

“Pa’lante, pa’lante, vendedores ambulantes:”
Post-Citizenship Politics, Neoliberal Exceptions, and the
Political Mobilization of Undocumented Immigrants

by

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*When we started out, we had no guideline for how to organize and begin the struggle, but we had a community of friends... and support... and now, [the organization] is a little branch that keeps shooting out more little branches. Just like how the laws change, the little branches will shoot out as we continue to prove that we must continue. That we can do what we want. Or we'll carve out another path... As we communicate [with politicians], we learn how they react towards the vendor and how the vendor needs to react so they don't get beaten out and lose the fight.*¹

--- Maria Guerrero (personal interview 1/11/08)

In February of 2003, the 25th Precinct in East Harlem initiated a crackdown on illegal street vending. The police poured buckets of *atole* into the gutter and dumped trays of *tamales* in the trash. Pushcarts were confiscated, lacking the proper permits. Some of the vendors were issued fines of up to \$5,000. Others were actually arrested and detained by the police, including an 87 year-old woman and a pregnant mother of three.

Maria Guerrero, an undocumented Mexican immigrant street vendor and pregnant mother of two, escaped the raids.² But the impact on her family and friends impelled her to organize her mostly-female street vending community to fight back against the police. A sympathetic clergyman donated the use of a room in the back of a church on 116th St, and Guerrero and some of her vendor friends started meeting weekly to share food and talk about their troubles. What began as a support group for five Mexican women quickly branched out. When they weren't vending, the women went door-to-door, networking in the community, and wrote a petition to the police precinct asking them to stop the confiscation and arrests. In April of 2003, the East Harlem vendors, now twenty members

¹ *Al principio, no había ni una forma de como empezar la lucha, pero habían compañeros... y apoyo... y ahora, la organización es un ramito de donde van saliendo mas ramos. Así como van cambiando las leyes, van a salir los ramitos a relucir que hay que seguir. Que si se puede. O agarran a otros caminos... Con comunicación pues vamos a saber como van reaccionado hacia el vendedor y como el vendedor tiene que reaccionar por no dejarse vencer.*" (my translation)

² To protect the privacy of the members of VAB, their names, those of the staff, and of the organization itself have been changed.

strong, formally incorporated the first grassroots street-vending movement of Latina/os in New York City: Vendedores Ambulantes del Barrio (VAB).

From the beginning, VAB has valued economic freedom over citizenship. The mostly Mexican members seek legalization of their status as workers instead of legalization of their status as residents.³ Angelica Garcia, a Mexican-born attorney who helped Guerrero and the original members of VAB found the organization, emphasizes, “our priority is economic access, not legalizing people” (personal interview 10/15/2007). For complex reasons, this economically framed strategy has proven successful in achieving many of the organization’s goals.

This paper asks, what motivates the police and the city government to listen to the needs of a non-voting community that regularly violates laws? What characteristics of the Mexican immigrant street vendor community impel their actions and contribute to their successes? When undocumented immigrants in the U.S. negotiate with and receive concessions from an urban system of governance, what are the implications for the institution of citizenship? And ultimately, what does Esperanza del Barrio’s example reveal about the possibility of people manipulating or grafting onto dominant flows of power to fuel individual and communal existences that reconstruct and complicate space and time?

I believe that the work of representation and the tactics deployed by VAB in their interactions with policymakers open spaces for political negotiation, despite the community’s lack of suffrage and legal vulnerability. The bargaining element in this

³ Of the over 600 registered members of VAB, Garcia estimates that around 93% are Mexican. (personal interview 10/15/07). There are also a few Ecuadorian, Colombian, and Dominican-born members. VAB refers to itself as a “Mexican/Latino” organization. Due to its Mexican grassroots origins and for the purposes of this essay, I will refer to the members of VAB as Mexican immigrants.

relationship is due not only to the contemporary context of the municipal economy and immigration politics, but also to certain characteristics of the entrepreneurial undocumented Mexican immigrant community that provide them with unexpected leverage. In other words, two aspects of the bargaining process help explain VAB's successes.

First, the vendors mobilize within and toward relatively amenable political, economic, social, and spatial systems. I assert that the state is in fact a navigable system; that is, the state is malleable, porous, and defined by relationships, instead of being a rigid, unified, and power-distributing structure. In addition, the complexity of the social field of New York City facilitates the formation of coalitions and often results in unexpected synergism between social actors. A prime reason for this synergy in action is the coincidence of VAB's organizational aims with those of the neoliberally-oriented urban administration of New York City.

Second, the Mexican street vendors are simultaneously informal economic actors and informal residents of the state. They occupy the political and economic margins, but I argue that the vendors participate in the construction of their marginality. In fact, I posit that many members of VAB choose to live in a liminal political and economic space. The undocumented and unlicensed vendor-members calculate the costs and benefits of actions that would incorporate them into a formal polity. They find a measure of power through this selective marginalization, because informality is a tool that can be manipulated to maximize autonomy over the undocumented immigrants' life trajectories, which are often subject to unexpected change and limited by geography. The heterogeneity in the members' life trajectories means that the street vendors blend assimilative and

transnational practices in their daily lives. As a result, the organization mobilizes only for the satisfaction of immediate economic needs and the minimal rights required for survival. The vendors have realized that these basic needs do not necessarily include legal permanent residence, although most would gladly accept legalization and dual citizenship. Finally, while proud of their Mexican heritage, the vendors present themselves as civic and economic actors, not simply as immigrants with a unique ethnic culture meriting recognition in the public sphere.

Thus, undocumented street vendors who mobilize for rights in New York City have stumbled across an assemblage of factors that facilitates their access to power. Through organization as an atypical workers' collective, they have learned to manipulate formal political negotiation. They prove Ong's statement that "articulations between citizenship elements, entrepreneurial traits, and global circuits fragment what we long assumed to be a homogeneous collectivity and unified space of citizenship" (Ong 2006a:16). Moreover, the political relationships the vendors forge undermine the validity and worth of the modern U.S. construct of lawful citizenship. Importantly, VAB's grassroots mobilization challenges conceptions of undocumented immigrants as invisible, silenced, unwilling, and scared to participate in the public sphere. Instead, the members of VAB explicitly demonstrate that "it is possible to claim identity as a citizen of a country and to negotiate membership within the bounds of 'belonging' even without claiming to 'be of' that country" (Nagel and Staeheli 2004:4).

Literature Review

The contestation of the inelasticity of the institutions of citizenship and state sovereignty by emerging non-citizen groups is a defining characteristic of modern social and political discourse (Glick-Schiller 1999, Sassen 2002a, Sassen 2002b, Soysal 1994, Waldinger & Fitzgerald 2004). Economic, political, cultural, spatial, temporal, and social forces influence interactions between undocumented social actors and regulatory state systems (Smith, Cordero-Guzmán, and Grosfoguel 2001; Flores 2003; Jones-Correa 1998; Siméant 1994; Zolniski 2006.) Street vending is an interesting nexus from which to study the interplay of migration, employment, economic reform, regionalization, multiparty politics, business and social networks, the use of public spaces, and urban planning (Msoka 2005). As such, the work that follows is an attempt to synthesize five theoretical perspectives to explain and explore the phenomenon of non-citizen street vendors' participation in state-based political processes: *migration theory*, *neoliberal theory*, *theories of the state*, *theories of informal economies*, and *social movement theory*.

Migration

In the last fifty years, the field of migration studies has been a site of constant debate and reformulation of theory. The movement of people across borders, especially from third to first world nations, is rapidly changing the ethnic, cultural, and class composition of communities around the globe. Much of the contemporary literature on migration examines the complexity of migrant social networks (Conway, Bailey, and Ellis 2001; Foner 2001b; Hondagneu-Sotelo 1994; Pessar 2001) or studies transnational economic activity and mobility (Glick-Schiller 1999; Pries 2004). Several scholars focus on the phenomenon of the transnational political activism of immigrants over issues such

as dual nationality or absentee voting in the country of origin (Guarnizo 1998, Itzigohn 2000, Mahler 2001, Smith 1998). Recently, the concept of “political transnationalism” in migration studies was disaggregated temporally and spatially; scholars now recognize the compatibility of assimilative and transnational political practices (Fitzgerald 2003). The political mobilization of undocumented Dominicans has received some scholarly attention (Pantoja 2005, Reynoso 2003). However, the mobilization of undocumented Mexican immigrants over politics pertinent to lived situations in the receiving country has garnered very little investigation. Moreover, studies that attempt to fill this intellectual void are enlightening but have bypassed an important aspect of the phenomenon. That is, scholars of the locally-focused political organization of undocumented Mexican immigrants either take an ethnographic, immigrant-oriented (Flores 2003, Zolniski 2006) or structural, state-oriented (Devlin 2006) viewpoint, without examining the dynamics of the relationship between them. Finally, studies that do examine the active political process have only analyzed the top-down labor unionization of undocumented workers (Fitzgerald 2003, Milkman 2007), and ignore or briefly mention grassroots mobilization (Herrera Lima 2006).

Neoliberalism

Neoliberalism is the application of liberal philosophy in a post-colonial, modern global economy (Ong 2006a). David Harvey defines neoliberalism as

A theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices... State interventions in markets (once created) must be kept to a bare minimum. (Harvey 2005:2)

According to Harvey, neoliberal economic development is not a political ideology, but an organizing strategy within capitalism comprised of practices and policies. Immigrants embody one tenet of neoliberalist development, the free movement of people, through their transgression of defined national borders and effect on insular economies. Few nation-states that pursue a neoliberal course of development, however, implement this principle.⁴

Many scholars argue that neoliberalism damages local and global economies (Espenshade and Huber 1999), people within them (Walton and Seddon 1994), and the environment (Lang and Hines 1996). Other scholars qualify this rigidly negative conception of neoliberalism by revealing openings it has wrought for marginalized social sectors such as labor (Rachleff 2006) and women (Lim 1990). In fact, Aihwa Ong asserts that there are “neoliberal exceptions” to the cultural or social norms of a state when certain sectors receive special treatment due to their perceived contribution to economic development (Ong 2006a). Ultimately, neoliberalism represents a trend in technologies of governance; as a term, it cannot comprehend every state action or predict every repercussion of the implementation of its policies (Ong 2006a, Thorson and Amund 2006).

The State

One aspect of neoliberalism that is relevant for this paper is its relationship to state power. Some scholars argue that contemporary neoliberal development in capitalism has undermined the validity and worth of the nation-state as a static and durable arbitrator

⁴ No nation-state allows for legalized uninhibited movement of people across its borders. But guest-worker agreements, such as the Bracero Program (1942-1964) between the U.S. and Mexico, exemplify the exchange of labor-power through human migration in neoliberal thought (Durand and Massey 2004).

of people's activity, as NGOs, transnational corporations, and immigrants increasingly influence policymaking (Sassen 2002a, Soysal 1994, Ong 1999). This "post-national" or "denational" viewpoint clashes with statist who posit that the state remains salient and powerful in restricting the activity of non-citizens, juridically and by force (MacLeod 2001, Waldinger & Fitzgerald 2004). Another perspective splices together these two models and refocuses the debate on the nature of the sovereign state itself. Timothy Mitchell rejects structural conceptions of the state and contends that relationships and practices by members inscribe the disciplinary power of the state into society (Mitchell 1991). Contrary to both post-national and statist perspectives of governance, Mitchell emphasizes that divisions in capability and philosophies of action exist within the state, and that "the state is no longer to be taken as essentially an actor, with the coherence, agency, and subjectivity this term presumes" (Mitchell 1991:90). This incoherence of the state does not preclude its strength, its imposing bureaucratic system, or its participation in developing or implementing policy; instead, it demonstrates its integratability with market-centric technologies of governance such as neoliberalism and its malleability by non-state actors (Ong 2006a).

As a center of international commerce, New York City is a central spatial field for the contestation and negotiation of the power and effects of neoliberal paradigms by affected parties (Sassen 2002a; Smith, Cordero-Guzmán, and Grosfoguel, 2001). New York City is a global city in the boldest sense of the term. Of all the social actors that mold the urban culture of "the Big Apple," most notable are the hundreds of thousands of immigrants from unique ethnic groups who make it one of the most diverse metropolises in

the world. And one of the first occupations that many immigrants engage in upon arrival in New York City is informal street vending.

The Informal Economic Sector

Street vending is part of the “informal economy,” a term coined to vindicate the entrepreneurial nature of informal trade and its contribution to an economy (Hart 1970). The informal sector is defined, for the purposes of this paper, as small-scale, labor-intensive economic activity in the sale of legal goods that is unevenly regulated, and conducted in localities not zoned for such activities (Aggarwalla 2005, DeSoto 1989, Msoka 2005, Sassen 1988). This definition excludes illicit informal economic activities, such as the drug trade, highlighting the regulatory aspect (rather than the illegal character of what is being sold) as definitive of informal activity.

Theorists about the informal sector emphasize the “survival strategies” of marginalized citizens of developing countries who engage in unregulated economic activity (Aggarwala 2005, Cohen 2003, Cross 1998, Msoka 2005, Peña 2000), seek structural causes of the pervasiveness of the sector (Sassen 1988), or analyze the viability and benefits of engagement in informal economic activity (Lyons and Snoxell 2005). Unlike the subjects of my research, the participants in the informal economy in all of these studies are legally-recognized citizens of the state they work in. Or, alternately, the question of citizenship is ignored completely (Stoller 1996).

Social Movements

NSM theories emerged in the late 20th century to introduce the “lifeworld” dimensions of social movement mobilizations into an essentially structuralist school of

analysis. Manuel Castells emphasizes the importance of spatial and social relations in society to explain successes, failures, and stalemates in urban social movement history (Castells 1983). Along this line of analysis, Pierre Bourdieu reconciles the concept of “class” relations with a social movement theory that is reinvested with a holistic view of mobilizing actors. Bourdieu shatters the myth of capitalist relations of production as the sole determinants of “class” and spotlights political, cultural, symbolic, historical, and spatial relations as unexpected sites of potential homologies of interests, where, through recognition of these new alliances,

The very definition of the stakes and of the ‘trump cards’ can be called into question. Every field is the site of a more or less overt struggle over the definition of the legitimate principles of division of the field. The question of legitimacy arises from the very possibility of questioning, of a break with the doxa that takes the ordinary order for granted” (Bourdieu 1985:734)

This emphasis on fluidity and diversity in the outcomes of social movement mobilization and their effects on actors and institutions injects a Foucauldian conception of power into the theoretical dialogue. Foucault posits, “Power must be analysed as something which circulates... it is never localized here or there... [individuals] are always in the position of simultaneously undergoing and exercising this power (Foucault 1976: 98).

Frances Fox Piven operationalizes this conception of power in her declaration that, “people forge an ideology of rights out of the rhetoric and practices of social control, and can wrest resources from those relationships,” occasionally even resulting in win-win outcomes, achieved out of or despite top-down regulation (Piven 1981:506). In the same vein, James Scott contends that subalterns resist resubjugation in the public sphere through the usage of “hidden transcripts” and “infrapolitics” through which they manipulate language and interactions with oppressors while critiquing and subverting their power in private circles (Scott 1990).

These tactics of manipulation highlight the need to analyze the work of representation of social actors through Frame Analysis (Benford & Snow 2000). Frame Analysis provides insight into the “deeper” ability of a social movement to construct and assert alternative ideas and meanings (such as a redefinition of citizenship opposed to an institutionalized model). Of course, successful frames are those that resonate with overarching ideals in the larger society, thereby tying any challenger movement to a dominant ideology. But in frame analysis, “movement actors are viewed as signifying agents actively engaged in the production and maintenance of meaning for constituents, antagonists, and bystanders or observers,” and a multiplication, mutation, or subversion of meanings is possible while simultaneously upholding a dominant ideology (Benford & Snow 2000:613).

When social movement organizations of undocumented immigrants seek and are awarded perquisites from the receiving state without fighting first for legal membership, they demonstrate this interactional quality of power. Such outcomes undermine the historical necessity in many democratic systems of governance of legal incorporation into the population for legitimation as a stakeholder in an economy (Smith, et al 2001). Meanwhile, neoliberal policies of governance inform, restrict, and assist the representational frames and strategies that these immigrant social movements implement to assert power over regulatory civic systems (Guidry, Kennedy, and Zald 2000, Ong 2006, Smith, et al. 2001).

In sum, there is a dearth of academic work about the active process and political interactions that forge relationships between *doubly* informal individuals and the state

system of the United States. This paper explores the ways that this doubly informal existence influences the actions and results of the political mobilization of undocumented Mexican street vendors in New York City. I examine the systemic and group identity contingencies of the social field that VAB navigates within, how they conduct their political activity, and how their political involvement transcends the institution of citizenship.

Methodology

I worked at VAB from June-August 2007 as a community organizer, so much of my research was conducted as a participant-observer. One of the founders of the organization trained and socialized me into the political lobbying methods of the organization, giving me a unique perspective on the tactics used and the results they reap. Participant-observation through employment definitely makes my perspective sympathetic with the vendors' cause. However, by examining historical processes and publicly-presented representational frames, instead of abstract identity formation, I hope to neutralize optimistic, pessimistic, or glorifying characterizations of the grassroots organization that might be an effect of my personal involvement.

I conducted four formal open-ended interviews at the organization. Three were with staff: Angelica Garcia, the former executive director and Mexican-born female attorney who helped found VAB, Guillermo Castro, a Puerto Rican former union organizer who is the current executive director, and Inés Rodriguez, a Dominican community organizer and tutoring coordinator who has worked with VAB since 2005. I also interviewed Maria Guerrero, the founder of VAB and one of the most visible and

vital members of the organization. I chose these interview subjects since the leadership mediates between municipal administrators and the vendors, and channels the political activities of the organization. The staff is knowledgeable about the rhetoric and positioning implemented by VAB since they draft representational documents and revise legislation. And Guerrero, the founder of the movement, first articulated the goals that the organization now follows, so her insight is crucial.

However, that interviews were conducted mostly with staff, and not members, of VAB, means the relationship described in this paper skews away from that of street vendors experiencing the process. As much as VAB strives for democratic representation in decision-making, the history and opinions of events described in my analysis may differ from those experienced by the vendor-members.⁵ Nonetheless, I asked my staff interviewees to be specific when speaking for the organization and when speaking personally, and have aimed to be clear in my citations about which stance the interviewee took. And of course, Guerrero's account does inform my analysis of the lived experience of an undocumented Mexican street vendor-activist.

Interviews with members of City Council and Mayor Bloomberg would balance out the perspective on the political relationships forged between vendors and the municipality. However, politicians in New York City are difficult to schedule meetings with, as I learned through my work with VAB, so I was unable to gain access to these sources. Fortunately, the media accounts and the politicians' official press releases provide some insight into their perspectives.

⁵ The Board of Directors is comprised of seven street vendors, elected to two-year terms, who plan and ratify all hiring, budgetary, promotional, and political actions. Then at VAB's general meetings, held twice a month, every action is put up to a direct vote. (VAB. "Job Descriptions." 2004.)

I also reviewed thirteen of VAB's internal documents to inform my knowledge of their development, self-presentation, and agenda. The documents include development strategies, lists of members' priorities, the text of legislation they proposed, minutes from meetings with their board of directors, agendas for council member meetings, and a demographic breakdown of the membership's participation in meetings and events. To supplement these sources, I reviewed past press coverage of VAB's founding, successes, and activities.

Context

The members of VAB are a small part of a large community of Mexican immigrants dispersed throughout the U.S. The current Mexico-born population in the U.S. is estimated at 26 million, 9.1% of the total population (U.S. Census Bureau 2007). Mexicans contribute the most to the size and speed of growth of the Latina/o population in the U.S. (Guzmán 2001). While the majority of Mexican immigrants arrive legally, Mexico is the leading source of unauthorized immigration into the United States. The 4.8 million undocumented Mexican-born persons estimated to currently reside in the U.S. account for nearly sixty-nine percent of the unauthorized resident population, according to a January 2003 report published by Immigration and Naturalization Services (INS in Grieco 2003).⁶ Historically, Mexican emigrants settled in California and the Southwest. But the recent influx of Mexicans in East Harlem reflects a nationwide trend in the settlement of Mexican immigrants in nontraditional areas, such as the Northeast (Durand and Massey 2004).

⁶ Of course, exact empirical data about the extent of illegal immigration from Mexico is nonexistent due to the inherent difficulty of accurate data collection about undocumented persons (Camarota 2000, Durand and Massey 2004).

Mexicans are only the latest in a constant stream of migrants seeking opportunity in the “Big Apple.” A New York City Department of City Planning report entitled “The Newest New Yorkers,” affirms that of the approximately 8 million residents of the metropolitan area in 2000, 36% were foreign-born (NYC Dept of City Planning 2004:5). Currently, Mexicans are the fifth largest foreign-born group in the city at 112,550 registered residents. However, the rate of their demographic growth outpaces that of all other ethnic immigrant groups in the city (except for Bangladeshis), at 274.9% between 1990 and 2000. East Harlem (also known as Spanish Harlem or “El Barrio”) where VAB made its roots, is bounded by the East River and FDR Drive in the east and by Fifth Avenue in the west. The neighborhood comprehends the area between East 91st and East 141st streets. Members of each of the successive waves of immigrant groups, including Germans, Irish Catholics, Eastern European Jews, Italians, and African-Americans, still reside in East Harlem, but Latina/os, especially Puerto Ricans and including Dominicans, Central Americans, and South Americans, hold the demographic majority. In 2000, there were an estimated 108,100 residents in East Harlem, 55% of whom identified their race as “Hispanic” (NYC Department of City Planning 2000:2). From 1990 to 2000, the Mexican-born population in East Harlem increased by 350% as nearly 10,000 immigrants settled in the neighborhood (Sharman 2006:16).

In East Harlem, the street vendors are virtually all Latina/o and usually women, although some men ply the trade. Throughout the five boroughs, however, vendors of all genders, ethnicities, and nationalities sell goods in the streets to make a living. Street vendors have been a visible element of urban life in New York City since its origins as a Dutch colony (Wright 1927). Historically, street vendors have been at the center of

debates over the usage and regulation of public and economic urban space. Daniel Bluestone's documentation of vendor politics in New York City from 1890-1940 cites high-profile businessmen, politicians, and news dailies referring to street vendors as "the pushcart evil," "a hindrance to economic development," and "backwards" (Bluestone 1991:68, 70). As New York City embarked on a modernizing mission in the early 20th century, urban planners pushed for a sharp delineation of residential and commercial spaces, and the expanding municipal administration centralized its power. The arrival of thousands of immigrants throughout the same period, however, challenged municipal control. Discursively, both immigrants and "peddlers" were portrayed as peripheral communities degrading the cohesiveness of New York City's public life and modern image.

Throughout the city's history, various pieces of legislation passed that regulated or restricted vending activity in the streets, but enforcement was irregularly carried out. The legislation currently regulating street vending in New York City is complex and convoluted. It encompasses hundreds of regulations on pushcart sizes, the position of vendors, restricted streets, and seasonal changes. Currently, the city issues a maximum of 3,000 food vending pushcart permits and 853 general merchandise pushcart permits, with unlimited permits allotted to disabled veterans who were honorably discharged and First Amendment vendors who sell original or handmade goods and art (NYC Dept of Consumer Affairs 2007). The waiting list for these pushcart permits was closed in 1991 due to the volume of applications and there are currently 3,133 non-veterans on the waiting list (Sluszka and Basinski 2006:6).

Ultimately, however, the government's attempts to curb or completely eradicate street vending through legislative and punitive efforts have failed.⁷ Most vendors peddle without constant fear of reprisal due to a weak pattern of enforcement and the sheer mobility of the "crime" of street vending. In fact, street-vending activity is thriving: an estimated 10,000 vendors are currently active in New York City (Benson 2006).

"A politics of in-between:" undocumented Mexican street vendors in New York City

The usage of the term "citizenship" by the federal government aggregates several gradations of lawful permanent residence (LPR) in the U.S. For foreign-born residents, LPR status is granted through a myriad of U.S. Citizenship and Immigration Services (USCIS) policies, including preference for family members, emigration from a nation underrepresented in the current population, significant economic investments, and employment (USCIS 2007a). Possession of Form I-551, the "green card," marks a person as a citizen with all the same rights as those born in the U.S., except the right to vote in certain elections or take certain high-level government jobs. Many LPRs eventually seek to become naturalized citizens, which bars them only from election as president of the country (USCIS 2007b). Occasionally, the federal government has granted blanket or conditional amnesties for undocumented residents in the country, such as the 1986 Immigration and Reform Control Act, or IRCA (USCIS 2007c). But many legalized and naturalized citizens of the U.S. choose to simultaneously keep their citizenship in their country of origin through dual citizenship, a practice that is recognized by the U.S. government (US Dept of State 2007).

⁷ Historically, street vendors in New York City have organized associations to present a common front for their interests, and occasionally extracted concessions from the municipal administration's infringements on their self-regulated economic activity. (Bluestone 1991).

The central factor in the lived experience of the members of VAB is their immigrant status, which drastically affects their activities and choices. Individual Mexican immigration paths are unique and heterogeneous; theories of migrants as one homogenous social group have been soundly discounted (Durand and Massey 2004). A recent survey of Mexican migrants' views on immigration reform proposals reveals that within the Mexican immigrant community, immigration plans vacillate between a desire for permanent residence and a desire for temporary work that will allow them to return to Mexico with a higher standard of living (Pew Hispanic Institute 2005). The survey found that fifty-one percent of undocumented respondents had plans to remain in the U.S. indefinitely, while twenty-seven percent planned to stay for five years or less. However, seventy-one percent of respondents were also willing to participate in a temporary worker program that would allow them to cross the border but require them to return to Mexico. Similarly, Ludger Pries' empirical study of the practices and expectations of Mexican immigrants in New York City reveals that Mexicans "develop their life biographies and strategies neither exclusively in the receiving area nor in the sending areas in the country of origin" (Pries 2004:30). According to his survey of 648 Mexican immigrants, job shifts coincided sixty-one percent of the time with a move between Mexico and the U.S., the majority of all jobs were held for between one and four years, twenty percent of all survey respondents had crossed the border four or more times, and eighty-eight percent of all jobs in the United States were as undocumented labor (Pries 2004: 14-17). Clearly, staggered and often quickly-decided or unplanned transnational migration typifies the experience of many Mexicans working in the United States.

Maria Guerrero, the founder of VAB, epitomizes this indecision and limitation of options by federal immigration policy. She has lived in the U.S. for eleven years.

It's difficult right now with everything about legalization. One can say 'I'm going back to my country, and I'm proud to do so.' But then your heart breaks into a thousand pieces, because my sons were born here and they don't have the same rights in my country, the same way I don't have some of their rights here. It's something that I don't think will ever end... And work will always be work, that's never going to end either, in my country or here. We have to work. (personal interview 1/11/07).⁸

Guerrero identifies as “Mexican,” and Garcia confirms that Guerrero represents the majority of the members’ affiliation with an unhyphenated Mexican identity. Garcia explains that most believe that their stay in the US is transitional. “They’re all building their big houses in Mexico” with the money they earn as street vendors in New York City (personal interview 10/15/07). However, as Pries demonstrates, the “time horizon of their life planning is not fixed and long term... rather it is sequential and focused on the short or medium term” (Pries 2004:30). Undocumented Mexican immigrants reveal the temporal and social contingencies determining transnational or assimilative life paths.⁹ For example, for some members of VAB, “moving up the ladder” in the U.S., as many other ethnic immigrant groups have done before, “is not the drive. They end up doing it because their kids don’t want to go back [to Mexico], but it’s not their initial motivation” (Garcia personal interview 10/15/07). For others, establishing themselves in the U.S. and bringing their entire family from Mexico is their overarching goal. Researchers have

⁸ *Es una cosa difícil ahorita porque todo con la legalización. Uno dice “me voy a mi país, pues, y orgullosa estaría yo de irme” pero después la corazón se rompe en mil pedazos porque mis hijos son nacidos aquí y no tienen los mismos derechos en mi país que yo tengo, lo mismo que yo estoy pasando aquí, pues es una cosa que yo creo que nunca va a acabar... El trabajo va a siempre ser trabajo. Nunca se va a acabar eso en mi país o aquí. Tenemos que trabajar.”* (my translation)

⁹ The ever-fluctuating, transnational quality of undocumented Mexican immigration patterns is not ahistorical. The rate of overall immigrant return in the first two decades of the 20th century was 36 out of every 100 immigrants whereas between 1971 and 1990, 23 of every 100 immigrants left (Jones-Correa 1998:96). Nancy Foner notes that “many groups today, particularly Latin Americans and Caribbeans, have very low naturalization rates, but the rates are still higher... than they were for Eastern and Southern Europeans at the time of the last great wave” (Foner 2001a:28).

found that gender, age, initial economic circumstances, and other factors affect migration outcomes, often splitting communities and households (Durand and Massey 2004, Hondagneu-Sotelo 1994, Zolniski 2006).

While dual citizenship is a lofty, desperate dream for some undocumented Mexican immigrants, others attempt to preserve a measure of informality to their presence in the United States, in order to maximize their individual freedom of choice as well as to maintain ties to social networks they have stepped out of in Mexico. In fact, legalized permanent residence in a nation-state is no longer definitive of many immigrant identities and goals (Nagel and Staeheli 2004). Moreover, for undocumented Mexican immigrants, a period of residence in New York City can reveal the empty promise of membership in the American polity, as Guillermo Castro, the executive director of VAB, believes.

They see that Puerto Ricans are citizens and are completely marginalized. They live in horrible conditions. So are African-Americans, they live in squalor. It falsifies the claim that citizenship magically translates into anything tangible. [Citizenship rights] are nowhere near sufficient to help people realize themselves. Given the class structure and historical legacy of racism, a lot more has to be done than a *de jure* granting of citizenship, it means nothing *de facto*. (personal interview 10/15/07)

The social field of Spanish Harlem – a district in New York with above average welfare participation and unemployment rates and low indices of health – puts the unequal reality of citizenship into stark contrast with the much-vaunted merit of “becoming an American.” Certain rights that LPR status would grant, such as freedom of travel and freedom from fear of deportation, would ease the lives of the vendor-members of VAB, but they act and mobilize for the present, forging their own brand of membership in the U.S. polity.

“¡A La Lucha!” ... *It's Time for the Struggle*

When VAB filed as a 501c(3) non-profit in the summer of 2003, they laid out by-laws, an organizational hierarchy, and an agenda. The removal of the cap on pushcart permits and the removal of the necessity of LPR status to apply for a personal vendor license are the first goals listed in their democratically-devised action plan (VAB 2003a). Other goals include business development workshops, improved relations with the police, and a strengthened community of vendors. Campaigning for amnesty or legalization of undocumented immigrants does not appear on the agenda. Outlined instead is a plan for hard-hitting and efficient action in the short-term that seeks to change particular street-vending legislation to suit the members' immediate needs.

VAB's initial targets for support were on the neighborhood level. In the summer of 2003, Garcia set up “accountability meetings,” where vendors met with the chiefs of the 23rd and 25th Precincts to “demand fair and unbiased treatment” from the local police (VAB 2004b). As a result, the amount of ticketing decreased from around 75 to only 8 tickets a month (Garcia, personal interview 10/15/07). On the legislative front, the organization developed a “Quite el Límite/Remove the Cap” campaign. They met with City Council Member Philip Reed (a Democrat and the representative for East Harlem), who committed to helping the vendors. They also held fruitful meetings with the Economic Development Committee of Community Board 11 in East Harlem, who passed a resolution in support of the removal of the cap on pushcart permits.

These early successes may be linked to the fact that the representative element in U.S. politics is designed to reflect spatial relationships. When social actors are in close proximity, they experience higher levels of coordination of their actions, even through

conflict (Castells 1983, McCarthy and Wolfson 1992, Tilly 2003). In Spanish Harlem, street vendors literally traverse the urban space that police monitor and government officials represent. On nearly every street corner in the neighborhood, a Latina/o (and usually a Mexican) street vendor has a post. Street vendors live and work near each other and near many government and community offices. The visibility and groundedness in place of their economic activity establishes the vendors' presence as a constituency in the district.

Importantly, while the police and politicians are conscious of the presence of a sizable undocumented Mexican population in their jurisdictions, municipal legislation prevents them from asking about anyone's legal status. Executive Order 41, issued by Mayor Bloomberg on "Citizenship Day," September 17, 2003, promises confidentiality of legal status in the provision of all municipal services and reinstates former Mayor Koch's "don't ask" policy for employers. It reversed Bloomberg's Executive Order 34, issued four months earlier in May 2003, which permitted city officials, police, and service providers to ask people about their legal status and report them to federal immigration authorities.

In the interim between the issuance of the executive orders, Mayor Bloomberg's approval rating sunk to thirty-two percent, lower than any mayor in two decades (Quinnipiac University Poll, May 7, 2003). Critics warned that this unpopularity stemmed from a drop in support for the mayor among the sizable Latina/o community. "Given the general erosion of his position in the opinion polls, Bloomberg really needs to have a strategy for rebuilding support in these constituencies," John Mollenkopf of the

Center of Urban Research told the New York Times (quoted in Sachs 2003).¹⁰

Meanwhile, VAB began its mobilization when Executive Order 34 was in place. They forged resistance out of the aura of fear that pervaded the community of undocumented residents in the city, manifest in police raids and arrests.

In a statement made at the signing of Executive Order 41, Bloomberg acknowledged that the order contradicted federal law, but averred, “What’s good for the city’s immigrants is good for the city,” and that “Freedom and opportunity define New York City” (Mayor’s Office of Public Relations 2003). On his weekly radio show, Bloomberg affirmed his belief that “all undocumented people should be made citizens” (quoted in Ritthichai 2003). By October 22, a month after the issuance of Executive Order 41, Mayor Bloomberg’s approval rating had risen ten points to forty-two percent (Quinnipiac University Poll, October 22, 2003). At VAB, Executive Order 41 bolstered morale within the movement and increased its viability.

While Bloomberg personally advocated the legalization of all undocumented citizens, under the current federal laws, they were still criminals.¹¹ New York has a distinct reputation as a “sanctuary city” for undocumented immigrants; although Bloomberg could not issue a radical executive order granting them amnesty, in the economic sphere, where they could benefit the city’s economy, it was politically sound to grant them easier access. Executive Order 41 epitomizes Ong’s “neoliberalism as exception:” Bloomberg could safely issue Executive Order 41 in accordance with the

¹⁰ With the exception of Rudy Giuliani, the mayors of New York in the last two decades have been public about their affinity for street vendors. Former Mayor Edward Koch’s father worked as a street vendor, and former Mayor David Dinkins peddled for a living as an adolescent in Harlem (Sontag 1993).

¹¹ Mexicans, as the largest undocumented minority group, bear the symbolic brunt of this burden of illegality. Inés Rodríguez commented that she feels “undocumented immigrants have a Mexican face in New York City” (personal interview 10/15/07).

general trend toward deregulation, privatization, economic access, and diversification of the market touted by neoliberalism, in the name of “freedom and opportunity” (Ong 2006a). Moreover, Bloomberg’s reputation in the Latina/o community -- many of whom are or once were undocumented immigrants -- was on the line. Reversing his anti-immigrant stance boosted his approval rating.

However, as comforting as Executive Order 41 was for undocumented immigrants navigating their daily lives, stipulations about criminality still existed within the law. Bloomberg stated, “confidentiality is not for everyone, only for those who abide by the law... [Exec. 41 is not] a shield for law-breakers to hide behind” (Mayor’s Office of Public Relations 2003). With this in consideration, VAB’s campaigning downplayed the illegality of the members’ informal vending activity. Instead, their goal was framed as the “decriminalization” of street vending and the recognition that street vendors are small business owners (VAB 2004b). Ultimately, Executive Order 41 and VAB’s early political successes might be attributed mainly to favorable spatial relations, mayoral politics, and the liberal political climate of New York City. Despite the community’s informal status, the entrepreneurial nature of street vendors lent itself to amenable political negotiations with a neoliberally-oriented system of governance.

“¡El Pueblo Unido Jamás Sera Vencido!”... *The People United Will Never Be Divided*

By late 2003, VAB counted eighty members, and connections to other community-based organizations that worked on street vending campaigns were rapidly forming. As Garcia explains, “We always meant to be local, just East Harlem-based, but all of a sudden VAB blew up and the whole city came” (personal interview 10/15/2007). When establishing their official political identity, VAB declared itself “independent of all

organizations except other street vendor collectives (VAB 2004c, my translation).¹² So VAB spearheaded the formation of a citywide coalition of street vending communities, joining with the Committee Against Anti-Asian Violence (CAAAV), the African Association of America, the Bangladeshi Street Vendors' Association, and the Latin American Workers Project to execute more effective actions and increase citywide visibility of street vendors' initiatives. The coalition, New York Street Vendors United (NYSVU), organized around the slogan "The Streets Belong to Everyone! Let Us Work," a cogent frame considering the current municipal and national political discourses surrounding immigrant labor power.

The coalition hosted a Street Vendor Convention in November 2003, where 400 street vendors gathered to share their stories and strategize about their campaign. In March 2004, they held a public hearing with the NYPD at which 150 multi-ethnic vendors spoke out against abuse, and the chief of police committed to meet regularly with the coalition to improve the quality of police-vendor relations. In September 2004, the coalition staged a "Vendor's Day" protest in front of City Hall. VAB's role in the NYSVU coalition was facilitator; Garcia said they "put key players in place, coordinated coalition meetings, [and] called and brought more people" (personal interview 10/15/07).

These actions garnered VAB attention and clout for the prominent leadership position they assumed in the coordination of these events and actions. Its members were interviewed by Spanish-language news dailies in the city as well as the New York Times. The press coverage humanized the street vendors; one article bore the headline, "Street Cooks Have Names, Too" (Bowen 2004). Through these visible actions, VAB and the

¹² In the same document, VAB also states that they would never endorse a politician or political party, but aimed to have won over the support of 30% of city politicians by 2007.

NYSVU coalition reinvigorated the public debate over the usage of urban space and the regulation of both immigrant populations and the informal economy.

The coalition-building nature of VAB's political strategy reflects the spatially mixed demographics of the political districting in New York, which enable and necessitate the formation of pan-ethnic and cross-class coalitions for campaign success (Mollenkopf 1999). That voices from neighborhoods all over the five boroughs gathered to confront the municipality created a sense of urgency that encouraged politicians to address the vendors' issues. And through it all, the spotlight was on the active role of Mexicans in the political mobilization.

Regulation, Legislation, and Negotiation

The controversies came to a head on April 12, 2005, when Council Member Reed proposed Intro 621 to the Consumer Affairs Committee of City Council. Intro 621 aimed to promulgate "an inclusive regulatory framework for vendors," and overhaul the complicated and contradictory legislation (NY City Council Consumer Affairs Committee 2005: Intro 621 Sec I). However, as Garcia explains,

It was awful... it had a three vendor per block rule, it had a fingerprinting provision. It did increase general licenses by 2000 in a period of two years, that was just about the only good thing in whole bill. Everything else was crazy. One food vendor, one first amendment, one general vendor on each block with priority numbers for each group. The cop would have to look at three different lists to see who would stay and who would leave. No one liked it. (personal interview 10/15/2007).

At the committee hearings, several Business Improvement Districts (BIDs) and small business associations, such as the Neighborhood Retailer's Association, decried the bill, claiming that the increase of available pushcart permits would damage their businesses and create congestion (Lipsky 2005, Sloan 2005). Some vendors with permits opposed the overhaul of the system, claiming that their businesses would also be affected (Ochoa

2005). The NYC Department of Health and Mental Hygiene (NYC DOHMH) joined the NYSVU camp in the interest of public health. They argued against the cap in order to better regulate the sanitation standard of all vendors (NYC DOHMH 2005). That the DOH desires the eradication of illegal vending exemplifies the incoherence of the state over certain policy positions.¹³

Intro 621 was clearly unsatisfactory and would never pass. The coalition regrouped. They would still try to navigate in formal democratic channels, but a smaller goal was set: the removal of the requirement of providing working papers for personal vending licenses. Fortunately for the street vendors, they found a council member who supported their alternative plan. Council Member Charles Barron, a former Black Panther who represents District 42 in northeast Brooklyn, immediately forged a strong alliance with the street vendors' cause. When Intro 621 showed signs of foundering, he developed Intro 491-A, which he attached to Intro 621.

The new rider legislation, 491-A, cleverly responded to Mayor Bloomberg's Executive Order 41: the personal street vending license application was since the applications for small business or storefront licenses did not require proof of citizenship. Intro 491-A claimed to

[R]ecognize the history of anti-immigrant animus and the City's commitment to promoting ethnic diversity by treating all applicants for general vendor and food vendor licenses equally to other licensees... The language of the local law would make it clear that information about an applicant's immigration status would have no effect on the application or renewal of either vendor's license. Prop. Intro. 491-A is designed to assist vendors to successfully integrate into the City's business community and encourage equality and entrepreneurship by providing greater access to vending licenses. (Intro 491-A, Sec. III)

¹³ Even more interestingly, one of the conjectures that the DOH made about Intro 621 smacks of neoliberal rhetoric: "Section 17-307 (d) prohibits the simultaneous possession of more than one of any of the vending licenses referenced in the legislation. The Department does not believe that the bill should limit an individual's opportunities to earn a living by restricting the number of types of licenses one may possess, and it is unclear what this provision would accomplish." (NYC Dept of Health and Mental Hygiene 2005).

A provision was added requiring proof of payment of taxes for the application, a definite concession of the informal nature of street vending to formalization. But, as Garcia puts it, “No one liked 621. Everyone liked 491-A. The way we framed the issue when the legislation came to vote was, ‘this is outdated and we need to comply with Mayor Bloomberg’s non-discrimination policy’” (personal interview 10/15/07). Intro 621 died on the table, while Intro 491-A passed by a vote of 42-8 in June 2005.

However, as the post-491-A jubilation wore off, the street vendors of VAB realized that very little had changed. It had taken VAB and the street vending community two years of hard campaigning to achieve any legislative reform. To apply for a personal vending license at the Department of Consumer Affairs no longer required proof of citizenship. However, the DCA still required a Social Security Number, which nearly all the members lacked. For all intents and purposes, the vendors were in the same position they were before the passage of 491-A. The law changed nothing about the bureaucratic process; it just *qualified* the street vendors to apply.

As Garcia explains, VAB “had to do lots of advocacy work. So we had meetings with the commissioner, the assistant commissioner, with the supervisor, so they all understood that the law had changed and they had to accept that” (personal interview 10/15/07). Members held 41 visits with representatives from the DCA (VAB 2005). After a year and a half of steady negotiation, instead of a Social Security number, the vendors could submit their Individual Tax Identification Number (ITIN).

The text of Intro 491-A, the legislation proffered by VAB and Councilmember Barron, balances rhetoric of human rights and diversity with economic goals that appeal to neoliberal-minded politicians. Intro 491-A is filled with phrases about the equality of

actors in the market and their right to make a profit by developing a business. It frames the street vendors as entrepreneurs who merely want to “successfully integrate into the City’s business community.” This plea for economic integration suggests to politicians and the public that the street vendors desire permanent residence and legal incorporation into the population. However, as discussed earlier, LPR status is not the goal for many of the Mexican members of VAB. They are willing to work in and contribute to the economy of the U.S., but may actually desire unrestricted dual membership or solely reincorporation into “a better life” in Mexico. The seemingly limitless circulation of capital, in the form of remittances to social networks in Mexico, makes the undocumented immigrant vendors active participants in both countries, regardless of how temporary or long-term their period of actual residence is in the United States. This bipolar economic participation is only one way that the undocumented immigrants transgress and devalue national borders.

In this vein, the street vendors’ negotiations over 491-A and the ITIN are clear examples of the way that the members of VAB navigate levels of formality and informality in economic, political, and physical space, to achieve their independent aims. Many of the vendor-members of VAB preferred to work without submitting taxes, according to Garcia. They felt it was unnecessary due to their extra-legal status, paying taxes lowered their profit margin, and many feared registration with the government for the ITIN because they were undocumented. However, paying taxes became one concession the vendors would grant toward formalization if it allowed them to conduct their business without fear of police reprisal. The costly fines issued by the police and by the Environmental Control Board, the punitive arm of the DOHMH, often wiped out their

entire savings. In the end, they would make and save more money by getting an ITIN, and, consequently, a vending license. One step toward formality eased the reality of living in the United States informally.

Furthermore, the manner in which VAB effected non-legislative policy change on the bureaucratic level demonstrates the inconsistency of the state in regulating the administration of services. The state is relevant as a force in the negotiation of policymaking and the definition of membership in the polity, but its porous nature means it is not a dominant and coherent regulatory power *ex ante*. VAB wedged itself into a policy gap and bargained with one actor in the state system, the DCA, until the procedural chasm was bridged in their favor.¹⁴

As discussed earlier, VAB's formation as a class movement around a particular entrepreneurial sector of the economy fits well with the overarching neoliberal goals of New York City's economic development. The framing of the vendors' goals around the desire to work -- "The Streets Belong to Everyone! Let Us Work!" -- insinuates that by granting the street vendors licenses and permits, they *will* work, and consequently unburden a welfare state that socially conservative and neoliberal interests would love to minimize. Similarly, the simplification of the regulatory system would cut costs through reduced enforcement. As the system stands, enforcement requires substantial police presence and training. It also requires significant judicial expenditures: an estimated 59,000 vending-related cases pass through the judicial system in New York City every year (Sluszka and Basinski 2006:14). As Castro emphasizes,

¹⁴ This is similar to the way that organizations of street vendors in Mexico City manipulate corruption and partisan politics within the municipal administration to continue their illegal economic activity (Cross 1998).

We frame the issues in a way that seems or at least points to how our legislation is going to be pragmatically beneficial to the city [an estimated 25 million in tax revenue, plus 2-3 million in application fees]. So there are moral arguments, economic arguments, pragmatic arguments and important strategic alliances. (personal interview 10/15/07)

The willingness of the municipal administration to grant the non-discriminatory concession to undocumented street vendors reflects Robert Castel's observation of the emergence, in advanced neoliberal states, of "differential modes of treatment of populations, which aim to maximize the returns on doing what is profitable and to marginalize the unprofitable" (Castel 1991:294).

In addition, the ability of VAB to form a coalition with diverse ethnic communities and receive support from city council members, as well as a few community boards and retailers, testifies to their ability to mobilize a social field in their favor. The coalition formed through social networks (Garcia's Latina/o lawyer friends, the NYU Immigrant Legal Council, and the Urban Justice Center's Street Vendor Project in downtown Manhattan) as various ethnic groups around the city mobilized around street vending issues. Another strategy of mobilization for the vendors was forging durable alliances with supportive politicians. The Mexican and Latina/o focus of VAB and the pan-ethnic class identity of the NYSVU coalition play into progressive and partisan politics in New York City. The street vendors' organizations fit with the image that certain politicians choose to convey and the constituency they seek to represent.

In her analysis of undocumented immigrant movements in Paris, NSM theorist Johanna Siméant argues for a suspension of "the opposition between identity and utilitarian centered approaches," and an analytical move of passing from the 'why'" of mobilization to the 'how'" (Siméant 1994:6). What Siméant advocates is a reevaluation of the political mobilizations of undocumented social actors, in order to recognize the

existence of modalities of political bargaining that synthesize, and occasionally part with, the binary of formal and informal political action and results. VAB's successful negotiations with the Department of Consumer Affairs and their earlier discussions with the 23rd and 25th Precincts represent alternative forms of validation of the existence and rights of undocumented residents in a city. These departures and intertwined processes stem from the simultaneous liminality and enmeshed quality of the place that undocumented Mexican street vendors occupy in the social field of New York City, and rely heavily on the framing of the mobilizing group's identity.

“¡Pa'lante, pa'lante, vendedores ambulantes!”... *Move forward, always forward, street vendors*

In the spring of 2006, hundreds of the street vendors in East Harlem, and thousands of vendors around the city, submitted their applications for personal vending licenses. The personal vending license registers a vendor with the DCA as a tax-paying worker and, if a vendor sells food, proves that they have passed a food-service safety class. With the licenses, many vendors felt safer engaging in street vending. According to Garcia, the police bother vendors with licenses, a laminated photo ID that most wore around their necks, much less than non-licensed vendors (personal interview 10/15/07). However, the vendors still lacked the pushcart permits for their carts and stalls that would prevent them from receiving the dreaded \$1000 fines from the Environmental Control Board. A pushcart permit registers the vendor's cart with the DOHMH so that it receives periodic health inspections and with the DCA so that congestion is monitored. As mentioned earlier, these permits were capped at 3,853 in 1979. With the passage of 491-A and the acceptance of ITINs for the personal license application, VAB had achieved

half of its original goals. However, in 2005, the ECB doubled, and even tripled, several fines for illegal or noncompliant street vending practices (Sluszka and Basinski 2006). In light of this increased financial risk, VAB dove into their next battle over the cap on pushcart permits.

In press conferences and communication with politicians, VAB argued that the removal of the cap was necessary for public health, for the safety of the city, and for reasons of legal justice. These points fit well with the desires of urban systems of governance for regulation, security, and integration (Castells 1983). The argument for public health originates in fear that food from street vendors is unsanitary and could spread sickness, and that the removal of the cap would facilitate sanitary regulation. As mentioned earlier, the Department of Health supports the removal of the cap for this reason (NYC DOHMH 2005). The security argument is especially relevant to New York City's heightened attempts to increase safety for residents and decrease crime after 9/11. Vendors argue that they are "eyes on the street," with business and personal interests in keeping their street corner crime-free. As long as they lack permits, they fear reporting crimes that they witness to the police for fear of receiving fines.¹⁵ Finally, vendors argued that since the passage of 491-A, the laws regulating vending are even more contradictory. An estimated 6,000 vendors applied for and received their personal vending license, yet there are still only 3,853 permits. The removal of the cap would move all of these street vendors from a semi-formal limbo into the legal, formalized sector.

Council Member Charles Barron again worked with VAB in drafting legislation that would remove the cap. The rhetoric in the preface of Intro 321, introduced in May 2006

¹⁵ Of course, the undocumented status of the Mexican vendors contributes foremost to this fear of police contact. This represents another overlap between the lived experience of street vendors in the informal economy and immigrants who are undocumented.

to the Consumer Affairs committee, neatly sums up the framing of the organization and the argument put forward by the vendors for their right to economic freedom:

Vending not only adds to the commercial and cultural value of the City, but also provides vendors the opportunity to be self-sufficient, work legitimately, and support themselves and their families. Vending has historically enabled those with few or no other economic options – such as recent immigrants and small business entrepreneurs – to realize the American dream of advancing themselves through their own hard work, and to provide their children with greater opportunities than they had themselves... The City respects the need for people to earn a living, and the desire of unlicensed vendors to integrate into the existing regulatory system. The City recognizes the benefit to the public of being able to regulate — through its health code, administrative code, and licensing process — the sale and hygiene of food and the sale of general merchandise on the streets... [bolstering] the City's interest in promoting diversity, equality, justice, and entrepreneurship (Intro. 321, Sec I)

On May 10, 2006, Barron celebrated the introduction of the bill at a press conference with VAB. However, to date, the legislation is stalled; no hearing for the bill has been scheduled.

What happened in the interim between the passage of Intro 491-A and the introduction of Intro 326? A few political changes and shifts in the identity of the social actors involved offer some insight. The Consumer Affairs committee in City Council handles street vendor issues. When 491-A was passed, Council Member Reed, representative for East Harlem, was chairman of the Consumer Affairs committee and had jurisdiction over what bills received hearings. When 326 went up for review, Council Member Leroy Comrie, an African-American representative for predominantly lower and middle class African-American Jamaica, Queens, was the chair. Perhaps due to a lack of mobilized street vendors among Council Member Comrie's constituency, street vending issues received less prioritization. In an explanation to VAB in August 2007 about the lack of a scheduled hearing, Council Member Comrie objected to the lack of a framework for regulating traffic congestion in the text of the bill, and demonstrated a general unease about the complete removal of the permit cap.

Meanwhile, the cosmopolitan New York Street Vendors United coalition dwindled in force and ethnic diversity. CAAAV, the African Association of America, and other stakeholders in the coalition stopped organizing around street vendor issues, or the organizations faced internal dissolution due to a lack of funding and effective leadership, according to Inés Rodríguez, the coalition contact at VAB (personal interview 10/15/07). Garcia suggests that achieving one goal (access to the personal vending license) defused the ire of the street vendor movement, or was a sufficient amount of formalization for a contingency within it, since the police heckle licensed vendors less, despite their lack of a pushcart permit (personal interview 10/15/07). Hence, the vendors in those organizations were less motivated, or did not care, to keep fighting for the last step toward full legalization. Regardless of the reason, this decrease in the strength of the citywide mobilization left VAB with less political clout.

While several factors have negatively impacted the undocumented Mexican street vendors' campaign, others suggest the continued efficacy of their mobilization. First, in 2006, VAB received \$16,000 from City Council earmarked as an "Immigrant Opportunities Grant," demonstrating the familiarity of politicians with the presence and viability of the immigrant street vendor movement (VAB 2006b). This grant also shows that the undocumented status of the Mexican vendors continues to be a non-issue to the campaign. Arguably, documented street vendors should find it easier to safely organize for rights and would receive more attention and funding from politicians than undocumented vendors. But this proves that undocumented residents of a society can sustain and actually improve their public activity in municipal politics.

Second, on top of this public presence as a social movement *outside* of the system of governance, VAB made history by breaking *into* the system; in 2006, Maria Guerrero, founder of VAB, was selected by Manhattan Borough President Scott Stringer for Community Board 11 in East Harlem, one of 59 such local representative bodies. Guerrero is the first Mexican woman and the first street vendor to be selected for a Community Board in New York City. She speaks very little English, and the Community Board has ensured that a translator is present at all meetings to facilitate her participation. Community Boards do not vote on policies, but policymakers consult them as the voice of the resident-civilian population. Each Board consists of up to 50 unsalaried members appointed by the Borough President, with half nominated by the City Council Members who represent the community district. According to Community Board 11's bylaws, "Board members are selected by the Borough Presidents from among active, involved people of each community... Board members must reside, work or have some other significant interest in the community." (CB11 2004). Of her experience on the board, Lidia says, "I began to work for my community... And where I've gotten to, I never thought I'd get here and get to know all these things, and I repeat, I didn't have any preparation for this but thanks to God I've come to know a little more" (personal interview 1/11/08).¹⁶

This unprecedented appointment exemplifies the possibility of conflating formal and informal membership in a polity. By founding VAB, Guerrero demonstrated that Mexican immigrants are self-regulating, entrepreneurial, and willing to be civically engaged, all values of U.S. citizenship. Guerrero's appointment to Community Board 11

¹⁶ "Entonces yo me empecé a animar... Y nunca pensé hasta donde pude llegar y conocer y todo y he llegado a varios sitios que nunca pensé llegar a conocer y lo repito yo no tenia preparación pues he llegado gracias a Dios a conocer un poco mas." (my translation)

demonstrates that the state recognizes the presence of undocumented Mexican street vendors in their community and the validity of their actions and concerns. Guerrero represents an important population within the East Harlem community and contributes to the diversity of CB11. It made political sense for Borough President Stringer to reward her with a political designation on the advisory community level.

This inclusion of an undocumented Mexican immigrant woman on a Community Board reflects not only the susceptibility of the porous and fragmented state to the influence of non-citizen actors, but highlights the ability of the uniquely-situated Mexican immigrants in achieving access to institutions without mobilizing first for citizen status.¹⁷ It also suggests that civic involvement through political mobilization suffices to deem non-citizens worthy of certain modes of incorporation into higher levels of the polity's decision-making hierarchy.

Looking toward the future, considering the past

VAB reworked the regulatory aspects of Intro 324 with the help of Council Member Charles Barron and Council Member Melissa Mark-Viverito, a Puerto Rican who is the newly elected representative for East Harlem. It was resubmitted to the Consumer Affairs committee in October of 2007. Meanwhile, efforts have been made to network and find new allies with other groups in the community. According to Rodriguez, the members of VAB “understand that it starts from the City Council as opposed to going straight to the mayor or senator, but at same time [they ask,] ‘can we go ask someone else to help us instead of City Council?’” One tactic has been to forge

¹⁷ Of course, due to Executive Order 41, Guerrero does not have to reveal her undocumented status to anyone on the Community Board, nor does legislation exist that would make her lack of citizenship an issue for participation.

alliances with retail associations and Business Improvement Districts (BIDs). A promising endeavor in the works is a “unified business district/mercado unido” in the neighborhood of Sunset Park, Brooklyn, the product of an alliance between the Sunset Park BID and illegal street vendors affiliated with VAB. Among other reforms, the plan would offer special Sunset Park-specific pushcart permits for vendors, supplanting the municipal cap, and make them members of the BID as small business owners. The Latina/o vendors, organized as Vendedores de la Quinta Avenida (5th Avenue Street Vendors) have been consulted at every step of the planning process and their needs incorporated into the proposal. To date, the proposed unified business district awaits mayoral approval. But Castro is hopeful: “this plan speaks against the prevailing myth that no business organization wants to work with street vendors, that there’s some kind of essential incompatibility of interest. This alliance hopefully is the beginning of more alliances with business groups” (personal interview 10/15/07).

For the immediate future, Guerrero has a new political strategy: “I’m going to ask the Community Board about support, what support they will give me if I support other projects. I need my own project, no, where they support me... in talking with the Environmental Control Board about their fines” (personal interview 1/11/08)¹⁸. Guerrero is also planning a large-scale public demonstration to mark the organization’s fifth anniversary in February. Castro confirms that the vendor-members are ready for such pressure tactics.

They want to go to offices and bring banners and scream. They understand the connection between pressure and results. I think actually we, the leadership, are more conservative and willing to acquiesce to the demands of politicians... we try to exhaust legitimate channels before

¹⁸ “*Yo pienso ahora en la junta comunitaria informar a ver que apoyo me van a dar también pues si yo apoyo otros proyectos. También me necesito uno, no, que me apoyen... para dialogar con el departamento de sanidad*” (my translation)

antagonizing. But the membership is ready to go. Maybe they're right, we'll see. (personal interview 10/15/07)

These future plans reflect the realization of the vendors, through their past experience in mobilizing, that despite their lack of suffrage and citizenship, they can receive concessions from authorities that permit them to conduct their business more or less on their own terms. As Guerrero's personal situation reflects, and Garcia confirms, if the U.S. government offered amnesty and/or dual nationality to undocumented Mexicans residing in the country, all the vendors would apply. It would make it easier for them to travel back and forth between Mexico and the U.S. So, Garcia concedes, "For street vending purposes, [LPR status] wouldn't make a difference. We won the first campaign. But for their lives, of course." (personal interview 10/15/07)

Importantly, the vendors distort or hide their intention of assimilation or departure to encourage politicians to heed their policy preferences. The texts of 491-A and 326 suggest a desire to succeed *in and for* the United States, but that is due to the vendors' manipulation of their self-representation in the political realm. It is true that Guerrero's involvement on the Community Board has ingrained her personal affiliation with a variety of local political issues, but she is the exception; few of the members mobilize politically in order to sink deep roots in the United States. Instead, as Garcia makes clear,

When we frame [our goals to politicians], we say they want to be regulated and have the same rights as everyone else, and a license, and obviously provide for their families. But we never talk about going back or not. They're here and that's all that matters. A politician should be accountable regardless of whether you're leaving tomorrow or not. (personal interview 10/15/07)

This ambivalence, or outright impermanence and lack of affinity for the United States is part of the "hidden transcript" of the street vendors that allows them to wield power over rationalizing and disciplinary systems of power. On the most basic level of resistance, vendors fight against the government's imposition in their lives by continuing to sell their

goods in the streets without a pushcart permit, risking fines, confiscation of their property, and arrest. The vendors' political actions are oriented toward integration and formalization of their lifestyles here – but only to the extent that their economic activities require it, and the achievement of their goals is independent of any national project. The street vendors act to maximize their situation in the moment, however long that moment is. In a way, undocumented street vendors are “foreign business people,” albeit in possession of smaller amounts of capital. The vendor-members of VAB perambulate uptown for longer periods of time, making transactions, while their wealthier co-nationals fly in for the weekend to make deals in the Business District downtown.

Finally, one rhetorical move that VAB aims at politicians indirectly links street vending activity to illegal immigration, but spins this association positively. Castro argues, “you have to start from the recognition that street vending exists whether it’s legal or not. So it’s better to legalize it given the pragmatic benefits” (personal interview 10/15/07). The street vendors, and undocumented Mexican immigrants in general, will be a presence on the streets of New York, regardless of the state’s desire to restrict or regulate them, and, in fact, offer economic benefits.

Conclusion

Many theorists assert that “openings” have been created in civil society for marginalized social actors to make claims by organizing, but they attribute this phenomenon to top-down, structural causes; they claim that globalization has fragmented traditional political structures (Guidry, Kennedy, and Zald 2000; Ong 1999; Sassen 2002). I believe that this historical argument reveals what has always been true about the nature of the state and actors within it: that malleable relationships, and not rigid

structures, are the source of political life, and that they are grounded and practiced in multidimensional social fields by uniquely positioned social actors forging alliances out of a multiplicity of overlapping interests (Bourdieu 1985, Castells 1983, Foucault 1976, Mitchell 1991, Scott 1990). However, the political and economic context (in this case, neoliberal technologies of governance implemented by an urban administrative system) within which the “excluded” bargain for citizen-like rights does affect their plan of action and the way they frame their group identity. The strategies internal to the lived experiences of undocumented immigrants who are also employed in the informal economy reflect their doubly informal position in the social field of New York City. The skillful deployment of these strategies has brought them moderate success *despite or assisted by* the regulatory state system.

Yet there persists a strand in scholarly thought that ignores or devalues VAB’s brand of political mobilization. Michael Jones-Correa argues, “to escape the mutually exclusive choices demanded by formal politics, Latin American immigrants turn to a politics of in-between,” and do not attempt to become citizens (Jones-Correa 1998:192). He argues that this lack of citizenship is damaging, that “the marginality of immigrants... undermines the processes of representation and accountability which are central to representative democracy, reinforces our undervaluation of participation in the political process, and encourages our willingness to see immigrants as outsiders” (Jones-Correa 1998:35). I believe that the existence and outcomes of the political mobilization of the undocumented Mexican immigrant street vendors reveals that Jones-Correa’s statement could not be farther from the truth. Instead, VAB proves that “the essence of modern politics is not policies formed on one side of this [state/society] division being applied to

or shaped by the other, but the producing and reproducing of this line of difference” (Mitchell 1991:95) By staying informal in status yet interacting in formal political circles, the vendors internalize an external or “perspective from above” of that line *while simultaneously* representing themselves in the public sphere as submissive to the coercive power of the state.

I contend that the Mexican street vendors of East Harlem have wrested agency from their marginalized position. In fact, many choose to remain liminal, in between legal and economic formality and informality, where they can “carve out new paths” and “shoot off new branches,” in the words of Lidia Guerrero. On the social level, this challenges the belief that subalterns readily accept dominance and cannot escape their subjugation. Epistemologically, there is a conflict between

[T]he would-be scientific classifications produced by the social scientist... and the classifications that the agents themselves constantly produce in their ordinary existence, and through which they seek to modify their position within the objective classifications or to modify the very principles that underlie these classifications... [attention must be given to] the *work of representation* they constantly perform in order to impose their view of the world, or the view of their own position in this world. (Bourdieu 1985: 727)

Marginalization and mobilization must be viewed as potential tools, technologies and strategies of action implemented selectively by undocumented immigrants. Not only are the margins relative, but also, there is agency in claiming a position in the margins and creatively working from that position in a social field.

In absolute terms, the undocumented street vendors of VAB do not exercise *more* agency through their liminal and marginal position than legal citizens. Of course, just as it is impossible to quantify how a person experiences power, it is difficult to measure degrees of freedom. Regardless, the vendors demonstrate how agency and control can be wrested by actors legally external to, but working within in, a polity. Clearly, not every

marginalized social group in New York City may be able to achieve the same success as VAB. Even Garcia recognizes that organizing street vendors is

Different than organizing an industry that's closed doors. I think what helps is that like, a dishwasher never talks to customers, but our vendors are everything, dishwasher, owner, everything. So there's daily contact. So when we say, 'get signatures of support,' they come back with 800 names because they have so much contact with the consumer. Another thing that helps is that they're self-employed, they can vend whenever they want. It's easier to organize people with more autonomy over their time than factory workers. (personal interview 10/15/07)

The political mobilization of undocumented Mexican immigrant street vendors in New York is unique in the contemporary context and marks an important step in the development of the role of Mexican immigrants in U.S. politics. The imbrication of street vendors in the urban social and spatial fabric facilitates their imposition into the economic and political spheres, which have different levels of openness to negotiation for incorporation. The ability to negotiate and bargain – the salience of choice and reconsideration of options – is inherent in the experience of life as an undocumented immigrant, and in the life of an entrepreneurial street vendor in the informal economy. The cultivation of these skills and values through life experience informs techniques and capabilities that are consequently channeled into a social movement organization for political mobilization. And the neoliberally-oriented state system, flexible and determined by relationships-in-practice, responds: undocumented Mexican street vendors can work in channels of formal democracy, despite their lack of suffrage or mobilization specifically for citizenship. They exemplify the condition of the neoliberal exception, “a political liminality, an extraordinary decision to depart from a generalized political normativity to intervene in the logics of ruling and being ruled (Ong 2006:206).

As Saskia Sassen avers, “movements between membership and exclusion, and between different dimensions of citizenship, legitimacy and illegitimacy, may be as

important as redefinitions of citizenship itself... they may well represent an important enabling condition” (Sassen 2002b:13). Through their economic activity and political mobilization, the street vendor-members of VAB redefine the exclusivity and inclusivity, the formality and informality, and the temporal and spatial elements of citizenship. In fact, their history demonstrates the existence and viability of people-powered, alternative methods of constructing and practicing community membership.

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