

**A CALL FOR  
IMMIGRATION REFORM: A  
RESPONSE TO THE NORTHERN  
TRIANGLE EPIDEMIC**

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## **Abstract**

The current immigration crisis is a global humanitarian crisis. As members of the United Nations, the United States of America has a responsibility to provide aid to those seeking refuge from dangerous conditions in their home countries. In recent decades, however, the United States' response to an influx in immigration has walked a fine line on constitutionality. This paper discusses the causes of migration to the United States with particular emphasis on the Northern Triangle of Central America (NTCA) which consists of the following countries: El Salvador, Guatemala, and Honduras, where the majority of immigrants seeking asylum in the United States are coming from. It analyzes the United States's response to this humanitarian crisis, as the U.S. has failed to adequately provide refuge to immigrants from the NTCA. It exposes the discriminatory policies that exist in the United States, the racialization of the United States's approach, and the malpractices of U.S. immigration agencies such as Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP). This study ultimately questions the constitutionality of these laws and practices, critiques them, and offers a more humane approach while still maintaining national security.

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## **The Basis for Necessitative Reform**

The Immigration and Customs Enforcement (ICE) is an agency that exists under the U.S. Department of Homeland Security (DHS) made to enforce federal immigration law and national

security. In 2006, ICE received an anonymous tip stating that a printer cartridge factory in the Los Angeles area was employing between 200 to 300 undocumented immigrants. ICE was able to obtain search warrants for 8 of the individuals working at the factory by 2008, 2 years after they had received the anonymous tip (which shows us the lack of organization and urgency of immigration agencies in the U.S.) and thus conducted a raid in the factory. They sent 100 armed agents, 2 buses, and 5 vans and arrested approximately 130 people, many of which ended up being documented (Source 18, pgs. 6-7). Individuals were forced to provide work documentation and those who could not provide this were frisked, repeatedly questioned without lawyers, and held without food or water for over 18 hours. The searches and seizures were “unlawful” (Source 6).

Among those arrested was Gregorio Perez Cruz, an undocumented immigrant who had been living in the U.S. for about 14 years. A case was filed in the U.S. Court of Appeals in the Ninth Circuit. Their “central question is whether the ICE agents were permitted to carry out preplanned mass detentions, interrogations, and arrests at the factory, without individualized reasonable suspicion” (Source 18). Ultimately, the practices used in the raid were deemed unconstitutional. Perez Cruz’s call for deportation was overturned (Source 6). There was never any warrant for his arrest. He was unlawfully detained and his rights were violated in the process.

This was a very important win for immigration rights advocates. It could be very useful for many future cases, as ICE continues to arrest individuals across the country using these same tactics. There is a problem with the way this country is handling immigration. On what basis were these individuals being arrested? Out of approximately 130 people originally detained, only

eight of them had a warrant for their arrest. So what exactly led ICE to arrest over 100 other individuals, some of which were documented? In this paper, the demographics of those being detained by immigration enforcement agencies are shown. The results are that the vast majority of those being arrested are people of color, and more specifically of Latinx descent.

The fourteenth amendment states that no person shall be discriminated against on the basis of race (Source 4). Yet, this is exactly what is happening to brown individuals all over the country, undocumented or not. There is no reason a person should be allowed to be unlawfully detained without a warrant for their arrest under the assumption that they are undocumented. There is no basis for such an assumption, making such tactics used by agencies like ICE discriminatory under the basis that the arrests are racially motivated.

In addition to this, mass deportation and denial of asylum go against American ideals and internationally recognized responsibilities. The United States has signed several United Nations declarations which state that the United States has a humanitarian duty to provide asylum to those being threatened in their home countries. The United States is continuously failing at providing adequate asylum; and our inadequate response has progressively worsened under the Trump Administration (Source 5).

The question is, how do we find a way to allow individuals into this country while still enforcing national security? In this paper, I will be examining the current policies that exist and analyzing all of their faults. I will particularly be shedding light on the racialization of such policies and the discriminatory practices that arise from this. My solution consists of many changes; it ultimately proposes an easier, faster, and more affordable pathway to citizenship, which would decrease the number of people who try to enter the country undocumented. This

will make border patrol easier, since it is hard to detect real threats due to the fact that the majority of the people entering the country do not intend to participate in criminal activity. It would thus decriminalize undocumented and focus on other crimes. Overall, it would take a more humane approach to ensure the rights of immigrants. It is the constitutionally correct thing to do.

## **Chapter 1**

### **Immigration in America Today**

The United States receives approximately 1 million individuals each year through immigration, with a little less than half of them being undocumented (Source 15). They are individuals seeking refuge, economic opportunity, and a more stable and promising way of life. The majority of the current migrants are people of color (77% just from Latin America and Asia). Of all the different demographics of people migrating into the country, half are coming from Latin America, with a recent increase specifically from the Northern Triangle of Central America (NTCA) which consists of El Salvador, Guatemala, and Honduras - the three most dangerous and gang ridden countries of Latin America (Source 14).

The United States has made it their humanitarian duty to help individuals seeking refuge, yet, we are constantly denying the vast majority of immigrants fleeing such violence at an alarming rate. Anti-immigration rhetoric is at an all time high in the white house and rules regarding asylum have gotten increasingly stricter. In this section, we are going to analyze the current political climates that exist in the countries that have the most individuals migrating to

the United States, which would currently be countries from Latin America. It is important to note that although most U.S. immigration comes from Latin America, high numbers of immigrants are also coming from Asia (27%) (Source 14). Asian immigration will be briefly spoken about throughout the paper, however, for the sake of effectively and concisely creating an understanding of immigration and policy change, this paper will not provide extensive research on every country that has individuals who migrate to the U.S., since that would require an analysis of dozens of countries. Instead, this chapter will particularly focus on Latin American immigration since they have the highest number of migrants, and assess the United States responsibility to help those individuals. Other countries and their relation to immigration policy will be briefly mentioned throughout the paper, depending on the section. This analysis will give us insight on the U.S. approach on immigration and what about it needs to be changed.

### **Latin American Immigration**

Approximately half (50%) of all individuals migrating to the United States are coming from Latin America. Mexicans alone take up half of these migrants. With that being said, migration from Mexico has actually been decreasing in recent years (Source 14). Despite this, Latin American immigration is not expected to decrease, as statistics are showing an increase of individuals coming from El Salvador, Guatemala, and Honduras, also known as the Northern Triangle of Central America (Source 15). Much of the immigration coming from Latin America is due to two reasons, more economic opportunities and fleeing of violence (Source 19).

#### **The Northern Triangle**

The Northern Triangle of Central American (NTCA) is a term used to describe the three most dangerous countries of Central America; El Salvador, Guatemala, and Honduras; all of

which are located right next to each other. These three countries are largely known for their alarming homicide rates and gang violence. These countries are plagued with corruption. The gangs are so powerful, they have become more influential than military and police forces in the NTCA. Civilians live in constant fear of being forced into committing crimes for the gang or otherwise facing death (Source 19).

### **Gang Violence in the Northern Triangle**

Gang violence in the Northern Triangle is largely perpetrated by two gangs: La Mara Salvatrucha (MS-13) and Barrio 18 (La 18) (Source 5). These gangs originated in Los Angeles California in order to protect immigrants from historically black gangs. MS-13 and Barrio 18 spread throughout Central America after the mass deportation of these immigrants (Source 5).

These two gangs are at war with each other, particularly over territory, which oftentimes results in more violence, especially in neighborhoods that have members of both gangs residing in them. There are approximately 70,000 gang members in the NTCA. Members of these gangs participate in criminal activity such as extortion, murder, rape and sexual assault, drug and sex trafficking, and child recruitment (Source 19, pg. 9).

All individuals face their own type of vulnerability due to gang violence. Young boys are particularly vulnerable to recruitment. A report done by the United Nations showed the average age of gang recruitments in Guatemala to be 14.7 years old (Source 5, pg. 14). Those who refuse recruitment or involvement with the gang face extreme violence against them and oftentimes death (Source 5, pg. 12). Violence is not limited to those who deny recruitment and/or involvement. In many cases, gang members will kidnap and/or murder family members or close friends of the person they are trying to recruit as a way to scare them into joining.



Women are also increasingly becoming victims of gang violence due to prevalent machista ideologies in Latin America. The United Nations High Commissioner of Refugees (UNHCR) conducted a study on women migrating from the Northern Triangle and Mexico. When asked why they were fleeing their home countries, 85% of them stated that it was due to gang violence. They listed rape, assault, and extortion by gang members as part of their fears (Source 5, pg. 20).

Police officers and military personnel often work in accord to the gang members. They face similar threats and often fall to corruption. Many thus serve as informants or helpers of the gangs. Because of this, many civilians do not have trust in the police and cannot go to them when they are faced with their own problems with the gangs. Of those who do end up going to the police for help, they are almost always given zero to no help. Law enforcement and military personnel are thus ineffective in curbing gang violence in the Northern Triangle (Source 5).

Violence within the Northern Triangle has not only led to migration to the United States, but internal displacement as well (Source 11). Many immigrants migrating to the United States also tried to migrate within their own country first before fleeing to the United States. Oftentimes, migration within the Northern Triangle is not enough to protect individuals from gang violence. Due to the intimacy of neighborhoods and the large presence and power of gangs, newcomers in a neighborhood are easy to spot, and their whereabouts are quickly reported back to the gangs.

Left with nowhere to go, the violent nature of the Northern Triangle has led to the migration of thousands of Central Americans to the United States. A study done by a task force at the University of Washington compiled data from 1,374 casefiles from January 2013 to May

2016 (Source 19, pg. 5). In this study, 83.3% of the migrants stated that they were afraid to go back to their countries due to the violence (Source 19, pg. 9). Gang violence is shown to be the most common reason for migration among NTCA immigrants (Source 19, pg. 13).

## **Current Immigration Policies**

There are numerous immigration policies that are in place in the United States. This section particularly focuses on policies with relation to undocumented, specifically asylum. In 1948, countries of the United Nations gathered together to sign the United Nations Universal Declaration of Human Rights' (UDHR). The United States of America was one of the signees and the right to asylum is internationally recognized in Article 14 of the 1948 UDHR. In 1951, The United Nations High Commissioner of Refugees (UNHCR) held a "Convention Relating to the Status of Refugees" (Source 5, pg. 4), which has led us to our current laws regarding granting asylum. "U.S. immigration law is dictated by the Immigration and Nationality Act (INA), the first Act in U.S. history to organize immigration and citizenship laws into one document" (Source 5, pg. 6). Here, they built upon the definition of a refugee and the requirements needed in order to be considered one and thus qualify as an applicant for asylum.

### **Asylum**

If an immigrant is fleeing their country and is seeking refuge, the procedure in order for them to gain temporary legal status in the United States would be for them to apply for asylum. Immigrants can apply for asylum either affirmatively (at the border) or defensively (after apprehension) (Source 5, pg. 16). The current definition of a refugee is found in section

1101(a)(42)(A) of the INA. It is almost a replica of the original definition given by the UNHCR in 1951 (Source 5, pg. 7). It reads as follows:

“Any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion” (Source 5, pg. 7).

Most immigrants seeking asylum in the United States fall under the category of membership in a particular social group. Victims of gang violence and domestic violence are some examples of cases that would fall under the category of membership in a particular social group. Both affirmative and defensive asylum applications are processed by the Department of Homeland Security (DHS) but within different branches. Affirmative asylum applications are processed under the United States Citizenship and Immigration Services (USCIS) of the DHS and “can be made immediately at a port of entry” or within a year of authorized entry (Source 5, pg. 16). If a person is detained or called for removal, they would thus apply for defensive asylum which is processed under the Executive Office for Immigration Review (EOIR) of the DHS.

Both affirmative and defensive applications from the Northern Triangle have low approval rates. Immigrants from the NTCA tend to apply defensively more often than they do affirmatively, though defensive cases are less likely to win. 2017 statistics from the Department

of Homeland Security showed an approval rate of affirmative asylum applications for El Salvador to be 17.98%, Guatemala 16.58%, and Honduras 15.98%. The approval rates dropped significantly for defensive asylum applications, which make up the majority of asylum applications from the Northern Triangle. Defensive asylum application approval rates in 2017 for the NTCA were: El Salvador 3.76%, Guatemala 4.41%, Honduras 4.72% (Source 5, pgs. 16-17). The following table was taken from Jane Dowd's *A Credible Fear: The Politics of Gang Violence in the Northern Triangle*, with data compiled from the Department of Homeland Security's Office of Immigration Statistics and Office of Strategy, Policy & Plans March 2019 "Annual Flow Report: Refugees and Asylees: 2017. The average approval rate for all asylum applications is shown, by country, of the NTCA.

**Table 1. Affirmative and Defensive Asylum Data from El Salvador, Guatemala, and Honduras 2015 – 2017.**

	2017			2016			2015		
	Received	Approved	Rate	Received	Approved	Rate	Received	Approved	Rate
E.S.	47,260	3,471	7.34%	28,372	2,148	7.57%	18,864	2,164	11.48%
Gua.	33,398	2,954	8.84%	22,960	1,916	8.34%	16,657	2,069	12.42%
Hds.	26,736	2,048	7.66%	17,193	1,482	8.62%	14,492	1,407	9.71%

All data in Table 1 is gathered from the Department of Homeland Security's Office of Immigration Statistics and Office of Strategy, Policy & Plans March 2019 "Annual Flow Report: Refugees and Asylees: 2017."<sup>32</sup>

As non-citizens, immigrants defending themselves in a court are not afforded a right to counsel. Oftentimes, they are never represented in front of a judge. Lack of representation has led to alarmingly low approval rates. Of over 107,000 asylum applications in 2017, nearly 99,000 were denied.

The United States has a cap on how many refugees they accept every year. This number has significantly declined and continues to decline every year under the Trump administration. In 2016, the year Trump entered office in November, the U.S. accepted 84,995 refugees. The following year, that number dropped significantly to 53,716 in 2017. In 2018, it dropped even lower to 22,491. The numbers of asylum applications that are being accepted are so low, they fall below the cap that even has been placed on them. For 2019, The United States set a cap of 30,000 individuals, which is the lowest it has ever been in history (Source 10).

### **Temporary Protection Status**

Temporary Protection Status, or TPS, consists of 10 countries who have conditions of extreme hardship such as war, natural disasters, gang violence, etc.. In 2019, the Trump Administration announced that they would be terminating TPS “for people from El Salvador, Haiti, Honduras, Nepal, Nicaragua and Sudan, who together account for about 98% of enrolled immigrants” (Source 10). The immigrant community is under attack, especially now more than ever under the Trump Administration.

Under the United Nations Universal Declaration of Human Rights, it is safe to say that the United States has failed at providing adequate asylum to any refugee who seeks it. This not only goes against American ideals and our commitment to servicing humanitarian crises, it ultimately results in the deportation of hundreds of thousands of immigrants coming from the Northern Triangle each year (this number includes those who are denied other forms of legal status, such as EOIR-42B, which is an application meant for individuals who have resided in the U.S. for at least 10 years, has upheld good moral character, and whose removal would result in

an extreme or unusual hardship of an immediate family who is either a citizen or legal resident of the United States). Such deportations are oftentimes a death sentence for NTCA immigrants. The United States' approach at immigration is thus far too heavy handed.

## **Chapter 2**

### **Flipping the Switch on Immigrants**

The United States has been strategically using anti-immigration rhetoric to move attention away from their malpractices and switching the narrative onto the criminalization of immigrants in order to justify such practices. As non-citizens, undocumented immigrants have no voice in the U.S. judicial system and are thus vulnerable to exploitation in America. Our politicians have taken full advantage of this.

Lack of citizenship, however, does not justify these actions. The methods practiced by U.S. immigration agencies are racialized, unconstitutional, and go against our humanitarian commitment to provide asylum to those who require it. This chapter exposes and analyzes the United States' approach at immigration in order to effectively come up with a solution.

#### **The Truth about Immigration**

At a 2018 White House Meeting with local California politicians, Trump infamously commented on Mexican immigrants, the country with the most number of migrants coming to the U.S.. He said, "You wouldn't believe how bad these people are. These aren't people. These are animals. When Mexico sends its people, they're not sending their best. They're bringing

drugs. They're bringing crime. They're rapists. And some, I assume, are good people" (Source 9). Here, we see the current United States President demonizing and criminalizing immigrants, specifically from Mexico. The truth is, however, that Trump's comments are extremely exaggerated, falsely criminalizes and demonizes thousands of individuals, and disenfranchises Latinxs all over the country. The immigrants we are accepting are people, not animals, and we have a humanitarian duty to help them. In fact, if you exclude undocumented entry, immigrants are less likely to commit crimes than native born Americans.

The United States has had a long history of violating the human rights of immigrants. From raiding Latinx communities to religious profiling of Middle Eastern people, the U.S. has negatively approached immigration from a racial standpoint. In this chapter, the realities of immigrant crime are brought to light. This section thus proceeds to assess how immigration in the United States has continuously been racialized, which has led to illegal discriminatory practices; which would thus lead us to my proposed solution. It isn't until assimilation occurs across generations that we see these numbers rise to the same levels of native-born Americans.

### **Good Moral Character**

According to a report aimed to debunk anti-immigration myths, immigrants today are seen to have faster assimilation rates than prior waves of immigration. These assimilations are shown on a wide range of measures such as "education, employment, earnings, poverty, language, and intermarriage" (Anwar). This study also showed immigrants to "have lower rates of depression, alcohol abuse, and smoking, as well as higher life expectancy."

This same study also conducted research on crime rates among immigrants. Excluding undocumented entry, research shows that crime rates amongst immigrants remain lower than

average prior to American assimilation. Yasmin Anwar, a media relations representative at UC – Berkeley says, “neighborhoods with higher percentages of immigrants have lower crime rates. But with integration across generations, the descendants of immigrants become more and more like other Americans, and incarceration rates go up” (Anwar).

### **Economic Contribution**

Allowing immigration is not a one way relationship. Though it provides a great deal of help by practically saving those migrating to the United States from a life or death situation, they are not the only ones who gain something from such migration. Immigrants are a huge contribution to the American economy.

One of the largest widely accepted fallacies amongst Americans is the idea that immigrants don’t pay taxes. According to research done by Micah L. Issitt on the economic impact of immigration, Issitt found that undocumented immigrants contribute approximately 10.6 billion dollars in taxes every year. “Unauthorized migrants also contribute \$15 billion a year to the Social Security System, despite being unable to access these benefits,” says Issitt. Another misconception is that immigrants are stealing American jobs. According to Issitt’s research, immigrants actually lower the unemployment rate and offer Americans more jobs (Issitt). Immigrants take up less than four percent of the United States population. Yet, “26 percent of start-up businesses are immigrant owned.” These businesses provide millions of jobs to Americans. Without them, the unemployment rate would actually go up.

According to research done by the National Academies Press, immigrants play a huge role in the economic gains of those living in the United States. “At the most basic level, immigrants increase the supply of labor and help produce new goods and services” (Source 13,



p. 4). What we have seen is that many undocumented immigrants end up doing labor at a lower wage than “the total value of these goods and services,” ultimately having an economic effect similar to that of free trade (Source 13, p. 4-5). Over 30 percent of immigrants work in manual labor, thus providing a large supply of cheap manual labor for big businesses (Issitt).

From an economic standpoint, almost everyone gains economically from the labor of immigrants domestically, including immigrants themselves. The only losers in this case may be less skilled domestic workers who would be competing with immigrants for jobs and whose wages would fall. Yet, there are not enough less skilled domestic workers that would be able to substitute the work that immigrants do, ultimately proving our reliance on immigrants and our need for their labor.

Cheap labor, however, allows for big businesses to easily exploit undocumented immigrants. Being undocumented, immigrants are thus placed in a position they cannot escape. Though they are making much more money than they would in their home countries, undocumented immigrants are severely underpaid in comparison to native-born Americans. Despite such exploitation, many are left with no other options. In their home countries, things are much worse, and much of it is ironically at the fault of the United States. Many countries, particularly in Latin America, are facing political and economic turmoil because of the initial deportations of LA gang members and treaties such as the North American Free Trade Agreement (NAFTA). NAFTA allows for free trade amongst countries like Mexico. Under NAFTA, The United States started selling their resources to these countries at much lower rates, driving local competitors out of business (Bacon). These people now have no choice but to

migrate to an area with safety and economic opportunity. In this case, it would be the United States.

### **Immigration Discrimination**

Anyone living in the United States is aware of the anti-immigration rhetoric that is constantly being thrown around, especially today under the Trump Administration. Just take a look at his comments mentioned above! These claims, however, have been shown to be false. Yet, many Americans are not aware of the illegitimacy behind his words. Thus, this creates a widely accepted urge to decrease immigration to the United States. This would not only negatively impact our economy, but could result in the deaths and injuries of thousands of individuals across the world.

The United States has different laws regarding immigration depending on the country. Currently, countries with the most number of migrants entering the United States are facing the strictest restrictions. Consequently, these countries are also countries whose civilians are people of color. For the sake of providing simpler terminology for the reader, I am going to call these countries of color. The Trump administration has also put more restrictions on particular lawful applications, such as asylum and TPS, where individuals from countries of color most often apply through.

Muslims have also fallen victim to immigration discrimination. Immigration laws in regards to predominantly Muslim countries have gotten stricter since 9/11 (Source 12). Under the Trump administration, opportunities for migration from the Middle East worsened. This creates similar hardships to that of NTCA immigrants, since many are also fleeing violence in their respective home countries, primarily due to long lasting wars and violence from terrorists. When

Trump took office, he created a travel ban against several “Muslim-majority nations” (Source 16). Despite clearly being religiously motivated, the U.S. Supreme Court upheld the ban, directly violating the first amendment which protects the right to religious freedom.

This paper, however, focuses primarily on Latin American immigration, since it is the most common form. Much of the discrimination against Latin American immigrants come from immigration agencies, particularly ICE and CBP. This section takes several case examples to expose these malpractices. All of the cases involve victims from the Northern Triangle of Central America.

### **Immigration Agency Malpractices**

The United States has a long history of violating the human rights of immigrants. The Center for Constitutional Rights provides extensive research on the malpractices of immigration agencies. This section particularly focuses on the malpractices of ICE and CBP. Four case examples are provided; one on inhumane detention center conditions; one on racially motivated ICE raids against Latinx communities; one on unlawful denial of opportunity to apply for asylum at the border; and one unlawful family separation. Although only one case on each scenario is provided, there are dozens of more cases that expose immigration agency malpractices. These can all be found on the Center for Constitutional Rights website.

#### **Detention Centers (ICE)**

##### **Tamayo Espinoza v. Witte**

“Tamayo Espinoza v. Witte is a federal lawsuit against Immigration and Customs Enforcement (ICE) officials on behalf of seven medically vulnerable people [to COVID-19] currently held in Adams County Detention Center in Natchez, Mississippi” (Source 2). ICE is

known for failing to provide safe and healthy conditions for its detainees. Dozens of individuals have died in the past several years under ICE custody.

### **Raids (ICE)**

#### **Aguilar, et al. v. Immigration and Customs Enforcement (ICE), et al.**

Aguilar, et al. v. Immigration and Customs Enforcement (ICE), et al. was a lawsuit filed on behalf of 22 Latinx individuals, many of which were citizens and permanent residents, who had their homes raided by armed immigration agents without warrants. The lawsuit argued that these practices were a violation of their Fourth and Fifth Amendment rights (Source 2).

### **Asylum (CBP)**

#### **Al Otro Lado v. Nielson**

Al Otro Lado v. Nielson is a lawsuit against CBP for “the unlawful practice of depriving asylum seekers access to the U.S. asylum process” (Source 2). CBP consistently denies individuals asylum though this is an internationally recognized right.

### **Family Separation**

#### **Ms. Q. v. U.S. Immigration and Customs Enforcement**

*Ms. Q. v. U.S. Immigration and Customs Enforcement (“ICE”)* is a lawsuit on behalf of an asylum seeker from El Salvador and her four-year old child, J,” who have been unlawfully separated from each other for seven months (Source 2).

### **An American Duty**

The Statue of Liberty, recognized as a universal symbol of freedom, gifted to us by the French holds a plaque with the poem, The New Colossus, written on it. The poem ends in the following:

*"Keep, ancient lands, your storied pomp!" cries she  
With silent lips. "Give me your tired, your poor,  
Your huddled masses yearning to breathe free,  
The wretched refuse of your teeming shore.  
Send these, the homeless, tempest-tost to me,  
I lift my lamp beside the golden door!"*

This statue stands on Liberty Island in the New York Harbor and served as a symbol of liberty during the time period of massive immigration coming through Ellis Island. This time period, from 1882-1954, was one of major European immigration. The United States of America attributes its very beginnings to immigration. It is important to note that immigration has always been an essential aspect of the American foundation. We have always been a country run by immigrants. These ideals cannot suddenly be revoked, no matter what administration we are under.

The practices shown above are clearly unconstitutional. Yet, they continue to be practiced every day. What is most concerning is that these policies are only continuing to get more strict under the Trump Administration. There is no time to wait for another administration. These practices are unlawful. Not only do they go against an international humanitarian agreement we signed, they go against our own Constitution as well, specifically the First, Fourth, Fifth, and Fourteenth Amendment, as seen throughout this thesis. We need a solution now.

## **Chapter 3**

### **Our Solution: The Clean Pathway to Legal Status Act**

Throughout this paper I have presented many reasons as to why the United States's current approach at immigration needs reform. There are two major issues I seek to solve. First, we have failed in our humanitarian responsibility to comprehensively provide sanctuary to individuals all over the world who seek it. Second, immigration agencies are frequently violating the rights of undocumented immigrants and citizens all over the country, specifically those of Latinx descent. Below I am presenting my solution: a policy I like to call the Clean Pathway to Legal Status Act (CPLS). The Clean Pathway to Legal Status Act brings reform to our current immigration crisis. It offers a more humane approach and a higher consideration for immigrants coming into the country and is more effective in protecting national security. The CPCA decriminalizes undocumented, eradicates ICE, realigns the duties of CBP, and offers a quicker, easier, more affordable pathway to legal status in the United States.

#### **Article 1: Decriminalization of Undocumentation**

Being undocumented should not be a crime. This perpetuates the criminalization of immigrants, even if they haven't committed any other crimes. For example, a person who entered the country undocumented at 4 years old, has spent their entire lives here and has never committed any other crime, would thus be considered a criminal for coming at a young age. The criminalization of undocumented is unnecessary and makes it more difficult to weed out actual criminals (those committing crimes other than entering the country undocumented). Too much time is spent issuing the arrests for deportation of thousands of individuals who are living

peacefully within the United States. This takes attention away from real undocumented criminals and is counterproductive when trying to ensure national security. Below I propose that CBP focus attention solely on undocumented immigrants who have or are committing crimes in the United States. In order for this to effectively take place, undocumented status must be decriminalized. Instead, a fine should be set in place, one more expensive than the cost of applying for documentation, to those who are living in the United States undocumented. This will serve as an incentive to apply for legal status and would decrease rates of undocumented status, making the job of weeding out actual criminals even easier.

### **Article 2: Amnesty**

Along with the decriminalization of undocumented status would need to come forgiveness to those already living in the U.S. undocumented. The last time this was done was in 1986 under the Reagan Administration (Source 17). The CPLS, however, would approach immigration much differently post-amnesty. Rather than amnesty being a one time clean slate, it is a product of the first article which decriminalizes undocumented status under the Clean Pathway to Legal Status Act.

### **Article 3: Eradication of Immigrations and Customs Enforcement**

ICE has only existed as an agency under the Department of Homeland security for 17 years. It is an extremely young agency and the U.S. has existed without it for the majority of its lifetime. It has not only shown itself to be unnecessary, it has also resulted in hundreds of lawsuits against them for having such inhumane and discriminatory practices. ICE consistently participates in the violation of internationally recognized human rights and of our Constitution. They are abusive and should be eradicated. Detainment would no longer be necessary due to the

decriminalization of undocumented. Those who commit other crimes would go to prison, which is where they currently go anyway before they are deported.

#### **Act 4: Realignment Customs and Border Patrol**

With the eradication of ICE and the decriminalization of undocumented comes new responsibilities for Customs and Border Patrol. CBP have also participated in the violation of human rights. As a necessary branch of the Department of Homeland Security, rather than being eradicated, their purpose and values will be realigned. The purpose of Customs and Border Patrol will continue to be to protect U.S. borders of any criminal activity and/or terrorism.

In order to effectively do this, CBP must shift their focus from arresting peaceful undocumented immigrants to only arresting undocumented immigrants who participate in criminal activity. This shift will be eased by the decriminalization of undocumented.

With regards to curbing CBP malpractices, CBP would realign their values and be offered proper training in order to effectively grant opportunity for asylum or other legal status. They will not need to process these applications as that is done by United States Citizenship and Immigration Services.

#### **Act 5: Clean Pathway to Legal Status**

Though undocumented is decriminalized, the last thing the U.S. wants is a bunch of people living in the U.S. without any form of legal identification marks. This is why the fine was implemented. The fine would be incredibly expensive. Contrary, applying for legal status would be cheaper. This will give a huge incentive to those living in the U.S. undocumented to want to apply for legal status.



This would also likely result in an influx of legal status applicants. To control these applications, USCIS would need to hire many new employees. This will create thousands of new jobs for Americans all over the country and will be great for our economy. An influx in USCIS hires would also result in faster documentation, which would fix the backlog issue that USCIS is currently undergoing.

## **Conclusion**

A fast, cheap, and easy pathway to citizenship would not only adequately provide asylum for individuals, it would also be effective in protecting national security. The biggest issue arises from the criminalization of undocumented, which is resulting in inhumane practices against immigrants all over the country and is being ineffective in controlling migration to the U.S.. The CPLS is realistic in the sense that it understands that immigration always has and always will be a big part of the United States. It is something we need to accept, as we did in our very beginnings. We need to thus take a more realistic approach by decriminalizing undocumented, as most undocumented immigrants are peaceful, and focus our attention on the people we are actually trying to protect ourselves from.

## **Normative Stance**

Current immigration agencies and policies are discriminatory. Human rights violations of immigrants have increasingly worsened under the Trump Administration. These practices go against internationally recognized rights and Constitutional rights. Such practices require a solution. Research implicates that the criminalization of documentation has resulted in

discriminatory practices against undocumented immigrants, thus undocumented needs to be decriminalized.

### **Implications for Future Research**

As mentioned in the introduction of Chapter 1, there are dozens of other countries have individuals who migrate to the United States. For the purpose of this paper, I was only able to put particular attention on the Northern Triangle of Central America. I am interested in seeing further research conducted on other countries from Latin America and Asia specifically, since together they make up 77% of the immigrants currently traveling to the U.S..

I would also like to request an approach regarding protest movements. I would like to seek research on how to effectively pursue the change I am seeking through my solution. Research on previous influential protest movements like the Civil Rights Movement would be necessary. I hypothesize that the prospective Immigration Rights Movement would require confrontational tactics and rhetorical compromise.

Lastly, and most importantly, I would like to see research on the demographics of detention centers and of ICE Raids. This was something that I had originally intended to write on, however, after seeking this information, I learned that this information does not exist, or at least is not out to the public. Apparently, the Department of Homeland Security cannot provide numbers accurate enough. Yet, they can provide thousands of other statistics. By the chance that it is true that they don't know this kind of information, that would honestly be incredibly careless of them. I mean, how do you not know what country your detainees are from? How do you not know what country the people you are arresting are from? From my understanding, this would be the first thing they would ask for.

## **Glossary**

**NTCA** - Northern Triangle of Central America

**ICE** - Immigration and Customs Enforcement

**CBP** - U.S. Customs and Border Protection

**EOIR** - Executive Office for Immigration Review

**DHS** - U.S. Department of Homeland Security

**UDHR** - The United Nations Universal Declaration of Human Rights

**UNHCR** - United Nations High Commissioner of Refugees

**INA** - The Immigration and Nationality Act

**USCIS** - United States Citizenship and Immigration Services

**MS-13** - La Mara Salvatrucha

**La 18** - Barrio 18

**NAFTA** - the North American Free Trade Agreement

**CPLS** - Clean Pathway to Legal Status Act

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