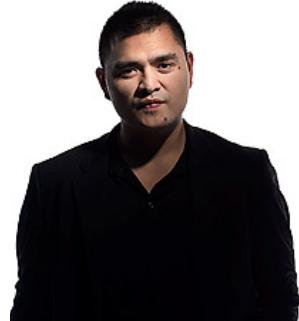


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# Not Legal Not Leaving

By Jose Antonio Vargas



Gian Paul Lozza for TIME  
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## 'Why haven't you gotten deported?'

That's usually the first thing people ask me when they learn I'm an undocumented immigrant or, put more rudely, an "illegal." Some ask it with anger or frustration, others with genuine bafflement. At a restaurant in Birmingham, not far from the University of Alabama, an inebriated young white man challenged me: "You got your papers?" I told him I didn't. "Well, you should get your ass home, then." In California, a middle-aged white woman threw up her arms and wanted to know: "Why hasn't Obama dealt with you?" At least once a day, I get that question, or a variation of it, via e-mail, tweet or Facebook message. Why, indeed, am I still here?

It's a fair question, and it's been hanging over me every day for the past

year, ever since I publicly revealed my undocumented status. There are an estimated 11.5 million people like me in this country, human beings with stories as varied as America itself yet lacking a legal claim to exist here. Like many others, I kept my status a secret, passing myself off as a U.S. citizen — right down to cultivating a homegrown accent. I went to college and became a journalist, earning a staff job at the Washington Post. But the deception weighed on me. When I eventually decided to admit the truth, I chose to come out publicly — very publicly — in the form of an essay for the New York Times last June. Several immigration lawyers counseled against doing this. ("It's legal suicide," warned one.) Broadcasting my status to millions seemed tantamount to an invitation to the immigration cops:

Here I am. Come pick me up.

So I waited. And waited some more. As the months passed, there were no knocks on my door, no papers served, no calls or letters from U.S. Immigration and Customs Enforcement (ICE), which deported a record 396,906 people in fiscal 2011. Before I came out, the question always at the top of my mind was, What will happen if people find out? Afterward, the question changed to What happens now? It seemed I had traded a largely hidden undocumented life in limbo for an openly undocumented life that's still in limbo.

But as I've crisscrossed the U.S. — participating in more than 60 events in nearly 20 states and learning all I can about this debate that divides our country (yes, it's my country too) — I've realized that the most important

questions are the ones other people ask me. I am now a walking conversation that most people are uncomfortable having. And once that conversation starts, it's clear why a consensus on solving our immigration dilemma is so elusive. The questions I hear indicate the things people don't know, the things they think they know but have been misinformed about and the views they hold but do not ordinarily voice.

I've also been witness to a shift I believe will be a game changer for the debate: more people coming out. While closely associated with the modern gay-rights movement, in recent years the term coming out and the act itself have been embraced by the country's young undocumented population. At least 2,000 undocumented immigrants — most of them under 30 — have contacted me and outed themselves in the past year. Others are coming out over social media or in person to their friends, their fellow students, their colleagues. It's true, these individuals — many brought to the U.S. by family when they were too young to understand what it means to be "illegal" — are a fraction of the millions living hidden lives. But each becomes another walking conversation. We love this country. We contribute to it. This is our home. What happens when even more of us step forward? How will the U.S. government and American citizens react then?

The contradictions of our immigration debate are inescapable. Polls

show substantial support for creating a path to citizenship for some undocumenteds — yet 52% of Americans support allowing police to stop and question anyone they suspect of being "illegal." Democrats are viewed as being more welcoming to immigrants, but the Obama Administration has sharply ramped up deportations. The probusiness GOP waves a KEEP OUT flag at the Mexican border and a HELP WANTED sign 100 yards in, since so many industries depend on cheap labor.

Election-year politics is further confusing things, as both parties scramble to attract Latinos without scaring off other constituencies. President Obama has as much as a 3-to-1 lead over Mitt Romney among Latino voters, but his deportation push is dampening their enthusiasm. Romney has a crucial ally in Florida Senator Marco Rubio, a Cuban American, but is burdened by the sharp anti-immigrant rhetoric he unleashed in the primary-election battle. This month, the Supreme Court is expected to rule on Arizona's controversial anti-immigrant law. A decision either way could galvanize reform supporters and opponents alike.

But the real political flash point is the proposed Dream Act, a decade-old immigration bill that would provide a path to citizenship for young people educated in this country. The bill never passed, but it focused attention on these youths, who call themselves the Dreamers. Both the President and Rub-

io have placed Dreamers at the center of their reform efforts — but with sharply differing views on how to address them.

ICE, the division of the Department of Homeland Security (DHS) charged with enforcing immigration laws, is its own contradiction, a tangled bureaucracy saddled with conflicting goals. As the weeks passed after my public confession, the fears of my lawyers and friends began to seem faintly ridiculous. Coming out didn't endanger me; it had protected me. A Philippine-born, college-educated, outspoken mainstream journalist is not the face the government wants to put on its deportation program. Even so, who flies under the radar, and who becomes one of those unfortunate 396,906? Who stays, who goes, and who decides? Eventually I confronted ICE about its plans for me, and I came away with even more questions.

I am not without contradictions either. I am 31 and have been a working journalist for a decade. I know I can no longer claim to be a detached, objective reporter, at least in the traditional sense. I am part of this evolving story and growing movement. It is personal. Though I have worked hard to approach this issue like any other, I've also found myself drawn to the activists, driven to help tell their story.

This is the time to tell it.

**'Why don't you become legal?'**  
asked 79-year-old William Oglesby of

Iowa City, Iowa. It was early December, a few weeks before the Iowa caucuses, and I was attending a Mitt Romney town hall at an animal-feed maker. Romney had just fielded questions from a group of voters, including Oglesby and his wife Sharon, both Republicans. Addressing immigration, Romney said, “For those who have come here illegally, they might have a transition time to allow them to set their affairs in order and then go back home and get in line with everybody else.”

“I haven’t become legal,” I told William, “because there’s no way for me to become legal, sir.” Sharon jumped in. “You can’t get a green card?”

“No, ma’am,” I said. “There’s no process for me.” Of all the questions I’ve been asked in the past year, “Why don’t you become legal?” is probably the most exasperating. But it speaks to how unfamiliar most Americans are with how the immigration process works.

As Angela M. Kelley, an immigration advocate in Washington, told me, “If you think the American tax code is outdated and complicated, try understanding America’s immigration code.” The easiest way to become a U.S. citizen is to be born here — doesn’t matter who your parents are; you’re in. (The main exception is for children of foreign diplomatic officials.) If you were born outside the U.S. and want to come here, the golden ticket is the so-called green card, a

document signifying that the U.S. government has granted you permanent-resident status, meaning you’re able to live and, more important, work here. Once you have a green card, you’re on your way to eventual citizenship — in as little as three years if you marry a U.S. citizen — as long as you don’t break the law and you meet other requirements such as paying a fee and passing a civics test.

Obtaining a green card means navigating one of the two principal ways of getting permanent legal status in the U.S.: family or specialized work. To apply for a green card on the basis of family, you need to be a spouse, parent, child or sibling of a citizen. (Green-card holders can petition only for their spouses or unmarried children.) Then it’s time to get in line. For green-card seekers, the U.S. has a quota of about 25,000 green cards per country each year. That means Moldova (population: 3.5 million) gets the same number of green cards as Mexico (population: 112 million). The wait time depends on demand. If you’re in Mexico, India, the Philippines or another nation with many applicants, expect a wait of years or even decades. (Right now, for example, the U.S. is considering Filipino siblings who applied in January 1989.)

Taking the employment route to a green card means clearing a pretty high bar if you have an employer who’s willing to hire you. There are different levels of priority, with preference given

to people with job skills considered crucial, such as specialized medical professionals, advanced-degree holders and executives of multinational companies. There’s no waiting list for those. If you don’t qualify for a green card, you may be able to secure one of the few kinds of temporary work visas — including the now famous

H1-B visas that are common in Silicon Valley. For those already in the U.S. without documentation — those who have sneaked across a border or overstayed a temporary visa — it’s even more complicated. Options are extremely limited. One route is to marry a U.S. citizen, but it’s not as easy as the movies would have you think. The process can take years, especially if a sham marriage is suspected. I couldn’t marry my way into citizenship even if I wanted to. I’m gay. Same-sex marriage is not recognized by the federal government — explicitly so, ever since Congress passed the Defense of Marriage Act. From the government’s perspective, for me to pursue a path to legalization now, I would have to leave the U.S., return to the Philippines and hope to qualify via employment, since I don’t have any qualifying family members here. But because I have admitted to being in the U.S. illegally, I would be subject to a 10-year bar before any application would be considered.

The long-stalled Dream Act is the best hope for many young people. The original 2001 version would have cre-

ated a path to legal status — effectively a green card — for undocumented people age 21 and under who had graduated from high school and resided in the U.S. for five years. As the bill stalled in Congress and Dreamers got older, the age requirement went up, getting as high as 35. Rubio is expected to introduce his own variation, granting nonimmigrant visas so Dreamers could legally stay in the U.S., go to school and work. Its prospects are dim in a gridlocked Congress. Obama, meanwhile, is said to be weighing an Executive Order that would halt deportation of Dream Act — eligible youth and provide them with work permits. Under both Rubio's bill (details of which are not yet confirmed) and Obama's Executive Order (which is being studied), Dreamers could become legal residents. However, both proposals are only the first steps of a longer journey to citizenship.

## 'Why did you get your driver's license when you knew it wasn't legal?

Do you think you belong to a special class of people who can break any laws they please?"

These were the questions of a polite, mild-mannered man named Konrad Sosnow, who I later learned was a lawyer. In late March, Sosnow and I participated in what was billed as a "civility roundtable" on immigration in my adopted hometown of Mountain

View, Calif. About 120 people attended. Sosnow had read my coming-out story and wanted to know why I had such disregard for laws.

"I don't think I belong to a special class of people — not at all," I remember telling Sosnow. "I didn't get the license to spite you or disrespect you or because I think I'm better than you. I got the license because, like you, I needed to go to work. People like me get licenses because we need to drop kids off at school and because we need to pick up groceries. I am sorry for what I did, but I did it because I had to live and survive." Sosnow nodded, not exactly in agreement but at least with some understanding. We shook hands as the evening drew to a close. Months later, Sosnow told me he's written e-mails to the President and other elected officials, asking for immigration reform.

Everyday life for an undocumented American means a constant search for loopholes and back doors. Take air travel, for instance. Everyone knows that in the post-9/11 era, you can't fly without a government-issued ID. The easiest option for most people is their driver's license. Most states will not issue a license without proof of legal residency or citizenship. But a few grant licenses to undocumented immigrants, New Mexico and Washington State among them. Like many others, I had falsely posed as a Washington State resident in order to get a license. Weeks after my coming-out

essay was published last year, Washington revoked the license — not because I'm undocumented but because I don't actually live in Washington.

For those who don't have a driver's license — that includes me now — a passport from our native country can serve as ID. But it makes every flight a gamble. My passport, which I got through the Philippine embassy, lacks a visa. If airport security agents turn the pages and discover this, they can contact Customs and Border Protection, which in turn can detain me. But for domestic flights, security usually checks just the name, photo and expiration date, not for the visa.

We may be nonpeople to the TSA but not to the IRS. Undocumented workers pay taxes. I've paid income taxes, state and federal, since I started working at 18. The IRS doesn't care if I'm here legally; it cares about its money. Some undocumented people, of course, circumvent the system, just like some citizens. But according to the nonpartisan Institute on Taxation and Economic Policy, households headed by undocumented workers collectively paid \$11.2 billion in state and local taxes in 2010 — \$1.2 billion in income taxes, \$1.6 billion in property taxes (because undocumented immigrants do own property) and \$8.4 billion in consumption taxes. We also pay into Social Security. Even as many of us contribute, we cannot avail ourselves of a great deal of the services those tax

dollars pay for.

When you lack legal status, the threat of deportation is a constant concern. In three years, Obama has deported 1.2 million; it took President George W. Bush eight years to deport 1.6 million. “Under both the Bush and Obama administrations, we have reversed ourselves as a nation of immigrants,” Bill Ong Hing, a veteran immigration lawyer, told me. (Indeed, nations like Canada now have higher percentages of immigrants than the “melting pot” of the U.S.)

A big driver of the deportation numbers is ICE’s Secure Communities program, which was meant to target terrorists and serious criminals but also winds up snaring those whose only crimes are civil violations connected to being undocumented (like driving without a license). Students and mothers have been detained and deported alongside murderers and rapists.

Depending on how the politics plays to the local electorate, many states wind up writing their own

immigration laws. Two years ago, Arizona passed SB 1070 — its “Show me your papers” bill — then the strictest immigration law in the country. It embodies an attrition-through-enforcement doctrine: the state will so threaten the livelihood of its undocumented population that they will just give up and self-deport. Among the bill’s most controversial provisions, currently being reviewed by the Supreme Court, is one giving law-enforcement officials

the power to stop anyone whom they suspect to be “illegal.” Arizona’s law inspired copycat bills across the country.

For all the roadblocks, though, many of us get by thanks to our fellow Americans. We rely on a growing network of citizens — Good Samaritans, our pastors, our co-workers, our teachers who protect and look after us. As I’ve traveled the country, I’ve seen how members of this underground railroad are coming out about their support for us too.

## **‘So you’re not Mexican?’**

an elderly white woman named Ann (she declined to give her last name) asked me when I told her about my undocumented status last October. We stood in front of a Kohl’s department store in Alabama, which last year outdid Arizona by passing HB 56, the country’s most draconian immigration law. HB 56 requires public schools to collect the immigration status of new students and their parents and makes it a felony for anyone to transport or house an undocumented immigrant. Both provisions are currently blocked by federal courts pending a ruling.

Ann, a registered Republican, was born and raised in the South, where immigration is introducing a new variable into the old racial divide. Alabama’s immigrant population, though still relatively small, has nearly doubled in the past decade. The state’s Latino population alone grew from

1.7% of the overall population in 2000 to nearly 4% in 2010 — about 180,000 people, according to Census figures. But when I told Ann I am Filipino, she scrunched her forehead. “My border,” I explained, “was the Pacific Ocean.”

Though roughly 59% of the estimated 11.5 million undocumented immigrants in the U.S. are from Mexico, the rest are not. About 1 million come from Asia and the Pacific Islands, about 800,000 from South America and about 300,000 from Europe. Others come from Nigeria, Israel, pretty much everywhere. In the case of countries that don’t share a border with the U.S., these are almost always people who entered the country legally — as vacationers or on temporary visas — and overstayed the time permitted.

But perception has become reality. What’s cemented in people’s consciousness is the television reel of Mexicans jumping a fence. Reality check: illegal border crossings are at their lowest level since the Nixon era, in part because of the continued economic slump and stepped-up enforcement. According to the Office of Immigration Statistics at DHS, 86% of undocumented immigrants have been living in the U.S. for seven years or longer.

Still, for many, immigration is synonymous with Mexicans and the border. In several instances, white conservatives I spoke to moved from discussing “illegals” in particular to talking about Mexicans in general — about

Spanish being overheard at Walmart, about the onslaught of new kids at schools and new neighbors at churches, about the “other” people. The immigration debate, at its core, is impossible to separate from America’s unprecedented and culture-shifting demographic makeover. Whites represent a shrinking share of the total

gration experts call these mixed-status families, and I grew up in one. I come from a large Filipino clan in which, among dozens of cousins and uncles and aunties and many American-born nieces and nephews, I’m the only one who doesn’t have papers. My mother sent me to live with my grandparents in the U.S. when I was 12. When I was 16

asked 20-year-old Gustavo Madrigal, who attended a talk I gave at the University of Georgia in late April. Like many Dreamers I’ve met, Madrigal is active in his community. Since he grew up in Georgia, he’s needed to be. A series of measures have made it increasingly tough for undocumented students there to attend state universities.

“Why did you come out?” I asked him in turn. “I didn’t have a choice,” Madrigal replied.

“I also reached a point,” I told him, “when there was no other choice but to come out.” And it is true for so many others. We are living in the golden age of coming out. There are no overall numbers on this, but each day I encounter at least five more openly undocumented people. As a group and as individuals, we are putting faces and names and stories on an issue that is often treated as an abstraction.

Technology, especially social media, has played a big role. Online, people are telling their stories and coming out, asking others to consider life from their perspective and testing everyone’s empathy quotient. Some realize the risks of being so public; others, like me, think publicity offers protection. Most see the value of connecting with others and sharing experiences — by liking the page of United We Dream on Facebook, for example, or watching the Undocu-



Clockwise from top left: Julieta Garibay, from Mexico; Jong Min, from Korea; Yonerkky Santana, from the Dominican Republic; Manuel Bartsch, from Germany; Yenny Quispe, from Peru; Erika Andiola, from Mexico; Conrado Santos, from Brazil; Camila Bortolotto, from Brazil

U.S. population. Recently the U.S. Census reported that for the first time, children born to racial- and ethnic-minority parents represent a majority of all new births.

According to the Pew Hispanic Center, there are also at least 17 million people who are legally living in the U.S. but whose families have at least one undocumented immigrant. About 4.5 million U.S.-citizen kids have at least one undocumented parent. Immi-

and applied for a driver’s permit, I found out that my green card — my main form of legal identification — was fake. My grandparents, both naturalized citizens, hadn’t told me. It was disorienting, first discovering my precarious status, then realizing that when I had been pledging allegiance to the flag, the republic for which it stands didn’t have room for me.

## ‘Why did you come out?’

mented and Awkward video series on YouTube.

This movement has its roots in the massive immigrant-rights rallies of 2006, which were held in protest of HR 4437, a Republican-backed House bill that would have classified undocumented immigrants and anyone who helped them enter and remain in the U.S. as felons. Though the bill died, it awakened activism in this young generation. Through Facebook, Twitter and YouTube, I encountered youths who were bravely facing their truths.

"For many people, coming out is a way of saying you're not alone," says Gaby Pacheco of United We Dream. Her parents came from Ecuador and brought her to the U.S. in 1993, when she was 7. Immigration officials raided her home in 2006, and her family has been fighting deportation since. Now 27, she has three education degrees and wants to be a special-education teacher. But her life remains on hold while she watches documented friends land jobs and plan their futures. Says Pacheco: "In our movement, you come out for yourself, and you come out for other people."

The movement, as its young members call it, does not have a single leader. News travels by tweet and Facebook update, as it did when we heard that Joaquin Luna, an undocumented 18-year-old from Texas, killed himself the night after Thanksgiving and, though this is unproved, we instantly connected his death to the stresses of

living as a Dreamer. Some Dreamers, contemplating coming out, ask me whether they should pretend to be legal to get by. "Should I just do what you did? You know, check the citizenship box [on a government form] and try to get the job?" a few have asked me. Often I don't know how to respond. I'd like to tell them to be open and honest, but I know I owe my career to my silence for all those years. Sometimes all I can manage to say is "You have to say yes to yourself when the world says no."

## 'What next?'

is the question I ask myself now. It's a question that haunts every undocumented person in the U.S. The problem is, immigration has become a third-rail issue in Washington, D.C. — more controversial even than health care because it deals with issues of race and class, of entitlement and privilege, that America has struggled with since its founding. As much as we talk about the problem, we rarely focus on coming up with an actual solution — an equitable process to fix the system.

Maybe Obama will evolve on immigrant rights, just as he's evolved on gay rights, and use his executive powers to stop the deportations of undocumented youths and allow us to stay, go to school and work, if only with a temporary reprieve. The Republican Party can go one of two ways. It will either make room for its moderate voices to craft a compromise; after all, John McCain, to name just one, was a

supporter of the Dream Act. Or the party will pursue a hard-line approach, further isolating not just Latinos, the largest minority group in the U.S., but also a growing multiethnic America that's adapting to the inevitable demographic and cultural shifts. In 21st century politics, diversity is destiny.

As for me, what happens next isn't just a philosophical question. I spend every day wondering what, if anything, the government plans to do with me. After months of waiting for something to happen, I decided that I would confront immigration officials myself. Since I live in New York City, I called the local ICE office. The phone operators I first reached were taken aback when I explained the reason for my call. Finally I was connected to an ICE officer.

"Are you planning on deporting me?" I asked.

I quickly found out that even though I publicly came out about my undocumented status, I still do not exist in the eyes of ICE. Like most undocumented immigrants, I've never been arrested. Therefore, I've never been in contact with ICE.

"After checking the appropriate ICE databases, the agency has no records of ever encountering Mr. Vargas," Luis Martinez, a spokesman for the ICE office in New York, wrote me in an e-mail.

I then contacted the ICE headquarters in Washington. I hoped to get some insight into my status and that of

all the others who are coming out. How does ICE view these cases? Can publicly revealing undocumented status trigger deportation proceedings, and if so, how is that decided? Is ICE planning to seek my deportation?

"We do not comment on specific cases," is all I was told.

I am still here. Still in limbo. So are nearly 12 million others like me — enough to populate Ohio. We are working with you, going to school with you, paying taxes with you, worrying about our bills with you. What exactly do you want to do with us? More important, when will you realize that

we are one of you?

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