Rachel Kingsley:

»Uncertain Legality«

in: Dominik Mattes, Janina Kehr, Julia Koroknai, Friederike Rosenbaum, Helmar Kurz, Claudia Lang, Caroline Meier zu Biesen, Ehler Voss (eds.):

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RADICAL HEALTH

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UNCERTAIN LEGALITY Friendship

"Friendship is not built on promises,
but actions."

Unknown.

Stephen and I met in 2006 and we were instant friends. We were both coming into adulthood, finding ourselves and figuring out who exactly we were. Throughout my life, I had a tumultuous relationship with my mother, one that often turned physical and emotionally abusive. I thought the freedom of attending university, even while still living with her, would help the situation, but the relationship continued to deteriorate. I dropped out of university during my first semester and moved out on my own. I started to find a peace and a freedom that I had not yet experienced under the weight of the explosive relationship at home. Stephen and I both worked dead-end jobs that barely paid the rent and we both struggled financially and socially. Our friendship grew, nonetheless. We'd stay up late at a coffee shop and talk for hours and hours, most nights of the week. He learned about the abusive relationship I had with my mother, and I learned about his childhood in New York. Between conversations about our day and stories that made us laugh until we cried, Stephen told me about the death of his father, and he learned about my father's suicide. After a few years of drifting through adulthood, I started to make plans for my future, but Stephen seemed stalled. He never spoke about his future and brushed off questions about college or traveling; he simply said he was taking a gap year so that the conversations surrounding his future were diverted to other topics and the questions ended. But his gap year became gap years and his progress became static.

Finally, after years of inquiries and stalled plans, Stephen disclosed that he was "undocumented".

Admittedly, I didn't understand what that meant, and I certainly didn't understand the social, political, racial, and cultural circumstances that surrounded the experience and meaning of being undocumented in the United States. I did, however, understand that our futures were both laid out for us, except, I was the only one that could escape the fate that I was leaving behind. Stephen knew that most people didn't know what it meant to be undocumented, especially during a pre-9/11 America.

"Remember, this was 15 years ago... nobody really knew what undocumented was and there wasn't DACA [Deferred Action for Childhood Arrivals] or Dreamers [Development, Relief, and Education for Alien Minors]. People didn't know. Unless you were involved in that situation, you probably didn't know. The people that knew—you were my friends; you understood and didn't judge me for it."

Conversation with Stephen (2020).

Learning of Stephen's undocumented status helped me understand why he could or couldn't do or explain certain things. At that time, I was not aware of how Stephen's undocumented status would impact and shape both his life and mine.

UNCERTAIN LEGALITY Undocumented



Image by Shepard Fairey: *Dream Act Now*, National Museum of American History (2016).

Changes in United States federal immigration policies of the 1980s and 1990s produced a large, settled undocumented population.[1] As a result of increased undocumented family settlement, an unprecedented number of children grow up without legal residency status in the U.S. Policy makers in the United States have been reluctant to respond to undocumented youths' long-term presence. The Development, Relief, and Education for Alien Minors (DREAM) Act was first introduced in Congress in 2001 to provide a pathway to citizenship for eligible undocumented immigrants who migrated to the United States as children. However, legalization efforts for the DREAM Act came to a halt in Congress.

In 2012, then President Obama initiated the Deferred Action for Childhood Arrivals (DACA) program. The program allows temporary deportation relief from youth and young adults for two years, temporary Social Security numbers, and renewable work permits. Eligibility requirements for DACA are extensive, as the applicant must have entered the country before the age of sixteen and be under the age of 31 on June 15, 2012; have continuously resided in the United States since June 15, 2007; be at least fifteen years old and be in school; have graduated high school in the United States; received a General Education Diploma or have been honorably discharged from military service. Additionally, applicants cannot have been convicted of a felony, a significant misdemeanor offense, or multiple misdemeanor offenses.



Photograph by Rachel Kingsley (2021).

Travels with Stephen, Clearwater Beach, Florida.

Stephen, like many Dreamers, lives in a mixed-status family. His sister was born in the United States, thus becoming a United States citizen, and his mother obtaining legal residency status, and subsequently became a United States citizen when she married a United States citizen. However, Stephen was not the only one in his family experiencing an undocumented status; his brother, three years his elder, also became undocumented when their residency authorization expired. Leaving the United States would have meant leaving his mother and sister, while staying in the United States meant living under the weight of illegality.

"My [undocumented] status started when I was sixteen... my family had a G1 status for residency in the [United] States, but my dad got cancer and passed away in 2004 and at that point, we lost that status."

Conversation with Stephen (2020).

"I didn't even know there were that many [Dreamers] other than myself. It was isolating at the time."

Conversation with Stephen (2020).

Stephen's story is not unlike other Dreamers, with his undocumented status profoundly shaping his teenage years and into his adulthood.

Stephen admitted to feelings of isolation and depression during that time. When the DACA program was announced, Stephen and I spoke about the possibilities for a future — the possibility of Stephen having a future that gave him more freedom; freedom to change his future and to live outside of the shadows. But there was hesitancy — as part of the DACA application, the United States government required applicants to provide information for each of their family members, including any other undocumented individuals, if they were not eligible or did not apply to the program. If Stephen applied for the program, he would be forced to provide the government with the location and personal information of his undocumented brother, who chose not to apply to the DACA program.

"I was very hesitant to apply. The program came out in 2012. I waited two years before I actually applied to it. I'm not very trusting of the government because they tend to change with every administration. Since DACA was an executive action, I felt more apprehensive about the application and program, you know? At the end of the day there was freedom [...] being able to possibly have a future. My brother, at the time, could have applied, but he did not. He didn't trust the program because you're handing immigration and customs enforcement all your information, so he didn't apply [and remained undocumented]."

Conversation with Stephen (2020).

UNCERTAIN LEGALITY Relationships



Photograph by Rachel Kingsley (2018).

Travels with Stephen, St. Augustine Beach, Florida.

I spent weekends with Stephen and his family, cooking out and watching movies together. I had a strained and distant relationship with my own family, but his family accepted me wholeheartedly. Stephen and his stepdad would cook out on the grill and we three would spend hours by the grill. I spent Thanksgivings, Memorial Days, and Christmas dinners with Stephen and his extended family. Stephen wasn't only a friend; he was my family now. He was someone with whom I felt connected, not judged, and unconditionally supported. In 2014, Stephen's stepfather, for whom he was very close and who encouraged and supported him throughout the DACA application process, passed away unexpectedly from a brain hemorrhage. Six days later, my stepbrother passed away from a fatal car accident. In all honestly, the loss of Stephen's stepfather impacted me more than that of my stepbrother. My stepbrother's relationship with my mother and stepfather was very strained and we had not spoken to him in many years. My stepbrother was someone that had come in and out

of my life sporadically, depending on the interactions he had with my mother, and was someone who I didn't really know. Stephen's stepdad, on the other hand, was someone I saw as family. More than the sadness and grief I felt for Stephen's stepdad, my heart hurt more for Stephen. The loss of a parent, even one without blood relation, leaves part of your being missing. Holidays and family dinners would never be the same. Stephen's stepdad would never be around to see him married or have children. It was something I had experienced with the suicide of my own father, and I knew Stephen's life, and Stephen himself, would never be the same. Even through the grief and loss of his stepfather, Stephen sat next to me at my stepbrother's funeral and held my hand throughout the service. Stephen is self-less, often putting his own hurt aside to make sure those around him are safe.

"How can I make plans or a future with someone when my future is so uncertain?"

Conversation with Stephen (2020).

"It was always a barrier [in a relationship] where I couldn't explain certain things without explaining my [undocumented] status. If I want to have any sort of serious relationship, I need to explain my status and have my partner understand. And that's the thing... the level of intimacy that a romantic relationship requires and the forethought and planning."

Conversation with Stephen (2020).

After the loss of his stepfather, romantic relationships did not seem important to Stephen. Dating was, and is, particularly challenging. Stephen is forced to disclose his immigration status early on in his potential relationships, usually after only a handful of dates.

His undocumented status not only impacted his immediate family, but also the relationships around him.

Instead of focusing on a new and exciting relationship, Stephen must worry about how to disclose his status to potential partners and how they may respond. Even with DACA status, Stephen has an uncertain future which shapes the opportunities and limitations for relationships. Disclosing his immigration status to a potentially new romantic partner not only made Stephen apprehensive, but it could be potentially dangerous.

UNCERTAIN LEGALITY Membership

"Unauthorized immigrants may form conjectural or fragmented membership identities in response to shifts in various local-, state-, and national-level social and political contexts."

Kara Cebulko, Alexis Silver: "Navigating DACA in Hospitable and Hostile States", in: *American Behavioral Scientist* 60/13 (2016), pp. 1553–1574.

Living in the Southern United States, immigration, and especially 'illegality', can be dangerous. As a predominantly conservative area of the United States, immigration is highly contentious, with certain immigrants being seen as a 'threat' to their economy, community, and even culture. Disclosing immigration status, especially an undocumented status, could lead to violence against both the immigrant and their family. Who or what kind of immigrant that is accepted is shaped both culturally and politically. National borders are made into more than physical boundaries, they are made into ideological boundaries. Thus, ideological boundaries are tied to the right to be in the nation-state. Citizens of nation-states focus on

the spatial violations of immigrants and believe it has nothing to do with racial differences, rather, it is about who is 'allowed' and who is not. Although undocumented youth are incorporated as elementary and secondary school students throughout the United States, their sense of membership varies depending on their community, state, and stage in life. Because Stephen had grown up in the United States and has no foreign accent, people rarely assumed or questioned his immigration status.

In the United States, conversations surrounding 'illegal' or undocumented immigrants are highly racialized.

The Latino body becomes the site of suspicion. Since Stephen is Southeast Asian, it was not assumed that he was undocumented, although Stephen did often experience racism and bigotry throughout his life in the United States. Stephen felt connected to his community and connected to us, but never fully felt accepted by the United States, he felt as though he was a secondary member of American society, by his race and by his immigration status, and the intersection of the two.



Photograph by Kate Moum (2018).

Discussions of membership within the nation-state often invoke the idea of nationhood as an imagined community, people united by a shared culture. President Obama relied on this notion when he introduced the DACA program in 2012, stating: "They are Americans in their heart, their minds, in every single way but one: on paper".[2] President Obama argued that undocumented youth should have a pathway to citizenship because they were already "culturally and socially American". A central argument of the DACA program was that extending membership to undocumented youth who were raised in the United States would not be disruptive to the established authorized population. By evoking the idea of a shared culture, President Obama's announcement of the DACA program placed unauthorized youth into partial societal and political membership positions that would not challenge the nation-state's control over its borders and access to membership within those borders.

Stephen, like other Dreamers, was placed to a category of 'good' immigrants, those who would not disrupt the status-quo and that would fit neatly into a narrative of 'hard-working' and 'upstanding' immigrants. Advocacy groups and politicians were quick to highlight the stories of Dreamers that emphasized the 'good' and 'deserving' immigrant whose parents were responsible for forcing them into a life of illegality.

Dreamers are politically and socially seen as aligned with the values and morals of 'true' Americans, even when their partial membership statuses create and maintain barriers to achieve long-term life goals, including attending university.

Stephen asked me to write him a letter of support to the United States immigration for his residency application. I used the 'good' immigrant narrative to form my letter of support. I hated writing it. I was writing what they wanted to hear on the surface, but there was so much more to Stephen and the life he has in the United States. I found myself regurgitating the 'deserving' immigrant narrative that would not be a drain on resources or disrupt the larger community. In the United States, conversations surrounding immigrants exist within a binary of 'good' and 'bad' and I found myself perpetuating the binary in my letter of support.

"Other [Dreamers] have accomplished so much, and I haven't. I look at what they have done, and I struggle to think about all of the things I haven't done. I think, I should have done more, but I couldn't at the time, but I should have found a way to have done more, like them."

Conversation with Stephen (2020).

Stephen never felt a part of the 'high-achieving' group of Dreamers. In many states, including the one Stephen lives, DACA recipients are not eligible for federal student loans and must pay internationally student tuition and fees to attend university. Stephen and his family were not able to afford the immense tuition required for Stephen to attend college. Stephen's dreams of getting an education and the career that he wanted seemed to slip further away, even with his DACA status.

UNCERTAIN LEGALITY Limits to Health

During my mid-twenties I had finally found a home in academia. Working full-time, I put myself through my undergrad degree, but during my junior year at university, I became addicted to opioids. I had always struggled with my mental health, I knew I was different, but I couldn't figure out what exactly made me different. As an adult, I could not escape the trauma of my childhood. Doctors put me on anti-depressants, but those didn't seem to work, and in some cases, made my mental health worse. During my junior year of university, I experienced a leg injury that caused me to be bedridden for almost three months. Stephen would come over almost every day to cook me dinner, make sure I was taken care of, and offer human connection. He would help lift me up to go to the bathroom and make sure I wasn't in pain. I would take my pain medication as often as I could, and refills were easy to get. I spent my days high and asleep, and suddenly I found that my brain was quiet. I liked who I was more on opioids than I was sober. I kept my addiction a secret from those around me, but Stephen started to notice. When I had not had my pain medication, I began to shake and sweat. He knew there was something wrong and told me that I had to get help and I had no other options. Years

later, I admitted that he had saved my life. Stephen also struggled with his physical, mental, and emotional health, but did not have the resources that were available for me. He struggled with thoughts of suicide and feelings of hopelessness. Mental health was anything but accessible for Stephen.

DACA recipients are excluded from almost all affordable healthcare options, even though they are considered lawfully present, eligible for a work permit, receive a Social Security number, and pay taxes.

The Affordable Care Act (ACA; also termed Obamacare) was introduced to provide affordable insurance for more Americans. The law provides eligible Americans with subsidies that lower costs for individuals and households with incomes between 100—400% of the United States poverty level. The ACA also expanded the Medicaid program, which covers health expenses for adults with incomes below 138% of the federal poverty line, however, states had the power to accept the expanded Medicaid program, so not all states accepted the expansion. Although DACA recipients have temporary work authorization, pay taxes, and have a Social Security number, recipients are not considered lawfully present, and thus, are not eligible for the ACA. These policy exclusions further create an unnecessary distinction between individuals granted DACA status and individuals granted immigration through other methods, such as asylum or refugee statuses. Stephen could not access psychiatry or therapy, and instead, was forced to live with his depression and suicidal ideation. Stephen's mental and physical health have been greatly impacted by the limited health coverage options he has had.

"I haven't been to a doctor or had a physical in... it's been years... over a decade. I wasn't making enough money to do that, and my status caused me to lack access to affordable insurance. The only doctors I see are my eye doctor, and recently, I've been seeing a dentist. It had been so long since I was able to go to a dentist that I have so many teeth I have to replace that it's a financial nightmare. I basically have to spend about $34-35'000. It's a nightmare. I haven't had the ability to afford going to the doctor. My status has a lot to do with [my health] because I haven't been able to afford healthcare because I don't qualify for affordable healthcare [under the Affordable Care Act] and I can't afford health insurance because I don't qualify for the discounted rates through the ACA because of my [immigration] status."

Conversation with Stephen (2020).

I was diagnosed as a diabetic in my early twenties. Although I have received relatively consistent diabetes healthcare, there have been times where I have experienced barriers to diabetic care, including cost and lack of insurance. In the United States' privatized healthcare system, if an individual does not have health insurance, either paid for through their employer or individually, it is highly unlikely that they are able to afford continuous care, and often rely on emergency-only medical treatment. Stephen believes that he has diabetes, or at least

is pre-diabetic, based on symptoms and reactions that his body has. Unfortunately, he is unable to get the diagnosis and treatment that he requires.

UNCERTAIN LEGALITY Body Politics



Photograph by Rachel Kingsley (2018).

Travels with Stephen, Cannon Beach, Oregon.

Unable to leave the country to experience travel, Stephen and I have traveled across the United States together, twice. Together, we've seen the Mojave Desert, eaten beignets in the French Quarter of New Orleans, explored the Caprock Canyons of Texas, and have driven the Pacific Northwest Coast.

For over seven years, Stephen has been on a waiting list to receive a United States Green Card, a short term for legal permanent residency in the country. The process is long and expensive, with extensive wait times and legal fees that can amount to the tens of thousands of dollars. Although Stephen has authorized residency in the United States, his DACA status makes him ineligible to leave the United States, except for an authorized trip for emergency situations, such as the death of an immediate family member. Stephen is a prisoner in the United States, as his movements are limited to inside the borders. If he leaves, Stephen faces the possibility of being deported. Unable to leave the country to experience travel, Stephen and I have traveled across the United States together, twice. Together, we've seen the Mojave Desert, eaten beignets in the French Quarter of New Orleans, explored the Caprock Canyons of Texas, and have driven the Pacific Northwest Coast. If Stephen receives permanent residency status, he will be able to leave the confines of the United States border and finally be able to experience his dream of traveling the world.

For now, his body is monitored and tracked to stay within the confines of the US border.

Over the years, Stephen and I saw a shift in the political climate of the United States. Intense radicalization and racialization of immigration, and immigrants themselves, created an uneasy feeling across the country. The rise and popularity of Donald Trump was disturbing. During his election campaign, President Trump promised to "immediately terminate"[3] DACA, which was included in his ten-point immigration plan. The plan highlighted the termination of DACA as well as another program directed at parents of U.S. born children and lawful permanent residents.

"We will immediately terminate President Obama's two illegal executive amnesties in which he defied federal law and the Constitution to give amnesty to approximately five million illegal immigrants."

"Transcript of Donald Trump's Immigration Speech", in: *New York Times*, https://www.nytimes.com/2016/09/02/us/politics/transcript-trump-immigration-speech.html (2016).

Presidential candidate Donald Trump in August 2016.

On September 5, 2017, Attorney General Jeff Sessions stated the Trump administration would in fact rescind the DACA program, potentially effecting 800'000 DACA recipients. In 2017, then-Attorney General Jeff Sessions simply declared DACA illegal and unconstitutional. Sessions argued that the program should be rescinded because he said it was unlawful from the start. Stephen and I waited with bated breath: Could the DACA program really be rescinded? Would the federal government forcefully deport him? What about his brother? Where would they go? Who would they stay with? How would they communicate? Anxiety began to rise, and again, Stephen was facing an uncertain future for his life in the United States. At first, we talked about the what-ifs all the time, trying to make plans and plans for our plans. But over time, we stopped talking about the what-ifs. There were no other plans we could make, no other what-if options. The wait was crushing.



Cathedral of Learning, University of Pittsburgh, Pittsburgh, Pennsylvania.

Photograph by Maria Oswalt (2019).

The DACA argument finally made it to the Supreme Court. In a major rebuke to President Trump, the U.S. Supreme Court has blocked the administration's plan to dismantle an Obama-era program that has protected 800'000 DREAMers from deportation. The vote was five-four, with Chief Justice John Roberts' opinion. Roberts' opinion for the court was a narrow but powerful rejection of the way the Trump administration went about trying to abolish the program known as Deferred Action for Childhood Arrivals, or DACA. Roberts wrote: "We do not decide whether DACA or its rescission are sound policies, the wisdom of those decisions is none of our concern. Here we address only whether the Administration complied with the procedural requirements in the law that insist on 'a reasoned explanation for its action'." But, as Roberts observed, the attorney general offered no detailed justifications for canceling DACA. Nor did the acting secretary of homeland security at the time, Elaine Duke, who put out a memo announcing the rescission of DACA that relied entirely on Sessions' opinion that the program was unlawful. As Roberts noted, Duke's memo didn't address the fact that thousands of young people had come to rely on the program and who also have 200'000 children of their own who are U.S. citizens, not to mention that DACA recipients pay $60 billion in taxes each year.

"Dreamers are Americans. Many have spent most of their lives in the United States. They live, study, work, and worship in our communities. They have served on the frontlines during the COVID-19 pandemic [...] only Congress can provide a permanent legislative fix to provide lasting stability for these young people and their families. My immigration bill, the U.S. Citizenship Act, creates a pathway to citizenship for undocumented individuals in our country, including Dreamers. In March, the House took a critical first step and passed the American Dream and Promise Act. Congress must find a way to pass these legislative solutions and I will continue to work towards passage of legislation protecting Dreamers and creating a path to citizenship for undocumented immigrants. These young people represent the best of America, and we can't let them down."

The White House: "Statement by President Joseph R. Biden, Jr. on DACA Day", https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/15/statement-by-president-joseph-r-biden-jr-on-daca-day/ (2021).

President Joseph R. Biden, Jr. on DACA Day in June 2021.

U.S. President-elect Joe Biden has promised a quick and dramatic reversal of the restrictive immigration policies put in place by his predecessor President Donald Trump. While Biden pledged to undo many of Trump's policies starting the first day he takes office on 20 January, 2021, the layers of reforms will take much longer to implement. Biden has said he would create permanent protection for DACA recipients. Vice president-elect Kamala Harris said in an interview with Univision on 12 January, 2021, that the administration planned to shorten citizenship wait times and allow DACA holders, as well as recipients of Temporary Protected Status (TPS), to "automatically get green cards", but did not state when or how these changes would happen. However, with the government's focus on the COVID-19 pandemic, the

Black Lives Matter movement, the war in Ukraine, and the current economic inflation issue, Dreamers have once again been put on hold, with their futures uncertain, again.

UNCERTAIN LEGALITY Transformation

Health isn't limited to the presence or absence of disease or infirmity; rather, it encompasses all wellbeing, physical, mental, and social. Health disparities do not emerge in a vacuum; rather, inequities are produced and maintained through exclusionary social structures that systematically exclude certain groups to favor other groups. For DACA recipients living in a quasi-legal state, their wellbeing is determined by structures that limit their ability to maintain positive mental, physical, and emotional wellbeing. By limiting Dreamers' access to healthcare and health insurance, health inequities and inequalities become imbedded as a way of life. The radical health framework requires us to not simply examine the structures that create and perpetuate health inequalities; it also requires us to transform those very structures to redress systemic inequalities that lead to systematic disparities. Radical health demands that we, as anthropologists and scholars alike, move beyond simply advocating for change, but rather, propose structural solutions that create health equity for all.

Notes

1 Roberto G. Gonzales, Veronica Terriquez, Stephen P. Ruszczyk: "Becoming DACAmented", in: *American Behavioral Scientist* 58/14 (2014), pp. 1852–1872.
2 The White House: "Remarks by the President on Immigration", https://obamawhitehouse.archives.gov/the-press-office/2012/06/15/remarks-president-immigration (2012).
3 "Transcript of Donald Trump's Immigration Speech", in: *New York Times*, https://www.nytimes.com/2016/09/02/us/politics/transcript-trump-immigration-speech.html (2016).

Further Readings

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