

# A DREAM DEFERRED, NEVER TO COME, OR MISBEGOTTEN?: ASSESSING THE DREAMER PARADIGM IN 2023

A SYMPOSIUM IN MEMORIAM FOR MICHAEL A. OLIVAS (1951-2022)

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Children brought to the United States alongside their undocumented parents—DREAMers—have played an outsized role in immigrants’ rights activism in the United States over the last two decades. The task of this symposium was to evaluate the DREAMer movement and its legal reception, from inception to the present, and to think through together with our audience the viability and salience of DREAMer narratives in the future. Our speakers convened in Berkeley, California on February 3, 2023, for a richly-textured, interdisciplinary conversation graciously hosted by the *Berkeley La Raza Law Journal*.

The DREAMers’ political prominence, as well as their distinctive traumas, are latched to a single, doctrinally opaque, Supreme Court decision: *Plyer v. Doe*. That long-settled case, the underpinning of DREAMers’ precarious and incomplete inclusion in the American mainstream, is now under threat by ambitious right-wing politicians. Texas Governor Gregg Abbott, for one, promised to seek reversal of the decades-old precedent in a newly radical Supreme Court. If he prevails, Texas and other aligned states will be permitted to decline to educate undocumented children in public schools, potentially consigning millions of children to an unthinkable level of social and economic exclusion.

Beyond the courts, the DREAMer movement is itself undergoing a sustained period of self-reflection and scrutiny as it assesses where to go post-Trump and after yet another failed effort to pass an immigration reform bill that would have granted permanent legal status to DREAMers and their parents. The movement’s founding notion that the respectability and worthiness of the DREAMers, “American in every way but on paper,” as President Obama put it, would lead teleologically to their recognition, valorization, and full legalization, has turned out to be wrong. And the key “right” that DREAMers did win—the legal status of Deferred Action for Childhood Arrivals (DACA)—has turned out to be far more precarious than expected, as the actions of changing administrations and endless legal challenges to the categorical use of executive discretion have demonstrated. The related belief that DREAMers’ respectability could secure legalization for their parents, and all undocumented people, has also run aground. In fact, some within the movement argue

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\*. Associate Professor of Law, George A. Butler Research Professor, Univ. of Houston L. Center. Many thanks to Kathryn Abrams, my co-convenor, for her patient and sustained assistance in bringing this symposium to fruition. And thanks most of all to the Board of Berkeley La Raza Law Journal who worked tirelessly to pull this symposium off. The Journal’s mission of elevating and dignifying legal issues that touch the Latinx community is impressively served by this inspiring group of young people.

that it has buttressed a “good immigrant/bad immigrant” dichotomy, that perpetuates the exclusion of low-income workers or those who crossed the border as adults.

The two written contributions included in this symposium issue are emblematic of the tenor and quality of our live conversation on these topics over two, hour and a half long panels. Professor Abrams, a student and theorist of the DREAMer movement, emphasizes in her remarks the agency and power of DREAMers themselves as they continually adjust and *go on* in an evolving political environment. She focuses, in particular, on the way that the movement is an end in itself that sustains its participants in community, even as the horizon of its goals shifts. Professor Hing’s focus is on strategy. He urges corporations to use their society-dominating power for good: to engage in civil disobedience on the DREAMers behalf. So far, the corporate sector’s support for the DREAMers has been mostly talk; Prof. Hing is asking them to flex their muscles. We will see if they heed his call.

The entire proceeding was a fitting way to honor the legacy of the late Professor Michael A. Olivas, who dedicated much of his life to study and advocacy on behalf of, and alongside, this remarkable group of young people. In his writing and advocacy Professor Olivas sought to extend the logic of *Plyer*—particularly its injunction to avoid turning undocumented children into a permanent underclass—to the higher education context. In a series of amicus briefs, he defended legislative efforts to grant DREAMers access to public institutions of higher education. In Texas, he drafted and helped to pass a bill granting undocumented children access to in-state tuition and admissions. Michael also drafted Texas’s famed ten-percent higher-education admissions program, which made the demographic composition of Texas universities profoundly more inclusive of the undocumented, along with many other groups. A strong defender of Obama’s Deferred Action program for DREAMers, Michael beat the drum in support of the program to federal agencies, the White House, and the public. Just two years ago Michael published his sixteenth book, *Perchance to DREAM*<sup>1</sup>, describing the definitive historical account of two decades of efforts to pass the DREAM Act and deferred action. Though Michael would have disagreed with the perspectives of some of our speakers, the friction was intentional: amberized legacies are soon forgotten and Professor Olivas’ work is worth holding onto.

Participants included:

- Kathryn Abrams, Herma Hill Kay Distinguished Professor of Law, UC Berkeley Law School
- Leisy J. Abrego, Professor of Chicana/o and Central American Studies, UCLA
- Daniel I. Morales, Associate Professor of Law, George A. Butler Research Professor, University of Houston Law Center
- Rachel Moran, Distinguished Professor of Law, UCI Law
- Genevieve Negrón-Gonzales, Associate Professor of Leadership Studies, University of San Francisco
- Mariela Olivares, Professor of Law and Director of Family Law Certificate Program, Howard University School of Law

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1. MICHAEL A. OLIVAS, *PERCHANCE TO DREAM: A LEGAL AND POLITICAL HISTORY OF THE DREAM ACT AND DACA* (2020).

- Bill Ong Hing, Professor of Law, Director of the Immigration and Deportation Defense Clinic, and Dean's Circle Scholar
- Maritza Reyes, Professor of Law, Florida A&M University College of Law