, *Mexican American Youth Organization*, TEX. STATE HIST. ASS’N, <https://www.tshaonline.org/handbook/entries/mexican-american-youth-organization> [https://perma.cc/32XM-H9ZS] (last updated Apr. 8, 2020).

⁹⁷ MUÑOZ, *supra* note 95, at 123–52; see also Teresa Palomo Acosta, *Raza Unida Party*, TEX. STATE HIST. ASS’N, <https://www.tshaonline.org/handbook/entries/raza-unida-party> [https://perma.cc/HAZ7-ESFE] (last updated May 1, 2019).

⁹⁸ MUÑOZ, *supra* note 95, at 26 (“The movement represented a new and radical departure from the politics of past generations of Mexican American activists. It called for new political institutions to make possible Chicano self-determination.”).

⁹⁹ *Our Story*, DREAM DEF., <https://dreamdefenders.org/our-story/> [https://perma.cc/F9NG-2W9V].

¹⁰⁰ NEW GA. PROJECT, <https://newgeorgiaproject.org/> [https://perma.cc/AC4X-V3A6].

¹⁰¹ *About Us*, ATLANTA JOBS JUST., <http://www.atlantajwj.org/p/our-mission.html> [https://perma.cc/NG2A-QL3B].

¹⁰² *Our Mission*, REFUGEE & IMMIGRANT CTR. EDUC. & LEGAL SERV., <https://www.raicetexas.org/our-mission/> [https://perma.cc/9PF5-M8CV].

¹⁰³ Organizations such as the Georgia Latino Alliance for Human Rights and El Centro Hispano in North Carolina are examples of those focused on serving Latinx populations in the South. See *About Us*, GA. LATINO ALL. HUM. RTS., <https://glahr.org/about-us/#our-mission> [https://perma.cc/TH22-UZ96]; *About Us*, EL CENTRO HISPANO, <https://elcentronc.org/about-us/> [https://perma.cc/VB4S-4LWU].

¹⁰⁴ An example is the Southern Poverty Law Center, founded in 1971 “to ensure the promise of the civil rights movement became a reality for all.” *About Us*, S. POVERTY L. CTR., <https://www.splcenter.org/about> [https://perma.cc/C2YK-WTSW].

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messaging.¹⁰⁵ Activists use online platforms, text messaging, and the Internet to organize coalitions and build national support for issues and candidates.¹⁰⁶

2. Latinx Political Representation

As of the spring of 2022, there are six U.S. Senators and forty-five U.S. Representatives who are Latinx.¹⁰⁷ Florida and Texas, which have the largest Latinx populations in the South, each has one U.S. Senator—Marco Rubio (FL) and Ted Cruz (TX)—both of whom are members of the Republican party. Rubio and Cruz have both gained national prominence as they each ran presidential campaigns in 2016.¹⁰⁸ In addition, Florida has four Latinx representatives in the U.S. House of Representatives—Mario Diaz-Balart (Republican), Carlos Gimenez (Republican), Maria Elvira Salazar (Republican), and Darren Soto (Democrat).¹⁰⁹ From the Southern states, Texas has the highest number of Latinx members in the House of Representatives. There are seven Latinx representatives and

¹⁰⁵ Rachel M. Cohen, *Progressive Groups Fight AT&T and T-Mobile's New Texting Rules*, INTERCEPT (Apr. 20, 2021, 8:47 AM), <https://theintercept.com/2021/04/20/att-tmobile-texting-10dlc-political-campaigns/> [<https://perma.cc/7CSS-EKQN>]; see also Ryan Badger, *Social Media Key in Fostering Grassroots Organizing Among Youth Voters*, BADGER HERALD (Mar. 11, 2021), <https://badgerherald.com/opinion/2021/03/11/social-media-key-in-fostering-grassroots-organizing-among-youth-voters/> [<https://perma.cc/6Q6Z-Q9HV>].

¹⁰⁶ James Salzer, *Abrams Voting Rights Group Tops \$100 Million in Fundraising Since Late 2018*, ATLANTA JOURNAL-CONSTITUTION (July 8, 2021), <https://www.ajc.com/politics/abrams-voting-rights-group-tops-100-million-in-fundraising-since-late-2018/PREUZPFRDJGOXFVEMR5K2NVFKY/> [<https://perma.cc/HS2H-H3WT>]. See also Chris Joyner, *Record Fundraising in Georgia Senate Races the New Norm, Experts Say*, ATLANTA JOURNAL-CONSTITUTION, <https://www.ajc.com/news/the-results-are-in-ga-senate-races-shatter-donation-spending-records/JPTDBYWUKJBGPK4ZIMAU4YNTDU/> [<https://perma.cc/ZWY5-HY5X>] (“Individuals giving relatively small amounts online, sometimes with monthly, recurring donations, drove the [sic] much of the donations.”).

¹⁰⁷ *Hispanic American Senators*, U.S. SENATE, <https://www.senate.gov/senators/hispanic-american-senators.htm> [<https://perma.cc/B9YP-ZEUE>]; *Hispanic-American Representatives, Senators, Delegates, and Resident Commissioners by Congress, 1822–Present*, U.S. HOUSE OF REPRESENTATIVES: HIST., ART & ARCHIVES, <https://history.house.gov/Exhibitions-and-Publications/HAIC/Historical-Data/Hispanic-American-Representatives,-Senators,-Delegates,-and-Resident-Commissioners-by-Congress/> [<https://perma.cc/7C32-BUES>].

¹⁰⁸ Paul Lewis, *The Republican Debate: Meet the Candidates*, GUARDIAN (Aug. 6, 2019, 8:22 PM), <https://www.theguardian.com/us-news/2015/aug/06/the-republican-debate-meet-the-candidates> [<https://perma.cc/29DS-DCJP>].

¹⁰⁹ NALEO EDUC. FUND, ELECTION, 2020 RACES TO WATCH: POST-ELECTION RESULTS 2 (2020), https://naleo.org/COMMS/PRA/2020/RTW-PostElection2020-2.pdf?_t=1608182004 [<https://perma.cc/VE94-9ZBT>].

only one is a member of the Republican party.¹¹⁰ However, there are a number of Latina congressional candidates in Texas that are running on the Republican ticket in 2022.¹¹¹

The National Association of Latino Elected Officials reported only two Latinxs served in statewide office in the South after the November 2020 elections—George P. Bush (Republican) in Texas and Jeanette Nuñez (Republican) from Florida.¹¹² While Florida and Texas have the most Latinx political representation out of the South, other Southern states have Latinx representation in their state legislatures.¹¹³ Table E shows the Southern states that had at least one Latinx state legislator in 2020. Alabama, Arkansas, Mississippi, North Carolina, and South Carolina did not have Latinx elected officials in their state legislatures while Florida had nineteen, and Texas reported forty-five in 2020.¹¹⁴

Even within the states that have the greatest number of elected officials, the picture is somewhat grim. Texas has the second largest Latinx population in the country—approximately 11.5 million people, which is about 39.7% of the total state population.¹¹⁵ Despite this, more than one million Latinxs in Texas do not have city councils or county commissioner courts with any Latinxs representation.¹¹⁶

The complete lack of Latinx elected officials in Alabama, Arkansas, Mississippi, Louisiana, and South Carolina is perhaps unsurprising given that these are the states that have experienced the smaller percentage increases in the Latinx population from 1980 to 2019.¹¹⁷

¹¹⁰ *Id.* Rep. Tony Gonzales is the only Latinx Republican from Texas. The other Latinx representatives are Joaquin Castro, Henry Cuellar, Veronica Escobar, Sylvia Garcia, Vicente Gonzalez, and Filemon Vela. *Id.*

¹¹¹ Sabrina Rodriguez, *Hispanic Women Emerge as Big Winners in Texas GOP Primary*, POLITICO (Mar. 3, 2022), <https://news.yahoo.com/hispanic-women-emerge-big-winners-150445974.html> [<https://perma.cc/VJ6L-UNBD>].

¹¹² NALEO EDUC. FUND, *supra* note 109, at 3.

¹¹³ *Id.* at 4–5.

¹¹⁴ *Id.*

¹¹⁵ Table Showing 2019 Texas Population of *Hispanic or Latino Origin*, U.S. CENSUS BUREAU (2019), <https://data.census.gov/cedsci/table?q=B03003&g=0400000US48&tid=ACSDT1Y2019.B03003&hidePreview=true>.

¹¹⁶ See Jeremy Schwartz & Dan Hill, *Silent Majority: Texas' Booming Hispanic Population Deeply Underrepresented in Local Politics*, AUSTIN AMERICAN-STATESMAN (Oct. 21, 2016), <http://projects.statesman.com/news/latino-representation/> [<https://perma.cc/GZY5-GCUX>].

¹¹⁷ See *supra* Table A.

| Table E: Latinx State Representation, 2020 ¹¹⁸ | | |
|---|--------------------------|----------------------------|
| | State Senate | State House |
| Florida | 6 (3R & 3D) | 13 (4R & 9D) |
| Georgia | 1 (R) | 2 (2D) |
| Kentucky | 1 (R) | 0 |
| North Carolina | 0 | 1(D) |
| Oklahoma | 1 (D) | 3 (2 R & 1 D) |
| Tennessee | 0 | 0 |
| Texas | 7 (D) | 38 (37D & 1R) |
| Virginia | 0 | 5 (1R & 4D) |
| West Virginia | 1 (R) | 1 (R) |
| TOTAL | 17 (6R & 11D) | 63 (9 R & 54 D) |

After the November 2020 election, in the Southern states, there were four times more Democratic elected officials than Republican elected officials. This is consistent with the last eleven U.S. presidential elections, which show that nationally, Latinos have a stronger preference for Democratic candidates.¹¹⁹ However, the Latino vote is not monolithic.¹²⁰ While Latinos showed a significant preference for the Democratic candidate in the 2020 election, Florida and several Texas border communities showed a stronger preference for the incumbent Republican president.¹²¹ Some view the rising number of Latinx Republican voters in Texas as a sign that the Democrats are destined to lose their stronghold on Latinx voters.¹²²

¹¹⁸ NALEO EDUC. FUND, *supra* note 109, at 4–5.

¹¹⁹ See Holly K. Sonneland, *Chart: How U.S. Latinos Voted in the 2020 Election*, AS/COA (Nov. 5, 2020), <https://www.as-coa.org/articles/chart-how-us-latinos-voted-2020-presidential-election> [https://perma.cc/FS2Z-QGJT].

¹²⁰ Stephania Taladrid, *Deconstructing the 2020 Latino Vote*, NEW YORKER (Dec. 31, 2020), <https://www.newyorker.com/news/news-desk/deconstructing-the-2020-latino-vote> [https://perma.cc/W442-4YY9].

¹²¹ Suzanne Gamboa & Carmen Sesin, *Trump's Gains Among Latino Voters Shouldn't Come as a Surprise, Here's Why*, NBC NEWS (Nov. 5, 2020, 5:40 AM), <https://www.nbcnews.com/news/latino/trump-s-gains-among-latino-voters-shouldn-t-come-surprise-n1246463> [https://perma.cc/3KXQ-4JC5].

¹²² Henry Enten, *Democrats' Problem with Hispanic Voters Isn't Going Away as GOP Gains Seem to Be Solidifying*, CNN (Mar. 5, 2022), <https://www.msn.com/en-us/news/politics/democrats-problem-with-hispanic-voters-isnt-going-away-as-gop-gains-seem-to-be-solidifying/ar-AAUFayT?ocid=uxbndlbing> [https://perma.cc/BRF8-T5XF].

3. Citizen Voting Age Population¹²³

The Pew Research Center estimated that Latinxs comprised “13.3% of all eligible voters” in the 2020 Presidential election.¹²⁴ A 2021 report by the UCLA Latino Policy & Politics Initiative (“UCLA LPPI”) analyzed the 2020 election results of thirteen states which collectively accounted for 80% of the U.S. registered voters of Latinx heritage.¹²⁵ Of the regions analyzed, three were southern states: Georgia, Florida, and Texas.¹²⁶ In those states, Latinos chose the Democratic Party candidate over the Republican candidate by a margin of two-to-one, with the exception of Miami-Dade county, which voted for President Trump by a two-to-one margin.¹²⁷ In the other counties studied, the margin was three-to-one in favor of Democrats.¹²⁸

Another way to measure the civic engagement of Latinxs in the South is to understand their citizen voting age population (“CVAP”). In the South, Florida and Texas surpass the national trends, but in every other state, except Oklahoma, less than 6% of the Latinx population was of voting age in 2020. See Table F below.¹²⁹

¹²³ Citizen voting age population is a criterion used by the U.S. Census Bureau to collect voting and registration data since 1994, as only native or naturalized citizens can legally vote in elections. *FAQs*, U.S. CENSUS BUREAU, <https://www.census.gov/topics/public-sector/voting/about/faqs.html> [https://perma.cc/AS6L-C4UR].

¹²⁴ Luis Noe-Bustamante, Abby Budiman & Mark Hugo Lopez, *Where Latinos Have the Most Eligible Voters in the 2020 Election*, PEW RSCH. CTR. (Jan. 31, 2020), <https://www.pewresearch.org/fact-tank/2020/01/31/where-latinos-have-the-most-eligible-voters-in-the-2020-election/> [https://perma.cc/K9QH-SW7A].

¹²⁵ See generally RODRIGO DOMÍNGUEZ-VILLEGAS, NICK GONZALEZ, ANGELA GUTIERREZ, KASSANDRA HERNÁNDEZ, MICHAEL HERNDON, ANNA OAXACA, MICHAEL RIOS, MARCEL ROMAN, TYE RUSH & DAISY VERA, *VOTE CHOICE OF LATINO VOTERS IN THE 2020 PRESIDENTIAL ELECTION 6 (2021)* [hereinafter *UCLA Vote Choice*], <https://latino.ucla.edu/wp-content/uploads/2021/01/Election-2020-Report-1.19.pdf> [https://perma.cc/3TQD-CHB2].

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.* The report also covered counties in Arizona, California, Colorado, Illinois, New Mexico, Nevada, New York, Pennsylvania, and Wisconsin.

¹²⁹ *Mapping the 2020 Electorate*, PEW RSCH. CTR. (Jan. 31, 2020), <https://www.pewresearch.org/hispanic/interactives/mapping-the-latino-electorate/> [https://perma.cc/7WL9-5A8X]; see also Census Redistricting & Voting Rights Data Office, *Citizen Voting Age Population by Race and Ethnicity*, U.S. CENSUS BUREAU (Feb. 19, 2018), <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html> [https://perma.cc/7CAT-CNCZ].

| Table F: Latinx CVAP, 2020 (Projections) | | |
|--|-------------|----------------------|
| | Latinx CVAP | % of Eligible Voters |
| Alabama | 80,000 | 2.2% |
| Arkansas | 83,000 | 3.8% |
| Florida | 3,143,000 | 20.5% |
| Georgia | 377,000 | 5.0% |
| Kentucky | 56,000 | 1.7% |
| Louisiana | 107,000 | 3.1% |
| Mississippi | 36,000 | 1.6% |
| North Carolina | 338,000 | 4.4% |
| Oklahoma | 177,000 | 6.2% |
| South Carolina | 118,000 | 3.1% |
| Tennessee | 125,000 | 2.5% |
| Texas | 5,628,000 | 30.4% |
| Virginia | 341,000 | 5.5% |
| West Virginia | 16,000 | 1.1% |

With the exception of large Latinx voting blocks in Florida and Texas, Latinxs are a small part of the electorate and do not have enough political power to influence law and policy alone. However, Latinxs communities in the South and throughout the country are a young population.¹³⁰ Many young Latinxs are U.S. citizens who have become politicized as a result of the anti-Latinx sentiment that is promoted through anti-immigrant rhetoric and legislation. As the demographics in the South continue to shift in the next few years, the political balance of power will likely also recalibrate to account for a new Southern electorate.¹³¹ Latinxs in the South can also work in coalitions to influence election outcomes in close elections, like the recent runoff election in Georgia.¹³² There were

¹³⁰ Approximately 58.3% of the general U.S. population is under 45 years of age, while 27.5% of Latinxs are under 45 years of age. Table Showing *Population by Sex, Age, Hispanic Origin, and Race: 2019*, U.S. CENSUS BUREAU (2020) (on file with author).

¹³¹ In Texas, the majority of counties with high percentage of Latinx also have younger populations. See Lila Valencia, Senior Demographer, Tex. Demographic Ctr., Presentation at the Texas Department of Savings & Mortgage Lending (Sept. 14, 2017), https://demographics.texas.gov/Resources/Presentations/OSD/2017/2017_09_14_DepartmentofSavingsandMortgageLending.pdf [<https://perma.cc/BAV9-F6DP>]. Additionally, “[p]opulation growth is driven largely by the Hispanic population.” *Id.*

¹³² *January 5, 2021 Federal Runoff Results*, GA. SEC’Y OF STATE, <https://results.enr.clarityelections.com/GA/107556/web.264614/#/summary> [<https://perma.cc/XSD7-PHMK>] (illustrating the results of two U.S. Senate races, each decided by less than 100,000 votes).

approximately 179,000 Latinxs registered to vote in Georgia for the 2020 election, which was decided by approximately 12,000 votes.¹³³ The Democratic party candidate, Joseph Biden, received Latinx votes by a two-to-one margin.

4. Voting Rights Challenges

The South has become a battleground for Latinx voting rights since the U.S. Supreme Court's decision in *Shelby County v. Holder*. In *Shelby County*, the Supreme Court loosened federal oversight of voter protections by declaring that the mechanism for imposing preclearance requirements under the Voting Rights Act of 1965 was outdated and unconstitutional.¹³⁴ Preclearance required states with a history of discriminatory laws and low minority voter turnout to get federal approval of proposed election changes. That review was designed to prevent these jurisdictions from excluding minority voters. Seven of the nine states that previously were subject to the preclearance requirement are in the South: Alabama, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia.¹³⁵ In addition, Florida and North Carolina are two of the five states that have numerous counties that previously required federal preclearance.¹³⁶ Since the *Shelby County* decision, states that are no longer subject to preclearance have implemented policies that arguably violate the voting rights of Latinxs and other populations.

For example, Latinxs in the South face voter suppression through voter identification laws, voter roll purges, and gerrymandering.¹³⁷ In 2012, Latinxs were purged from voter lists in Florida under the pretense of rooting out fraud.¹³⁸ Latinx and Black voter purging was also a concern in

¹³³ UCLA Vote Choice, *supra* note 125, at 6.

¹³⁴ *Shelby Cnty. v. Holder*, 570 U.S. 529, 529–30 (2013). For a discussion of voting rights issues that impact Latinxs, see Luz E. Herrera & Pilar M. Hernández Escontrías, *The Network for Justice: Pursuing a Latinx Civil Rights Agenda*, 21 HARV. LATINX L. REV. 165, 207–13 (2018).

¹³⁵ See *Jurisdictions Previously Covered by Section 5*, U.S. DEP'T OF JUST., <https://www.justice.gov/crt/jurisdictions-previously-covered-section-5> [https://perma.cc/LS7E-QPTM].

¹³⁶ *Id.*

¹³⁷ Southern states are still considered some of the most difficult states to vote in. See *How Hard Is It to Vote in Your State?*, NIU NEWSROOM (Oct. 13, 2020), <https://newsroom.niu.edu/2020/10/13/how-hard-is-it-to-vote-in-your-state/> [https://perma.cc/6FKD-WYCW].

¹³⁸ Of the 180,000 alleged non-citizens, 2,600 were investigated. Steve Bousquet & Amy Sherman, *Florida Suspends Non-Citizen Voter Purge Efforts*, MIAMI HERALD (Mar. 27, 2014,

Georgia’s 2018 gubernatorial race.¹³⁹ Voter identification laws in Alabama,¹⁴⁰ North Carolina,¹⁴¹ and Texas¹⁴² are perceived to disproportionately target Latinxs who may be perceived as foreigners, particularly if they preserve the Spanish language.¹⁴³ Alabama and Georgia require that those who complete the federal voter registration form provide proof of citizenship.¹⁴⁴ The issue of citizenship seems to arise in jurisdictions where there are increases in the Latinx population.

In 2011, Texas legislators passed Senate Bill 14 requiring Texas voters to present certain identification to vote at the polls as a measure to combat voter fraud.¹⁴⁵ This law only allowed seven types of photo identification to be used, making it “the strictest voter ID law in the nation.”¹⁴⁶ The Texas chapter of the NAACP brought suit to challenge the law.¹⁴⁷ A federal district court found that the identification requirement

9:47 PM), <https://www.miamiherald.com/news/politics-government/article2087729.html> [<https://perma.cc/946G-SLKU>]. Ultimately, eighty-five voters were purged, “giving rise to charges of voter suppression aimed at minorities, including Hispanics.” *Id.*

¹³⁹ See Terry H. Schwadron, *How Georgia Is Restricting Black and Latino Voters*, SALON (Oct. 17, 2018, 4:00 AM), https://www.salon.com/2018/10/17/how-georgia-is-restricting-black-and-latino-voters_partner/ [<https://perma.cc/EC43-Y5BB>].

¹⁴⁰ House Bill 19 (Alabama’s Photo Voter Identification Law) passed in the Alabama Legislature in 2011. *Greater Birmingham Ministries v. Merrill*, 284 F. Supp. 3d 1253, 1256 (N.D. Ala. 2018), *vacated and superseded sub nom.* *Greater Birmingham Ministries v. Sec’y of State for State of Alabama*, 992 F.3d 1299 (11th Cir. 2021) (this bill “requires absentee and in-person voters to show photo identification in order to cast a regular ballot”); see *Greater Birmingham Ministries v. Alabama*, CAMPAIGN LEGAL CTR., <https://campaignlegal.org/cases-actions/greater-birmingham-ministries-v-alabama> [<https://perma.cc/FPZ5-JP96>].

¹⁴¹ Senate Bill 824, a voter identification law, passed in North Carolina on November 29, 2018. *2018 North Carolina Legislative Session*, BALLOTPEDIA, https://ballotpedia.org/2018_North_Carolina_legislative_session [<https://perma.cc/2P2R-KSK2>].

¹⁴² Senate Bill 14 passed in Texas in 2011. S.B. 14, 2011 Leg., 82d Reg. Leg. Sess. (Tex. 2011).

¹⁴³ In 2015, the U.S. Census reported that approximately 13% of U.S. households spoke Spanish in their homes. Table Showing *Detailed Languages Spoken at Home and Ability to Speak English for the Population 5 Years and Over for United States: 2009-2013*, U.S. CENSUS BUREAU (2015) (on file with author).

¹⁴⁴ See Peter Dunphy, *The State of Voting Rights Litigation (March 2019)*, BRENNAN CTR. FOR JUST. (Mar. 25, 2019), <https://www.brennancenter.org/our-work/research-reports/state-voting-rights-litigation-march-2019> [<https://perma.cc/VX2H-GSDV>].

¹⁴⁵ Tex. S.B. 14.

¹⁴⁶ *Id.*; *Texas NAACP v. Steen (Consolidated with Veasy v. Abbott)*, BRENNAN CTR. FOR JUST. (Sept. 21, 2018) [hereinafter *Texas NAACP article*], <https://www.brennancenter.org/legal-work/naacp-v-steen> [<https://perma.cc/WJ4E-3RHJ>].

¹⁴⁷ See *Texas NAACP article*, *supra* note 146.

was motivated by an “intent to discriminate” against Latinx and Black populations.¹⁴⁸

In 2017, the Texas legislature amended the law through Senate Bill 5, allowing voters who did not have the specified identification to sign a declaration stating why they could not produce the required photo identification.¹⁴⁹ The Fifth Circuit Court of Appeals deemed this amendment appropriate in an April 2018 decision.¹⁵⁰ As a result, in September 2018, the district court entered a final judgment and dismissed the case.¹⁵¹ However, the Fifth Circuit Court of Appeals also found that voter fraud was not an issue in the state of Texas since “only two convictions for in-person voter impersonation fraud out of 20 million votes cast in the decade leading up to Senate Bill 14’s passage.”¹⁵²

In 2019, another piece of legislation targeting voter fraud passed the Texas Legislature. Senate Bill 9 permits state officials to contact registered voters accused of fraudulently registering to vote and to require them to prove their citizenship within a month, or else face criminal penalties.¹⁵³ The ACLU of Texas stated that the legislation made “voting more difficult, confusing, and punitive for vulnerable populations in Texas.”¹⁵⁴ Importantly, any ineligible voter who votes or attempts to vote in a Texas election has committed a felony.¹⁵⁵ In response to Senate Bill 9, the Mexican American Legal Defense and Educational Fund (“MALDEF”) sent a letter to the Texas Elections Administrator explaining that many of the targeted voters were naturalized citizens.¹⁵⁶ Senate Bill 9

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Veasey v. Abbott*, 830 F.3d 216, 272 (5th Cir. 2016).

¹⁵¹ *Texas NAACP article, supra* note 146. On September 17, 2018, the District Court entered a final judgment, dismissing the case for the reasons set forth in the Fifth Circuit’s opinion. *Id.*

¹⁵² *Veasey*, 830 F.3d at 238.

¹⁵³ See S.B. 9, 2019 Leg., 86th Reg. Sess. (Tex. 2019); see also Bill Lambrecht, *Texas Voter Purge Came Amid Push in 8 States Carried by Trump*, HOUS. CHRON. (May 30, 2019), <https://www.houstonchronicle.com/news/politics/texas/article/Texas-voter-purge-came-amid-push-in-8-states-13904942.php> [<https://perma.cc/2CSY-8GJ8>].

¹⁵⁴ *ACLU of Texas Comment on Senate Passage of Voter Suppression Bill SB 9*, ACLU (Apr. 16, 2019), <https://www.aclutx.org/en/press-releases/aclu-texas-comment-senate-passage-voter-suppression-bill-sb-9> [<https://perma.cc/6CF7-6V65>].

¹⁵⁵ See Tex. S.B. 9; *Texas Senate Advances Bill Increasing the Penalty for Illegal Voting*, DEMOCRACY DOCKET (Oct. 5, 2021), <https://www.democracymocket.com/alerts/texas-senate-advances-bill-increasing-the-penalty-for-illegal-voting/> [<https://perma.cc/2VGV-7BC4>].

¹⁵⁶ See Letter from Nina Perales, Vice President of Litig., MALDEF, to Jacqueline Callanen, Elections Adm’r, Bexar Cnty. (Jan. 28, 2019), https://www.maldef.org/wp-content/uploads/2019/01/2019-01-28-Letter-to-Registrar-of-Voters_Bexar-County.pdf [<https://perma.cc/PTT2-Y5EV>].

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opponents equate this type of legislation to anti-immigrant voter purging.¹⁵⁷ Despite the opposition, in September 2021, Texas passed a law that further restricts state election laws and limits counties' power to expand voting access.¹⁵⁸ Within an hour, the League of United Latin American Citizens ("LULAC") filed a lawsuit against Texas claiming that the new law violates the First and Fourteenth Amendments of the U.S. Constitution.¹⁵⁹ Florida's journey to equal justice has been characterized by victories followed by setbacks. In 2018, 64% of Florida's electorate voted to restore voting rights to individuals with felony convictions through Amendment 4 of the Florida Constitution.¹⁶⁰ However, in May 2019, the Florida legislature passed Senate Bill 7066, which required those convicted of felonies to fulfill all the "financial obligation" associated with their sentence before they regain the ability to vote.¹⁶¹ A group of Floridians and nonprofit groups are challenging the constitutionality of this law in federal district court.¹⁶² The U.S. District Court ruled against the law, asserting "that people with felony convictions [did not] have to pay off all court fees and fines before voting," but the State appealed to the Eleventh Circuit Court of Appeals.¹⁶³ Only a few weeks before the election, the appellate court ruled against the approximate 800,000 people

¹⁵⁷ See *Latino Voters, Civil Rights Groups Reach Settlement with Texas Over Purging of Voter Rolls*, MALDEF (Apr. 26, 2019), <https://www.maldef.org/2019/04/latino-voters-civil-rights-groups-reach-settlement-with-texas-over-purging-of-voter-rolls/> [<https://perma.cc/XPV2-A2Y2>] ("Targeting naturalized U.S. citizens for removal from the voter rolls is a direct strike at Latino political participation in Texas.").

¹⁵⁸ Alexa Ura, *Gov. Greg Abbot Signs Texas Voting Rights Bill into Law, Overcoming Democratic Quorum Breaks*, TEX. TRIB. (Sept. 7, 2021), <https://www.texastribune.org/2021/09/01/texas-voting-bill-greg-abbott/> [<https://perma.cc/M3G6-9QHK>].

¹⁵⁹ David Ibañez & Jesse Degollado, *LULAC Files Lawsuit to Prevent New Voting Law in Texas from Going into Effect*, KSAT.COM (Sept. 7, 2021, 3:20 PM), <https://www.ksat.com/news/local/2021/09/07/lulac-files-lawsuit-to-prevent-new-voting-law-in-texas-from-going-into-effect/> [<https://perma.cc/RDC8-H63M>].

¹⁶⁰ Tim Mak, *Over 1 Million Florida Felons Win Right to Vote with Amendment 4*, NPR (Nov. 7, 2018, 2:46 AM), <https://www.npr.org/2018/11/07/665031366/over-a-million-florida-ex-felons-win-right-to-vote-with-amendment-4> [<https://perma.cc/4CPX-B47Z>].

¹⁶¹ S.B. 7066, 2019 Leg., Reg. Sess. § 98.0751 (Fl. 2019).

¹⁶² See Daniel Rivero, *Everything You Need To Know About Florida's Amendment 4 Lawsuit*, WUSF (Oct. 4, 2019, 9:57 AM), <https://wusfnews.wusf.usf.edu/post/everything-you-need-know-about-floridas-amendment-4-lawsuit> [<https://perma.cc/69L9-YRKK>].

¹⁶³ Lawrence Mower, *Florida Felons Lose Voting Rights Case in Federal Appeals Court*, TAMPA BAY TIMES (Sept. 11, 2020), <https://www.tampabay.com/florida-politics/buzz/2020/09/11/florida-felons-lose-voting-rights-case-in-federal-appeals-court/> [<https://perma.cc/9MCL-RG5K>].

with felony convictions in Florida with financial obligations.¹⁶⁴ Florida voter instructions still state that felons “cannot register until [their] right to vote is restored.”¹⁶⁵ This disproportionately affects Latinxs and African Americans, who are more heavily criminalized as a result of prosecutorial discretion and sentencing regimes.¹⁶⁶

In Alabama, the attack on Latinxs has been launched under the guise of voter dilution and the federal government’s constitutional obligations to states. In 2018, Alabama sued the U.S. Commerce Department and the U.S. Census Bureau for including noncitizens in the apportionment count.¹⁶⁷ The complaint alleges that the Bureau’s apportionment policy “rob[s] the people of the State of Alabama of their rightful share of political representation while systematically redistributing political power to states with high numbers of illegal aliens and their citizens.”¹⁶⁸

In 2016, the Brennan Center for Justice analyzed all new voting restriction laws that were enacted “for the first time in a presidential election.”¹⁶⁹ Of the fourteen states that restricted voter registration in the presidential election, six were located in the South: Alabama, Mississippi, South Carolina, Tennessee, Texas, and Virginia.¹⁷⁰ In 2016, Tennessee and Virginia required photo identification to vote.¹⁷¹ In 2017, the Georgia state legislature passed a bill that requires that all forms related to voter registration match other records in the state.¹⁷² Arkansas and North

¹⁶⁴ *See id.*

¹⁶⁵ Mary E. Klas, *Almost a Year Law Changed, Voter Registration Form Still Says Felons Can’t Vote*, MIAMI HERALD (Oct. 1, 2019, 7:23 PM), <https://www.miamiherald.com/news/politics-government/state-politics/article235664777.html> [<https://perma.cc/6K79-JDSR>].

¹⁶⁶ *See Florida Profile*, PRISON POL’Y INITIATIVE, <https://www.prisonpolicy.org/profiles/FL.html> [<https://perma.cc/J78C-B4B9>].

¹⁶⁷ *See generally* Complaint at 2, *Alabama v. Dep’t of Commerce*, No. 2:18-cv-00772-RDP (N.D. Ala. May 21, 2018) (alleging that including noncitizens in the census apportionment count violated the Fourteenth Amendment).

¹⁶⁸ *Id.*

¹⁶⁹ *See New Voting Restrictions in America*, BRENNAN CTR. FOR JUST., <https://www.brennancenter.org/our-work/research-reports/new-voting-restrictions-america> [<https://perma.cc/5LRZ-QU8F>].

¹⁷⁰ *Id.*

¹⁷¹ Virginia passed a law in 2013 that limited what identification could be used to vote. Max Slater, *Virginia Senate Approves Bills Limiting Acceptable Voter ID*, JURIST (Feb. 16, 2013, 10:13 AM), <https://www.jurist.org/news/2013/02/virginia-senate-approves-bills-limiting-acceptable-voter-id/> [<https://perma.cc/ZHA3-ETDW>] (removing utility bills and paychecks from the list of acceptable identification). Similarly, Tennessee’s electoral code excludes student identification cards issued by institutions of higher learning. TENN. CODE ANN. § 2-7-112(c)(2)(B).

¹⁷² Ted Enamorado, *Georgia’s Exact Match Law Could Potentially Harm Many Eligible Voters*, WASH. POST (Oct. 20, 2018),

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Carolina went a step further in 2018 and amended their state constitutions via ballot initiatives to enshrine voter ID requirements.¹⁷³

After the November 2020 election, when there was record turnout, 361 state legislative bills restricting voting were introduced in forty-seven states.¹⁷⁴ The Texas legislature had forty-nine bills with voter restrictions introduced, while Georgia counted twenty-five.¹⁷⁵ Arkansas enacted two bills that tighten voter identification requirements. The first, House Resolution 1112, eliminates the option for a provisional ballot when someone does not have an ID and requires them to have their identity verified by the county clerk on the Monday following the election.¹⁷⁶ The second bill, House Resolution 1244, eliminates the use of identification cards without photographs when voting.¹⁷⁷ In Georgia, Senate Bill 202, incorporated the language of sixteen different bills to limit absentee voting, and among other changes, limits the use of ballot drop-off boxes, limits early voting, and criminalizes the distribution of water and snacks to individuals waiting in line at polling places.¹⁷⁸ Florida's Senate Bill 90 restricts access to secure ballot drop off boxes and shortens the timeframe for an individual to be on the vote-by-mail list.¹⁷⁹ Texas legislators introduced Senate Bill 7, which would prohibit local authorities from mailing ballot applications, limit early voting hours, and increase requirements for voters with disabilities.¹⁸⁰

When assessing these voter identification and voter apportionment laws, it seems like no coincidence that such legislation is introduced where Latinx populations are increasing. The requirements and punishments postulated by these laws are harsh, and essentially function to dissuade

cage/wp/2018/10/20/georgias-exact-match-law-could-disenfranchise-3031802-eligible-voters-my-research-finds/ [https://perma.cc/4JZ2-WSLC].

¹⁷³ Emily Walkenhorst, *Voter ID Amendment Gains Arkansans' Approval*, ARK. DEMOCRAT GAZETTE (Nov. 7, 2018, 4:30 AM), <https://www.arkansasonline.com/news/2018/nov/07/voter-id-amendment-gains-arkansans-appr/> [https://perma.cc/LS5T-932U]. See also Associated Press, *NC Election Results: Voters Pass Voter ID Requirement, Victims' Rights; Reject Power Plays*, CITIZEN TIMES (Nov. 6, 2018, 10:05 PM), <https://www.citizen-times.com/story/news/local/2018/11/06/nc-election-results-constitutional-amendments/1902238002/> [https://perma.cc/NEA5-6FA5].

¹⁷⁴ *Voting Laws Roundup: March 2021*, BRENNAN CTR. FOR JUST. (Apr. 1, 2021), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-march-2021#rbe> [https://perma.cc/KY7S-WY3F].

¹⁷⁵ *Id.*

¹⁷⁶ H.B. 1112, 93rd Gen. Assemb., Reg. Sess. (Ark. 2021).

¹⁷⁷ H.B. 1244, 93rd Gen. Assemb., Reg. Sess. (Ark. 2021).

¹⁷⁸ S.B. 202, 2021 Leg., Reg. Sess. (Ga. 2021).

¹⁷⁹ S.B. 90, 2021 Leg., Reg. Sess. (Fl. 2021).

¹⁸⁰ S.B. 7, 87th Leg., Reg. Sess. (Tex. 2021).

eligible voters from participating in the electoral process. Furthermore, the stipulations mentioned above—having one month to prove citizenship, allowing only certain types of identification to be permissible, explaining why one is assisting a voter, or accounting for why one does not have a permissible form of identification with them at the time of voting—would be problematic for many mixed-immigration status Latinx households. Requirements like these inevitably deter people in mixed-immigration status households from assisting their relatives in the way they normally would. These regulations create obstacles for many registered voters from participating in the democratic process.

The concerns regarding the place of noncitizens in the democratic process were addressed by the Supreme Court recently in *Evenwel v. Abbott*, a case stemming from a frustration that the appellants had with Texas’ legislative districting rule that drew districts on the basis of population rather than eligible-voter population.¹⁸¹ The Court had to determine whether political districts based on total population instead of registered voter population violated the Equal Protection Clause of the Fourteenth Amendment.¹⁸² The Court unanimously held that the “one person, one vote” principle of the Equal Protection Clause permits a state to draw its legislative districts based on total population.¹⁸³ These attacks were framed as fraud prevention, and many critiqued the Supreme Court decision by focusing the narrative on Latinxs as presumptively noncitizens who are illegally voting.

The growth of the Latinx community seems to motivate voter suppression. Despite its strong presence in communities like Texas, where Latinx communities existed even before the United States acquired these lands, Latinxs are treated as not belonging to the American promise of democratic ideals. They are often the focus of litigation that goes to the highest courts in the land.

B. IMMIGRATION

Various states in the South have their own unique migration histories. Numerous scholars have unpacked ethnic and racial migration in the U.S. South, a reality that has been recognized most recently with the increase in

¹⁸¹ *Evenwel v. Abbott*, 578 U.S. 54 (2016).

¹⁸² *Id.* at 1128–29.

¹⁸³ However, Justice Thomas’ concurrence argues that “[s]tates are free to serve as laboratories of democracy.” *Id.* at 1141 (Thomas, J., concurring) (quoting *Arizona State Legislature v. Arizona Indep. Redistricting Comm’n*, 576 U.S. 787, 817 (2015)) (quotation marks omitted). “That laboratory extends to experimenting about the nature of democracy itself.” *Id.* at 1141.

anti-immigrant sentiment throughout the United States.¹⁸⁴ While some states in the South, such as Texas and Florida, have had large Latinx populations for numerous generations, many portions of the Southern United States experienced a significant growth in immigrant populations.

In addition to experiencing increases in Latinx populations in the last ten years, the Southern states also have significant undocumented immigrant populations—not all who are Latinx.¹⁸⁵ As Table G demonstrates, half of the top ten states with the largest undocumented immigrant populations were located in the South in 2018.¹⁸⁶

| State | Total Undocumented Population | National Rank |
|----------------|-------------------------------|---------------|
| Alabama | 60,000 | 31 |
| Arkansas | 58,000 | 32 |
| Florida | 732,000 | 4 |
| Georgia | 330,000 | 7 |
| Kentucky | 48,000 | 34 |
| Louisiana | 70,000 | 29 |
| Mississippi | 27,000 | 39 |
| North Carolina | 298,000 | 8 |
| Oklahoma | 92,000 | 24 |
| South Carolina | 88,000 | 25 |
| Texas | 1,730,000 | 2 |
| Tennessee | 124,000 | 17 |
| Virginia | 251,000 | 10 |
| West Virginia | 6,000 | 46 |

While we could easily spend the entirety of this paper unpacking the immigration history of Latinxs in the South, as well as tracing the physical

¹⁸⁴ See, e.g., THE ANTI-DEFAMATION LEAGUE, MAINSTREAMING HATE: THE ANTI-IMMIGRANT MOVEMENT IN THE U.S. 8 (2018), <https://www.adl.org/media/12249/download> [<https://perma.cc/V4JU-8ZQB>].

¹⁸⁵ See *Number of Unauthorized Immigrants in the United States in 2018 by State*, STATISTA (Jan. 20, 2021), <https://www.statista.com/statistics/629682/state-populations-of-illegal-immigrants-in-the-united-states-2014/> [<https://perma.cc/44EC-SUXD>]. These numbers do not specifically reflect the undocumented Latinx population; rather, the numbers reflect the total undocumented population in a given state.

¹⁸⁶ *Id.*

violence Latinxs in the South endure as laborers upon their arrival in the South,¹⁸⁷ this discussion focuses more broadly on two phenomena: (1) anti-immigrant legislation and (2) the private detention center complex.

1. Anti-immigrant Legislation

Perhaps unsurprisingly, several Southern states have modeled their anti-immigrant legislation on Arizona's Senate Bill 1070, which was passed in 2010.¹⁸⁸ Senate Bill 1070 *required* state law enforcement officials to determine the individual's immigration status during a lawful stop, detention, or arrest if there was reasonable suspicion that the individual is an undocumented immigrant.¹⁸⁹ Individuals who did not show proof of lawful status could be charged with a misdemeanor.¹⁹⁰ Senate Bill 1070 also barred local or state authorities from restricting enforcement of federal immigration laws.¹⁹¹ After Arizona instituted Senate Bill 1070, Alabama, Georgia, and South Carolina also passed laws in 2011 that many immigrant rights activists have labeled as anti-immigrant. In Alabama, where the Latinx population increased 559% from 1980 to 2019,¹⁹² a judge upheld portions of a law that allowed state and local police to ask for immigration papers in 2011.¹⁹³ The statute also required public schools to ask for children's immigration status when children registered for classes.¹⁹⁴ In Georgia, where the Latinx population increased 1,602% since 1980,¹⁹⁵ House Bill 87 was passed, which requires e-verification to establish eligibility to work.¹⁹⁶ In South Carolina, where the Latinx population increased 793% since 1980,¹⁹⁷ Senate Bill 20

¹⁸⁷ Lautaro Grinspan, *This Has Been Happening for a Long Time': Modern-Day Slavery Uncovered in South Georgia*, ATLANTA JOURNAL-CONSTITUTION (Dec. 3, 2021), <https://www.ajc.com/news/this-has-been-happening-for-a-long-time-modern-day-slavery-uncovered-in-ga/SHBHTDDTTBG3BCPSVCB3GQ66BQ/> [<https://perma.cc/P9HQ-W23P>].

¹⁸⁸ S.B. 1070, 49th Leg., 2d Reg. Sess. (Ariz. 2010).

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² *See supra* Table A.

¹⁹³ *See* Campbell Robertson, *Alabama Wins in Ruling on Its Immigration Law*, N.Y. TIMES (Sept. 28, 2011), <https://www.nytimes.com/2011/09/29/us/alabama-immigration-law-upheld.html> [<https://perma.cc/T26K-42CU>].

¹⁹⁴ *Id.*

¹⁹⁵ *See supra* Table A.

¹⁹⁶ H.B. 87, 2011 Gen. Assemb., Reg. Sess. (Ga. 2011).

¹⁹⁷ *See supra* Table A.

required police to ask for papers of people who they suspect are undocumented, therefore institutionalizing racial profiling.¹⁹⁸

Many of the Southern states passed their “copycat” anti-immigration legislation in 2011 and 2012, well after legal disputes over Senate Bill 1070’s constitutionality emerged in federal courts. As a result, some of the language of these “copycat” bills was revised specifically to preempt constitutional challenges. For example, whereas Senate Bill 1070 *required* officers to assess immigration status, Georgia’s House Bill 87 included language that *allowed* officers to assess immigration status.¹⁹⁹ Nonetheless, the American Civil Liberties Union (“ACLU”) challenged the constitutionality of House Bill 87, focusing in particular on how this law violates the Fourth Amendment’s promise in protecting against unreasonable searches and seizures.²⁰⁰ The ACLU and its co-counsel likewise sought preliminary injunctions which were granted in 2011.²⁰¹ In 2013, the U.S. Court of Appeals for the Eleventh Circuit granted permanent injunctions against key portions of the law, but did not enjoin the portions of the law related to allowing an officer to ask an individual to show their papers.²⁰²

The majority of Southern states also have passed affirmative bans on sanctuary cities. A sanctuary city, also referred to as a safe city, generally refers to a municipality, county or state, that seeks to shield undocumented immigrants from federal law that demands deportation. These jurisdictions limit their cooperation agreements with federal agencies to remove immigrants from the United States. As [Table H](#) shows, 8 out of the 14 Southern states (64%) have passed state legislation to make sanctuary cities illegal.²⁰³ Three states have no sanctuary cities, and two states do

¹⁹⁸ S.B. 20, 2011 Gen. Assemb., 119th Reg. Sess. § 17-13-170(A) (S.C. 2011).

¹⁹⁹ See Willoughby Mariano, *Immigration Bill Foes Label Legislation an Arizona “Copycat”*, POLITIFACT (Mar. 7 2011), <https://www.politifact.com/georgia/statements/2011/mar/07/georgia-association-latino-elected-officials/immigration-bill-foes-label-legislation-arizona-co/> [<https://perma.cc/P5HW-RC9V>].

²⁰⁰ See *Georgia Latino Alliance for Human Rights, et al. v. Deal*, ACLU (Mar. 20, 2015), <https://www.aclu.org/cases/georgia-latino-alliance-human-rights-et-al-v-deal> [<https://perma.cc/MD72-PLK7>].

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ See *infra* Table H; see also Jessica M. Vaughan & Bryan Griffith, *Map: Sanctuary Cities, Counties, and States*, CTR. FOR IMMIGR. STUD. (Mar. 22, 2021), <https://cis.org/Map-Sanctuary-Cities-Counties-and-States> [<https://perma.cc/D5RL-PWUM>]; David Hernández, *Seeing Sanctuary: Separation and Accompaniment*, 4 GENEALOGY 103, 104 (2020) (defining anti-sanctuary cities as states where “laws either require cooperation with ICE and/or ban non-compliance, in effect outlawing the practices of sanctuary”). Hernández identifies the following

not support sanctuary cities, but have not enacted affirmative bans on sanctuary cities.²⁰⁴ In addition, only Mississippi, Kentucky and West Virginia are not included in the list of states that have a jurisdiction with a 287(g) agreement.²⁰⁵ These agreements refer to a section of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 that permits the director of U.S. Immigration and Customs Enforcement (“ICE”) to deputize local law enforcement agencies to perform the duties of ICE officers.²⁰⁶ A recent study showed that, of the 148 jurisdictions across the country that have 287(g) agreements, Texas had twenty-six, Florida had forty-nine, and the other Southern states collectively have thirty-three.²⁰⁷ In total, 108 of 142, or 76% of all 287(g) jurisdictions, were in the South as of 2018.²⁰⁸

as anti-sanctuary states: Alabama, Arizona, Arkansas, Florida, Georgia, Iowa, Mississippi, Missouri, North and South Carolina, Tennessee, and Texas. *Id.*

²⁰⁴ See *infra* Table H; see also Chris Joseph, *Alabama State Senator Files Bill that Would Criminalize Sanctuary City Policies*, WSFA 12 NEWS, <https://www.wsfa.com/2020/03/10/alabama-state-senator-files-bill-that-would-criminalize-sanctuary-city-policies/> [https://perma.cc/6C5Z-LD52].

²⁰⁵ See *National Map of 287(g) Agreements*, IMMIG. LEGAL RES. CTR. (Oct. 21, 2020), <https://www.ilrc.org/national-map-287g-agreements> [https://perma.cc/H54W-R2PW].

²⁰⁶ 8 U.S.C. § 1357(g).

²⁰⁷ See *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, U.S. IMMIGR. & CUSTOMS ENF'T, <https://www.ice.gov/identify-and-arrest/287g> [https://perma.cc/T4KK-DFJG].

²⁰⁸ *Id.* See generally Huyen Pham, *287(g) Agreements in the Trump Era*, 75 WASH. & LEE L. REV. 1253 (2018) (discussing the implementation of the 287(g) program under the Trump administration and the rapid expansion of the program, especially in border areas in the South).

| State | Stance on Sanctuary Jurisdictions |
|-------------|--|
| Alabama | State does not support sanctuary cities. ²¹⁰ |
| Arkansas | Affirmative ban. ²¹¹ |
| Florida | Affirmative ban. ²¹² |
| Georgia | Affirmative ban. ²¹³ |
| Kentucky | No sanctuary cities. ²¹⁴ |
| Louisiana | No affirmative ban. New Orleans is the sole sanctuary jurisdiction. ²¹⁵ |
| Mississippi | Affirmative ban. ²¹⁶ |

²⁰⁹ See Vaughan & Griffith, *supra* note 203 (listing sanctuary jurisdictions).

²¹⁰ Jordan LaPorta, *Gov. Bentley: Alabama Says It Will Not Support Sanctuary Cities*, YELLOW HAMMER NEWS (Feb. 2, 2017), <https://yellowhammernews.com/gov-bentley-alabama-will-not-support-sanctuary-cities/> [<https://perma.cc/CBT8-9FCX>] (discussing Alabama's refusal to support sanctuary city policies).

²¹¹ Andrew DeMillo, *Arkansas Governor to Sign Anti-sanctuary Cities Bill*, AP NEWS (Apr. 10, 2019), <https://www.apnews.com/6216a449591d43ab9756ddf6f5ec8601> [<https://perma.cc/P4V8-YRJ3>] (Governor Asa Hutchinson signed a bill that cut off funding to sanctuary cities).

²¹² Catherine E. Shoichet, *Florida Just Banned Sanctuary Cities. At Least 11 Other States Have, Too*, CNN (June 14, 2019, 2:08 PM), <https://www.cnn.com/2019/05/09/politics/sanctuary-city-bans-states/index.html> [<https://perma.cc/6YY4-MUXE>] (discussing Florida's ban on sanctuary cities).

²¹³ Jeremy Redmon, *Some Cities and Counties Limit Cooperation with ICE*, ATLANTA JOURNAL-CONSTITUTION (Apr. 12, 2019), <https://www.ajc.com/news/breaking-news/georgia-law-forbids-sanctuary-policies/qWaRIt5qTuV2URkfZ6jHHJ/> [<https://perma.cc/T5KT-STSS>] (Georgia law affirmatively banned sanctuary cities). Although Georgia has an affirmative ban on sanctuary jurisdictions, three counties (Clarke County, Clayton County, and DeKalb County) are listed as sanctuary counties. See Vaughan & Griffith, *supra* note 203 (listing sanctuary jurisdictions).

²¹⁴ Chris Williams, *Two Plans Would Prevent Kentucky 'Sanctuary Cities'*, WHAS11 (Sept. 12, 2019, 4:47 PM) <https://www.whas11.com/article/news/local/sanctuarycities/417-6a38250e-ea7f-42ee-a7df-74067fc03693> [<https://perma.cc/68G7-MLLP>] (Kentucky currently does not have sanctuary cities but is considering affirmatively banning them).

²¹⁵ See Vaughan & Griffith, *supra* note 203.

²¹⁶ Reid Wilson, *Mississippi Passes Ban on Sanctuary Cities*, HILL (Mar. 22, 2017, 8:49 AM), <https://thehill.com/homenews/state-watch/325144-mississippi-passes-ban-on-sanctuary-cities> [<https://perma.cc/5ZHJ-9TPV>] (Mississippi banned sanctuary cities in 2017). Although Mississippi has an affirmative ban on sanctuary jurisdictions, Jackson, Mississippi has been considered a sanctuary city by the Trump administration despite city officials denying its status as such. See Jacob Gallant, *Miss. Senators Question Decision to Resume Federal Funding of Sanctuary Cities*, WLOX (May 21, 2021, 9:34 AM), <https://www.wlox.com/2021/05/21/miss-senators-question-decision-resume-federal-funding-sanctuary-cities/> [<https://perma.cc/U4R6-DFJ8>].

| Table H: Anti-Sanctuary Jurisdiction Legislation | |
|--|--|
| State | Stance on Sanctuary Jurisdiction |
| North Carolina | Affirmative ban. ²¹⁷ |
| Oklahoma | No affirmative ban. Oklahoma County is the sole sanctuary jurisdiction. ²¹⁸ |
| South Carolina | Affirmative ban. ²¹⁹ |
| Texas | Affirmative ban. ²²⁰ |
| Tennessee | Affirmative ban. ²²¹ |
| Virginia | State does not support sanctuary cities. ²²² |
| West Virginia | No sanctuary cities. ²²³ |

²¹⁷ Paul A. Specht, *Holding Says 'Like a Sanctuary City,' NC Country Released a Criminal*, NEWS OBSERVER (Oct. 17, 2018), <https://www.newsobserver.com/news/politics-government/article220150245.html> (North Carolina outlawed sanctuary cities in 2015). Although North Carolina has an affirmative ban on sanctuary jurisdictions, six counties (Buncombe County, Durham County, Forsyth County, Mecklenburg County, Orange County, and Wake County) are listed as sanctuary counties. Vaughan & Griffith, *supra* note 203.

²¹⁸ Although one county (Oklahoma County) is listed as a sanctuary jurisdiction, Vaughan & Griffith, *supra* note 203, the state senate is considering banning sanctuary cities. *State Senator Files Bill Again Prohibiting Sanctuary Cities in Oklahoma*, KOCO-TV (Jan. 26, 2021, 4:38 PM), <https://www.koco.com/article/state-senator-files-bill-again-prohibiting-sanctuary-cities-in-oklahoma/35326711>.

²¹⁹ Andrew Brown, *SLED Report on Sanctuary Cities*, POST & COURIER (Mar. 18, 2019), https://www.postandcourier.com/sled-report-on-sanctuary-cities/pdf_3aacb8a8-499c-11e9-af2b-1b10ce83dfcf.html [<https://perma.cc/9TGP-YFXH>] (discussing South Carolina's prohibition of sanctuary cities, and the state law enforcement division made an effort to collect documentation from cities to show that they were complying with federal immigration enforcement).

²²⁰ Jason Buch, *5th Circuit Upholds Texas "Sanctuary Cities" Law*, HOUS. CHRON. (Mar. 13, 2018), <https://www.houstonchronicle.com/news/article/5th-Circuit-upholds-Texas-sanctuary-cities-law-12751213.php> [<https://perma.cc/9M2M-XXKZ>] (Texas Senate Bill 4 bans sanctuary cities and was upheld in federal court).

²²¹ Casey Quinlan, *Tennessee's Anti-sanctuary City Law Goes into Effect on New Year's Day*, THINKPROGRESS (Dec. 28, 2018, 12:15 PM), <https://thinkprogress.org/tennessees-anti-sanctuary-city-law-goes-into-effect-on-new-years-day-9a0b1766763f/> [<https://perma.cc/F2ME-ZGPL>] (discussing Tennessee's anti-sanctuary city law that ends local governments' access to state economic development funds if they do not comply with anti-sanctuary city policies). Although Tennessee has an affirmative ban on sanctuary jurisdictions, one county (Shelby County) is listed as sanctuary jurisdiction. *Id.*

²²² *Does Virginia Have Sanctuary Cities?*, CENT. VA. SANCTUARY NETWORK, <https://centralvasanctuary.com/congregations/does-virginia-have-sanctuary-cities/> [<https://perma.cc/D84W-HBTA>] (while some cities such as Richmond and Alexandria are declared "inclusive," Virginia does not have sanctuary cities); Mel Leonor, *Northam Vetoes 'Sanctuary Cities' Bill*, RICH. TIMES-DISPATCH (Mar. 19, 2019), https://www.richmond.com/news/virginia/government-politics/northam-vetoes-sanctuary-cities-bill/article_a0594c7e-b87f-5e4e-9eb8-feb32abdbfc7.html (Governor Ralph Northam rejected two bills that would have banned sanctuary city policies).

2. Detention Centers

Detention centers have become a topic of increased public concern, largely because of the work of activists in exposing the human suffering and deaths that occur within privately contracted detention centers for immigrants.²²⁴ Most recently, the nation briefly turned its attention to the egregious medical abuse—including lack of COVID-19 precautions in the midst of a worldwide pandemic and reproductive coercion in the form of forced hysterectomies—endured by undocumented immigrants detained at Irwin County Detention Center,²²⁵ after a Black nurse working at the facility came forward as a whistleblower.²²⁶ The media paid significantly less attention to the plight of Black migrants at Pine Prairie ICE Processing Center and Allen Parish Safety Complex in Louisiana, who detailed the deprivation and rationing of potable drinking water and edible food, denial of adequate health care, and threats they experienced when asserting their rights to medical care in a July 2021 letter filed by the Southern Poverty Law Center.²²⁷

²²³ See also Jake Zuckerman, *House Committee Reviews Anti-sanctuary City Bill*, CHARLESTON GAZETTE-MAIL (Feb. 6, 2019), https://www.wvgazette.com/news/legislative_session/house-committee-reviews-anti-sanctuary-city-bill/article_b92391c8-3bb4-5d27-9e9c-aea2211cde0f.html [https://perma.cc/4Z35-HRKN] (West Virginia does not have sanctuary cities and considered an anti-sanctuary city bill).

²²⁴ See Mary Bauer, *Horrible Detention Center Conditions Expose Trump's True Immigration Policy: Unmitigated, Unrelenting Cruelty*, S. POVERTY L. CTR. (June 26, 2019), <https://www.splcenter.org/news/2019/06/26/horrific-detention-center-conditions-expose-trumps-true-immigration-policy-unmitigated> [https://perma.cc/CL4S-YH7S].

²²⁵ Email from Project South to Joseph V. Cuffari, Inspector Gen., Dep't of Homeland Sec., Cameron Quinn, Officer for Civ. Rts. & Civ. Liberties, Dep't of Homeland Sec., Thomas P. Giles, Acting Dir., Immigr. & Customs Enf't Atlanta Field Off., and David Paulk, Warden, Irwin Cnty. Det. Ctr. (Sept. 14, 2020), <https://projectsouth.org/wp-content/uploads/2020/09/OIG-ICDC-Complaint-1.pdf> [https://perma.cc/6HV3-F7MW] (addressing lack of medical care, unsafe work practices, and absence of adequate protection against COVID-19 for detained immigrants and employees at the Irwin County Detention Center).

²²⁶ See Rachel Treisman, *Whistleblower Alleges 'Medical Neglect,' Questionable Hysterectomies of ICE Detainees*, NPR (Sept. 16, 2020, 4:43 AM), <https://www.npr.org/2020/09/16/913398383/whistleblower-alleges-medical-neglect-questionable-hysterectomies-of-ice-detainees> [https://perma.cc/Q7L7-Z77E].

²²⁷ Email from Southeast Immigrant Freedom Initiative Louisiana, S. Poverty L. Ctr. to Hon. Alejandro Mayorkas, Dep't of Homeland Sec., Hon. Angela Kelley, Dep't of Homeland Sec., Hon. Merrick B. Garland, Att'y Gen., Dep't of Just., Katherine Culliton-González, Officer for Civ. Rts. & Civ. Liberties, Dep't of Homeland Sec., Joseph V. Cuffari, Inspector Gen., Dep't of Homeland Sec., David Gersten, Ombudsman, Immigr. & Customs Enf't Det., and Margaret Schaefer, Dep't of Homeland Sec. (July 28, 2021),

Despite this increased awareness particularly in the time of COVID-19, there remains relatively little media coverage on the increased use of southern detention centers to support the incarceration of undocumented migrants. As of July 2019, ICE opened three new for-profit detention centers in the South (two in Louisiana and one in Mississippi) despite directives from Congress to limit the numbers of those detained.²²⁸ Many of those detained are asylum seekers and have been transferred from larger urban areas where they had ready access to legal representation.²²⁹ Most egregiously, ICE opened these centers without congressional approval or notice.²³⁰

Transfer to these facilities poses significant legal challenges for those detained, particularly given the fact that “[t]here are not enough judges in Louisiana to hear the new cases, and there are no immigration courts in Mississippi.”²³¹ Further, there is a dearth of immigration attorneys located in many Southern states, which concerns advocates. Homero López, who heads Immigration Services and Legal Advocacy (“ISLA”) in Louisiana, believes that “there’s an intentional, purposeful approach behind this of putting people where they can’t access counsel.”²³²

As the South experiences increased immigration, it is simultaneously becoming a locus of some of the most draconian immigration policies in the nation. As detention centers in other parts of the nation shut down in response to the increased public pressure, detention centers in the South continue to grow, now comprising about 32% of the nation’s total as [Table I](#) shows.

https://www.splcenter.org/sites/default/files/28_july_2021_complaint_and_call_to_close_pine_prairie_and_allen_parish.pdf [<https://perma.cc/T94H-F53W>].

²²⁸ See Noah Lanard, *ICE Just Quietly Opened Three New Detention Center, Flouting Congress’ Limits*, MOTHER JONES (July 9, 2019) [hereinafter *Flouting Congress’ Limits*], <https://www.motherjones.com/politics/2019/07/ice-just-quietly-opened-three-new-detention-centers-flouting-congress-limits/>.

²²⁹ See *id.*

²³⁰ See Noah Lanard, *Warren Demands Answers From ICE About Its Detention Centers in the South*, MOTHER JONES (July 12, 2019) [hereinafter *Warren Demands Answers*], <https://www.motherjones.com/politics/2019/07/warren-demands-answers-from-ice-following-mother-jones-report-on-detention-centers/>.

²³¹ *Flouting Congress’ Limits*, *supra* note 228.

²³² *Id.*

| State | Number |
|------------------------------|--------------|
| Alabama | 15 |
| Arkansas | 15 |
| Florida | 60 |
| Georgia | 26 |
| Kentucky | 18 |
| Louisiana | 41 |
| Mississippi | 7 |
| North Carolina | 18 |
| Oklahoma | 14 |
| South Carolina | 9 |
| Texas | 184 |
| Tennessee | 19 |
| Virginia | 37 |
| West Virginia | 7 |
| Southern States Total | 470 |
| National Total | 1,468 |

C. EDUCATION

Following the ICE raids on food processing plants in Mississippi, the nation was confronted with pictures of children weeping.²³⁴ In some school districts, Latinxs comprised almost 30% of the student population,²³⁵ and as many as 200 children were absent from school the day after the raids.²³⁶ School officials across the state reported reaching

²³³ Leanna Garfield, Shayanne Gal & Andy Kiersz, *ICE Detention Centers in Every US State*, INSIDER (July 5, 2019, 9:11 AM), <https://www.businessinsider.com/ice-immigrant-families-dhs-detention-centers-2018-6> [<https://perma.cc/8YHR-W2T6>].

²³⁴ See Hollie Silverman & Jason Hanna, *A Quarter of a Mississippi School District's Hispanic Students Were Absent the Day After an Immigration Raid*, CNN (Aug. 9, 2019), <https://www.cnn.com/2019/08/09/us/mississippi-immigration-raids-friday/index.html> [<https://perma.cc/4JRZ-N8FF>].

²³⁵ *Id.*

²³⁶ See *Mississippi School Official Weighs in on the Effects ICE Raids Have Had on Kids*, NPR (Aug. 9, 2019, 5:23 PM), <https://www.npr.org/2019/08/09/749932940/mississippi-school-official-weighs-in-on-the-effects-ice-raids-have-had-on-kids> [<https://perma.cc/NB3K-4YD3>]; Hamed Aleaziz, *More Than 200 Kids Were Missing from Schools After a Massive ICE Raid In Mississippi*, BUZZFEED NEWS (Aug. 8, 2019, 9:27 PM), <https://www.buzzfeednews.com/article/hamedaleaziz/kids-attendance-schools-ice-raid-operation-mississippi> [<https://perma.cc/NB3K-4YD3>].

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out to individual families and ensuring them that school was a “safe harbor.”²³⁷

While a cursory analysis of the data below seems to suggest that the Latinx population in Southern schools is not significant, these numbers reflect an extraordinary shift in the population. Patricia Gándara notes that the Latinx school population grew by a factor of ten between 1990 and 2014.²³⁸ This is remarkable, especially when considered in light of the fact that the Latinx school population only grew 32% in traditional settlement states.²³⁹ Table J sets forth Latinx public school enrollment in the Southern states by number of students and percentage of total students for 2019–2020.²⁴⁰

²³⁷ See Aleaziz, *supra* note 236.

²³⁸ See Patricia Gándara, *The Potential and Promise of Latino Students*, AM. EDUCATOR, Spring 2017, <https://www.aft.org/ae/spring2017/gandara> [<https://perma.cc/7NAZ-846F>].

²³⁹ Gándara identifies the following seven states as traditional settlement states: Arizona, California, Florida, Illinois, New Jersey, New York, and Texas. *Id.*

²⁴⁰ The Alabama State Department of Education previously had a student profile that showed enrolled by race for 2019–2020. Our research notes state that the student profile listed 67,618 Latinx students enrolled that year. However, this student profile is no longer accessible, and one currently accessible source states that there were 724,178 students in Alabama K-12 public schools as of February 9, 2020. Trish Powell Crain, *Alabama K-12 Enrollment Up: Cities Have More, Counties Have Fewer*, AL.COM (Feb. 9, 2020, 7:00 AM), <https://www.al.com/news/2020/02/alabama-k-12-enrollment-up-cities-have-more-counties-have-fewer.html> [<https://perma.cc/N92Q-RGHJ>]. Another source indicates that the Latinx population was 9.14% of the total in 2019–2020, which is the data represented in Table J. *Alabama State Department of Education: Reporting Year 2019–2020*, ALA. DEP’T OF EDUC., <https://reportcard.alsde.edu/OverallScorePage.aspx?ReportYear=2020&SystemCode=000&SchoolCode=0000> [<https://perma.cc/SSDX-WKK6>] (data for Alabama). For data of all other states listed in Table J, see *Enrollment by Race by School*, ARK. DEP’T OF EDUC. (2020), <https://adedata.arkansas.gov/statewide/ReportList/State/EnrollmentByRace.aspx> (data for Arkansas); *Ethnic Enrollment by School: School Year 2019-2020*, HILLSBOROUGH CNTY. PUB. SCHOOLS (Sept. 16, 2019), <https://www.sdhc.k12.fl.us/docs/00/00/25/32/SE0016B.pdf> [<https://perma.cc/D42P-8TCA>] (data for Florida); *Enrollment by Ethnicity/Race, Gender, and Grade Level (PK-12)*, GA. DEP’T OF EDUC. (2020), https://app3.doe.k12.ga.us/ows-bin/owa/fte_pack_ethnicsex.entry_form [<https://perma.cc/WV6U-ARYJ>] (Fiscal Year 2020-1 data report for Georgia); *Kentucky Education Facts*, KY. DEP’T OF EDUC. (Sept. 13, 2021, 9:32 AM), <https://education.ky.gov/comm/edfacts/Pages/default.aspx> [<https://perma.cc/H7J4-N4HY>]; *Student Attributes: October 2019 Multi-Stats*, LA. DEP’T OF EDUC., <https://www.louisianabelieves.com/resources/library/student-attributes> [<https://perma.cc/L897-Y9ZD>] (Louisiana data report with totals based on site and school system); *District and School Data*, MISS. DEP’T OF EDUC. (2020), <https://newreports.mdek12.org/> [<https://perma.cc/9Y7U-XLM4>] (data for Mississippi); *Pupils in Membership in Race and Sex: School Year 2019-20*, N.C. DEP’T OF PUB. INSTRUCTION, <http://apps.schools.nc.gov/ords/f?p=145:15:::NO> (data for North Carolina); *State Public Enrollment Totals*, OKLA. STATE DEP’T OF EDUC., <https://sde.ok.gov/documents/2014-02-13/state-student-public-enrollment-2013> [<https://perma.cc/8T8U-69WZ>] (Oklahoma data for fiscal year 2019–2020); *Active Student Headcounts*, S.C. DEP’T OF EDUC., <https://ed.sc.gov/data/other/student-counts/active-student->

As Table J demonstrates, outside of Texas and Florida—states that have historically had large numbers of Latinxs—Georgia, North Carolina, and Virginia have fairly significant percentages of Latinxs students relative to the total public-school enrollment of each state (16.6% for Georgia, 19.2% for North Carolina, and 17% for Virginia). Importantly, the public-school enrollment percentages in these three states are higher than the overall percentage of Latinxs in the states (9.8% for Georgia, 9.7% for North Carolina, and 9.7% in Virginia).²⁴¹

| Table J: Latinx Public School Enrollment, 2019–2020 | | |
|---|-----------------|---------------------|
| State | K-12 Enrollment | Percentage of Total |
| Alabama | 67,618 | 9.14% |
| Arkansas | 64,548 | 13.4% |
| Florida | 80,447 | 36.0% |
| Georgia | 295,152 | 16.6% |
| Kentucky | 49,201 | 7.6% |
| Louisiana | 60,157 | 8.3% |
| Mississippi | 19,729 | 4.2% |
| North Carolina | 273,262 | 19.2% |
| Oklahoma | 127,819 | 18.1% |
| South Carolina | 85,599 | 10.9% |
| Texas | 2,899,504 | 52.8% |
| Tennessee | 115,335 | 11.8% |
| Virginia | 220,707 | 17.0% |
| West Virginia | 5,127 | 1.9% |

Despite increased numbers, educational policies still lag. With regard to students who receive DACA status, few states have any policies in place that benefit DACA recipients. Only five states in the South offer in-state tuition for DACA recipients and/or undocumented students

headcounts/ [https://perma.cc/ZW7T-DWPR] (South Carolina district headcount data for 2019–2020 year by ethnicity); ENROLLMENT IN TEXAS PUBLIC SCHOOLS, TEX. EDUC. AGENCY 8 (2020), https://tea.texas.gov/sites/default/files/enroll_2019-20.pdf [https://perma.cc/FMV8-AZ54] (data for Texas); *Tennessee Profile & Demographic Information*, TENN. DEP’T OF EDUC. (2020), <https://www.tn.gov/education/data/data-downloads.html> [https://perma.cc/VB5U-ZBNM] (Tennessee data for 2019–2020); *Fall Membership Build-A-Table*, VA. DEP’T OF EDUC., https://p1pe.doe.virginia.gov/apex/f?p=180:1:2271416483689:SHOW_REPORT [https://perma.cc/8UT9-VVR3] (Virginia data for 2019–2020 school year); *Enrollment Trend*, W. VA. DEP’T OF EDUC., <https://zoomwv.k12.wv.us/Dashboard/dashboard/2056> (West Virginia data for 2019–2020 school year).

²⁴¹ See *supra* Table A.

(Arkansas, Florida, Oklahoma, Texas, and Virginia).²⁴² Many of these policies include provisions that students must have lived in the state for a particular number of years, graduated from a high school in the state, and/or applied for enrollment in an institution of higher learning within twenty-four months after high school graduation.²⁴³ Thus, while these policies are generally positive, they still preclude a significant group of students from enjoying the same educational benefits as their documented counterparts.

While many Southern state legislatures have introduced bills to allow DACA and undocumented student populations to receive in-state tuition, Alabama and Georgia have the most draconian policies. Alabama as it is only one of two states that explicitly prohibits undocumented students from *enrolling* in public postsecondary institutions, and Georgia has a law that prohibits the state's top five universities (University of Georgia, Georgia Institute of Technology, Georgia College & State University, Augusta University, and Georgia College) from allowing DACA and undocumented students to enroll.²⁴⁴ This law was targeted against so-called "sanctuary campuses," and the Board of Regents enacted new policies to reflect this mandate through Policy 4.1.6 and Policy 4.3.4.²⁴⁵ The U.S. Court of Appeals for the Eleventh Circuit upheld the Board of Regents policy this year.²⁴⁶

In 2011, Alabama passed the Beason-Hammon Alabama Taxpayer and Citizen Protection Act ("HB 56").²⁴⁷ Section 8 of this act reads:

²⁴² See *Undocumented Student Tuition: Overview*, NAT'L CONF. STATE LEGISLATURES, <https://www.ncsl.org/research/education/undocumented-student-tuition-overview.aspx> [https://perma.cc/PPW7-VBFW].

²⁴³ See, e.g., FLA. STAT. § 1009.26(12)(a).

²⁴⁴ See Maureen Downey, *Georgia's Ban on Undocumented College Students Puts State on Wrong Side of History*, ATLANTA JOURNAL-CONSTITUTION (Feb. 4, 2016), <https://www.ajc.com/blog/get-schooled/georgia-ban-undocumented-college-students-puts-state-wrong-side-history/KNsXKibXgGq02nfGFH51gI/> [https://perma.cc/3655-HUG7]; see also *History & Timeline*, FREEDOM U. [hereinafter Freedom U. History & Timeline], <https://www.freedom-university.org/history> [https://perma.cc/M5ZZ-5L2K].

²⁴⁵ See Greg Bluestein, *New Georgia Law Strips State Funding of 'Sanctuary' Campuses*, ATLANTA JOURNAL-CONSTITUTION (Apr. 27, 2017), <https://www.ajc.com/blog/politics/new-georgia-law-strips-state-funding-sanctuary-campuses/wYE4SVFqSn83PVUI3ITf2I/> [https://perma.cc/M4HY-FEMS]; see also Freedom U. History & Timeline, *supra* note 244.

²⁴⁶ See Bill Rankin & Eric Stirgus, *Atlanta Court Upholds University System Ban on Unauthorized Immigrants*, ATLANTA JOURNAL-CONSTITUTION (Mar. 6, 2019), <https://www.ajc.com/news/local/atlanta-court-upholds-university-system-ban-unauthorized-immigrants/lxwkDzIV8VAwjRHY76fPiK/> [https://perma.cc/QHX8-8499].

²⁴⁷ Beason-Hammon Alabama Taxpayer and Citizen Protection Act, H.B. 56, 2011 Leg., Reg. Sess. (Ala. 2011).

An alien [sic] who is not lawfully present in the United States shall not be permitted to enroll in or attend any public postsecondary education institution in this state Except as otherwise provided by law, an alien [sic] who is not lawfully present in the United States shall not be eligible for any postsecondary education benefit, including, but not limited to, scholarships, grants, or financial aid.²⁴⁸

The legislature advanced an argument that this bill served a compelling government interest and stated that one of the main reasons for its passage was the economic burden undocumented students place on the educational system in Alabama:

Because the costs incurred by school districts for the public elementary and secondary education of children who are aliens not lawfully present in the United States can adversely affect the availability of public education resources to students who are United States citizens or are aliens lawfully present in the United States, the State of Alabama determines that there is a compelling need for the State Board of Education to accurately measure and assess the population of students who are aliens not lawfully present in the United States, in order to forecast and plan for any impact that the presence of such population may have on publicly funded education in this state.²⁴⁹

Not only has Alabama passed this draconian measure, but Alabama school systems have violated *Plyler v. Doe* on numerous occasions since the passage of House Bill 56 by requiring Social Security numbers from students and/or their parents in order to enroll.²⁵⁰ The state has further required that local schools identify whether a student or a student's family was born outside of the United States.²⁵¹ *Plyler* was a Supreme Court case that held that undocumented students in K-12 schools were protected

²⁴⁸ *Id.* § 8.

²⁴⁹ *Id.* § 2.

²⁵⁰ See *Alabama Schools Violating Federal Law by Discouraging Enrollment of Immigrants*, S. POVERTY L. CTR. (May 22, 2014), <https://www.splcenter.org/news/2014/05/22/alabama-schools-violating-federal-law-discouraging-enrollment-immigrants> [https://perma.cc/TE8D-57QR].

²⁵¹ Lenford C. Sutton & Tricia J. Stewart, *State Challenges to Plyler v. Doe: Undocumented Immigrant Students and Public School Access (Perspective on Legal Issues in Education)*, 40 EDUC. CONSIDERATIONS 23, 24 (2013).

under the equal protection clause.²⁵² The Court in this matter further held that a Texas statute denying state funds that otherwise would have been allocated per capita for undocumented students to schools was unconstitutional because it did not advance a compelling state interest.²⁵³

In response to these violent policies that are targeted against Latinx students, local communities have come together in resistance. For example, in Georgia, after the passage of the Board of Regents Policies 4.1.6 and 4.3.4, a group of undocumented students, immigrant rights activists, and four University Professors decided to open the Freedom University to “empower undocumented youth and fulfill their human right to education.”²⁵⁴ This space provides college preparation courses, university-level classes, college application assistance, and leadership training.²⁵⁵ Such grass-roots coalition movements provide some semblance of hope amidst a dire situation for Latinx students’ educational attainment in the South. As the number of Latinx students in the South increases, attention must be paid to how educational policies will continue to shape the Latinx experience in this increasingly significant region.

D. ECONOMIC PARTICIPATION

The labor rate of participation is what is traditionally used to measure the number of individuals who are active in the labor force—whether employed or looking for employment. Since employment may be conditioned upon immigration status for a segment of the Latinx population in the Southern states, we also consider entrepreneurship when exploring economic participation.

1. Labor Force

In 2016, the Center for Economic and Policy Research published a report that found that Texas, Georgia, Florida, North Carolina, and Virginia ranked in the top twenty-five states in terms of number of Latinx workers.²⁵⁶ The 2019 Bureau of Labor Statistics affirmed these

²⁵² *Plyler v. Doe*, 457 U.S. 202, 228–30 (1982).

²⁵³ *Id.*

²⁵⁴ See *Mission*, FREEDOM U., <https://freedom-university.org/mission> [<https://perma.cc/DH86-5T8W>]; see also Freedom U. History & Timeline, *supra* note 244.

²⁵⁵ *Id.*

²⁵⁶ The biggest populations were found in Texas, with 4.5 million and ranked second in the country after California, and Florida, with 2.2 million and ranked third. CHERRIE BUCKNOR, HISPANIC WORKERS IN THE UNITED STATES 8 (2016),

statistics.²⁵⁷ Some of the most important industries for the Latinx labor force participation in the South include agriculture and construction.²⁵⁸

Numerous studies focus on the role Latinxs in the South play in the agricultural economy, particularly their role as farmworkers, as well as the significant workplace inequalities they face.²⁵⁹ Of the top five states with the highest farmworker populations, three are located in the South: Texas, Florida, and North Carolina.²⁶⁰ Importantly, several Southern states draw heavily from seasonal or temporary agricultural guest workers who legally migrate to the United States using H-2A visas, in part because the undocumented workforce has decreased significantly due to workplace raids.²⁶¹ In 2017, following the election of Donald Trump, requests for seasonal laborers increased by 20%,²⁶² suggesting that farmers were concerned that immigration crackdowns may increase under a new administration. Florida, North Carolina, Georgia, Louisiana, Kentucky, and South Carolina rely on seasonal agricultural workers.²⁶³

Another important employer of Latinxs in these rural areas is the meat processing industry. Latinx workers in meat-processing industry increased from 10% to nearly 30% between 1980 and 2000.²⁶⁴ Approximately 44.4% of meatpacking workers are Latinos.²⁶⁵ The

<http://cepr.net/images/stories/reports/hispanic-workers-2016-11.pdf> [https://perma.cc/QP36-DVBM].

²⁵⁷ U.S. Bureau of Labor Statistics, *Hispanics Made Up 44.7 Percent of the Labor Force in New Mexico in 2019*, TED: ECON. DAILY (Oct. 13, 2020), <https://www.bls.gov/opub/ted/2020/hispanics-made-up-44-point-7-percent-of-the-labor-force-in-new-mexico-in-2019.htm> [https://perma.cc/U2NH-388X].

²⁵⁸ U.S. Bureau of Labor Statistics, *Hispanics and Latinos in Industries and Occupations*, TED: ECON. DAILY (Oct. 9, 2015), <https://www.bls.gov/opub/ted/2015/hispanics-and-latinos-in-industries-and-occupations.htm> [https://perma.cc/585J-G37U].

²⁵⁹ See, e.g., Marianne L. Bowers & Daniel E. Chand, *An Examination of Wage and Income Inequality Within the American Farmworker Community*, 6.3 J. MIGRATION & HUM. SEC. 182 (2018) (exploring the reasons for earning inequalities among farmworkers).

²⁶⁰ See *United States Farmworkers Factsheet*, STUDENT ACTION WITH FARMWORKERS, <https://saf-unite.org/wp-content/uploads/2020/11/2018factsheetfinal.pdf> [https://perma.cc/XCX2-M8ZC].

²⁶¹ See Hannah Alani, *More Legal Mexican Farm Workers Are Coming to SC than Ever. But Few Are Protecting Them*, POST & COURIER (Oct. 27, 2018), https://www.postandcourier.com/news/more-legal-mexican-farm-workers-are-coming-to-sc-than/article_aa25bd20-ccbe-11e8-a53b-0bca74bc4bb0.html [https://perma.cc/N7HF-K9HG].

²⁶² *Id.*

²⁶³ *Id.*

²⁶⁴ See Kandel, *supra* note 48.

²⁶⁵ Shawn Fremstad, Hye Jin Rho & Hayley Brown, *Meatpacking Workers Are a Diverse Group Who Need Better Protections*, CTR. FOR ECON. & POL'Y RSCH. (Apr. 29, 2020), <https://cepr.net/meatpacking-workers-are-a-diverse-group-who-need-better->

industry has consolidated and has moved to rural communities, which has attracted immigrant workers.²⁶⁶ Even when workers have legal status, labor exploitation and public health endangerment still exists. During the pandemic, Latinxs were among the most impacted workers. Latinxs suffered from high rates of infection, but were still required to work in industries such as the meat poultry sector, which has a strong presence in the South.²⁶⁷

The construction industry has also largely benefited from Latinx labor—immigrant and U.S. born—in the South. In Atlanta, for example, the growth of the Latinx population is directly tied to construction for the 1996 Olympic Games.²⁶⁸ In the 1980s, the number of Georgians who did not speak English in the home grew by 113%.²⁶⁹ Between 1990 and 2000, Georgia’s Latinx population growth rate was ranked third in the country.²⁷⁰ More recent figures show Georgia and Virginia have among the lowest rate of Latinx unemployment, at 2.4% and 3.1% respectively.²⁷¹

Consistent employment data for Latinxs is hard to find across state lines. However, the unemployment rate is also a factor in understanding the labor force. In the first quarter of 2019, unemployment for Latinxs was higher than the overall population.²⁷² There are many reasons why

protections/#:~:text=Almost%20one%2Dhalf%20(44.4%20percent,and%2022.5%20percent%20are%20Black [https://perma.cc/T2CP-WXGH].

²⁶⁶ See *id.*

²⁶⁷ Suzanne Gamboa, *Coronavirus Reported in Over Half of Latino Meat, Poultry Workers in 21 States*, *CDC Says*, NBC NEWS (July 8, 2020, 1:50 PM), <https://www.nbcnews.com/news/latino/coronavirus-reported-over-half-latino-meat-poultry-workers-21-states-n1233192> [https://perma.cc/6P77-P5XD].

²⁶⁸ See David Wickert, *How the Olympics Helped Lure Latinos to Atlanta*, ATLANTA JOURNAL-CONSTITUTION (July 15, 2016), <https://www.ajc.com/news/local-govt--politics/how-the-olympics-helped-lure-latinos-atlanta/REVqYgdV8LjAypmA3zdSeO/> [https://perma.cc/ME6T-KMFV]. See *Southern Roadtrip (Part 1)*, *supra* note 3.

²⁶⁹ Rebecca J. Dameron & Arthur D. Murphy, *An International City Too Busy To Hate? Social and Cultural Change in Atlanta: 1970–1995*, 26 URB. ANTHROPOLOGY 43, 49–50 (1997) (discussing population growth in Atlanta from 1980 to 1995). The 1980 Census in Georgia noted its “Spanish Origin” population was 60,974 or 1% of the total population of 5,463,105. BUREAU OF THE CENSUS, U.S. DEP’T OF COM., 1 1980 CENSUS OF POPULATION: DETAILED POPULATION CHARACTERISTICS GEORGIA 12-13 tbl. 196(A) (1983), https://www2.census.gov/prod2/decennial/documents/1980a_gaD-01.pdf [https://perma.cc/3NZ9-8Q3B].

²⁷⁰ See *Georgia State Fact Sheet*, NAT’L COUNCIL OF LA RAZA (2003), https://northgaumc.s3.amazonaws.com/Files/Hispanic/Georgia_State_Fact_Council_of_La_Raza.pdf [https://perma.cc/8YYM-DF8F].

²⁷¹ Valerie Wilson, *Economic Indicators: State Unemployment by Race and Ethnicity*, ECON. POL’Y INST., <https://www.epi.org/indicators/state-unemployment-race-ethnicity-2019-q1/> [https://perma.cc/3WTJ-766S].

²⁷² *Id.*

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people may not be able to access employment, but some of the biggest contributors for Latinxs include employment discrimination and inability to work due to immigration status,²⁷³ caregiver responsibilities,²⁷⁴ and lack of transportation.²⁷⁵ Unemployment impacts family and community well-being and the South has some of the poorest states in the country. Of the top fifteen poorest states, eleven are in the South.²⁷⁶ Only Virginia ranks amongst the top ten wealthiest states.²⁷⁷ Table K, below, shows median income, poverty rates, and national poverty rank in the South.

| State | 2019 Median Household Income ²⁷⁸ | 2018–2019 Poverty Rate ²⁷⁹ |
|----------------|---|---------------------------------------|
| Alabama | 51,734 | 14.4 |
| Arkansas | 48,952 | 15.0 |
| Florida | 59,227 | 12.6 |
| Georgia | 61,980 | 13.5 |
| Kentucky | 52,295 | 14.6 |
| Louisiana | 51,073 | 18.4 |
| Mississippi | 45,792 | 19.4 |
| North Carolina | 57,341 | 12.9 |

²⁷³ See generally Leticia M. Saucedo, *The Browning of the American Workplace: Protecting Workers in Increasingly Latino-ized Occupations*, 80 NOTRE DAME L. REV. 303 (2004) (discussing discrimination in the workplace for Latinos).

²⁷⁴ NAT'L COUNCIL LA RAZA, *CARING FOR CAREGIVERS: LATINOS IN THE DIRECT-CARE WORKFORCE* (2012), https://www.unidosus.org/wp-content/uploads/2021/07/Employment_Report_February_2012.pdf [<https://perma.cc/LX57-BTGH>].

²⁷⁵ ROBERT WOOD JOHNSON FOUND., *THE STATE OF LATINO TRANSPORTATION* (2019), <https://salud-america.org/wp-content/uploads/2019/05/Fact-Sheet-Transit-2019.pdf> [<https://perma.cc/64DK-9P5E>].

²⁷⁶ Those states are listed in order of poorest to least poor: Mississippi, West Virginia, Arkansas, Louisiana, Kentucky, Alabama, Tennessee, South Carolina, Oklahoma, North Carolina, and Florida. Alyssa Evans, *Richest and Poorest States in America*, STACKER (Nov. 5, 2020), <https://stacker.com/stories/955/richest-and-poorest-states-america> [<https://perma.cc/W9TG-S283>].

²⁷⁷ *Id.*

²⁷⁸ *2019 Median Household Income in the United States*, U.S. CENSUS BUREAU (Sept. 17, 2020), <https://www.census.gov/library/visualizations/interactive/2019-median-household-income.html> [<https://perma.cc/QC2N-V7JH>].

²⁷⁹ Jessica Semega, Melissa Kollar, Emily A. Shrider & John Creamer, *Income & Poverty in the United States*, U.S. CENSUS BUREAU (Sept. 15, 2020), <https://www.census.gov/library/publications/2020/demo/p60-270.html> (Excel chart reporting percentage of people in poverty by state using 2- and 3-year averages in 2016-2017 and 2018-2019).

| State | 2019 Median Household Income | 2018–2019 Poverty Rate |
|----------------|------------------------------|------------------------|
| Oklahoma | 54,449 | 12.1 |
| South Carolina | 56,227 | 13.9 |
| Tennessee | 56,071 | 12.5 |
| Texas | 64,034 | 12.4 |
| Virginia | 76,456 | 9.3 |
| West Virginia | 48,850 | 14.9 |

Latinxs who are unemployed and underemployed may end up generating income by starting their own business. These businesses often take the form of street vendors, catering businesses, and small businesses that address underserved needs of Latinx communities.²⁸⁰ Much of the South, therefore, offers savvy entrepreneurs the opportunity to participate in the economy by starting their own business.

2. Entrepreneurship

Generally, we understand entrepreneurs to emerge from necessity and opportunity. *Necessity entrepreneurs* are normally those who start a business because they do not have a source of employment to generate income.²⁸¹ The profile of these entrepreneurs is varied, but what unites them is the need to turn to entrepreneurship to generate income to survive. *Opportunity entrepreneurs* typically see an opportunity in the market and exploit it.²⁸² Unlike necessity entrepreneurs, opportunity entrepreneurs are generally not dependent on their business for daily sustainability. There are both opportunity and necessity entrepreneurs in the Latinx community, and we see them throughout the South. Many Latinx entrepreneurs are credited with helping to revitalize “main streets” and urban centers.²⁸³

²⁸⁰ ZULEMA VALDEZ, THE NEW ENTREPRENEURS: HOW RACE, CLASS, AND GENDER SHAPE AMERICAN ENTERPRISE 1–9 (2011).

²⁸¹ For more on necessity entrepreneurs, *see generally* NECESSITY ENTREPRENEURS: MICROENTERPRISE EDUCATION AND ECONOMIC DEVELOPMENT (Stephen W. Gibson & Jeremi Brewer eds., 2014) (discussing theories on necessity entrepreneurship, microenterprise education and long-term economic development in the context of developing countries and sustainable businesses).

²⁸² *Id.* at 1.

²⁸³ See Paul McDaniel, *Entrepreneurship and Innovation in Welcoming Cities*, AM. IMMIGR. COUNCIL (Feb. 3, 2016),

The business community understands the power and profitability of the Latinx market, not only as employees but also as consumers. The buying power of Latinxs is estimated to be approximately 1.5 trillion dollars.²⁸⁴ The size of the Latinx market in the United States is as big as the twentieth largest economy in the world.²⁸⁵ The Latinx market is one of the reasons why the Southern cities of Miami and San Antonio have seen economic success in recent years. Entrepreneurs in those cities see the opportunity to make money by catering to the Latinx demographic. Professor Jorge Salazar Carrillo of Florida International University reports that the gross domestic output in Miami-Dade County, which is more than 65% Latinx,²⁸⁶ is approximately \$140 billion a year.²⁸⁷ This makes it one of the top fifteen metropolitan areas in the country in terms of economic output.

The Stanford Latino Entrepreneurship Initiative (“SLEI”) recently released several reports on the rates of Latinx entrepreneurship in large metropolitan areas. SLEI conducted studies of metropolitan areas with the largest Latinx populations and assigned metropolitan areas with Latino Entrepreneurship Scores (“LES”), which measure the extent to which an entrepreneurship gap between Latinxs and non-Latinxs exists.²⁸⁸ SLEI defined the LES as “the ratio of the employer business ownership rate—the number of entrepreneurs divided by the total population—for Latinos divided by the employer business ownership rate for non-Latinos. A score

<https://www.americanimmigrationcouncil.org/research/entrepreneurship-and-innovation-welcoming-cities> [<https://perma.cc/2MU2-ZCKC>]. “Main street” businesses are defined as those falling into retail, accommodation and food services, or neighborhood services sectors. *Id.*

²⁸⁴ See *La Oportunidad Latinx: Cultural Currency and the Consumer Journey*, NIELSEN (Aug. 12, 2019), <https://www.nielsen.com/us/en/insights/report/2019/la-oportunidad-latinx/> [<https://perma.cc/3CR5-YTWW>].

²⁸⁵ See Marcela Gara, *How to Understand the Latinx Market*, RES. MEDIA (Apr. 20, 2017), <http://www.resource-media.org/understand-latinx-market/> [<https://perma.cc/UDB9-EZB8>]; see also Matt Weeks, *Minority Markets See Economic Growth*, UGA TODAY (Mar. 21, 2019), <https://news.uga.edu/multicultural-economy/> [<https://perma.cc/3PT2-SC5X>].

²⁸⁶ *Quick Facts: Miami-Dade County*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/miamidadecountyflorida/POP060210> [<https://perma.cc/WQ3U-EPHP>].

²⁸⁷ *Not Just Cubans: Many Latinos Now Call Miami Home*, NBC NEWS (Mar. 4, 2014, 5:37 AM), <https://www.nbcnews.com/news/latino/not-just-cubans-many-latinos-now-call-miami-home-n37241> [<https://perma.cc/3PT2-SC5X>].

²⁸⁸ CLAIRE KRAMER MILLS, JESSICA BATTISTO, SCOTT LIEBERMAN, MARLENE OROZCO, ILIANA PEREZ, NANCY S. LEE, *LATINO-OWNED BUSINESSES: SHINING A LIGHT ON NATIONAL TRENDS* 22–23 (2018) [hereinafter *LATINO-OWNED BUSINESSES*], <https://www.gsb.stanford.edu/sites/gsb/files/publication-pdf/slei-report-2018-latin-owned-businesses-shining-light-national-trends.pdf> [<https://perma.cc/58UN-3BRN>].

of one would indicate no discernable gap and a score of zero indicates a very large gap.”²⁸⁹

Five of the top 10 cities with the highest LES’s are located in the South: Miami, Florida (ranked number 1 with an LES of 0.59); Tampa, Florida (ranked number 2 with an LES of 0.46); Orlando, Florida (ranked number 4 with an LES of 0.36); Raleigh, North Carolina and Atlanta, Georgia (both ranked number 6 to 7 with an LES of 0.31).²⁹⁰ Florida, Virginia, Tennessee, and Alabama are four of the top five states with the smallest gaps in Latinx entrepreneurship.²⁹¹ This may be due in part to the increased number of immigrants in these states. As numerous studies have shown, the immigrant population is about twice as likely as native-born to start new businesses and, as of 2015, comprised 28.5% of all new entrepreneurs nationwide.²⁹²

The NPR podcast, discussed in the introduction of this paper, mentions an entrepreneurial family in Pelham, Alabama—the Riveras.²⁹³ The Rivera family went to a store looking for *nopales* or cacti that are a common food staple in Mexican cuisine.²⁹⁴ They found them for five dollars per pound and realized that the profit margin for Mexican food

²⁸⁹ *Id.* at 23.

²⁹⁰ *Id.* at 23–24; STANFORD LATINO ENTREPRENEURSHIP INITIATIVE, THE U.S. LATINO ENTREPRENEURSHIP GAP 19 (2018) [hereinafter THE LATINO ENTREPRENEURSHIP GAP], <https://www.gsb.stanford.edu/sites/gsb/files/publication-pdf/report-slei-2018-latino-entrepreneurship-gap.pdf> [https://perma.cc/J5AT-58VP]. The Washington, D.C. area, which includes Alexandria, Virginia, is ranked third. LATINO-OWNED BUSINESSES, *supra* note 288, at 23–24.

²⁹¹ THE LATINO ENTREPRENEURSHIP GAP, *supra* note 290, at 4.

²⁹² ROBERT W. FAIRLIE, ARNOBIO MORELIX, E.J. REEDY & JOSHUA RUSSELL, THE KAUFFMAN INDEX: 2015 STARTUP ACTIVITY NATIONAL TRENDS 6 (2015), https://www.kauffman.org/wp-content/uploads/2019/09/kauffman_index_startup_activity_national_trends_2015.pdf [https://perma.cc/K8L4-5JUK]; see also Ruth Simon, *Immigrants, Latinos Helped Business Creation Last Year*, WALL ST. J. (May 27, 2015, 8:03 PM), <https://www.wsj.com/articles/immigrants-latinos-helped-drive-business-creation-last-year-1432771383> [https://perma.cc/WZG9-PDV6]; Sari P. Kerr & William R. Kerr, *Immigrant Entrepreneurship* 1–39 (Harv. Bus. Sch., Working Paper No. 17-011), https://www.hbs.edu/faculty/Publication%20Files/17-011_da2c1cf4-a999-4159-ab95-457c783e3fff.pdf [https://perma.cc/6Z5-SNR5]. See generally Samantha Harrington, *Three Lessons on the American Dream from Immigrant Entrepreneurs*, FORBES (Feb. 28, 2017, 11:29 AM), <https://www.forbes.com/sites/samanthaharrington/2017/02/28/three-lessons-on-the-american-dream-from-immigrant-entrepreneurs/?sh=4ef901b7b0b6> [https://perma.cc/A3AT-7TLY] (reporting on three different immigrant entrepreneurs from Maine, West Virginia, and Chicago).

²⁹³ Latino USA, *Southern Roadtrip (Part 2)*, NPR (Sep. 22, 2017) [hereinafter *Southern Roadtrip (Part 2)*], <https://www.latinousa.org/episode/southern-roadtrip-part-2/> [https://perma.cc/NK4P-F7RP].

²⁹⁴ *Id.*

products was quite large.²⁹⁵ They jumped on the opportunity to serve a growing population in Alabama and today have the largest Latinx grocery store in Alabama—Mi Pueblo Supermarket, LLC.²⁹⁶ What started out as a 20,000 square-foot store more than doubled to 44,000 square feet in about ten years.²⁹⁷ Today, they not only have food products, but also rows of *piñatas* and other products commonly used by Latinx families in four markets in Pelham.²⁹⁸ The Rivera family tapped into the need of the growing Latinx population in their area and also established the first and only Spanish language radio station in Alabama—98.3 *La Jefa*.²⁹⁹ Rivera Communications, LLC employs seven individuals and reported annual revenue of \$330,369.³⁰⁰ The Rivera family has capitalized on the growth of the local Latinx community in Alabama, but also gives back. At a time when Latinxs are afraid to leave their home, the Riveras run a shuttle to pick people up at home, take them shopping, and then return them home.³⁰¹ There are reports of other Latinx entrepreneurs who also use their businesses to offer a safe haven and a sense of familiarity.³⁰²

Carlos Chavez is another individual featured in the NPR podcast. He talks about leaving Houston in 1995 to serve the needs of the growing and underserved community in the South.³⁰³ He is the president and owner of Chilangos Group—a chain of fast food restaurants in Plaza Fiesta in Chamblee, Georgia.³⁰⁴ He explains that it was hard to hire employees when he initially arrived so he had to go back to Texas to recruit twenty-five workers to move to Georgia to work.³⁰⁵ These workers, presumably

²⁹⁵ *Id.*

²⁹⁶ *Id.*

²⁹⁷ *Id.*

²⁹⁸ See Neal Wagner, *Bilingual Entrepreneurs*, SHELBY CNTY. REP. (Dec. 9, 2010, 3:54 PM), <https://www.shelbycountyreporter.com/2010/12/09/bilingual-entrepreneurs/> [https://perma.cc/NWY6-CT7D].

²⁹⁹ *Southern Roadtrip (Part 2)*, *supra* note 293.

³⁰⁰ See Rivera Communications, L.L.C., BUZZFILE, <http://www.buzzfile.com/business/Rivera-Communications,-L.L.C.-205-358-1100> (last visited on Feb. 5, 2021).

³⁰¹ *Southern Roadtrip (Part 2)*, *supra* note 293.

³⁰² For example, Plaza Fiesta, a combination American-style strip-mall and Mexican market located in Chamblee, Georgia, served as a safe haven from immigration raids. Latino USA, *Plaza Fiesta: The Latino Hub of Atlanta*, NPR (Sep. 15, 2017), <https://www.latinousa.org/2017/09/15/plaza-fiesta-latino-hub-atlanta/> [https://perma.cc/65ZW-KY9A].

³⁰³ *Id.*

³⁰⁴ *Id.*

³⁰⁵ *Id.*

with legal status, came from more established Latinx communities and themselves contributed to the changing culture of the South.

Entrepreneurs like Carlos and the Riveras support the Latinx community by offering familiar food, products, and services. These stories exemplify the type of economic opportunity that exists in the South for Latinx entrepreneurs.

IV. BUILDING POWER IN THE SOUTH

Outside of majority-Latinx cities in the South,³⁰⁶ Latinxs have limited political power in the region. Historical baggage and current economic woes have unleashed anti-Latinx policy positions in the South. Some of these positions are based on the legacy of White supremacy,³⁰⁷ while others are conflated with conservatism founded on religious beliefs. In fact, the political battle for new voters in the South may well be determined by both political party engagement as well as religious affiliation.³⁰⁸

The exponential growth of the Latinx demographic in the South has motivated the anti-Latinx sentiment.³⁰⁹ While Mexican and Central American immigrants are the target of much of the anti-Latinx sentiment, many cannot distinguish between a Latinx immigrant from Mexico versus another Latinx American country. Even if there were a way to distinguish, the attacks against immigrants impact an entire community. A 2017 study revealed that there are 16.7 million individuals in the United States who have one unauthorized immigrant living in their home.³¹⁰ Of that total, 8

³⁰⁶ SHARON R. ENNIS, MERARYS RÍOS-VARGAS & NORA G. ALBERT, U.S. CENSUS BUREAU, 2010 CENSUS BRIEFS: THE HISPANIC POPULATION: 2010 11, 13 (2011), <https://www.census.gov/prod/cen2010/briefs/c2010br-04.pdf> [<https://perma.cc/RFW7-RAHF>]. The Hispanic population of Miami reported by the 2010 Census was 70%. *Id.* at 13 n.18. Smaller cities with higher percentages in the South include Laredo, Texas at 95.6%; Hialeah, Florida at 94.7%; Brownsville, Texas at 93.2%; McAllen, Texas at 84.6%; and El Paso, Texas at 80.7%. *Id.* at 11.

³⁰⁷ See Jorge Ramos on Hate, *supra* note 7.

³⁰⁸ Cecilia Ballí, *Don't Call Texas's Latino Voters the "Sleeping Giant"*, TEX. MONTHLY (Nov. 2020), <https://www.texasmonthly.com/news-politics/dont-call-texas-latino-voters-sleeping-giant/> [<https://perma.cc/FF36-RL8B>] (discussing the importance of engaging Latinxs in the political process).

³⁰⁹ According to the U.S. Census, some of the fastest growing counties in terms of Latino population included Henry, Georgia (339% change); Douglas, Georgia (321% change); and Shelby, Alabama (297% change). ENNIS ET AL., *supra* note 306, at 13. 6% of the counties that experienced growth higher than the national average were in Georgia. *Id.*

³¹⁰ See Silva Mathema, *Keep Families Together: Why All Americans Should Care About What Happens to Unauthorized Immigrants*, CTR. FOR AM. PROGRESS (Mar. 16, 2017, 5:00 AM),

million are U.S. citizens.³¹¹ While Latinxs in the South and throughout the country care about the economy, health care, and education, they are also greatly impacted by the country's stance on immigration.³¹²

Here, we argue that coalition building and political engagement through education and training are key to building political power in the South. We also discuss how technology can help build stronger networks in rural communities by linking them with the resources of urban centers. Ultimately, we think these components are critical to any efforts to improve law and policy for Latinxs in the South.

A. COMMUNITY ENGAGEMENT

Community engagement theoretically draws from communities themselves and therefore provides a bottom-up perspective. However, community engagement projects often elide the power structures that sustain uneven global development and neoliberal capitalism. Recognizing that unequal power dynamics will be an inherent and undeniable reality of this project, we develop a framework centered on network-building by bringing together social network theory and a truly community-centered paradigm. Deep discussions of coalition-building and fusion politics inform debates on how best to mobilize communities into collective action. There are also business interests that sometimes converge with Latinx policy interests. Here, we discuss different approaches to community engagement that are currently being implemented in the South.

In Nashville, Tennessee, voters rejected an English-only measure as the city's official business language in 2009.³¹³ The organizing effort that led to the measure's rejection was spearheaded by community organizations, such as the Tennessee Immigrant and Refugee Rights Coalition ("TIRRC") and Conexión Américas. These organizations, along

<https://cdn.americanprogress.org/content/uploads/2017/03/15112450/KeepFamiliesTogether-brief.pdf> [<https://perma.cc/5UNK-AV7C>]; see also Jeffrey S. Passel & D'Vera Cohn, *U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade*, PEW RSCH. CTR. (Nov. 27, 2018) <https://www.pewresearch.org/hispanic/2018/11/27/most-unauthorized-immigrants-live-with-family-members/#fn-27281-6> [<https://perma.cc/89TP-58UY>] (stating that unauthorized immigrants live in approximately 5.2 million U.S. households in 2016).

³¹¹ Mathema, *supra* note 310.

³¹² UNIDOS US, 2020 ISSUES PLATFORM: A ROADMAP FOR STRONGER COMMUNITIES AND A STRONGER AMERICA 2–3 (2019), https://www.unidosus.org/wp-content/uploads/2021/07/unidosus_2020issuesplatform_72620-1.pdf [<https://perma.cc/YGP4-FF3Y>].

³¹³ See McDaniel, *supra* note 283.

with business, law enforcement, and faith communities, focused on immigrant integration as a way to contribute to a strong economy, culture, and community that benefited all.³¹⁴ Former Nashville Mayor Karl Dean referred to the efforts in Nashville as “a good model for how a community-led center can help revitalize a surrounding neighborhood, increase collaboration among nonprofits around a common goal, and provide much-needed services for those in our city.”³¹⁵

Conexión Américas works toward economic integration of immigrant families through a program called *Negocio Próspero* or *Prosperous Business*.³¹⁶ The program focuses on nurturing entrepreneurship and small businesses by offering introductory business courses to Spanish speakers.³¹⁷ The classes are geared towards educating Spanish-speaking entrepreneurs, so that they develop the proper skills to launch and manage sustainable businesses. For example, *Negocio Próspero* offers classes in accounting, licensing, insurance, contracts, and financial and legal education.³¹⁸ In 2014, seventy entrepreneurs participated in the program.³¹⁹ That same year, another program, *Mesa Komal Community Commercial Kitchen*, provided space for fourteen food entrepreneurs to launch or expand their food businesses.³²⁰

As a result of collaboration with the business community, the Mayor’s Office in Nashville, Tennessee created the Mayor’s New Americans Advisory Council to connect the city’s immigrant communities with the city’s government.³²¹ Since then, Nashville, Tennessee has joined other cities in launching offices to help integrate immigrants. In 2014, Nashville opened the Mayor’s Office of New Americans to help immigrants and refugees “access economic and educational opportunities—to the benefit of all Nashvillians.”³²² While not all business interests align to benefit Latinxs, there are some economic policy positions that open the door to collaborations such as the one in Nashville.

³¹⁴ *Id.*

³¹⁵ *Id.*

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ *Id.*

³¹⁹ *Id.*

³²⁰ *Id.*

³²¹ *Id.*

³²² *Id.*

Another type of collaborative effort that has a specific history in the South is fusion coalition-building, found in particular in North Carolina.³²³ Reverend William Barber in North Carolina has successfully revived the idea of fusion coalitions by helping create a multi-racial and multi-denominational coalition focused on a fourteen-point agenda that promotes state legislation that is moral, Constitutional, anti-racist, anti-poverty, pro-labor, and pro-justice.³²⁴ This North Carolina coalition has transcended the traditional political discourse of multiple factions to foster a conversation that promotes consensus on key issues.³²⁵ Some credit fusion politics for the political gains made in North Carolina in 2016.³²⁶ North Carolina elected a Democratic governor and a more progressive Supreme Court.³²⁷

Fusion politics are also supported by law professor Ian Haney Lopez in his recent book, *Merge Left: Fusing Race and Class, Winning Elections, and Saving America*.³²⁸ After arguing that racial appeals are exploited by conservative politicians through seemingly neutral racial fear-mongering, Haney Lopez began working with a group of union leaders, racial justice activists, communications professionals, and political canvassers to find a strategy to combat dog whistle politics.³²⁹ The primary recommendation of their work is that cross-racial solidarity is necessary to build political power by merging agendas seeking racial justice and economic well-

³²³ There is a long history in North Carolina of coalition-building that broadly considers “fusion” as a political project. “Fusion politics” in North Carolina is traced back to an effort by an agricultural leader in the late nineteenth century to unite political parties that do not share political positions, but instead have a common cause they can coalesce around to build opposition to power. Marion Butler is credited with uniting the Populist and Republican parties in North Carolina. See Ronnie W. Faulkner, *Fusion Politics*, N.C. HIST. PROJECT, <https://northcarolinahistory.org/encyclopedia/fusion-politics/> [https://perma.cc/G34Z-7ZJF]. See generally HELEN G. EDMONDS, *THE NEGRO AND FUSION POLITICS IN NORTH CAROLINA, 1894–1901* (1951) (recounting the careers of Black federal, state, county, and municipal politicians in North Carolina).

³²⁴ See Rev. Dr. William J. Barber, II., NAACP N.C. [hereinafter *NAACP N.C.*], <https://naacpc.org/rev-sr-william-j-barber-ii/> [https://perma.cc/XHL3-RCFT] (The coalition is “a broad alliance of more than 140 progressive organizations with over 2 million memberships”); *Can Rev. William Barber’s Political Fusion Movement Help Democrats?*, NEWSONE NOW (Dec. 7, 2016) [hereinafter *NEWSONE NOW*], <https://newsone.com/3610429/rev-william-barber-fusion-politics/> [https://perma.cc/G4X6-UJ6W].

³²⁵ See *NAACP N.C.*, *supra* note 324.

³²⁶ See *NEWSONE NOW*, *supra* note 324.

³²⁷ *Id.*

³²⁸ IAN HANEY LOPEZ, *MERGE LEFT: FUSING RACE AND CLASS, WINNING ELECTIONS, AND SAVING AMERICA* (2019).

³²⁹ *Id.* at xiv–xviii, xix–xx.

being.³³⁰ He builds on the idea of interest convergence introduced to the legal academy by the late law professor, Derrick Bell.³³¹ In his seminal piece, Bell argued for alignment of interests of Black and White Americans. He warned that racism was a feature of American life and that racial equality was elusive.³³² He believed that legal and moral arguments were insufficient to achieve racial equality and therefore encouraged Black Americans to find common interests with White American as a path towards promote their own interests.³³³ Haney Lopez builds on this principle, but further expands the idea of interest convergence beyond the White and Black binary.

Community engagement approaches through consolidated business interests, or fusion politics, are not satisfactory for those who believe that Black and Latinx communities are similarly situated. According to this view, the volatile forces that have governed Southern politics since Reconstruction make it even more crucial that any discussions of Latinxs in the South be situated within a framework of solidarity.³³⁴ Solidarity, unlike the coalition and fusion politics frameworks, presumes a shared empathy and understanding for issues that affect communities differentially but in equal magnitude. While fusion politics focuses on political and economic power as it relates to laws, and coalition politics attempts to isolate and address a common set of concerns, solidarity requires an investment beyond shared experience. It requires a commitment to equal access for all, even if that means that at certain moments, certain voices are elevated above others in pursuit of justice. Further, an approach rooted in solidarity rejects “the conceptual trope of resource competition.”³³⁵ In viewing Black and Brown relations as a function of limited resources and competing interests, race becomes “conceptualized as a utilitarian discourse that is socially constructed to justify exclusion.”³³⁶ While the reality is that exclusionary racial politics

³³⁰ *Id.* at xxiii.

³³¹ Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest Convergence Dilemma*, 93 HARV. L. REV. 518, 522–533 (1980).

³³² *Id.* at 518–19.

³³³ *Id.* at 528–33.

³³⁴ John Márquez, discussed previously in Part II(D), is not the first scholar to write on Black-Brown solidarity. See generally NEIL FOLEY, *QUEST FOR EQUALITY: THE FAILED PROMISE OF BLACK-BROWN SOLIDARITY* (2010) (examining differences in organizational strength, political affiliation, class position, and level of assimilation between Mexican and Black Americans and the two groups’ struggle to build strategic alliances).

³³⁵ MÁRQUEZ, *supra* note 85, at 43.

³³⁶ *Id.*

are so internalized that they effectively function to limit the potential for solidarity, any analysis of Latinx presence in the South should operate in a the spirit of solidarity and alliance. While a solidarity framework may not work in all situations, it offers a more unitary approach to combating discrimination and injustice.

Given the nature of Latinx's limited power in the South, their position in a Black and White paradigm that dominates group dynamics in the region, and the focus on Latinx immigrants as the target for dog whistle politics, it is important for them to build grassroots, cross-racial coalitions and to build on campaigns where interests converge and where participatory democracy is encouraged.³³⁷ Coalition efforts to advance fair working conditions in North Carolina and equitable university admissions criteria in Texas helped remedy racial injustice and increase participation in the democratic process.³³⁸ Ultimately, what community engagement entails is collective action to further a specific goal. To advance their law and policy interests and to lead in the South, Latinxs must:

- a. Identify and prioritize areas of concern in their local community;
- b. Find other constituencies in the community that share their concerns;
- c. Articulate common goals;
- d. Focus on unified efforts that would create change; and
- e. Develop sustainability plans for these efforts to account for changing priorities.

Whether the approach to coordination is through fusion, solidary or participatory democracy, the agenda and the message must be uniform.

B. STRENGTHENING LATINX SOCIAL NETWORKS IN THE SOUTH

To form coalitions and build solidarity movements, Latinxs in the South must develop strong nodes within their communities. Individual Latinx activists and leaders can be extremely effective in coalitions, but they also need to show that they represent the interests of others similarly situated in their communities.

Social Network Analysis ("SNA") has become an increasingly popular theoretical orientation to study organizational structures since the

³³⁷ LANI GUINIER & GERALD TORRES, *THE MINER'S CANARY: ENLISTING RACE, RESISTING POWER, TRANSFORMING DEMOCRACY* 31, 252–53 (2002).

³³⁸ *Id.* at 81.

1970s.³³⁹ Social scientists and other experts have long been interested in how social networks sustain and transfer power through the analysis of complex systems.³⁴⁰ At the core of these analyses is a desire to understand how relationships between macro- and micro-level entities' function.

Grounding the work of Latinx leaders in the South in social network analysis will allow us to explore the extent to which organizations serving Latinxs construct networks of action and conduct knowledge-sharing at the local, regional, and national levels. Defining what these relationships look like and how they function are central aspects of network theory. For example, network theorists might ask how an individual or organization's connections to other local entities affect how they think about the world around them. Since religion is so important in the South, religious institutions can be a connecting point. Another "node" that Latinxs can strengthen to be more valuable to a multi-ethnic coalition is one that focuses on local business interests. Other sectors where intra-community "nodes" can be formed include schools and social service organizations. Technology is now available to strengthen community engagement through social networks and can help link rural communities with more resourced urban centers.

An important aspect of SNA is that, even within highly bureaucratic institutions or organizations, networks can be both formal and informal.³⁴¹

³³⁹ Political scientists have created a "network of citations" of Supreme Court decisions to assess "case importance." James H. Fowler, Timothy R. Johnson, James F. Spriggs II, Sangick Jeon & Paul J. Wahlbeck, *Network Analysis and the Law: Measuring the Legal Importance of Precedents at the U.S. Supreme Court*, 15 POL. ANALYSIS 324, 325–26 (2007). The authors analyze the legal precedent cases referenced in majority opinions of the U.S. Supreme Court decisions between 1791 and 2005. *Id.* at 327. They do so to develop a measure of case centrality through the creation of a "precedent network." *Id.* at 325. SNA scholarship is profuse in business, computer science, organizational management, criminology, sociology, political science, and economics. *Id.* at 325, 329; Matthew O. Jackson, *An Overview of Social Networks & Economic Applications*, in HANDBOOK OF SOCIAL ECONOMICS (Jess Benhabib et al. eds., 2011) (SNA in economics); Yannis M. Ioannides & Linda D. Loury, *Job Information Networks, Neighborhood Effects, and Inequality*, 42 J. ECON. LITERATURE 1056 (2004) (same); Jon M. Kleinberg, *Authoritative Sources in a Hyperlinked Environment*, 46 J. ASS'N COMPUTING MACHINERY 604, 604–632 (1999) (SNA in computer science); Phillip Bonacich, *Power and Centrality: A Family of Measures*, 92 AM. J. SOC. 1170 (1987) (SNA in sociology); Phillip Bonacich, *Factoring and Weighting Approaches to Clique Identification*, 2 J. MATHEMATICAL SOC. 113, 113–120 (1972) (same). It is not employed regularly in other disciplines, such as anthropology and history and despite its important utility, legal scholars have not applied SNA theories and methods to their research on the law.

³⁴⁰ See Fowler et al., *supra* 339, at 325, 329.

³⁴¹ See generally ROB CROSS, ANDREW PARKER & STEPHEN P. BORGATTI, IBM INST. BUS. VALUE, A BIRD'S EYE VIEW: USING SOCIAL NETWORK ANALYSIS TO IMPROVE KNOWLEDGE CREATION AND SHARING (2002), <http://www.analytictech.com/borgatti/papers/cross,%20parker%20and%20borgatti%20>

In the case of non-profit organizations that primarily assist underserved communities, the informal networks are critical components of social justice organizing. These “actors” would be the organizations that participate in a given network, and the “nodes” would be the networks that engage with deeper constituencies and resources. While social network analysis scholarship aims at exploring relationships in social structures, it remains a top-down approach as it is very much systems- and structure-based in practice.

Because the growth of the Latinx population in the South is relatively new and rural, and because much of the South is rural, it is important to link leaders in these communities to leaders in urban centers. Connecting rural communities in the South to larger metropolitan areas may be beneficial for Latinxs, as it provides an opportunity to access resources and talent not otherwise available. Building social networks across the rural-urban divide requires interest convergence that is facilitated by connecting individuals and groups through technology. If leaders and activists in urban centers concerned themselves with the biggest problems facing their rural counterparts, they may find commonality rather than differences. However, outside of census figures, there is little national information about the status of Latinx civil and legal rights in rural communities. Most of the information is focused on specific regions or states.

A 2018 U.S. Department of Agriculture study found that Latinxs comprise only 9% of the rural population and 20% of urban populations.³⁴² The seven states with the largest population of rural Latinxs were California, Texas, Florida, New Mexico, Arizona, Colorado, and North Carolina.³⁴³ We know that Latinxs in rural communities are younger and have higher birth rates than other White and Black populations in rural areas.³⁴⁴ Approximately 28% of all Latinxs in rural communities lived in poverty, and one-third of children lived in poverty,

<https://perma.cc/DN5T-WN7C>] (analyzing how SNA allows managers to understand relationships that facilitate or impede knowledge creation and transfer).

³⁴² U.S. DEP'T OF AGRIC., *RURAL AMERICA AT A GLANCE: 2018 EDITION 3* (2018), https://www.ers.usda.gov/webdocs/publications/90556/eib200_brochureformat.pdf [<https://perma.cc/CLC5-2KUF>].

³⁴³ ROGELIO SAENZ, CARSEY INST., *A PROFILE OF LATINOS IN RURAL AMERICA 1* (2008), <https://scholars.unh.edu/cgi/viewcontent.cgi?article=1034&context=carsey#~:text=nearly%203.2%20million%20Latinos%20live,in%20nonmetro%20areas%20are%20Mexican>

[<https://perma.cc/Y3EK-TM3W>]. Texas, New Mexico, and North Carolina had the largest rural Latinx populations. *Id.*

³⁴⁴ *Id.*

regardless of whether or not they had two parents at home.³⁴⁵ About only 55% had a high school diploma, and about 7% held bachelor's degrees.³⁴⁶

We draw on data produced by reports in Texas, the state with the largest population of Latinxs living in rural communities. Approximately 68% of the 254 counties in Texas are designed as non-metropolitan, or rural, by the Texas Department of State Health Services.³⁴⁷ 26 of the 172 rural counties are also designated Border Counties—within 100 kilometers of the U.S./Mexico border.³⁴⁸ While life in rural communities is quite different from urban centers, the issues that Latinxs face are similar.

Some of the most informative data on Latinxs in rural communities in Texas comes from the public health and medical fields. Since 2010, Texas has seen at least twenty rural hospitals close.³⁴⁹ In 2018, Texas had one of the lowest ratios of physicians per population at 54 per 100,000.³⁵⁰ There are even less options for prenatal care or mental health.³⁵¹ As a result, rural communities have a higher rate of depression and suicide.³⁵² Other

³⁴⁵ *Id.*

³⁴⁶ *Id.* at 2.

³⁴⁷ The Texas Health Professions Resource Center designated 172 of the 254 Texas counties as nonmetropolitan in 2013. See *Definitions of County Designations*, TEX. DEP'T OF ST. HEALTH SERV., <https://www.dshs.texas.gov/chs/hprc/counties.shtm> [<https://perma.cc/J5Z7-UEPF>].

³⁴⁸ The border designation was established by Article 4 of the La Paz Agreement of 1983. La Paz Agreement art. 4, Aug. 14, 1983, 101 UNTS 138; *Id.*

³⁴⁹ See Jane Bolin, Bree Watzak & Nancy Dickey, *Rural Hospital Closings Reach Crises Stage, Leaving Millions Without Nearby Health Care*, TEX. A&M TODAY (Sept. 30, 2019), <https://today.tamu.edu/2019/09/30/rural-hospital-closings/#:~:text=Business%20%26%20Government-,Rural%20Hospital%20Closings%20Reach%20Crisis%20Stage%2C%20Leaving%20Millions%20Without%20Nearby,with%2018%25%20being%20in%20Texas.&text=Each%20time%20a%20rural%20hospital,local%20community%20and%20surrounding%20counties> [<https://perma.cc/5WUS-MAU9>]; see also Laura Garcia, *Texas Rural Hospitals Struggle, Many Vanish*, VICTORIA ADVOCATE (Aug. 8, 2017), <https://www.victoriaadvocate.com/news/2017/aug/08/texas-rural-hospitals-struggle-many-vanish/> [<https://perma.cc/BQ8X-MUDG>].

³⁵⁰ Compare this data to the national ratio of 76 per every 100,000. Christopher Collins & Sophia Novack, *Driving My Life Away*, TEX. OBSERVER (Nov. 18, 2019, 6:00 AM), <https://www.texasobserver.org/driving-my-life-away/> [<https://perma.cc/T8U7-QR2M>].

³⁵¹ See CENTERS FOR MEDICARE & MEDICAID SERVICES, *IMPROVING ACCESS TO MATERNAL HEALTH CARE IN RURAL COMMUNITIES* 1–5, <https://www.cms.gov/About-CMS/Agency-Information/OMH/equity-initiatives/rural-health/09032019-Maternal-Health-Care-in-Rural-Communities.pdf> [<https://perma.cc/3YTT-Z5UU>]; Dawn A. Morales, Crystal L. Barksdale & Andrea C. Beckel-Mitchener, *A Call to Action to Address Rural Mental Health Disparities*, 4 J. CLINICAL TRANSLATIONAL SCI. 463, 463–67 (2020).

³⁵² See U. OF TEX. SYS. OFF. HEALTH AFF., *SUICIDE IN TEXAS* (2017) <https://www.utsystem.edu/sites/default/files/news/assets/Suicide%20in%20Texas.pdf> [<https://perma.cc/RU4T-6SHQ>].

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health concerns for Latinxs in rural communities include groundwater contamination, lack of sewage systems, and use of dangerous pesticides in their work and home environments.³⁵³ These problems are linked to cancer, hormone dysfunctions, and reproductive problems.³⁵⁴ Access to bilingual and culturally-sensitive healthcare providers is another obstacle for Latinxs to receiving quality assistance when it comes to health-related concerns.³⁵⁵ Because access to health care and clean water are issues that impact all people in rural communities, a health care agenda may be the right subject to find interest convergence within multiple groups within rural communities and urban centers.

Housing is another area where Latinxs may build stronger social networks. Substandard housing is common in rural communities due to aging infrastructure.³⁵⁶ There is little incentive to create new housing or improve existing housing stock when economic conditions do not indicate future growth. Some small rural communities qualify for financing from the U.S. Department of Agriculture, but generally repairs fall on the residents and owners of the home.³⁵⁷ The government also helps local municipalities repair aging electrical grids and water lines, but recent federal budget projections propose massive cuts to these programs.³⁵⁸ Most recently, there have been increasing reports of homelessness in rural communities.³⁵⁹

³⁵³ See Lisa Song, Jim Morris & David Hasemyer, *Fracking Boom Spews Toxic Air Emissions on Texas Residents*, INSIDE CLIMATE NEWS (Feb. 18, 2014), <https://insideclimatenews.org/news/20140218/fracking-boom-spews-toxic-air-emissions-texas-residents> [<https://perma.cc/KWW4-JSTB>].

³⁵⁴ See Brian Bienkowski, *Poor, Minorities Carry The Burden of Frack Waste in South Texas*, INSIDE CLIMATE NEWS (Feb. 17, 2016), <https://insideclimatenews.org/news/17022016/poor-minorities-carry-burden-fracking-waste-south-texas-eagle-ford-shale/> [<https://perma.cc/G8WC-CJQB>].

³⁵⁵ See Alice Hm Chen, Mara K. Youdelman & Jamie Brooks, *The Legal Framework for Language Access in Healthcare Settings: Title VI and Beyond*, 22 J. GEN. INTERN. MED. 362–367 (2007).

³⁵⁶ See U.S. DEP'T AGRIC., USDA RURAL DEVELOPMENT: 2016 PROGRESS REPORT 61 (2016), <https://www.rd.usda.gov/sites/default/files/USDARDProgress2016Report.pdf> [<https://perma.cc/HZC3-VGKC>].

³⁵⁷ See *id.* The Department of Agriculture provided 977,472 loans for housing and community facilities in the 2016 fiscal year. *Id.* at 10.

³⁵⁸ See Jose A. Del Real, *Heavy Cuts to Rural Development and Infrastructure in Latest Trump Budget*, WASH. POST (May 23, 2017, 4:25 PM), <https://www.washingtonpost.com/news/post-nation/wp/2017/05/23/heavy-cuts-to-rural-development-and-infrastructure-in-latest-trump-budget/> [<https://perma.cc/TQ23-MQG5>].

³⁵⁹ See TEX. APPLESEED & TEX. NETWORK OF YOUTH SERVICES, *YOUNG, ALONE, AND HOMELESS IN THE LONE STAR STATE: POLICY SOLUTIONS TO END YOUTH HOMELESSNESS IN TEXAS* (2017),

For several Latinxs in rural communities, mobile homes are the most affordable option. These types of homes have a great deal of risk because they largely depend on the infrastructure available to support electrical, sewage, and water delivery to the unit.³⁶⁰ It is common to find Latinxs in rural communities build homes, whether mobile or not, in *colonias*—unincorporated areas where informal housing is established but where basic municipal services such as drainage, water, electricity, paved roads, and waste management either does not exist or are substandard.³⁶¹ These issues can be particularly problematic when hurricanes, floods, fires, earthquakes, and other natural disasters affect rural communities that have few resources to respond to the devastation.³⁶²

These few examples of issues that concern rural communities in the South can serve as the sparks to conversations that result in larger strategies to link Latinxs in the South with other constituencies that seek greater political voice and power.

V. CONCLUSION

In this paper, we have embarked upon an analysis of law and policy in the U.S. South that affects Latinxs living their daily lives in the South. We have focused our paper on four key law and policy areas: (1) political participation and civic engagement, (2) immigration, (3) education, and (4) economic participation. This paper does not cover other important elements of Latinx life, such as critical criminal (in)justice issues that disproportionately shape Black and Brown lives, health disparities and

https://texasappleseed.org/sites/default/files/YoungAloneHomeless_FullReport_fin.pdf
 [https://perma.cc/NE8Y-VHM4]; see also Christopher Collins, *Homelessness in Texas Public Schools is a Suburban and Rural Problem, Too*, TEX. OBSERVER (Nov. 17, 2017, 3:36 PM), <https://www.texasobserver.org/homelessness-texas-public-schools-suburban-rural-problem/>
 [https://perma.cc/DJ5X-ZP48]; Christopher Collins, *Rural Poverty, Youth Homelessness Abound in Loraine, Pop. 587*, TEX. OBSERVER (Dec. 12, 2017, 12:12 AM), <https://www.texasobserver.org/rural-poverty-youth-homelessness-abound-in-loraine-pop-587/>
 [https://perma.cc/PKR6-V3FT]; Christopher Collins, *The 7 Most Pressing Issues Facing Rural Texas*, TEX. OBSERVER (Dec. 20, 2017, 12:23 PM) [hereinafter *The 7 Most Pressing Issues*], <https://www.texasobserver.org/7-pressing-issues-facing-rural-texas/> [https://perma.cc/2Q45-2YLP].

³⁶⁰ William Dyar, Jungmin Lim & Mark Skidmore, *Manufactured Home Living Across Rural America*, in RURAL HOUSING AND ECONOMIC DEVELOPMENT 172, 172–89 (Don E. Albrecht et al., eds. 2018).

³⁶¹ JAIME CHAHIN, *LAS COLONIAS: CHILDREN OF THE COLONIAS* 3 (1998), <https://digital.library.txstate.edu/bitstream/handle/10877/4107/Las%20Colonias.pdf?sequence=1> [https://perma.cc/D2TM-6VX8].

³⁶² *The 7 Most Pressing Issues*, *supra* note 359.

access to medical care, and a thorough discussion of grassroots activism that continues today.

The challenge we faced in this paper stems from a real lack of cohesive data-collection. Much of the data we present herein was collected from hundreds of sources—we rarely came across databases that provided a list, for example, of anti-Latinx immigration legislation or educational attainment for Latinx students in the South. As a result, we view this working paper as a much-needed intervention in data collection and analysis.

Further, we believe this paper provides a call for researchers to take seriously the plight of Latinxs in the South. Few researchers have considered the law and policy implications for Latinidad in this newly emerging center for Latinx life. While scholars have looked at how new settlement patterns of Latinxs migrating into the South have shaped economies, politics, cultural spaces, and racialization schema,³⁶³ there are critical legal battles being fought in the South that require more targeted attention. Activists on the ground are responding to the attacks on Latinidad daily, and we hope this paper acts as a call to action for scholars to approach their research with the same critical attention and urgency.

³⁶³ See LATINO IMMIGRANTS AND THE TRANSFORMATION OF THE U.S. SOUTH, *supra* note 71.