

# The anti-immigrant backlash post-9/11

## ANTI-IMMIGRANT LEGISLATION ACROSS THE UNITED STATES

Many movements fuelled with strong nativism and anti-immigrant sentiments have been steadily pushing for the exclusion of immigrants from participating economically and politically in US society. In 1994, California initiated Proposition 187, an initiative that aimed to deny undocumented immigrants social services, health services, and public education, and required local law enforcement to work closely with immigration law enforcement. Under the banner of "Save Our State," proponents of Proposition 187 successfully campaigned and inspired anti-immigrant groups in other states to use similar nativist strategies and draft initiatives that closed avenues of integration.

The list of state legislative reforms under consideration or already passed include the requirement that all official business be conducted in English, and the elimination of access to driver's licences, housing, employment, health care, and education for unauthorized migrants. Initiatives have built on previous race-based nativist messages that show Third-World immigrants (namely, Mexicans) invading the United States and establishing Spanish as the primary language. In addition, immigrants of colour are blamed for all social problems, including unemployment, overcrowding, lower standards in education, and violent crime.

## ARIZONA AND PROPOSITION 200

In Arizona, the home state of numerous nativist anti-immigration groups, a number of anti-immigrant initiatives have passed. With the financial assistance of an anti-immigration organization, the Federation for American Immigration Reform, Arizona Proposition 200 was placed on the ballot and passed in November 2004. The major provisions included the following:

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- voters must present identification before being allowed to vote;
- persons registering to vote in the state need to show proof of citizenship;
- illegal immigrants are banned from receiving state-mandated public benefits;
- government agencies must verify the legal status of applicants; and
- state residents are permitted to sue a government employee or agency for failing to carry out the above provisions.

Although claims that illegal immigrants were voting was used as the rallying point for passing Proposition 200, investigations have yet to uncover evidence of this. Instead of negatively affecting immigrants in Arizona, the new voting restrictions have affected citizens who failed to change their address when moving to Arizona and citizens who were unable to afford the approved Arizona ID credentials.

## THE ARIZONA EMPLOYER-SANCTIONS BILL

In November 2006, Proposition 100 was passed. This law denies suspected immigrants access to bail and incarcerates suspected criminals instead of turning them over to federal immigration officials for immediate deportation. In addition, Governor Janet Napolitano signed a bill imposing employer sanctions that went into effect January 2008. The bill imposes a 10-day suspension of the employer's business licence for a first offence and a possible loss of their licence for a second offence. Proponents of the employer-sanctions bill predict that there will be an increase in available jobs and social services when this law takes effect. However, immigrant advocates, business groups, and analysts predict an increase to the already tight labour market and a negative impact on the state's economy. Even the governor called the bill flawed and voiced concern that under the law, hospitals and nursing homes could be closed if their licences were revoked or suspended. She further acknowledged that the bill did not provide adequate funding for investigating complaints made to the state attorney's office.

A study conducted by the University of Arizona's Udall Center for Studies in Public Policy concludes that "economic output would drop annually by at least \$29 million or 8.2 percent, if all non-citizens, which include undocumented workers, were removed from Arizona's workforce." The key industries to be hit the hardest would be construction, manufacturing, and agriculture. In response to the employer-sanctions bill, business groups have joined in filing a motion for preliminary injunction on the basis that House Bill 2770 violates the right of substantive due process guaranteed by the US and Arizona constitutions and violates the separation of powers required under Arizona's constitution. A similar lawsuit was filed by a civil rights coalition. The first lawsuit was dismissed

in December 2007 and both employers and civil rights coalitions refiled a few days later. After several more dismissals, Judge Neil Wake determined that the procedural due process arguments used by the plaintiffs to attack the Arizona state law as unconstitutional were not well taken and were overruled.

## IMMIGRATION AND 9/11

Of course, the growing popularity of recent initiatives emerging at the state level must be considered within the federal context of government responses to the 9/11 attacks, which have conflated the terms “alien immigrant” and “criminal.” Exclusion, detention, and surveillance of non-citizens all became the concern of counterterrorism legislation, which included the *Patriot Act*, the *Homeland Security Act* and the *Enhanced Border Security and Visa Entry Reform Act*. Consequently, the distinctions among criminal aliens (deportable for their post-entry criminal conduct), illegal aliens (deportable for their surreptitious crossing of the US border), and terrorists (deportable for the grave risk they pose to national security) are blurred and all are treated as dangerous. Having depoliticized and delegitimized terrorist attacks, the White House constructed them as criminal acts rather than acts of war. Consequently, connecting the War on Terror and the War on Drugs provided a smooth transition to a campaign against narco-terrorism in 2002.

Combining the traditional domains of immigration and criminal law enforcement under the Department of Homeland Security has obscured differences between immigrants who are simply working illegally in the United States and immigrants and non-immigrants engaged in murder, human smuggling, money laundering, or child pornography. Prior to the 1996 *Anti-Terrorism and Effective Death Penalty Act* and the *Illegal Immigration Reform and Immigrant Responsibility Act*, only specifically identified felony convictions, such as murder or drug and firearms trafficking, resulted in detention and deportation.

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These draconian measures have resulted in the mandatory deportation of legal permanent immigrant residents for almost any criminal conviction, including misdemeanours.


## LEGAL DETENTION AND PUNITIVE REMOVAL

In 2003, the Department of Homeland Security released a ten-year detention and removal strategy. As a mission slogan, the Office of Detention and Removal (DRO) selected the following:

Promote the public safety and national security by ensuring the departure from the United States of all removable aliens through the fair and effective enforcement of the nation's immigration laws.

In framing the mission solely on the basis of public safety and national security, the DRO defined all unauthorized immigrants as security threats. Traditionally, immigration raids have been conducted at worksites and have affected immigrants as workers. However, since the beginning of the immigration program Operation Return to Sender, news accounts have reported an unusually high number of immigration raids targeting families. Reports of immigration law enforcement agents entering residences without warrants or unannounced, particularly at pre-dawn, have increased over the last two years. Concerns about the civil rights violations of family members, particularly children, have emerged.

Seven-year-old Kebin Reyes became the poster child for the citizens caught in immigration sweeps and of the disregard for breaking up families in immigration enforcement. In this case, Immigration and Customs Enforcement officers denied his father's request to call a family member or family friend to take care of Kebin. Even though the father showed the officers his son's US passport, he was instructed to wake the child, and both were taken into forced custody. The child was held in a locked room all day and was only given bread and water. Even though family members arrived that afternoon for the child, Kebin was not released until the evening. Along with Kebin's story from the Bay Area, similar accounts have been reported in East Hampton, South Bend, Los Angeles, Chicago, Fresno, Long Island, and Santa Fe.

The move toward harsher restrictions against immigration at federal and state levels has reinforced the notion that US citizenship is limited to a white-monolingual-monocultural standard. At the same time, proposed legislative reforms against immigration are cutting off former avenues that immigrants had toward integration and assimilation into the dominant culture. Instead, a consistent pattern of policies is being implemented that will ensure the complete exclusion of immigrants from mainstream America. 

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