

# IMMIGRATION

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## IMMIGRATION POLICY IN THE AGE OF GLOBALIZATION

The United States has a remarkable history of immigration. The movement and integration of people from virtually every other part of the world, in spite of many oppressive periods, have led us to a deeply multicultural—as well as highly prosperous—society. Today, as the world becomes ever smaller economically and technologically, we have a chance to take a new kind of leadership by making a new kind of immigration policy. Such a policy would recognize the realities of globalization, embrace cultural change and improve conditions for both native-born and immigrant U.S. residents. With 200 million people moving around the world seeking to improve their lives, someone needs to take the first step toward the new world. The United States is well-positioned to be that nation. If we call up the most inclusive element of our history, our ability to craft ingenious solutions to racial divides while expanding opportunity for all, we can become our dreams.

Right now, the nation is caught in a cycle that comes from having a shortsighted immigration policy. We make legal immigration extremely difficult, particularly for certain groups such as Mexicans or Muslims, which forces people to migrate without authorization, largely to find a way out of poverty. We then create increasingly harsh punishments for undocumented immigrants that do not actually reduce their numbers but instead expand discrimination and cause misery for others as well. Every 25 years or so, we are confronted with an enormous number of undocumented people living and working in the shadows of our cities and suburbs, unable to pay all their taxes, report crimes, use public benefits or protect their own labor, housing and other rights. At that point, employers, mayors, teachers and police chiefs begin calling for some kind of legalization. We played out this cycle in the 1920s, the 1960s and the 1980s, and we are currently in its midst again.

In shaping our policy this way, we do great damage, not just to undocumented immigrants and their families, but also to legal immigrants and native-born Americans. We divide families, create a highly exploitable surplus labor pool that employers can use to undermine labor rights and feed xenophobic searches for those who don't belong.

We need a new framework for addressing immigration, a global framework that both takes a clear-eyed look at Americans' struggles and enables the birth and fruition of forward-looking, humane and effective policy. Dealing honestly with the realities of globalization and cultural change first means separating immigration policy from national security policy and legalizing migration. Over time, immigration has been handled by various federal departments—Treasury, Labor, Justice and now, Homeland Security, where even federal officials agree it does not belong. Once we have separated immigration from homeland security, we need policies that ease rather than restrict people's movement. We can go a long way with a system that respects immigrants as more than cheap labor. Such a policy would decriminalize immigrants by increasing legal immigration (rather than temporary worker programs), while protecting their labor and civil rights.

Targeting immigrants as criminals is the way we keep them in line, but it is not the way we can control the conditions that compel them to come. The realities of dramatically uneven economic globalization construct the circumstances that drive people to leave their homes and their families, and come to the United States. Today's globalization favors corporate profits at the expense of labor rights and includes huge and growing economic divides between the world's wealthy and poor countries. As long as globalization continues to be built on corporate flexibility and economic disparity, human beings will continue to migrate at any cost in search of better lives and more autonomy. Though it's often said that our "immigration system is broken," it's also our economic system that is broken.

The form of economic globalization we have now is based on a neoliberal model that was spearheaded by our very own economic “experts” and exported all over the world. This model has given corporations great flexibility by shrinking the role of government—particularly in enforcing labor law—by deregulating corporate behavior and by lowering taxes and tariffs. Immigration policy has enhanced corporations’ advantage over labor by immobilizing workers. Legal immigration is reserved for only two-thirds of the people who want to move, and so hundreds of thousands of people every year are forced to become illegal if they want something better than a life of poverty in their original homes.

But it isn’t only immigrants whose lives are struck by an unequal globalization. Much of the economic insecurity Americans legitimately feel stems from this economic model. Public schools are underfunded, and health insurance is too expensive because our own government has continually cut taxes for the wealthy and refused to regulate healthcare corporations. The wealth accumulation of these elites is simply considered more important than the public good. We are all harmed by the disproportionate value afforded to profit over people. We have developed an economy that is highly dependent on a massive low-wage labor force. The cheapest labor to be had, other than prison labor, is immigrant labor. Until we stop incentivizing the “race to the bottom”—allowing corporations to use the cheapest labor they can get—we’ll always have a large shadow workforce of undocumented immigrants. The unregulated nature of this work also impacts non-immigrant workers, whose collective bargaining power is diminished by the ability of employers to pay and treat immigrants however they please. When everybody is treated with dignity and has the right to make a living wage, everybody prospers. Rather than looking to change neoliberal policies, however, the United States has focused on rooting out undocumented immigrants.

### **THE RACIST IMPACT OF IMMIGRATION POLICY**

While some anti-immigrant policies, often justified in the name of law and order, may not be based upon *racist intentions*, they have significant *racist impacts* because they disproportionately harm people of color and contribute to a climate of racism. But our punitive approach to immigration policy, which cannot be implemented without racial profiling, has taken on a lawless character, affecting all immigrants—documented and undocumented—as well as people of color and other citizens. Immigrants and people perceived to be immigrants are denied due process; face long, sometimes indefinite detention; are separated from their families; and are subjected to racial profiling. As more and more localities collaborate with federal immigration policy, people of color are increasingly targeted and fearful.

The criminalization and mistreatment of immigrants relies on a racialized fear-mongering. Much of the rhetoric around immigration perpetuates the notion that they threaten American identity. Yet, the idea of an unchanging, pure American culture is a complete fiction. That identity has been in flux for as long as there have been people who called themselves Americans, changing with the new arrivals on the ebb and flow of history. To keep up this fiction, we are tolerating enforcement practices that contradict our most deeply held values of family and fairness.

Ultimately, reinforcing the idea that only a white American is a real American generates waste, fear and isolation, which harms our national identity more than we can yet imagine. The southern border has become less a marker of the national boundary than a site of violence. Far from keeping people out, the trillions of dollars that we will spend on the construction of high-tech border security and a very long fence will do little other than drive people to cross in ever more dangerous places. It is unclear how many have died trying to cross the border, but the numbers are in the thousands and, according to a Government Accountability Office report, have doubled between 1995—when the wall construction began—and 2005.<sup>1</sup> As border enforcement reaches the interior immigrant families hide out in fear, with enormous psychological damage to their children. Immigration and Customs Enforcement (ICE) has ramped up its enforcement practices, with the number of workplace raids increasing tenfold between 2002 and 2007 (U.S. General Accounting Office). A 2007 Urban Institute study finds that for every

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<sup>1</sup>United States Government Accountability Office (August 2006). “GAO-06-770 Illegal Immigration: Border-Crossing Deaths Have Doubled Since 1995” (PDF), United States Government Accountability Office

two adults detained in raids, one minor child is affected. In three brutal raids, the Urban Institute found that 900 deportees left behind some 500 children, most of them under the age of five.

Rates of detention have also skyrocketed to an estimated 280,000 annually. The construction of detention centers has become a highly lucrative enterprise, and immigrants are now detained in around 400 facilities nationwide at a cost of over \$1.2 billion.<sup>2</sup> Reports of abuse, neglect and widespread mistreatment of detainees have hit the pages of national newspapers. At least 83 people have died while in detention over the five years since the creation of ICE, many because of administrative neglect (Washington Post). Those who are deported are separated from their families and forced to return to a place where many have not been in years. Some do not even speak the language or maintain any connections in the country to which they are deported, having spent their entire adult life in the United States.

Laws like the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 that allow for any non-citizen convicted of a broad set of crimes to be deported without regard for their family or other ties to the United States disproportionately impact immigrants of color. This is especially true of Black immigrants, who are pulled into an already racially discriminatory criminal justice system and then deported. Localities that decide to cooperate with Immigration and Customs Enforcement (ICE) in implementing immigration laws open the door to racial profiling, as they are likely to target people of color who they assume to be immigrants.

This approach makes it impossible to engage the full range of contributions that immigrants can make to the United States. Immigrants are far more than a pair of arms available for hauling and picking and scrubbing. Economically, they generate more jobs and taxes than they use in public services. Hundreds of case studies from cities and towns all over the country indicate that immigration, even the undocumented kind, helps to fuel economic growth. A report by the Immigration Policy Center found that immigrants pay between \$20,000 and \$80,000 more in taxes than they use in public benefits. Civically, naturalized immigrants vote with great enthusiasm and contribute to organizing efforts to improve labor, housing, healthcare, education and other institutions.

The notion that immigration policy should prevent “others” from accessing scarce American resources, thereby preserving those resources for “real Americans,” led to the policy cycle we are in now. This approach may seem intuitively sound, but it is practically flawed and therefore will not get us where we need to go—toward a system that improves the lives of current U.S. residents and future migrants both. Intuitively, it may make sense that human beings, when threatened with insecurity, close ranks and try to prevent other people from getting access to their already few resources. Yet the counterintuitive message is actually truest: when we share economic, civic and cultural opportunity with immigrants, together we generate more for everyone. Thus a racially just and expansive immigration policy is the only one that holds the promise of improving life for all of us.

The criminalization approach positions immigrants and U.S. residents as having opposing interests, when we should be joining forces to create effective new policy that is good for everybody. Punishing immigrants has a negative effect on the country. It breaks down our social fabric and encourages racism. It cuts off the enormous economic contributions immigrants make in the form of work, taxes and consumption. It distracts the nation from combating actual challenges to national security. By contrast, turning our attention to ways in which the interests of immigrants and the interests of current American citizens reinforce each other improves life for everybody.

## WHERE WE SHOULD GO FROM HERE

We have a clear and critical choice to steer our future on immigration policy. Will we decide to legitimate and legislate a climate of *institutionalized racism* by adopting more hostile policies and practices such as racial profiling, discrimination, exclusion and English-only that will further demonize, degrade and polarize people? Or can we create the political will to embrace a path of *social inclusion and racial equity* by advancing poli-

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<sup>2</sup>Detention Watch Network

cies based on the principles of dignity, respect, equal opportunity, fair treatment and human rights so that we uplift and unite people?

A racially just immigration policy would have the following features:

- 1. Require racial impact analyses of all new immigration proposals.** Current immigration enforcement has a detrimental and disproportionate impact on immigrants of color. Before any immigration law is passed, an analysis of the racial impact should be required. All existing immigration laws should be similarly evaluated, and adjustments should be made to ensure that laws are racially equitable in their outcomes.
- 2. Take all immigration functions out of the Department of Homeland Security.** The housing of ICE, Border Enforcement and Citizenship and Immigration Services in the Department of Homeland Security after 9-11 made immigration a matter of national security and recast immigrants as suspected terrorists. In fact, immigration has nothing to do with national security, but the conflation of the two allows a whole set of arbitrary, racially discriminatory and dangerous policies that target immigrants, documented and undocumented alike. To the extent that immigration and homeland security overlap, joint task forces and interagency collaboration will suffice.
- 3. Greatly expand the number of green cards available annually, with no written or unwritten preferences for certain nationalities, and end guest worker programs.** This figure is likely to include some 500,000 more green cards than we currently provide. It is also critical to appropriate adequate funds to modernize the Citizenship and Immigration Service. Backlogs in this agency effectively strip millions of eligible people of their voting and other rights.
- 4. Legislate and enforce full labor and civil rights protections for immigrants.** In the workplace, employers who abuse immigrant workers by withholding wages, restricting health and safety measures or refusing to acknowledge their right to organize undermine the rule of law with impunity because they feel confident that they will never be caught or that the punishment will be less expensive than the practice itself. The Department of Labor and the Offices of Civil Rights must be appropriately funded so that they can renew their efforts to enforce labor and anti-discrimination laws. Guest worker programs are fundamentally exploitative, as these workers are entirely dependent on their employers in order to maintain legality. Workers need to own their own visas so that they can move from job to job, demand fair compensation and unionize without fear of employer retribution.
- 5. Demilitarize the southern border.** Cancel that fence, which will only drive people to more extraordinary lengths to get here. This project, which has cost billions and will soon cost trillions, has done nothing to stop unauthorized migration. Reappropriate the money spent there toward modernizing the immigration bureaucracy or toward national security measures that will actually make us safer. In addition, take steps to protect the human rights and safety of all the people who live at the border by prohibiting the use of racial profiling and requiring the human rights certification of local and federal agents.
- 6. Close out employer sanctions.** It is impossible to enforce this policy without the burden falling largely on immigrant workers rather than on employers. Unscrupulous employers have repeatedly used the sanctions laws not to stop hiring undocumented immigrants but rather to hold them in line and to bust up union organizing efforts. In workplaces that include both immigrants and native-born workers, such as poultry processing plants in the South, the deportation of immigrant labor leaders threatens the labor rights of all.
- 7. Remove bans on public services for immigrants, including the five-year ban on children's health insurance, which should be eliminated by Executive Order immediately.** Anti-immigrant restrictionists argue that immigrants are a drain on public services like hospitals and public education. But not only do immigrants pay more in taxes than they use in services, the exclusion of immigrants from public services can mean more public costs as immigrants go to emergency rooms rather than doctors' offices when sick.

**8. Establish due process in immigration law.** Immigration judges should be endowed with discretionary power in immigration proceedings. As things stand, judges are required to follow strict mandatory deportation policies that rarely take into account individual circumstances. Immigrants should be guaranteed legal representation, should not be shipped off to detention centers far away from their homes and their families should be informed about their whereabouts. Passage of the Child Citizen Protection Act (H.R. 1176) would restore some semblance of due process to the immigration system by allowing an immigration judge to consider whether the deportation of a parent is “clearly in the best interest of a U.S. citizen child.”

**9. End local and state collaboration with ICE, starting with an end to 287g programs, which deputize local agents as immigration enforcers.** ICE has a deep and damaging impact on local communities. Increasing numbers of local and state law enforcement agencies are agreeing to enforce immigration law. This devolution of federal immigration enforcement powers to local agents creates conditions of fear and distrust among immigrants, dissuades immigrants from reporting crimes to police and has been a main driver in the fast-growing rate of immigrant detention and deportation.

In the first 100 days, we need the new President to sign three Executive Orders that suspend current immigration enforcement practices until civil liberties violations can be independently and thoroughly investigated.

1. Suspend raids and call a moratorium on detention.
2. Conduct independent investigation of civil liberties violations and corruption charges. Pay particular attention to the use of deportation to destroy labor organizing.
3. Release local police departments from the requirement to enforce immigration law. The current pressure on them to do so amounts to an unfunded mandate on already strapped local police departments and creates so much fear among immigrant communities that it hampers police efforts to fight crime.

## CALL TO ACTION

Americans have got a choice to make. We could be a country that attempts to close its doors fruitlessly, trying to preserve the nation’s benefits with increasing xenophobia and hatred. Or we could be a country that embraces immigrants and change. We could recognize that shared opportunity generates more opportunity, in the form of paid taxes and new businesses. We could recognize that cultural expansion is the mark of a compassionate and fair society, and that a system in which law enforcement can knock on anyone’s door and take them off to a detention center without an attorney or even the right to communicate with their families is not good for the nation’s soul. Instead of this approach, we can advance policies that affirm social inclusion and integration, economic opportunity, racial justice and human rights. These are the things that create social and economic stability, as well as cultural vitality.

To be sure, our nation’s widespread xenophobic treatment of immigrants has the most devastating consequences for immigrants of color and their families. We must be willing to explicitly name this dynamic for what it truly is: racism. When left unchecked, anti-immigrant racism results in further marginalization, criminalization and dehumanization of people who are targeted by law enforcement solely because of their race, ethnicity, national origin, religion or language. It is unacceptable, legally and morally, for a society to codify this kind of racism into its laws, structure it into its institutions and practices, and accept it in its culture. Until anti-immigrant racism is explicitly named and confronted, we cannot expect to change the trajectory of ever-increasing institutionally racist and punitive policies.

Because this is a culture war and not just a policy debate, we need to humanize immigrants—by refusing to use the word “illegal,” by not referring to them as aliens and by guaranteeing them full civil, cultural and labor rights—in short, human rights. We need to shift our culture to actively honor our immigrant histories, recognize the hard-

ships immigrants endure, support efforts to secure their civil and human rights, and acknowledge the current contribution that immigrants make to the economic, political, civic and cultural fabric of this country. We can separate in our own minds the terms “national security” and “immigration” and not feed into an immigration policy frame that begins by berating Congress for failing to secure the nation’s borders.

Finally, we need to recognize that the immigration problem cannot be solved by immigration policy alone, nor even in the United States alone. Although the scope of this paper does not allow for a remaking of global economic policy, all of us who care for immigrants need to engage in debates about global economics and governance, ultimately working to bring together the movements for migrant rights and fair globalization.