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## Calle 13: Reggaeton, Politics, and Protest

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## Calle 13: Reggaeton, Politics, and Protest

Melinda Sommers Molina\*

### I. INTRODUCTION

Music is one of the most ubiquitous forms of expression available to both the elite and the poor and powerless. The judiciary, advocates, and legal academy use music to advance legal arguments,<sup>1</sup> elucidate a legal concept or theory,<sup>2</sup> or build a “narrative framework or a theory of case.”<sup>3</sup> Many scholars have addressed the ways in which music is

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\* Assistant Professor, Capital University Law School. This Article was improved by comments received from attendees at presentations at Capital University Law School, Midwest People of Color Legal Scholarship Conference, University of Akron Law School, and University of Pittsburgh Law School. I owe special thanks to Janet Núñez for her invaluable assistance with the translations.

1. See generally Alex B. Long, *(Insert Song Lyrics Here): The Uses and Misuses of Popular Music Lyrics in Legal Writing*, 64 WASH. & LEE L. REV. 531, 555 (2007) (describing the different ways that judges, practicing attorneys, and academics use music in their writing).

2. *Id.* at 572–73 (citing Paul Butler, *Much Respect: Toward a Hip-Hop Theory of Punishment*, 56 STAN. L. REV. 983, 984 (2004) (arguing that rap music’s discourse about the collateral effects of incarceration on families and communities of color should be used to “inform a theory of punishment that is coherent, enhances public safety, and treats lawbreakers with respect.”)).

3. Andrea Dennis, *Poetic (In)Justice? Rap Music Lyrics as Art, Life, and Criminal Evidence*, 31 COLUM. J.L. & ARTS 1, 2 (2007) (discussing federal and state criminal cases including capital punishment cases that used the lyrics of the defendants as direct or circumstantial evidence of an element of the crime(s) charged); see also Sean-Patrick Wilson, *Rap Sheets: The Constitutional and Societal Complications Arising from the Use of Rap Lyrics as Evidence at Criminal Trials*, 12 UCLA ENT. L. REV. 345, 345 (2005); Emily C. Green, *Music and Emotion in Victim-Impact Evidence*, 16 VAND. J. ENT. & TECH. L. 169, 171 (2013) (discussing the use of background music in victim-impact evidence videos). Law enforcement officials and government policymakers also use music to prevent and deter crime. Maria Herrera-Sobek, *The Border Patrol and Their Migra Corridos: Propaganda, Genre Adaptation, and Mexican Immigrations*, 57 AM. STUDIES J. 6 (2012) (discussing an album, *Migra Corridos*, produced by the US Border Patrol as a part of a border safety initiative in Mexico aimed at deterring undocumented Latino immigration by using corridos, or Mexican ballads, to describe the dangers associated with crossing the border); Bennett Capers, *Crime Music*, 7 OHIO ST. J. CRIM. L. 749, 762 (2010) (describing the way classical music is used worldwide as a crime deterrent).

a potent form of cultural resistance and anti-subordination praxis.<sup>4</sup> Music can alter consciousness and mobilize the masses.<sup>5</sup>

In focusing on rap music as a form of cultural resistance, many scholars situate the genre within the social context in which it emerged: the South Bronx in the 1970s.<sup>6</sup> They argue that rap music emerged as a retort to the destructive effects of deindustrialization, urban blight, white flight, and urban renewal projects in the South Bronx, which relegated its residents to the societal margins of New York City and rendered them invisible.<sup>7</sup> Rap music provided the

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4. Numerous scholars have written about the way in which hip-hop is, and can be used, as a form of cultural resistance and political expression within communities of color in the United States. See TRICIA ROSE, BLACK NOISE: RAP MUSIC AND BLACK CULTURE IN CONTEMPORARY AMERICA 33 (George Lipsitz et al. eds., 1994) [hereinafter ROSE]; see generally IMANI PERRY, PROPHETS OF THE HOOD: POLITICS AND POETICS IN HIP HOP (2004); André Douglas Pond Cummings, *Thug Life: Hip-Hop's Curious Relationship with Criminal Justice*, 50 SANTA CLARA L. REV. 515, 544–46 (2010); Akilah N. Folami, *From Habermas to "Get Rich or Die Trying": Hip Hop, the Telecommunications Act of 1996, and the Black Public Sphere*, 12 MICH. J. RACE & L. 235, 235 (2007). Other scholars have made similar arguments about hip-hop's relationship with subordinate communities outside of the United States. See Nora Gámez Torres, *"Rap is war": Los Aldeanos and the Politics of Music Subversion in Contemporary Cuba*, 17 TRANS-REVISTA TRANSCULTURAL DE MÚSICA 1, 3 (2013), available at <http://www.sibetrans.com/trans/public/docs/trans-17-11.pdf>; Arlene B. Tickner, *Aquí en el Ghetto: Hip-hop in Colombia, Cuba, and Mexico*, 50 LATIN AM. POLITICS & SOC'Y 121 (2008) (discussing hip-hop's unique ability to "relate[ ] to everyday life" and reflect "on poverty, inequality, exclusion, and discrimination; claiming a positive identity based on these conditions; and offering musical, linguistic, and corporal tools for commenting on them."); TONY MITCHELL, GLOBAL NOISE: RAP AND HIP-HOP OUTSIDE THE USA 1–2 (Tony Mitchell ed., 2001) (collection of essays exploring the use of hip-hop as a form of opposition and cultural resistance in countries outside of the United States).

5. Nicholas A. Gunia, *Half the Story Has Never Been Told: Popular Jamaican Music as Antisubordination Praxis*, 33 U.C. DAVIS L. REV. 1333, 1344 (2000); DORIAN LYNSKEY, 33 REVOLUTIONS PER MINUTE: A HISTORY OF PROTEST SONGS FROM BILLIE HOLIDAY TO GREEN DAY xiii–xvi (2011); PABLO VILA, THE MILITANT SONG MOVEMENT IN LATIN AMERICA: CHILE, URUGUAY, AND ARGENTINA 1 (Pablo Vila ed., 2014).

6. See, e.g., ROSE, *supra* note 4, at 27.

7. *Id.* at 30–34. Several factors contributed to the socioeconomic breakdown of the South Bronx in the '70s and '80s: white flight, landlord abandonment, demographic shifts, and the construction of the Cross Bronx Expressway as a component of Robert Moses's urban renewal project for New York City. The expressway cut through the center of the South Bronx, displacing thousands of residents and a number of local businesses. Homeowners saw property values drop to historic lows, which led to the flight of white residents and the sale of many homes to professional slumlords or their abandonment. Left behind Blacks and Latinos faced high unemployment, dilapidated housing, and significant budgetary cuts to public education. Touting the success of the expressway, politicians and city administrators simply ignored the residents of South Bronx. *Id.*

stage for these neglected residents of the South Bronx—especially young African Americans and Latinos—to document and record the impact of law enforcement’s policies and practices, dilapidated housing conditions, and the lack of funding for public education in their community and daily lives.<sup>8</sup> This commentary created by and for everyday people, in their words and idioms, revealed subversive and satirical examples of popular protest and cultural resistance. This “bottom up” approach allowed those who resided within the margins of society to become direct and active participants in the building and shaping of a new paradigm.<sup>9</sup>

Tricia Rose uses James Scott’s social theory framework of “public” and “hidden” transcripts to argue that rap music criticizes dominant ideologies through a series of “hidden” cultural codes and social critiques.<sup>10</sup> She argues that “public” transcripts are presented in public forums and reinforce dominant ideologies.<sup>11</sup> This type of public discourse is found in governmental policies, legislative rhetoric, and legal opinions.<sup>12</sup> These discourses tend to silence or minimize experiences of subordination and voices of resistance.

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8. *Id.*

9. Theresa A. Martinez, *Image of the “Socially Disinherited”: Inner-City Youth in Rap Music*, 10 J.L. & FAM. STUDIES 111, 119 (2007) (discussing Bonnie L. Mitchell & Joe R. Feagin, *America’s Racial-Ethnic Cultures: Opposition within a Mythical Melting Pot*, in TOWARD THE MULTICULTURAL UNIVERSITY 65, 68–69 (Benjamin Bowser et al. eds., 1995), suggesting that subordinate groups drawing on their own cultural resources will construct alternative identities that both preserve dignity and provide insightful social commentary showing that “members of oppressed subordinate groups are not powerless pawns that merely react to circumstances beyond their control, but rather are reflective creative agents . . . .”); see also JUAN FLORES, FROM BOMBA TO HIP-HOP: PUERTO RICAN CULTURE AND LATINO IDENTITY 137–38 (2000).

10. ROSE, *supra* note 4, at 100–01.

11. *Id.* Dominant groups strengthen and bolster their ideologies “through a wide range of social practices” that are constantly reinforced and repeated. Dominant groups sustain their hegemony by strategically controlling access to public forums and dictating the terms of the debate, as well as the public’s perception of subordinate groups. Conversely, subordinate groups use hidden transcripts to challenge dominant ideologies by inverting negative stereotypes, drawing the public’s attention to alternative narratives, and validating the experiences and perceptions of subordinated groups. These transcripts are “hidden” because they are often expressed in the form of a joke, gesture, or song utilizing the language and idioms of the subordinate group.

12. See Ernesto Hernández-López, *Law and Popular Culture: Examples from Colombian Slang and Spanish-Language Radio in the U.S.*, 19 BERKELEY LA RAZA L.J. 117, 133–38

For example, to engender public support for discriminatory laws, the media, legislators, and politicians claim that Latinos pose a cultural, security, and economic threat to the United States.<sup>13</sup> Consider the recent trend of citizenship-based voting purges by states with high concentrations of Latino voters.<sup>14</sup> Proponents argue that the purges are needed to increase public confidence in the electoral process by deterring noncitizen voter fraud.<sup>15</sup> Media outlets and political commenters repeat these claims with little evidentiary basis.<sup>16</sup>

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(2008) (examining how Spanish-language radio stations use Colombian idioms in the immigration rights debate to contest pending immigration legislation).

13. ARTHUR M. SCHLESINGER, JR., *THE DISUNITING OF AMERICA: REFLECTIONS ON A MULTICULTURAL SOCIETY* 114 (1998); Kris W. Kobach, *Reinforcing the Rule of Law: What States Can and Should Do to Reduce Illegal Immigration*, 22 *GEO. IMMIGR. L.J.* 459, 459–61 (2008); see Samuel P. Huntington, *WHO ARE WE?: THE CHALLENGES TO AMERICA'S NATIONAL IDENTITY* 221, 243 (2004) (contending that Latino immigrants especially those from Mexico will divide the United States into an “Anglo-Hispanic society with two national languages” fracturing the country’s linguistic, cultural, and political integrity.)

14. Ana Henderson, *Citizenship, Voting, and Asian American Political Engagement*, 3 *U.C. IRVINE L. REV.* 1077, 1084–89 (2013) (describing initiatives by Florida, Colorado, New Mexico and Iowa in 2011–2012 to remove noncitizens from voter registration rolls by cross-referencing voter registration lists with state driver’s license records, or searching for documents such as a US Permanent Resident card or foreign passport that indicated that a registered voter was a noncitizen. Potential noncitizens were later contacted and required to verify their citizenship status or be removed from the voter rolls).

15. Hans A. von Spakovsky, *The Threat of Non-Citizen Voting, The Heritage Found.*, 1 (2008), <http://www.heritage.org/research/reports/2008/07/the-threat-of-non-citizen-voting> (stating that “[t]housands of non-citizens are registered to vote in some states, and tens if not hundreds of thousands in total may be present on the voter rolls nationwide.”); Jim Siegel, *17 people caught casting illegal ballots in 2012 election*, *THE COLUMBUS DISPATCH* (Dec. 19, 2013, 5:34 AM) available at <http://www.dispatch.com/content/stories/local/2013/12/18/Husted-voter-fraud.html> (reporting that seventeen noncitizen voters were discovered after Ohio’s voter database was cross-checked with driver’s license records.); Mike Beaudet, *Non-citizens registered to vote in Lawrence but officials shrug*, *MYFOX BOSTON.COM* (Nov. 5, 2012, 5:22 AM), <http://www.myfoxboston.com/story/20001618/2012/11/05/non-citizens-registered-to-vote-in-lawrence-but-officials-shrug>; Stephanie Saul, *Looking, Very closely, for Voter Fraud: Conservative Groups Focus on Registration in Swing States*, *N.Y. TIMES* (Sept. 16, 2012), <http://www.nytimes.com/2012/09/17/us/politics/groups-like-true-the-vote-are-looking-very-closely-for-voter-fraud.html?pagewanted=all&r=0>.

16. Henderson, *supra* note 14, at 1084–89. In 2011–2012, citizenship-based purges in several states identified a small fraction of potential noncitizen registered voters. For example, Colorado identified 141 potential noncitizen registered voters, which is 0.004 percent of its approximately 3.5 million registered voters. See also Fatma Marouf, *The Hunt for Noncitizen Voters*, 65 *STAN. L. REV. ONLINE* 66 (2012) (citing Ivan Moreno, *Gessler says 141 illegally registered to vote*, *THE DENVER POST* (Sept. 7, 2012, 3:58 PM), [http://www.denverpost.com/colorado/ci\\_21492402/gessler-141-illegally-registered-vote](http://www.denverpost.com/colorado/ci_21492402/gessler-141-illegally-registered-vote)). New Mexico identified 117 or

There are few documented cases of noncitizen voter fraud in which the noncitizen registered to vote or voted knowing that they were ineligible.<sup>17</sup> It seems unlikely that a noncitizen would risk the severe penalties involved—criminal prosecution and deportation—to cast a ballot.<sup>18</sup> In addition, citizenship-based voting purges employ flawed and unreliable methods to identify ineligible voters.<sup>19</sup> Indeed, they often fail to discover a significant number of noncitizen voters.<sup>20</sup> Yet, citizenship-based voting purges that either target or disproportionately affect Latinos are becoming part of the election-cycle norm. The public transcripts on the noncitizen voter threat shape and move legislative policy and electoral practices that disenfranchise Latinos.

Public transcripts about rampant voter fraud by undocumented Latinos obscure these shortcomings, while simultaneously garnering support for purges that disproportionality affect Latinos. Recent public opinion polls indicate that segments of the American

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0.009 percent of its approximately 1.2 million registered voters. See N.M. SEC'Y OF STATE, INTERIM PROGRESS REPORT: ONGOING EFFORTS BY THE SECRETARY OF STATE TO IMPROVE THE ACCURACY AND INTEGRITY OF THE STATEWIDE VOTER FILE 11 (2011), available at <http://nmpolitics.net/Documents/SOSVoterFileReport.pdf>; New Mexico Voter Registration Statistics Reports as of April 18, 2012, available at <http://www.sos.state.nm.us/uploads/FileLinks/2966cef424224c59b1abaf5b30a91116/Statewide%20Registration%20.pdf>. Florida identified approximately 200, which is 0.001 percent of its nearly 12 million registered voters. See Marc Caputo, Patricia Mazzei, & Anna Edgerton, *Florida sends Election Department list of 198 potential noncitizens; some may have illegally voted*, MIAMI HERALD (Sept. 26, 2012, 5:47 PM), <http://miami.cbslocal.com/2012/09/27/florida-voter-purge-returns-with-smaller-list/>. After a two year investigation, Iowa identified 147 potential noncitizens who casted a vote in the 2012 election which is 0.009 percent of the approximately 1.58 million votes casted. 70 were later determined to be citizens, the remaining 77 were still under investigation or were referred to county attorneys. See IOWA SEC'Y OF STATE, DCI VOTER FRAUD INVESTIGATIONS REPORT 3 (May 8, 2014), available at <http://sos.iowa.gov/news/pdf/DCI%20Voter%20Fraud%20Report%205-8-14.pdf>.

17. Justin Levitt, *The Truth about Voter Fraud* BRENNAN CTR. FOR JUSTICE, 1, 18 (2007), <http://www.brennancenter.org/sites/default/files/legacy/The%20Truth%20About%20Voter%20Fraud.pdf>.

18. Levitt, *supra* note 17.

19. Myrna Pérez, *Voter Purges*, BRENNAN CTR. FOR JUSTICE, 1 (2008), [http://brennan.3cdn.net/5de1bb5cbe2c40cb0c\\_s0m6bqskv.pdf](http://brennan.3cdn.net/5de1bb5cbe2c40cb0c_s0m6bqskv.pdf). (discussing problematic voting purge practices and procedures in several states); Henderson, *supra* note 14, at 1089 (noting that citizenship-based purges in Florida, New Mexico, and Colorado mistakenly identified large numbers of potential noncitizen registered voters that were later reduced to a marginal fraction of registered voters); Marouf, *supra* note 16, at 66–67.

20. Henderson, *supra* note 14, at 1088–89.

population believe that noncitizen voter fraud is prevalent.<sup>21</sup> Those with opposing views are cast as lawbreakers or obstructionists hindering efforts to protect the integrity and security of the vote.<sup>22</sup>

In contrast to the public transcript about rampant noncitizen voting, hidden transcripts take place out of the mainstream public's spotlight and often contradict public transcripts.<sup>23</sup> Hidden transcripts create oppositional narratives that draw attention to those relegated to the social margins by providing a space for their views to be heard, understood, and developed into communal resistance.<sup>24</sup>

Reggaeton, like rap, is a hidden transcript.<sup>25</sup> It stems from an amalgamation of rap, rap en español, and Jamaican dancehall with strong Latin American influences.<sup>26</sup> It uses native language, idioms, satire, and masked cultural codes to present a different perspective on the Latino experience in the United States.<sup>27</sup> These communication

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21. Brendan Nyhan, *Voter Fraud Is Rare, but Myth Is Widespread*, N.Y. TIMES (June 10, 2014), <http://www.nytimes.com/2014/06/11/upshot/vote-fraud-is-rare-but-myth-is-widespread.html> (reporting that a recent poll of Wisconsin voters showed “that 39% believe that vote fraud affects a few thousand votes or more each election. One in five believes that this level of fraud exists for three types of individual voter fraud (1) in-person voter impersonation (2) absentee ballot voter fraud, and (3) noncitizen voting or non-Wisconsin resident voter fraud.”); Susan A. MacManus, *The Battle Over Election Reform in the Swing State of Florida*, 6 NEW ENG. J. POLI. SCI., 237, 265 (2012) (discussing a poll of Florida's electorate that showed that a sizable portion of the electorate supported the noncitizen purge in 2012).

22. Spakovsky, *supra* note 15 (“[t]hose who ignore the implications of non-citizen registration and voting either are willfully blind to the problem or may actually favor this form of illegal voting.”)

23. ROSE, *supra* 4, at 99–102.

24. *Id.* at 34–39.

25. *Id.* at 100 (arguing that rap music is a hidden transcript).

26. Deborah Pacini Hernandez, *Amalgamating Musics Popular Music and Cultural Hybridity in the Americas*, in MUSICAL MIGRATIONS: TRANSNATIONALISM AND CULTURAL HYBRIDITY IN LATIN/O AMERICA 13, 27 (Frances R. Aparicio & Cándida F. Jáquez eds., 2003); Wayne Marshall, *Dem Bow, Dembow, Dembo: Translation and Transnation in Reggaeton*, 53 LIED UND POPULÄRE KULTUR/SONG AND POPULAR CULTURE 131, 131 (2008) [hereinafter *Dem Bow, Dembow, Dembo*]; Wayne Marshall, *From Música Negra to Reggaeton Latino, The Cultural Politics of Nation, Migration, and Commercialization*, in REGGAETON 19, 21–22 (Raquel Z. Rivera et al. eds., 2009) [hereinafter *Musica Negra*].

27. ROSE, *supra* 4, at 100. For scholarship that uses music from Latin America and the Caribbean to develop and build popular resistance and counter narratives, see, e.g., FRANCES APARICIO, LISTENING TO SALSA: GENDER, LATIN POPULAR MUSIC, AND PUERTO RICAN CULTURES (1998); FLORES, *supra* note 9; ANTHONY MACÍAS, MEXICAN AMERICAN MOJO: POPULAR MUSIC, DANCE, AND URBAN CULTURE IN LOS ANGELES, 1935–1968 (2008); LUIS ALVAREZ, THE POWER OF THE ZOOTO: YOUTH CULTURE AND RESISTANCE DURING WORLD WAR II (2008).

methods provide a stage for Reggaeton artists to openly and defiantly challenge the public transcripts about Latinos.

This Article focuses on Calle 13, a musical duo comprised of the lyricist Rene Perez Joglar, and instrumentalist Eduardo Jose Cabra Martinez, stepbrothers from Puerto Rico. The Article examines the duo's use of social commentary and satire to confront the negative representations of Latinos, which are often used to engender support for discriminatory laws. The Article also focuses on citizenship-based voting purges because voting on a particular issue or for a candidate or party, expresses some facet of the voter's beliefs, values, and ideology.<sup>28</sup> This means that voters have the ability to elect officials that may reflect or at least be responsive to their views. The inability to vote consequently renders a person voiceless, relegating them to the societal periphery. The hope is that the music of Calle 13 may provide a voice, or a hidden transcript, for Latinos who would otherwise be silenced by laws and policies that disenfranchise them.

## II. REGGAETON: MUSIC OF RESISTANCE

### A. *Brief History*

Reggaeton emerged from a “transnational flow of people, music, and ideologies” from the Caribbean, Latin America and the United States.<sup>29</sup> In the 1960s and 1970s, Jamaican reggae music spread

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28. See, e.g., GEOFFREY BRENNAN & LOREN LOMASKY, *DEMOCRACY AND DECISION: THE PURE THEORY OF ELECTORAL PREFERENCE* Ch. 3 (1993) 31–35 (arguing that voting is motivated by the desire of the voter to express a certain view, attitude or preference even if the voter believes that his or her vote will not affect the electoral outcome.); Adam Winkler, *Expressive Voting*, 68 N.Y.U. L. REV. 330, 333 (1993) (“Voting is essentially an expressive exercise. By voting, the individual shows something of herself, displaying desires, beliefs, judgments, and perceptions. The voter gives voice to her sentiments and views, concretizes them, and asserts them, though anonymously, through the marking of a candidate’s name or the “yes” or “no” of a referendum.”); Atiba R. Ellis, *The Cost of the Vote: Poll Taxes, Voter Identification Laws, and the Price of Democracy*, 86 DENV. U. L. REV. 1023, 1030 (2009) (noting that voting allows citizens “to participate in [a] core act of democracy—selecting representatives who will, on the local, state, and national levels, dictate policy reflective of the needs and interests of all its citizens.”).

29. *Dem Bow, Dembow, Dembo*, *supra* note 26, at 131; *Música Negra*, *supra* note 26, at 1–22.

globally along diaspora networks and migration patterns,<sup>30</sup> reaching places like Panama<sup>31</sup> and Puerto Rico,<sup>32</sup> as well as more traditional migration hubs in the United States and Europe.<sup>33</sup> By the 1980s in Panama, Afro-Panamanian artists were refashioning Jamaica's latest dancehall hits for Latino audiences.<sup>34</sup> Many would closely translate the original lyrics into Spanish and mimic the melody over the original Jamaican-produced rhythm.<sup>35</sup> This musical hybrid became known as Reggae en Español, and rose in popularity in New York City where Panamanians, Jamaicans, Puerto Ricans, and African-Americans lived, worked, and played together.<sup>36</sup> This hybrid style of music—incorporating dancehall rhythms with Spanish—had, and continues to have, wide appeal not only with Latinos in the United States but also with Latinos in the Caribbean, Central, and South America.

In the 1980s, circular Latino migration patterns between New York City and Puerto Rico created a pathway for rap groups and artists like Public Enemy and KRS-1 to reach the island.<sup>37</sup> This pathway eventually led to the development of “Underground” rap music. In Puerto Rico, Underground referred to both the genre's lyrical content and market position.<sup>38</sup> Underground was produced, marketed, and circulated through informal and decentralized

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30. Wayne Marshall, *The rise of reggaeton: From Daddy Yankee to Tego Calderón and beyond*, THE PHOENIX (Jan. 19, 2006), <http://thephoenix.com/Boston/Music/1595-rise-of-reggaeton/?page=3#TOPCONTENT> [hereinafter Rise of Reggaeton].

31. *Rise of Reggaeton*, *supra* note 30. “Tens of thousands of Jamaicans moved to Central America in search of work in the late 19th and early 20th centuries. Having contributed to the building of the Canal, many settled on Panama's Caribbean coast, maintaining connections to Jamaica even as some adopted Spanish as their native tongue.” Many of the descendants of Jamaican migrant workers in turn began recording reggae in Spanish in 1970s. *Id.*

32. Jorge L. Giovannetti, *Popular Music and Culture in Puerto Rico: Jamaican and Rap Music as Cross-Cultural Symbols*, in MUSICAL MIGRATIONS: TRANSNATIONALISM AND CULTURAL HYBRIDITY IN LATIN/O AMERICA 81, 81 (Frances R. Aparicio & Cándida F. Jáquez eds., 2003).

33. *Rise of Reggaeton*, *supra* note 28.

34. *Id.*

35. *Id.*

36. *Id.*

37. Juan Flores, *Creolité in the 'Hood: Diaspora as Source and Challenge*, 16 CENTRO J. 283, 289 (2004); *Musica Negra*, *supra* note 26, at 38.

38. *Musica Negra*, *supra* note 26, at 36–38.

networks via cassette.<sup>39</sup> It was produced in marquesinas<sup>40</sup>—home recording studios—at a low cost.<sup>41</sup> The marquesinas were often located in caseríos—public housing projects—throughout Puerto Rico’s urban centers.<sup>42</sup> Underground spoke directly to the social conditions prevalent in the caseríos: high unemployment, failing schools, government corruption, and widespread drug violence.<sup>43</sup> The lyrical content and style of Underground later merged with the sound of Reggae en Español.<sup>44</sup> This new musical hybrid would eventually become Reggaeton, rising in popularity throughout Latin America and crossing over socio-economic barriers to reach all sectors of Latin American society.<sup>45</sup>

This musical hybrid chronicled the social and economic inequalities experienced by the poor and marginalized in Puerto Rico.<sup>46</sup> Calle 13 addressed a similar theme in its 2010 song *Baile de los Pobres* (Dance of the Poor):<sup>47</sup>

Monseñur, aquí llegó tu Robín Hood  
a meter las bolas en los boquetes como Tiger Woods.  
Tú eres clase alta, yo clase baja,

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39. *Id.* at 38; Raquel Z. Rivera, *Policing Morality, Mano Dura Style: The Case of Underground Rap and Reggae in Puerto Rico in the Mid-1990s*, in REGGAETON 111 (Raquel Z. Rivera et al. eds., 2009).

40. Marquesinas means an open-air garage.

41. Mayra Santos, *Puerto Rican Underground*, 8 CENTRO J. CENTER FOR P.R. STUD. 218, 220 (1996).

42. Santos, *supra* note 41; *see, e.g.*, FRANCISCO L. RIVERA-BATIZ & CARLOS E. SANTIAGO, ISLAND PARADOX: PUERTO RICO IN THE 1990S 12 (1996) (discussing the tempestuous socioeconomic conditions of Puerto Rico during the 1980s and 1990s).

43. Santos, *supra* note 41, at 224–25; Marty Linsky & Harvey Simon, *Mano Dura: Mobilizing the National Guard to Battle Crime in Puerto Rico*, Kennedy School Of Government Case Program C109-97-1390.0 (2007); Zaire Zenit Dinzey-Flores, *De La Disco al Caserío: Urban Spatial Aesthetics and Policy to the Beat of Reggaeton*, 2 CENTRO J. CENTER FOR P.R. STUD. 35, 38–39, 49 (2008) (noting that caseríos in Puerto Rico which are “the second largest public and assisted housing authority in the United States Federal Housing and Urban Development System.” showcase the island’s socioeconomic disparities); Jose I. Fuste, *Colonial Laboratories, Irreparable Subjects: The Experiment of ‘(B)ordering’ San Juan’s Public Housing Residents*, 16 SOCIAL IDENTITIES 52–55 (2010); Zaire Zenit Dinzey-Flores, *Islands of Prestige, Gated Ghettos, and Nonurban Lifestyles in Puerto Rico*, 99–102 (2012).

44. Giovannetti, *supra* note 32, at 87.

45. Giovannetti, *supra* note 32, at 87.

46. Giovannetti, *supra* note 32, at 225.

47. CALLE 13, BAILE DE LOS POBRES (Sony Music Latin 2010).

Tú vistes de seda, y yo de paja  
Nos complementamos como novios,  
Tú tomas agua destilada, yo agua con microbios.  
Tú la vives fácil, y yo me fajo,  
Tú sudas perfume, yo sudo trabajo.  
Tú tienes chofer, yo camino a patas,  
Tú comes filete, y yo carne de lata.  
Nuestro parecido es microscópico  
pero es que por tí me derrito como gringo en el trópico.

Monsieur, here came your Robin Hood to hit the balls in the  
holes like Tiger Woods You belong to the upper-class and I to  
the lower-class  
You wear silk and I wear straw  
We complement each other as a couple  
You drink distilled water, I drink water with microbes.  
Your life is easy, mine is quite arduous  
You sweat perfume, I sweat work  
You have a chauffeur and I go on foot  
You eat steak and I canned meat  
Our resemblance is microscopic, but for you  
I melt like a “gringo” in the tropics

Calle 13’s lyrics satirically depict the marginalized, dismissed, and ignored lives of the poor. Their music brings the social and economic disparities experienced by the urban poor in Puerto Rico and elsewhere center-stage. Beyond their lyrical depictions, Calle 13 also visually portrays and documents the everyday lives of the poor throughout Latin America.<sup>48</sup> For example, Calle 13 took MTV’s audiences on a guided tour of La Perla, one of the most historic and impoverished urban neighborhoods in San Juan, Puerto Rico.<sup>49</sup>

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48. See, e.g., *Calle 13: Sin Mapa* (Sony 2009) (documentary that follows Calle 13 travels throughout South America exploring some of the continent’s indigenous music and culture).

49. See Puerto Rico Calle 13’s Concrete Journey (MTV television broadcast) available at <http://www.mtv.com/videos/news/111771/puerto-rico-calle-13s-concrete-journey.jhtml>; Reggaeton artists Daddy Yankee, Tego Calderon, and Voltio also took MTV’s audience on a tour of several economical depressed neighborhoods in Puerto Rico. Dinzey-Flores, *supra* note 43, at 59 (noting that these guided tours shifted the public’s “view away from the palmed

Underground's lyrics, like the lyrics of rap, have worked to humanize a segment of society that would otherwise be demonized and marginalized by the prevailing discourse on poverty and criminality.<sup>50</sup> Through Underground, the urban poor in Puerto Rico have developed a hidden transcript—a “lyrical representation”—of what it means and how it feels to be marginalized.<sup>51</sup> In other words, a discourse on poverty and disenfranchisement created by and for everyday people.

Reggaeton later provided the same discourse for impoverished and marginalized Latinos. Founding Reggaeton artist Vico C addressed local politicians' abandonment of Puerto Rico's urban poor outside of an election year:<sup>52</sup>

Ya sabemos lo que traman,  
 nos usan pa' ganar  
 después nos tiran cuando ganan,  
 Ahí es que podemos ver la verdad  
 trabajan por el voto, no por la sociedad  
 no les importa las vidas que en el barrio se han perdido  
 Ya pa' ganar las elecciones van al caserío  
 Abrazan a mi abuela, saludan a mi tío  
 Pero los pasados cuatro años estaban escondidos

We know what you're plotting  
 You use us to win, throw us out when you do  
 This is where we can see the truth  
 That you work for a vote and not for society  
 You don't care about the lives lost in the barrio  
 And to win the elections you go to the public housing projects

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beaches of tourist ideals and offer[ed] the 'ordinary' life of being poor and young in Puerto Rico.”).

50. Ralph H. Saunders, *Kickin' Some Knowledge: Rap and the Construction of Identity in the African-American Ghetto*, 10 *ARIZ. ANTHROPOLOGIST* 23, 28–29 (1993).

51. Tickner, *supra* note 4, at 127 (discussing how rap music by creating “lyrical representations of the everyday lives of” marginalized urban youths “offers a tool for mapping daily experiences and for constructing locally based selves and communities based on shared feelings of what it means to be disenfranchised.”).

52. VICO C, *DESAHOGO* (EMI Music Distribution 2005).

Hug my grandmother, say hello to my uncle  
But the last four years you were in hiding

Vico C's lyrics voice the frustration felt by the urban poor in Puerto Rico of being largely ignored until an election year and then being easily discarded as soon as the politician or political party is elected into office. The lyrics exemplify how Reggaeton provides an oppositional narrative of the political dynamics on the island. It provides a public forum where Latino youth can express and address the effects of marginalization. Further, it empowers Latino youth to become active participants in the political process by serving as an alternative source of public awareness and knowledge about the sociopolitical and economic conditions of the urban poor in Puerto Rico.<sup>53</sup>

### *B. Music of Calle 13: Critical Voice of Resistance*

Calle 13 is comprised of two stepbrothers from Puerto Rico, Rene Perez Joglar (Residente), and Eduardo Jose Cabra Martinez (Visitante). Calle 13's combination of musical and lyrical content alongside the duo's sociopolitical consciousness provides a satirical critique of the status quo.<sup>54</sup> Calle 13 has released five albums since 2005.<sup>55</sup> Over these nine years, the duo has greatly matured with an increasing social awareness and development of a clear Pan-Latino identity that is evident in their music.<sup>56</sup>

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53. Dinzey-Flores, *supra* note 43, at 58 (arguing that reggaeton artist "have become the prime source of public knowledge about what happens in the low-income urban neighborhoods of the island and the unavoidable realities present there.").

54. Frances Negrón-Muntaner, "Poetry of Filth: The (Post) Reggaetonic Lyrics of Calle 13," in REGGAETON 329 (Raquel Z. Rivera et al. eds., 2009).

55. In 2005, they released their self-titled album, *Calle 13*. CALLE 13, CALLE 13, (Sony Music 2005). In 2007, they released *Residente o Visitante* (Resident or Visitor). CALLE 13, RESIDENTE O VISITANTE (Sony Music Latin 2007). In 2008, Calle 13 followed their second album with *Los De Atrás Vienen Conmigo* (The Ones Behind Are Coming with Me). CALLE 13, LOS DE ATRÁS VIENEN CONMIGO (Sony Music Latin 2008). In 2010, they released *Entren Los Que Quieran* (Enter Those Who Want To). CALLE 13, ENTREN LOS QUE QUIERAN (Sony Music Latin 2010). This year, they released *Multiviral*. CALLE 13, MULTIVIRAL (Sony Music Latin 2014).

56. Milton D. Carrero Galarza, *Latin Supergroup Calle 13 is a Harmonic and Political Force*, MCCALL (Sept. 26, 2014), <http://www.mcall.com/entertainment/music/mc-calle-13-latin-grammy-philadelphia-20140926-story.html> (Residente attributing Calle 13's artistic

The group's second album, *Residente o Visitante*, was inspired in part by Calle 13's extensive traveling throughout Central and South America. The album is more introspective and touches on broader societal issues than its predecessor.<sup>57</sup> As explained by Calle 13's Residente, listening to the album is similar to watching a movie in that both depict reality by relying on profanity to maintain authenticity.<sup>58</sup> This transformation was captured in the group's documentary *Sin Mapa* (Without a Map). This album marks the beginning of Calle 13's growth from a politically-charged group with a Puerto Rican consciousness to a politically-charged group with a Pan-Latino consciousness. The title of the second album, *Residente o Visitante* (Resident or Visitor), not only refers to the two members' pseudonyms but can also be understood as a word play on the immigration status of many Latinos in the United States and the persistent questioning of the lawfulness of their presence here.

Calle 13's music presents multiple perspectives on the Latino experience in the United States, and represents a cultural response to currently debated social issues. Their music conveys a universal message that the Latino experience in the United States—while multidimensional—retains universal experiences of marginalization that transcend immigration status, national origin, racio-ethnic, and socioeconomic diversity that often prove divisive. It provides a platform for all Latinos, and especially Latino youth, to discuss immigration and voting rights issues regardless of these differences. As explained by Calle 13's Residente "I started at 27. I already had

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growth and commercial success "to their experiences on the road, assimilating sounds and ideas from different regions of the world, particularly Latin America, and the group's ability to keep a balance [of] mixing hard-hitting political lyrics with more satirical songs."); Jasmine Garsd, *Calle 13, On Being Loved And Hated in Latin America*, NPR (Apr. 05, 2014), <http://www.npr.org/2014/04/05/299180900/calle-13-on-being-loved-and-hated-in-latin-america> (tracing Calle 13 evolution from recording "raunchy club hits to becoming Latin America's premier political troubadours.").

57. Ramiro Burr, *Calle 13 Expands with Tango and Hip-Hop*, CHI. TRIB. (June 7, 2007), [http://articles.chicagotribune.com/2007-06-07/features/0706060226\\_1\\_reggaeton-residente-bossa-nova](http://articles.chicagotribune.com/2007-06-07/features/0706060226_1_reggaeton-residente-bossa-nova) (Residente describing the song *Atrévete-te-te* from their second album as "more direct, from the point of view of Residente. It is also more mature, with live instrumentation, mixed with electronica. And it is very Latin American.").

58. Cary Darling, *Five Question with Calle 13: The Puerto Rican Duo Adds Depth to an Otherwise One-Dimensional Reggaeton*, ORANGE CNTY. REGISTER (June 13, 2007), <http://www.ocregister.com/articles/reggaeton-81495-music-very.html>.

an education, a Master's, so I could have written something more complex. But that was not the idea. The idea was to write something that was digestible, that could be understood, that could communicate with many people . . . .<sup>59</sup>

Consider the following lyrics from Calle's 13 song entitled *Calma Pueblo* (Calm Down People):<sup>60</sup>

Nací mirando para arriba el veintitres de Febrero  
Despues de estudiar tanto termine siendo rapero  
Mi familia es grande en mi casa somos ocho.  
Y la clase media-baja no recibe plan ocho  
Es normal que mi comportamiento no les cuadre  
Y más cuando el gobernador desempleó a mi madre  
Me desahogo cuando escribo mis letras francas  
Pa' no terminar explotando en la Casa Blanca  
Mis rimas te ponen tenso y te dan calambre  
Yo soy el que hago que coman sin que tengan hambre  
Mezclo lo que veo con lo melódico  
Yo estoy aquí para contarte lo que no cuentan los periódicos  
Es el momento de la música independiente  
Mi disquera no es Sony mi disquera es la gente  
Las personas que me siguen escuchan el mensaje  
Por eso me defienden a los punos sin vendaje

Calma pueblo que aquí estoy yo  
Lo que no dicen lo digo yo  
Lo que sientes tú lo siento yo  
Porque yo soy como tu, tú eres como yo

I was born looking up on February 23  
After studying I ended up being a rapper  
My family is big, in my house there are eight of us.  
And the lower middle class does not receive Section Eight  
It's to be expected that my behavior doesn't make sense  
And even more now that the governor fired my mother.  
I vent when I write my honest lyrics

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59. Galarza, *supra* note 55.

60. Calle 13, *Calma Pueblo*, on ENTREN LOS QUE QUIERAN (Sony Music Latin 2010).

So I will not end up exploding in the White House  
My rhymes make you tense and give you cramps  
I make you eat food when you are not hungry  
I mix what I see with the melody  
I'm here to tell you what the newspapers have not  
It is time for independent music  
My label is not Sony, my label is the people.  
People who follow me listen to the message.  
So they defend me with their unbandage fists.

Calm down village (people), because I am here  
What they do not say, I say  
What you feel, I feel  
Because I am like you, you are like me

These lyrics emphasize the collective voice of Latinos that is often silenced or minimized by the public transcripts on Latinos that negatively depict them as a threat to the economy and the cultural identity of the United States.<sup>61</sup> This commentary created for everyday people reveals subversive and satirical examples of what it means and how it feels to be ignored and marginalized. It allows those who reside within the margins to become active participants in building a new paradigm by offering a voice and stage for expression and possible political action.

This need or call for collective expression is found also in the Calle 13 song *Pal Norte* (To the North):<sup>62</sup>

Tengo tu antídoto  
Pal' que no tiene identidad  
Somos idénticos  
Al que llegó sin avisar  
  
Tengo tranquilito  
Para los que ya no están,  
Para los que están,  
Y los que vienen.

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61. See *infra* text accompanying notes 63–66.

62. Calle 13, *Pal Norte*, on *RESIDENTE O VISITANTE* (Sony Music Latin 2007).

I have your antidote  
For those without identity  
We're identical . . .  
To those who came without warning.

I have peace of mind  
For those no longer here  
For those who are  
And those who come

These lyrics embrace the notion that the Latino immigrant experience in the United States is not bound to a single country of origin. In *Pal Norte* the narrator purports to have the “antidote” to those “without an identity” meaning that undocumented immigrants, those that lack the identity provided by immigration status or visas, are the same as Latinos that are already present in the United States. Calle 13’s “antidote” is that there is a collective identity shared by all Latinos.

The use of the word “identical” is particularly interesting, because beyond the alliterative effect of placing it next to “identity” there is little doubt that Calle 13 is aware of, and respectful of the national, racial, and ethnic differences among all Latinos. But by using the word “identical” Calle 13 highlights that these differences are inconsequential in the public transcript on Latinos, where they are viewed as a fungible, identical block—that they are “all the same.”

Calle 13 calls for Pan-Latino unity by turning the public rhetoric against Latinos immigration into a point of strength among Latinos. The next portion of the song also contains dual meaning, as the lyrics reference those who are here, those who are not, and those to come. These lyrics are a reflection on the generations of Latinos in the United States, but also to the experiences of passage into the United States, where some immigrants will make it, others will not, and more are surely to come behind.

The lyrics resonate widely with Latinos regardless of nationality or immigration status because in supporting the concept of Pan-Latino identity, Calle 13 is necessarily calling for collective action and empowerment among Latinos. This theme of collective empowerment may prove vital to Latinos as it creates a transcript both hidden and public for cultural resistance. Further, in calling for and representing, a collective Pan-Latino voice Calle 13 is setting

forth an oppositional narrative which draws attention to Latinos in the United States by providing them with a forum for their communal views to be heard, understood, and developed into resistance.

Indeed, Calle 13 has collaborated with renowned activist,<sup>63</sup> musicians<sup>64</sup> and Latin American scholars.<sup>65</sup> As a result of these collaborative efforts Calle 13's reach now transcends music through different modes of artistic communication and expression, which has allowed them to become a political force and serve as a platform for dealing with a broad range of issues. Indeed, Calle 13 works with a number of organizations on a broad range of socioeconomic and political issues.<sup>66</sup>

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63. See e.g., Erica Lopez, *Calle 13 Takes on Human Trafficking in Latin America*, FOX NEW LATINO (Nov. 22, 2011), <http://latino.foxnews.com/latino/entertainment/2011/11/22/calle-13-takes-on-human-trafficking-in-latin-america/> (describing Calle 13 work with UNICEF and MTV Exit on a multimedia campaign aimed at bringing awareness to the problem of human trafficking in Latin America).

64. Jon Pareles, *A Mix of Flash and Idealism at the Latin Grammys*, N.Y. TIMES (Nov. 6, 2009), <http://www.nytimes.com/2009/11/06/arts/music/06grammy.html> (detailing Calle 13 collaborative work with Argentine singer Mercedes Sosa . . . a voice of [Latin] Americas' social conscience for decades," Mexican rock group Café Tacvba, Panamanian songwriter Rubén Blades.); Jon Pareles, *Still Rebels, Even as Maturity Looms*, N.Y. TIMES (Feb. 21, 2014), [http://www.nytimes.com/2014/02/23/arts/music/calle-13-prepares-new-album-multiviral.html?\\_r=0](http://www.nytimes.com/2014/02/23/arts/music/calle-13-prepares-new-album-multiviral.html?_r=0) (describing Calle 13 collaboration with "hard-rock guitar riff [ ] Tom Morello of Rage Against the Machine; guest vocals in Arabic from the Arab Israeli singer Kamilya Jubran; and a spoken-word appearance by Julian Assange, WikiLeaks founder who has taken asylum in the Ecuadorian Embassy in London, where Mr. Pérez recorded him.").

65. See, e.g., Calle 13, *El Viaje*, on MULTIVIRAL (Sony Music Latin 2014) (Uruguayan scholar Eduardo Galeano providing a spoken word introduction to the song *El Viaje* (The Journey)).

66. Dinzey-Flores, *supra* note 43, at 56, 60 (describing how Calle 13 has been enlisted in a number social and political campaigns); Sugey Palomares, *Calle 13 Ready to Storm the U.S.*, Rolling Stone (July 16, 2012), <http://www.rollingstone.com/music/news/calle-13-ready-to-storm-the-u-s-20120716> (stating that the groups "tongue-bending lyrics, which kick politically conscious messages tied to raw verses and sexual euphemisms . . . have allowed Calle 13 to transcend beyond the Latin hip-hop genre and make them a global phenomenon."); Galarza, *supra* note 55 (noting that Calle 13 is developing into a "musical newspaper" bringing attention and advocating for a broad range of international causes including the plight of "displaced indigenous tribes in South America and for free access to education."); Cf. Marisol LeBrón, *The Reggaetón Factor in the U.S. Elections*, NACLA, <https://nacla.org/news/reggaet%25C3%25B3n-factor-us-elections> (noting that in 2008 both presidential candidates John McCain and Barack Obama used reggaeton artist to pursue the Latino vote stirring some controversy because some felt the musical genre is not representative all Latinos politically or socioeconomically. In Puerto Rico, some have denounced the use of reggaeton artist by local politicians in order "to attract youth to a political system that systematically ignores their concerns.").

### III. CALLE 13'S RESPONSE TO HIDDEN AND PUBLIC TRANSCRIPTS ON LATINO VOTERS

Critical scholars have argued that the pervasive framing of Latino immigrants as a threat to national security, the economy, and the cultural identity of the United States has hidden the real consequences of draconian immigration policies.<sup>67</sup> Scholars contend that this type of rhetoric is often conflated to encompass all Latinos, regardless of citizenship status, and depicts them as foreign invaders who must be immediately and drastically controlled.<sup>68</sup>

This depiction has divisive social and political consequences for one of the largest growing segments of the American population.<sup>69</sup> The Latino population in the United States is currently the largest and fastest growing racio-ethnic group in the nation, representing 17 percent of the nation's total population.<sup>70</sup> The Latino population accounts for more than half of the nation's growth over the past

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67. Mary Romero, *Are Your Papers In Order?: Racial Profiling, Vigilantes, and America's Toughest Sheriff*, 14 HARV. LATINO L. REV. 337, 339 (2011) (citing MURRAY EDELMAN, CONSTRUCTING THE POLITICAL SPECTACLE 4 (1988) ("systematic research suggest[s] that the most cherished forms of popular participation in government are largely symbolic political performances.")).

68. This type of conflation is crucial to framing immigration discourse. See generally OTTA SANTA ANA, BROWN TIDE RISING: METAPHORS OF LATINOS IN CONTEMPORARY AMERICAN PUBLIC DISCOURSE (2002); MAE M. NGAI, IMPOSSIBLE SUBJECTS: ILLEGAL ALIENS AND THE MAKING OF MODERN AMERICA (2004) (examining the emergence of "illegal aliens" rhetoric in the United States); see also Kevin R. Johnson, *It's the Economy, Stupid: The Hijacking of the Debate Over Immigration Reform by Monsters, Ghosts, and Goblins (or the War on Drugs, War on Terror, Narcoterrorists, Etc.)*, 13 CHAP. L. REV. 583, 609 n.146 (2010).

69. These public transcripts that negatively depict Latinos hold tremendous sway on laws, policies and practices that affect the everyday of Latinos in the United States. See, e.g., OTTA SANTA ANA, *supra* note 67. Mary Romero, *State Violence, and the Social and Legal Construction of Latino Criminality: From El Bandido to Gang Member*, 78 DENV. U. L. REV. 1081, 1089-98 (2001) (analyzing the negative depiction and stereotyping of Latino criminality and its effect on criminal law enforcement policy); Steven W. Bender, *Greasers and Gringos: Latinos, Law, and the American Imagination*, Chap. 1, 1 (2003) (analyzing American media's negative depiction of Latinos as "contributing to the maltreatment of Latinos under American law and legal systems.").

70. Anna Brown and Mark Hugo Lopez, *Mapping the Latino Population, By State, County, and City* (Aug. 29, 2013) PEW RES. CENTER <http://www.pewhispanic.org/2013/08/29/mapping-the-latino-population-by-state-county-and-city/>; Sudeep Reddy, *Latinos Fuel Growth in Decade*, WALL ST. J. (Mar. 25, 2011, 12:01 AM), [http://online.wsj.com/news/articles/SB100014240527487046047045762206\\_03247344790](http://online.wsj.com/news/articles/SB100014240527487046047045762206_03247344790) (reporting that the US Latino population "surged 43%, rising to 50.5 million in 2010 from 35.3 million in 2000.").

decade.<sup>71</sup> This growth has been driven both by births and immigration.<sup>72</sup> In comparison, the non-Latino, white population is projected to drop to less than 50 percent of the population by 2050.<sup>73</sup> This demographic shift may alter the country's political and socioeconomic dynamics.<sup>74</sup>

The growing influence of Latino voters was evident in the 2012 presidential election.<sup>75</sup> Latinos represented a growing share of voters in key states like Nevada, Florida, and Colorado.<sup>76</sup> Latinos also represented a sizeable electorate group in states with a significant number of electoral votes like California, Texas, and Arizona.<sup>77</sup>

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71. Reddy, *supra* note 55.

72. *Id.*

73. *Id.*; see also Conor Dougherty & Miriam Jordan, *Minority Births are New Majority: In Demographic Watershed for U.S., Newborns Among Non-Hispanic Whites Are Surpassed by Others*, WALL ST. J. (May 17, 2012, 12:12 PM), <http://online.wsj.com/news/articles/SB10001424052702303879604577408363003351818> (last updated May 17, 2012, 12:12 PM) (attributing this decline not only to immigration but also to (1) a declining birth rate among the white population and (2) an aging white population).

74. Reddy, *supra* 5; Mark Hugo Lopez & Ana Gonzalez-Barrera, *Inside the 2012 Latino Electorate*, PEW RES. CENTER (June 3, 2013), <http://www.pewhispanic.org/2013/06/03/inside-the-2012-latino-electorate>. While a record number of Latinos voted in the 2012 presidential election, Latinos who “made up 17.2% of the nation’s population in 2012, 10.8% of eligible voters, [represent] just 8.4% of all voters.” Latinos also lagged behind other groups with less than half (43.9 percent) eligible to vote, while more than half (51.7 percent) of Asians and a majority of blacks (69.1 percent) and whites (78.6 percent) were eligible to vote. These differences highlight the “relative youth of the nation’s Latino population and the high number of noncitizen adults among its population.” Latino population growth, however, promises to reshape the US electorate for the foreseeable future. “Between 2008 and 2012, the number of Latino eligible voters grew from 19.5 million to 23.3 million—an increase of 19%.” Moreover, each year approximately eight hundred thousand native-born Latinos turn eighteen, making them eligible to vote. *Id.*

75. See *supra* notes 69–72 and accompanying text; see also THE REPUBLICAN NATIONAL COMMITTEE (RNC) GROWTH AND OPPORTUNITY PROJECT, *available at* [https://goproject.gop.com/RNC\\_Growth\\_Opportunity\\_Book\\_2013.pdf](https://goproject.gop.com/RNC_Growth_Opportunity_Book_2013.pdf). (containing a number of recommendations for diversifying the party’s constituents in light of the country’s changing demographics and the need to improve its chances at winning more elections.)

76. Mark Hugo Lopez & Paul Taylor, *Obama 71%; Romney 27%: Latino Voters in the 2012 Election*, PEW RES. CENTER (Nov. 7, 2012), at 5, *available at* [http://www.pewhispanic.org/files/2012/11/2012\\_Latino\\_vote\\_exit\\_poll\\_analysis\\_final\\_11-09.pdf](http://www.pewhispanic.org/files/2012/11/2012_Latino_vote_exit_poll_analysis_final_11-09.pdf).

77. *Id.*; see also Mark Hugo Lopez, Jens Manuel Krogstad, Eileen Patten & Ana Gonzalez-Barrera, *Latino Voters and the 2014 Midterm Elections*, PEW RES. CENTER (Oct. 16, 2014), [http://www.pewhispanic.org/files/2014/10/2014-10-16\\_hispanics-in-the-2014-mid-term-elections.pdf](http://www.pewhispanic.org/files/2014/10/2014-10-16_hispanics-in-the-2014-mid-term-elections.pdf) (stating that “more than two-thirds of Hispanic eligible voters live in just six states—California, Texas, Florida, New York, Arizona and Illinois . . .”[a]t 40.1%, New

Thus, Latinos hold the potential to indelibly impact future elections as their share of the American population continues to grow.<sup>78</sup> This potential has become a source of alarm for certain segments of the American public.<sup>79</sup>

Some states with high concentrations of Latino voters are pursuing citizenship-based voting purges.<sup>80</sup> While accurate registration rolls are important to the electoral process, citizenship-based voting purges are—at best—an inefficient use of resources and—at worst—a discriminatory voting suppression tactic.<sup>81</sup> So far, citizenship-based voting purges have employed flawed and unreliable methods to identify ineligible noncitizen voters.<sup>82</sup> As such, these purges have often failed to discover a significant number of ineligible noncitizen voters.<sup>83</sup>

Florida provides one case study of how states have attempted to implement voting purges. Over the past several years, Florida has made several unsuccessful attempts at purging its voter registration rolls of noncitizens. In 2012, Florida attempted to purge noncitizens from voter registrations rolls in advance of the presidential election.<sup>84</sup> The initial noncitizen purge began shortly before the primary

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Mexico has the highest Latino eligible voter share, followed by Texas (27.4%), California (26.9%), Arizona (20.3%) and Florida (17.1%).”)

78. *See generally id.*

79. *See, e.g.*, HUNTINGTON, *supra* note 13, at 243; SCHLESINGER, *supra* note 13, at 114–15; KOBACH, *supra* note 13, at 459 (suggesting ways for state and local authorities to reduce illegal immigrant populations because of the fiscal and criminal costs imposed by their presence).

80. “*The State of the Right to Vote After the 2012 Election*”: *Hearing Before the Comm. on the Judiciary*, 112th Cong. (2012), available at [http://www.aclu.org/files/assets/aclu\\_statement\\_for\\_sjc\\_hearing\\_on\\_2012\\_election.pdf](http://www.aclu.org/files/assets/aclu_statement_for_sjc_hearing_on_2012_election.pdf) (describing attempts by Florida, Colorado, and Texas to purge noncitizens from the states’ voter registration lists).

81. *Id.* at 12.

82. Myrna Pérez, *Voter Purges*, BRENNAN CTR. FOR JUSTICE, (2008), available at [http://brennan.3cdn.net/5de1bb5cbe2c40cb0c\\_s0m6bqskv.pdf](http://brennan.3cdn.net/5de1bb5cbe2c40cb0c_s0m6bqskv.pdf) (discussing problematic voting purge practices and procedures in several states); Henderson, *supra* note 14, at 1089 (noting that citizenship-based purges in Florida, New Mexico, and Colorado mistakenly identified large numbers of potential noncitizen registered voters that were later reduced to a marginal fraction of registered voters); Marouf, *supra* note 16, at 66–67.

83. Henderson, *supra* note 14, at 1088–89.

84. “*The State of the Right to Vote After the 2012 Election*”: *Hearing Before the Comm. on the Judiciary*, 112th Cong. (2012), available at [http://www.aclu.org/files/assets/aclu\\_statement\\_for\\_sjc\\_hearing\\_on\\_2012\\_election.pdf](http://www.aclu.org/files/assets/aclu_statement_for_sjc_hearing_on_2012_election.pdf) (describing attempts by Florida, Colorado, and Texas to purge noncitizens from the states’ voter registration lists).

election.<sup>85</sup> It stemmed from a collaborative partnership between the Florida Department of State (FDOS) and Florida Department of Highway Safety and Motor Vehicles (DHSMV).<sup>86</sup> It hardly seemed to matter that there was little evidence of noncitizens voting in Florida.<sup>87</sup>

To identify potential noncitizen registered voters, FDOS and DHSMV compared DHSMV records with voter registration rolls to determine citizenship status.<sup>88</sup> Registered voters were flagged as potential noncitizens if they had previously presented a green card or foreign passport as a form of identification at the DHSMV.<sup>89</sup> This type of comparison was and remains unreliable because DHSMV records contain out-of-date citizenship status information. Consequently, such analysis may erroneously identify eligible voters as ineligible. Furthermore, the comparison is an unreliable matching procedure for verifying the identities of potential noncitizens.<sup>90</sup> The match process identified approximately 182,000 potential noncitizen registered voters.<sup>91</sup>

FDOS then furnished a purported sample of approximately 2,625 potential noncitizens to election supervisors with the directive that

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85. *Id.*

86. Marc Caputo, *Florida's noncitizen voter purge grew from 5-minute conversation*, *Miami Herald* (June 12, 2012), <http://www.miamiherald.com/2012/06/13/2847062/floridas-noncitizen-voter-purge.html> (reporting that the initiative stemmed from a brief conversation in early 2011 between Florida's Governor Rick Scott and then Secretary of State Kurt Browning about whether there were noncitizens on the voter rolls and if so, were they voting. This brief conversation then prompted state election officials to begin trying to identify noncitizen registered voters.) *See also* Decl. of Ion v. Sancho at ¶¶ 13–14; 24 Ex. A6-7 at 29.

87. Mem. in Opp'n to Pls.' Mot. for Prelim. Inj. and Summ. J. at 5, *Arcia v. Detzner*, 908 F. Supp. 2d 1276 (S.D. Fla. 2012) (No. 1:12-cv-22282-WJZ), *available at* <http://moritzlaw.osu.edu/electionlaw/litigation/documents/SecretarysMemorandumInOppositiontoPlaintiffsMotionforPreliminaryInjunction.pdf> (stating that in 2011, the FDOS and DHSMV examined the records of over 11 million voters to identify noncitizens registered voters. Approximately 180,000, or 1.6 percent, contained information indicating that the voter was a noncitizen).

88. *Arcia v. Detzner*, 908 F. Supp. 2d 1276, 1278 (S.D. Fla. 2012).

89. Mem. in Opp'n to Pls.' Mot. for Prelim. Inj. and Summ. J. *supra* note 87, at 5.

90. Letter from Diana Kasdan, Democracy Counsel, Brennan Ctr. for Justice, & Deirdre Macnab, President, League of Women Voters of Fla., to the Honorable Ken Detzner, Sec'y of State, Fla. Dep't of State at 4-5 (June 27, 2012), *available at* [http://www.brennancenter.org/sites/default/files/legacy/Democracy/VRE/062712\\_Letter\\_to\\_Detzner.pdf](http://www.brennancenter.org/sites/default/files/legacy/Democracy/VRE/062712_Letter_to_Detzner.pdf).

91. Marc Caputo, *How Rick Scott's Noncitizen Voter Purge Started Small and then Blew Up*, *MIAMI HERALD* (June 12, 2012), <http://www.miamiherald.com/news/politics-government/article1940542.html#storylink=cpy>.

they contact the individuals identified and, if appropriate, remove them from the voter rolls.<sup>92</sup> Minorities in Florida were either targeted or disproportionately affected by this voting purge.<sup>93</sup> While minorities comprise only 30 percent of voters in Florida, they constituted 84 percent of individuals listed on the sample purge list.<sup>94</sup> The FDOS directive prompted several legal challenges and opposition from some county election officials.<sup>95</sup>

In particular, the purge was challenged under the National Voting Registration Act of 1993 (NVRA)<sup>96</sup> and the Voting Rights Act of 1965.<sup>97</sup> Under the NVRA, any state purge practice must be “uniform, non-discriminatory, and in compliance with the [Voting Rights Act of 1965].”<sup>98</sup> The NVRA also contains procedural and time restrictions on the removal of registrants from the voter rolls by election officials.<sup>99</sup> States are prohibited from engaging in a systematic voter-

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92. *Arcia*, 908 F. Supp. 2d at 1278. A webinar was soon held instructing county election officials on the process for determining citizenship status of individuals flagged as potential noncitizen, notification and removal procedures. Declaration of Ion v. Sancho, *supra* note 86, at ¶6.

93. “*The State of the Right to Vote After the 2012 Election*”: Hearing Before the Comm. on the Judiciary, 112th Cong. at 12 (2012), available at [http://www.aclu.org/files/assets/aclu\\_statement\\_for\\_sjc\\_hearing\\_on\\_2012\\_election.pdf](http://www.aclu.org/files/assets/aclu_statement_for_sjc_hearing_on_2012_election.pdf) (citing Ari Berman, *Florida Voter Purge Is Unlikely to Resume*, THE NATION (July 3, 2012), available at <http://www.thenation.com/blog/168714/florida-voter-purge-unlikely-resume#>).

94. *Id.*

95. *Id.*

96. *United States v. Florida*, 870 F. Supp. 2d 1346, 1347 (N.D. Fla. 2012) (holding that the NVRA did not prohibit Florida from systematically removing from a voting list improperly registered noncitizens, and the abandonment of the purge program precluded the need for an injunction); *Arcia v. Detzner*, 908 F. Supp. 2d 1276, 1277 (S.D. Fla. 2012) (holding that the NVRA did not prohibit Florida from systematically removing from voting list improperly registered noncitizens), *rev'd* 746 F.3d 1273 (11th Cir. 2014).

97. *Mi Familia Vota Educ. Fund v. Detzner*, 891 F. Supp. 2d 1326, 1327 (M.D. Fla. 2012) (holding that the plaintiff adequately alleged that Florida noncitizen-based voting purge fell under the preclearance requirement of the Voting Rights Act of 1965, and those allegations, when taken as true, state a facially plausible claim for relief.); see 42 U.S.C. § 1973c (2011) (requiring preclearance of changes to voting procedures in jurisdictions with a certified history of discrimination and requiring that preclearance disputes be heard by a three-judge court). For more discussion of preclearance, see *infra* note 109.

98. *Arcia*, 908 F. Supp. 2d at 1278; see also 1242 U.S.C. § 1973gg-6(b)(1) (“shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965.”).

99. *Arcia*, 746 F.3d 1281–1284 (discussing 1242 U.S.C. § 1973 gg-6(c)(2) (A) (1993) which provides that “[a] State shall complete, not later than 90 days prior to the date of a

removal program ninety days before a federal primary or general election.<sup>100</sup> Florida announced it was temporarily halting the purge in the face mounting pressure from some county election officials, segments of the general public, and several voting rights advocacy groups.<sup>101</sup>

Florida filed a lawsuit against the Department of Homeland Security demanding access to the Systematic Alien Verification and Entitlements (SAVE) database in order to ferret out ineligible noncitizens voters.<sup>102</sup> The federal government later granted access to the SAVE database.<sup>103</sup> Florida then resumed its noncitizen-based purge prior to the general election.<sup>104</sup>

The reinstated citizenship-based purge was met with similar opposition. Many highlighted the concern that SAVE is not and does not purport to be a national citizenship registry.<sup>105</sup> Instead it is a

primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.”).

100. *Id.* at 1282.

101. Caputo, *supra* note 91.

102. Fla. Dep’t of State v. U.S. Dep’t of Homeland Sec., No. 1:12-cv-960 (D.D.C. June 11, 2012).

103. Michael Schwartz, *U.S. to Let Florida Use Its Data for Voter Check*, N.Y. TIMES, July 15, 2012, at A15, available at [http://www.nytimes.com/2012/07/15/us/politics/us-to-let-florida-use-homeland-security-data-for-voter-check.html?\\_r=0](http://www.nytimes.com/2012/07/15/us/politics/us-to-let-florida-use-homeland-security-data-for-voter-check.html?_r=0); Corey Dade, *Florida, Colorado Voter Purges Net Few Noncitizens, So Far*, NPR (Sept. 5, 2012, 6:00 PM), <http://www.npr.org/blogs/itsallpolitics/2012/09/05/160624313/florida-colorado-voter-purges-net-few-noncitizens-so-far>.

104. Press Release, Fla. Dep’t of State, U.S. Department of Homeland Security Agrees to Terms with Florida Department of State Over Legal Status Checks of Potential Non-Citizen Voters, (Aug. 16, 2012), available at <http://dos.myflorida.com/communications/press-releases/2012/us-department-of-homeland-security-agrees-to-terms-with-florida-department-of-state-over-legal-status-checks-of-potential-non-citizen-voters/> (announcing a plan to instruct county election officials on how to use the SAVE database to determine the citizenship status of the 2600 individuals flagged as potential noncitizen in advance of the primary election); Decl. of Ion v. Sancho at ¶¶ 13–14; 24 Ex. A6-7 at 29. Interestingly, FDOS would only cover a SAVE search fee (up to \$1.50 per full transactional search) after a final determination of eligibility and subsequent removal from voter registration rolls had been made by a local election supervisor. *Id.* at 29.

105. Declaration of Ion v. Sancho, *supra* note 86, at ¶ 12; ex. A7 at 3. A third webinar held in September (and hosted by the DOH) provided further information on accessing SAVE. Interestingly, the webinar material states that SAVE “as a mechanism for verifying the citizenship status of potential voters” is significantly limited. Those limitations include the inability of SAVE to verify birthright derived US citizenship, that it is impermissible to verify citizenship status based on name and date only, and it does not use social security numbers to verify citizenship.

database designed to verify citizenship status of individuals applying for various public benefit programs.<sup>106</sup> It is only updated to verify immigration status at particular times and does not contain information about native-born citizens.<sup>107</sup> As a result, SAVE was unable to filter out native-born citizens erroneously included on Florida's purge list.

For example, the SAVE database was primarily designed to be searched by providing immigration-related numeric identifiers such as a naturalization or citizenship certificate number.<sup>108</sup> The records used to identify potential noncitizen voters in Florida did not contain immigration-related numeric identifiers.<sup>109</sup> As a result, SAVE did little to ameliorate the deficiencies of Florida's initial match methodology.

In light of the Supreme Court's *Shelby County v. Holder* decision,<sup>110</sup> Florida Governor Rick Scott pushed for a citizenship-based purge before the 2014 gubernatorial election.<sup>111</sup> This most

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106. Marouf, *supra* note 16, at 67 (explaining that SAVE is a fee-based, intergovernmental initiative designed to access multiple immigration record systems from a variety of government agencies in order to verify immigration status. The verification process is document driven and should be accessed by providing either a naturalization or citizenship certificate number).

107. *See id.*; *see also* Kasdan Letter *supra* note 90 at 4.

108. Marouf, *supra* note 16, at 67.

109. Kasdan Letter, *supra* note 90, at 7 N. 24 (citing from T. Christian Hen-cn Jr, Chief, Voting Section, Civil Rights Div., Dep't of Justice, to Ken Detzner, Sec'y of State of Fla. 3-4 (June 11, 2012); *see* Complaint, Exhibit G, Fla. Dep't of State v. U.S. Dep't of Homeland Sec. at 4-6 (e-mail in which DHS advises it would need numeric identifiers "before [it] can verify a status in SAVE").

110. *Shelby Cnty. v. Holder*, 133 S. Ct. 2612, 2631 (2013) (upholding the constitutionality of preclearance—which prohibits certain jurisdictions from implementing any change that affects voting laws or practices without first demonstrating to either the U.S. Department of Justice or a three-judge panel in the Federal District Court in Washington, D.C that the change does not have a discriminatory purpose or effect. *See* Jerry H. Goldfeder and Myrna Perez, *After 'Shelby County' Ruling Are Voting Rights Endangered?* NYLJ (Sept. 23, 2013), <http://www.stroock.com/SiteFiles/Pub1393.pdf> (noting that after *Shelby* voting rights advocates in covered jurisdictions-states, counties, cities, and towns with a history of racially discriminatory voting practices-lost the preventative protections provided by the preclearance requirement and instead must turn to costly and "less efficient litigation" to address discriminatory and restrictive voting laws).

111. Lizette Alvarez, *Ruling Revives Florida Review of Voting Rolls*, N.Y. TIMES (Aug. 7, 2013), [http://www.nytimes.com/2013/08/08/us/ruling-revives-florida-review-of-voting-rolls.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/08/08/us/ruling-revives-florida-review-of-voting-rolls.html?pagewanted=all&_r=0) (then Florida Governor Rick Scott, in resuming the citizenship-based voting purge explained, "[t]he Supreme Court has allowed our secretary of state to start working with our supervisor of elections to make sure our sacred right to vote is not diluted.").

recent attempt was halted as doubts about the accuracy persisted.<sup>112</sup> The effort to purge noncitizens from voting ended shortly before the gubernatorial election.<sup>113</sup> Undeterred, several states have signaled an interest in pursuing citizenship-based voting purges using the SAVE database in future elections.<sup>114</sup>

These efforts to purge noncitizen voters reveal the ability of public transcripts on noncitizen voters to move and shape public discourse and legislative policy. Calle 13 satirically comments on the disconcertion felt by certain segments of the American public that support citizenship-based voting purges:<sup>115</sup>

Aquí llegaron las hormigas  
Vamos conquistando tierras enemigas  
Invisible silenciosa y simultanea  
Toda la invasión es subterránea  
  
Sin disparar al aire, sin tirar misiles  
Sin tener que matar gente usando proyectiles  
La guerra la peleamos sin usar fusiles  
De bloque en bloque como los albañiles  
  
Han tratado de pararnos un par de vaqueros  
Pero ya está construido el hormiguero  
Somos muchos hermanos con muchos primos  
La familia es grande porque nos reproducimos  
  
Desplazamos al vaquero de sus oficinas  
Porque trabajamos a tiempo completo sin propina

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112. Anthony Man, *Gov. Rick Scott's Administration Retreats from Latest Plan to Purge Voter Rolls*, SUN SENTINEL (Mar. 27, 2014), <http://www.sun-sentinel.com/local/broward/broward-politics-blog/sfl-rick-scott-purge-voter-rolls-20140327-story.html>.

113. *Id.*

114. Several states previously under the preclearance requirement of the Voting Rights Act signaled an interest in pursuing citizenship-based voting purges using the SAVE database. Janell Ross, *Voter Roll Purges Could Spread to at Least 12 States*, HUFFINGTON POST (July 31, 2012, 12:59 PM), [http://www.huffingtonpost.com/2012/07/31/voter-roll-purge\\_n\\_1721192.html](http://www.huffingtonpost.com/2012/07/31/voter-roll-purge_n_1721192.html) (In addition to Florida and Colorado, states expected to request access to SAVE include: Alaska, Arkansas, Arizona, Georgia, Iowa, Kansas, Michigan, New Mexico, Ohio, Utah, and Washington).

115. Cairaguas, "El Hormiguero" by Calle 13, *English Translation of Lyrics*, SONGLATIONS (Oct. 29, 2013, 5:33PM), <http://songlations.livejournal.com/65839.html>.

No somos bienvenidos  
Como quiera entramos, te picamos y te castigamos

Cuando más te confías las hormigas te engañan  
Atacan en equipo como las pirañas  
Aunque sean pequeñas gracias a la unión  
Todas juntas se convierten en camión

Pobre del vaquero que nos subestima  
Cuando se duerme se le viene la colonia encima  
Por eso los vaqueros en todas las esquinas  
Los tenemos comiendo comida latina

Aquí llegaron las hormigas  
Vamos conquistando tierras enemigas  
Invisible silenciosa y simultanea  
Toda la invasión es subterránea

The ants have arrived here  
We are conquering enemy territories  
Invisible, silent, and simultaneous  
The entire invasion is subterraneous

Without shooting into the air, without launching missiles  
Without having to kill people using projectiles  
We fight this war without using firearms  
From block to block like the bricklayers

They have tried to stop us, a pair of cowboys  
But the anthill is already built  
We are many brothers with many cousins  
The family is large because we reproduce ourselves

We displace the cowboys from their offices  
Because we work full-time without tips  
We are not welcome, yet we enter anyway  
We sting you and we punish you.

When you most feel most safe, the ants fool you  
They attack in packs like the piranhas  
Even though they are small, thanks to unity  
All together they become a bus

Poor cowboy who underestimates us  
When he sleeps, the colony overcomes him  
That's why the cowboys at all corners  
We have them eating Latin food

These lyrics explore the immigrant subaltern experience by describing the border-crossing experience as one that is both subterranean and non-human. The lyrics reimagine the socioeconomic position and influence of many Latinos by offering an alternative positive construction of the Latino immigrant identity. The song also provides satirical commentary on the public transcripts that Latinos are invading the United States. The lyrics do so by comparing Latinos to ants in terms of their ability to surreptitiously infiltrate a space and work collectively to oust those in positions of power and influence. The song provides a platform for Latinos to become direct and active participants in the building and shaping of a new paradigm where they have the ability to gain control over life in the subaltern.<sup>116</sup>

Calle 13's impact in this respect is measurable by several metrics. Their mainstream success within the Latino musical community is apparent by the record-setting number of nominations and wins at the Latin Grammys.<sup>117</sup> These successes within the Latino musical community, however, are paralleled by Calle 13's efforts to have greater control over their own music as well as open the door to new voices in the musical community and explore alternative platforms for their own music. To do so, Calle 13 founded their own label, El Abismo, on which they released their latest album.<sup>118</sup> To make their

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116. Tickner, *supra* note 4, at 141. (commenting on a statement by a Colombian rapper that hip-hop functions as a hidden transcript by "interpreting a reality that is invisible to the privileged, or tell[s] a story of a world that has yet to be written by those in power.")

117. *Calle 13 Leads Nominations for Latin Grammys*, BILLBOARD.COM (Nov. 5, 2009), <http://www.billboard.com/biz/articles/news/1263301/calle-13-leads-nominations-for-latin-grammys>. Leila Cobo, *Calle 13 Sweeps Latin Grammy Nominations*, BILLBOARD.COM (Sept. 14, 2011), <http://www.billboard.com/biz/articles/news/1169777/calle-13-sweeps-latin-grammy-nominations>; Justino Aguilar, *Latin Grammys: Calle 13 Makes History in Star-Studded Night*, BILLBOARD.COM (Nov. 10, 2011), <http://www.billboard.com/articles/news/465189/latin-grammys-calle-13-makes-history-in-star-studded-night>.

118. Judy Cantor-Navas, *Calle 13 Going Indie for New Album, Single*, BILLBOARD.COM (Oct. 31, 2013), <http://www.billboard.com/articles/columns/latin-notas/5777967/calle-13-going-indie-for-new-album-single>; *Calle 13 estrena su propio sello discográfico, anuncia su gira*

music more widely available to their listeners, Calle 13 has allowed free downloads of the album to concertgoers, and encourages those who could not afford their album to download it illegally.<sup>119</sup> In the past, Calle 13 has charged concertgoers donations of rice and bean to attend their concerts.<sup>120</sup>

Beyond the realm of music, Calle 13 has founded a worldwide visual arts project spurred by artists sharing their work that is inspired by their latest album, *Multiviral*.<sup>121</sup> Calle 13 explained that the project is about supporting and encouraging artists who believe that art can be made and shown “anywhere, any day, anytime, always moving.”<sup>122</sup> They add that their goal is to “open spaces and ways to perceive and express what ‘multiviral’ means to us through the creative process.” and that they want to create “a space where varying artists and cultures converge, where they can exhibit their pieces on any corner in the ghetto or the city” and sensitize and unify people from across the world through varying artistic mediums.<sup>123</sup> Through

2014 y lanzará nuevo disco, SOPITAS.COM (Dec. 6, 2013), <http://www.sopitas.com/site/266683-calle-13-estrena-su-propio-sello-discografico-anuncia-su-gira-2014-y-lanzara-nuevo-disco/>.

119. Bryan Llenas, *Calle 13 Dish On New Video Featuring Willie Mays, Combating Youth Violence In Puerto Rico*, LATINO.FOXNEWS.COM (Mar. 7, 2014), <http://latino.foxnews.com/latino/entertainment/2014/03/07/new-video-calle-13-willie-mays-send-message-to-rappers-and-puerto-rico-youth/>; *Calle 13 anima a sus seguidores a piratear su disco*, PRENSALIBRE.COM (Feb. 2, 2014), [http://www.prensalibre.com/espectaculos/Calle\\_13-anima-piratear-disco\\_0\\_1112888784.html](http://www.prensalibre.com/espectaculos/Calle_13-anima-piratear-disco_0_1112888784.html); *Calle 13 invita a piratear su disco*, ELPAIS.COM.UY (Apr. 8, 2014), <http://www.elpais.com.uy/divertite/musica/calle-invita-piratear-disco.html>.

120. *Calle 13 cobra con arroz y habichuelas*, ELNUEVODIA.COM (Nov. 15, 2009), <http://www.elnuevodia.com/calle13cobraconarrozyhachuelas-1121554.html>.

121. *Calle 13 lanza un proyecto de arte inspirado en su disco ‘MultiViral’*, ELMUNDO.ES (Aug. 26, 2014), <http://www.elmundo.es/cultura/2014/08/26/53fcec222601df87e8b458a.html> *El proyecto Multi-Viral de Calle 13 se extiende a las artes plásticas*, JORNADA.UNAM.MX (Aug. 26, 2014), <http://www.jornada.unam.mx/ultimas/2014/08/26/el-proyecto-multi-viral-de-calle-13-se-extiende-a-las-artes-plasticas-8993.html>; *Exclusive: Calle 13’s Residente Talks ‘MultiViral,’ New Art Project & More*, THESOURCE.COM (Aug. 31, 2014), <http://thesource.com/2014/08/31/exclusive-calle-13s-residente-talks-multiviral-new-art-project-more/>.

122. *Calle 13 lanza un proyecto de arte inspirado en su disco ‘MultiViral’*, ELMUNDO.ES (Aug. 26, 2014), <http://www.elmundo.es/cultura/2014/08/26/53fcec222601df87e8b458a.html> (“en cualquier lugar, cualquier día, a cualquier hora, siempre en movimiento”, y logren así “nuevas experiencias artísticas”).

123. *Id.* (“Lejos de querer supeditar el trabajo creativo a la palabra-concepto que le dio título a nuestro álbum ‘MultiViral’, la idea es sobrepasarlo juntos; abrir espacios y explorar otras maneras de percibir y expresar lo que ‘multiviral’ significa para nosotros, a través del acto creative”, dijo “Residente.” Los resultados de esta primera fase de un proyecto que propone la “multiviralización de arte” se pueden ver a través de su canal de YouTube.”).

these and other efforts, Calle 13 works to reflect and foster the creative energies and political force of Latinos.

Latino youth can see their frustrations and struggles reflected in Calle 13's music. But beyond serving as a mirror, Calle 13's music carves out an artistic space for Latino youth, a space where they can not only express and address the effects of marginalization and disenfranchisement, but also be heard. This creative space can then be used to construct a positive sense of identity that runs counter to the public transcript.<sup>124</sup>

While music is limited in its ability to empower social actors and affect change, the music of Calle 13 serves as a form of cultural resistance; a hidden transcript permitted to coexist with, as well as counter, the dominant ideologies pertaining to Latinos, immigration, and voting fraud. This oppositional narrative provides a voice to those who would otherwise be silenced by laws and policies that seek to disenfranchise them. In so doing, Calle 13 serves as a unifying force. Critically, the duo's call to arms is one of nonviolent, collective action, as highlighted by their description of the ants' takeover as one without firearms or missiles. The battle will be won, Calle 13 says, one brick at a time by hardworking laborers and their families.

To be effective, Calle 13's call for collective action and change must permeate the voting booths so that our local, state, and national elected officials truly reflect and respond to the needs of their constituents. This is, in part, because the act of voting is an expression of individual beliefs, values, and ideology.<sup>125</sup> Voter purges, however, seek to impede sectors of society from both expressing their views and participating in a core function of democracy.<sup>126</sup> The risk is, of course, that voters from the subaltern will elect officials who are responsive to their views, and that such officials will upset the status quo currently enjoyed by majority populations.

The desire of a marginalized people to be heard is a recurring theme in Calle 13's songs. *Latinoamérica*, their anthemic ode to

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124. *Id.* at 141.

125. *See* Ellis, *supra* note 28 and accompanying text.

126. *Id.*

Latin America, personifies the continent as a weathered survivor of the nineteenth and twentieth centuries:<sup>127</sup>

Soy  
Soy lo que dejaron  
soy toda la sobra de lo que se robaron  
Un pueblo escondido en la cima  
mi piel es de cuero, por eso aguanta cualquier clima  
Soy una fábrica de humo  
mano de obra campesina para tu consumo  
Frente de frío en el medio del verano  
*El amor en los tiempos del cólera*, mi hermano

I am  
I am what they left behind  
I am the leftovers of what they've stolen  
A town hidden on the summit  
My skin is of leather that's why it withstands any weather  
I am a smoke factory  
Peasant labor for your consumption  
Cold front in the middle of summer  
*Love in the time of cholera*, my brother

The overarching theme is once again empowerment through unity. Experiences that are considered universal—poverty, exploitation, scenic or natural beauty, progress, empty political rhetoric—are addressed throughout the song, but so too are nation-specific accomplishments, such as sporting achievements and unique cultural attributes, which are then appropriated here as part of the cultural legacy of all Latinos.

The song references Nobel Prize-winning Colombian author Gabriel Garcia Marquez's novel *Love in the Time of Cholera*, in so doing speaking to the cultural contributions of Latin America and Latinos as a whole. This is not a coincidence, another verse in *Latinoamérica* compares the Latin American continent to “Los versos escritos bajo la noche estrellada/the verses written under the starry sky” an allusion to Nobel Prize-winning Chilean poet and leftist

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127. CALLE 13, *Latinoamérica*, on ENTREN LOS QUE QUIERAN (Sony Music Latin 2010).

political figure Pablo Neruda who famously wrote in one of his poems “[t]onight I can write the saddest lines. Write, for example, ‘The night is starry and the stars are blue and shiver in the distance.’”<sup>128</sup> The cultural codes and nuanced references of a hidden transcript are apparent in the verse above and throughout the song. And despite the song’s focus on South America’s past, it speaks to the broader character of a people willing to survive on the periphery, but nonetheless participate in economic and cultural development. It speaks to Latinos in the United States, today.

#### IV. CONCLUSION

This Article is merely a start of the dialogue aimed at finding alternative narratives with which to confront the negative representations of Latinos that are often used to engender support for discriminatory laws. Calle 13’s discourse rejects the public narratives used to gain support for these laws. The inability to counter these narratives may render a person voiceless and relegated to the societal margins. Perhaps Calle 13 can provide the mic to amplify the voices of all Latinos.

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128. PABLO NERUDA, TWENTY LOVE POEMS AND A SONG OF DESPAIR, *Tonight I Can Write (The Saddest Lines)* (M.S. Merwin trans., Penguin Classics; Reprint ed. (2003)).