



WHICH WAY FORWARD?

Immigration and the 2020 Election

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During his 2016 campaign for president, Donald Trump made restricting immigration central to his political strategy. Many pundits believe that his nativist agenda clinched the election for him in battleground states.¹ Although his absurd boast that he was going to build a wall along the entirety of the southern border and “make Mexico pay for it” is nowhere near being realized (only three new miles of border wall have been built since his inauguration, funded entirely by U.S. taxpayers),² perhaps no sector of government policy has been more impacted during the Trump Administration than immigration. Sweeping changes have occurred despite the fact that no major immigration law has been passed by Congress. Through Executive Orders and the federal rule-changing process, policies affecting family-based visas, refugee admissions, asylum eligibility, Dreamers, and deportation priorities have profoundly altered who is eligible to pursue the American Dream.³

How the Trump Administration has implemented anti-immigrant policies at times has been breathtaking in its cruelty and recklessness. Just seven days into office the American people got a bitter taste of just how far outside the norms of presidential governance Donald Trump was willing to go when a travel ban limiting individuals from seven majority-Muslim countries from entering the U.S. and suspending the Refugee Admissions Program for 120 days was issued without even consulting Justice Department or Department of Homeland Security officials.⁴ On May 7, 2017, Attorney General Jeff Sessions announced that

Obama-era deportation policies prioritizing persons with criminal records were being abandoned. Instead, any undocumented immigrant, regardless of length of time in the U.S. or U.S. citizen family ties, was “fair game” for ICE officers,⁵ resulting in a surge of deportations and devastating heartbreak and hardship for immigrants and their family members left behind.⁶

Even the president’s most loyal supporters had a hard time defending the Trump Administration’s “Zero Tolerance” policy in the spring of 2018 that led to the traumatic separation at the border of over 2,600 children from their parents. As of October 2018, 120 children seeking to rejoin parents had still not been reunited, according to a report by the ACLU.⁷ Young immigrant Dreamers’ hopes to continue working and thriving in the U.S. without the constant threat of deportation were upended when the Trump Administration moved to end DACA in September 2017. Trump’s so-called Migrant Protection Protocols instituted in January 2019 and his Administration’s March 2020 COVID restrictions have resulted in over 30,000 asylum seekers living in limbo in often dangerous situations in northern Mexico.⁸ The Catholic Immigration Network, Inc. (CLINIC) warns that the proposed rule changes to asylum policy issued in June will effectively end the right of individuals fleeing persecution to obtain asylum in the United States.⁹

Given all this, I do not think it is hyperbolic to suggest that the 2020 presidential election will be the most momentous

election in our nation's history in regards to immigration. Will we continue down the path of fear and exclusion of immigrants the Trump Administration has blazed? Or will we recommit to being a nation that respects the human dignity of migrants and acknowledges the vast contributions to American life made by immigrants, which the Biden campaign appears to endorse in its immigration platform?¹⁰

PRIORITIES FOR IMMIGRATION LEGISLATION IN 2021

Even if Donald Trump should lose the presidency this November, major immigration reform legislation may not pass in the new Congress. Our nation's immigration system is enormously complex. In 2006, 2007, and 2013, Congress attempted to pass comprehensive immigration reform legislation that sought to satisfy a vast array of their constituencies' priorities, including progressives' commitment to legalizing the status of undocumented immigrants, conservatives' demands for enhanced border enforcement, industry requests for more workers, and organized labor's concerns to avoid worker exploitation. Because these efforts to pass a comprehensive immigration bill failed, even with the support of Presidents George W. Bush and then Barack Obama, some legislators began calling for a "piecemeal" approach to immigration reform where issues are tackled one bill at a time.

I asked three immigration policy experts what immigration reform issues should be addressed first by the 117th Congress in 2021 if President Trump is defeated and comprehensive immigration reform legislation does not appear possible.

Jose Arnulfo Cabrera, Director of Education and Advocacy for Migration at the Ignatian Solidarity Network, wants to see legislation enacted like the American Dream and Promise Act, passed by the U.S. House in June 2019, that provides a pathway to citizenship for Dreamers, Temporary Protected Status (TPS) holders, and individuals with Deferred Enforced Departure (DED).¹¹

Mary Townsend, Executive Director of El Pueblo in Mississippi, noted that, with broad public support for Dreamers and their work on the frontlines of the pandemic as medical workers, "there is simply no good reason" not to pass legislation for Dreamers. She also wants to see a fix to a provision of a 1996 law that requires undocumented spouses of U.S. citizens to wait up to ten years in their home countries before receiving legal status.¹²

Caitlin-Marie Ward, Senior Advisor on Migration at the Jesuit Office of Justice and Ecology, thinks Congress should prioritize legislation like the Refugee Protection Act, proposed in 2019, which would protect society's most vulnerable—asylum seekers and refugees. This bill requires the President to set an annual refugee admissions goal of at least 95,000 refugees, expand access to counsel for all detained immigrants, and establish a program to admit certain refugees from Northern Triangle countries (Guatemala, Honduras, and El Salvador).¹³

CONCLUSION

These are dark and frightening days for vulnerable immigrants, but Bishop Mark J. Seitz of the Diocese of El Paso reminds us in a July op-ed to keep faith in a better future:

"... Faith and hope tell us that the machinery of darkness our immigration enforcement has become is not permanent. Faith teaches us that there will be a day when all of this pain will be no more, when walls of hatred come tumbling down, and when grace transforms the dark present into something better. This darkness is ours to undo. Let's get to work..."¹⁴

Regardless of the election's outcomes, JSRI will "get to work" with our immigrant sisters and brothers and justice allies to build a more humane and just immigration system.

ENDNOTES

- 1 Klinkner, P. (2017, April 17). Op-Ed: Yes, Trump's hard-line immigration stance helped him win the election — but it could be his undoing, *L.A. Times*, at <https://www.latimes.com/opinion/op-ed/la-oe-klinker-immigration-election-20170417-story.html>.
- 2 Date, S.V. (2010, June 24). Four years later, only three new miles of "wall" and not a single peso from Mexico, *Huffington Post*, at https://www.huffpost.com/entry/trump-yuma-arizona-border-wall_n_5ef26403c5b601e59955fffc.
- 3 The Trump Administration has undertaken more than 400 executive actions on immigration as of July 2020. See Pierce, S. & Bolter, J. (2020, July). *Dismantling and Reconstructing the U.S. Immigration System: A Catalog of Changes under the Trump Presidency* at file:///E:/Downloads/MPI_US-Immigration-Trump-Presidency-Final.pdf.
- 4 Perez, E., Brown, P., & Liptake, K. (2017, January 30). Inside the confusion of the Trump executive order and travel ban, *CNN*, at <https://www.cnn.com/2017/01/28/politics/donald-trump-travel-ban/index.html>.
- 5 Horwitz, S. & Sacchetti, M. (2018, May 7). Sessions vows to prosecute all illegal border crossers and separate children from their parents, *The Washington Post*, at https://www.washingtonpost.com/world/national-security/sessions-says-justice-dept-will-prosecute-every-person-who-crosses-border-unlawfully/2018/05/07/e1312b7e-5216-11e8-9c91-7dab596e8252_story.html.
- 6 Weishar, S. (2019, Winter). Deportation and family impact: Trump Administration enforcement efforts in context, *JustSouth Quarterly*, at http://www.loyno.edu/jsri/sites/loyno.edu/jsri/files/JSRI%20Newsletter%20Winter%202019_Weishar.pdf.
- 7 (2018, October). Family separation: By the numbers, *ACLU*, at <https://www.aclu.org/issues/immigrants-rights/immigrants-rights-and-detention/family-separation>.
- 8 Reidy, E. (2020, June). Briefing: Coronavirus and the halting of asylum at the U.S.-Mexico border, *The New Humanitarian*, at <https://www.thenewhumanitarian.org/news/2020/06/29/Mexico-US-coronavirus-mass-expulsions-asylum-halt>.
- 9 See June 26, 2020, statement from the Catholic Legal Immigration Network, Inc. (CLINIC) at <https://cliniclegal.org/resources/asylum-and-refugee-law/new-proposed-rule-places-us-asylum-system-grave-risk>.
- 10 See *The Biden Plan for Securing Our Values As a Nation of Immigrants* at <https://joebiden.com/immigration/#>.
- 11 Interview with author August 20, 2020.
- 12 Email from Mary Townsend to author, August 18, 2020.
- 13 Email from Caitlin-Marie Ward to author, August 21, 2020.
- 14 Seitz, M.J. (2020, July 5). The U.S. commitment to asylum seekers is eroding away, *The Dallas Morning News*, at <https://www.dallasnews.com/opinion/commentary/2020/07/05/the-us-commitment-to-asylum-seekers-is-eroding-away/>.