

A Community Perspective on Immigration Reform and Policies

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Introduction:

In the last several years, the debate on immigration and migration has escalated into one of the most heated debates of current political times. An alarming increase in migrant deaths along the U.S.-México border, vigilante activity, and President Bush's recent allocation of funds for the construction of 700 miles of border wall have made front page news, and the conversation has found its way into every major contemporary political discussion. Fears have abounded, calling for government action to deal with the perceived threats and crises that face communities, particularly those in the Southwest. In addition, human rights and humanitarian groups have alleged serious violations of human/civil rights and due process.

Since the mid-1990s, U.S. government response to the "immigration problem" has been enacted in the form of what is called the "Southwest Border Strategy," a methodical sealing of urban ports of entry, which have historically served as traditional crossing points for migrants attempting to enter the United States illegally. These tactics were meant to deter migration into the United States; however, since this implementation the numbers of migrants dying while crossing the border has escalated steadily.

The lack of serious scrutiny at the policy level has created an atmosphere where theories and scapegoating abound with no real scientific basis for them. The failure to properly and rationally analyze this question has resulted in divisions among political, cultural and community groups. In any meaningful attempt to create meaningful reform, the economic, social, and cultural contexts of the issue must be considered. In addition, the well-being of affected communities should be a priority, and the sacredness of human life reflected in policies.

In this report, we first offer an overview of the current situation, define the fundamental responsibilities of the U.S. federal government in crafting real immigration reform policies, outline the principles for real immigration policy reform, and identify the consequences of compromise in immigration policy reform and call for the rejection of short-sighted compromise.

I. Overview of the Current Situation

U.S. Policies Causing Migrant Deaths

- An estimated 5,000 migrant dead have been found on the U.S.-México border since the current strategy of border security and militarization of immigration law enforcement was implemented in 1994 -- with at least half in the Arizona border region. This brutal state of affairs and the humanitarian crisis at the border is the product of more than twelve years of border control policies officially called "prevention through deterrence." First piloted in late 1993 in the El Paso, Texas border region and then extended to the rest of the border in 1994, this set of official border control policies and strategies deliberately force migrants to risk their lives to get into the U.S.

Negative Human and Economic Impact of NAFTA and Similar Economic Policies

- NAFTA and other neo-liberal economic policies have devastated the economies of sending countries, destroyed local communities, and displaced millions of workers from sending countries. Framing immigration as a matter of law enforcement and national security has failed to acknowledge and address these economic policies as root causes of the current patterns of migration.

Violation of International Human Rights and National Civil Rights Laws

- U.S. border policy is in violation of international Human Rights law and in conflict with national civil rights law. All humans have a basic right to food, shelter, survival, assembly, and to migrate to achieve these rights.

Militarization of U.S.-México Border

- Through wall-building, intensified policing and military surveillance of border urban and suburban regions and their surrounding areas, migrants are intentionally pushed further and further into desolate regions of the border where even walls cannot be built and where Border Patrol agents cannot enter with their all-terrain vehicles. This has resulted not only in an unprecedented number of migrant deaths, but also an increase in agent injuries and fatalities
- Border communities suffer widespread abuse at the hands of Border Patrol and local law enforcement officials who act with impunity. Access to services are becoming increasingly restrictive by repressive state laws and agencies working to enforce them.

Criminalization of Migrants

- Framing migration as a matter of law enforcement and national security rather than as the result of economic policies yields an incorrect labeling of migrants as "criminals" who are in violation of U.S. law. The truth is that responsibility for migration patterns rests with current policies and thus with policy-makers. Migrants are thus human beings affected by draconian policies that put their well-being and survival at risk.
- The mis-labeling of migrants as criminals lines the pockets of private companies, such as Halliburton and Correction Corporation of America (CCA), that profit from having more and more people in privately-owned prisons and detention centers, and from government contracts to increase militarization at the border. The profiting and

expansion of corporations as a response to the failure of immigration laws to provide sufficient legal avenues for workers is unacceptable. Scapegoating of migrant and immigrant communities should not be used as a means to distract necessary public discourse on these issues.

Disregard for Well-Being of Border Communities

- Border communities are currently excluded from meaningful participation in decisions that impact their lives and well-being. Legislation such as the "Real ID" Act further undermines the civil and human rights of border communities, giving the U.S. government permission to waive laws that would get in the way of increased militarization of the border.
- Residents of border communities are also subjected to intensified racial profiling, unconstitutional detentions and other draconian state and local policies and laws, diminishing their civil rights and civil liberties, criminalizing migrants, youth and workers, and placing communities under siege. Border Patrol agents and other law enforcement and government officials act with impunity, with no transparency or accountability to communities who feel their rights have been violated.

Disregard for and Harm to the Environment in Border Region

- Impacts from migrant traffic and border patrol activity are shifted into even more remote, sensitive areas.
- Already-underfunded land management agencies must cope with the flood of Border Patrol vehicles and migrant foot traffic on remote and sensitive public lands, and are forced to divert limited funds and other resources away from crucial management activities.
- According to a report released by Defenders of Wildlife, *On the Line: The Impacts of Immigration Policy on Wildlife and Habitat in the Arizona*, the overall approach of Border Patrol to environmental issues "has commonly been characterized by poor communication and coordination with Federal land managers and other agencies, inconsistent compliance with environmental laws, and a lack of meaningful effort to involve affected communities and other interested parties in its decision making processes. Agency promises to avoid or mitigate environmental impact also have often gone unfulfilled."

Current Policies and Proposals Support Labor Abuses

- Both current policies and proposals for expansion of guestworker programs support labor abuses. Employer sanctions, the provision of the landmark 1986 Immigration Reform and Control Act that has led to the criminalization of immigrant workers, would be deepened through an expansion of an employment verification system. This program has done nothing in the last twenty years but increase discrimination and abuse of immigrant workers. Employers have had greater leverage to threaten and intimidate immigrant workers, break organizing efforts, carry out unjust firings, and lower wages and work conditions for all working people. These abuses impact the entire American workforce, particularly the most vulnerable toiling in low-wage jobs such as farmworkers, day laborers and domestic workers.
- None of the proposed legislation of the previous year ensured workers rights in regards to union membership, report of federal labor law violations, ensuring the presence of

human rights monitors in the workplace, or job portability in a meaningful way. There was no clear plan for dealing with abusive employers or corporations that violated labor, civil and human rights laws. Without these vital provisions, meaningful solutions to problems in the workplace are impossible.

Current Policies Support And Are Supported By Vigilante Violence

- In April 2005, the Minuteman Project, an anti-immigrant effort to push a xenophobic agenda, received international attention with a national hate campaign in support of the border militarization strategy by setting up armed patrols to report sightings of migrants in a small area of the Arizona-Sonora border. Members of the Minuteman Project were later revealed to be active members of the Ku Klux Klan and National Alliance, two affirmed hate groups by the Southern Poverty Law Center.
- During the same period, the Department of Homeland Security intensified their "Arizona Border Control Initiative," concentrating hundreds more Border Patrol agents and enforcement resources to blockade even further the border areas that are near cities, roads and highways, purportedly in response to outcries for more border reinforcements.
- Small groups of extremely vocal vigilantes have negatively affected the scope of immigration policy discourse by injecting extremist and xenophobic language and perspectives; these perspectives have been overwhelmingly amplified by the media and have been part of a process of "mainstreaming" extremist positions.
- As the ACLU and Center for New Community have pointed out in recent reports, Minutemen and other vigilantes are following in the footsteps of the Ku Klux Klan, which launched private citizen border patrols in October of 1977. As the ACLU report "Creating the Minutemen" notes, "The rhetoric of the KKK at the time was virtually identical to the current rhetoric of the Minutemen," as was their stated goal of trying to affect public opinion to garner more support for increasing resources for the Border Patrol.
- In the November 2006 elections, several vigilantes intimidated Latino/a voters in Tucson Arizona; at least one of these vigilantes was visibly armed.

Extremist Scapegoating of Migrants Has Severely Limited the Scope of Policy Change Options Currently Under Consideration

- In an atmosphere of political corruption and the mainstreaming of hate, extremist politicians have used immigration issues as a political football -- a means to create a distraction from political scandals and get votes to increase political power. This approach to immigration policy has nothing to do with real solutions and everything to do with biased rhetoric that masks the truth of the current situation.
- Current national dialogue about immigration and border policy has been skewed and corrupted by the political games of extremists seeking votes based on scapegoating migrants. In this context, much current national immigration discussion incorrectly couples migration issues with "national security" and/or drug trafficking, which have no verifiable relationship. The existence of migration and immigration are matters that every country in the world must address. Until the U.S. government acknowledges these as separate issues, there can be no clear solution to the inadequate immigration laws and policies.

Mass Mobilizations for Human and Civil Rights

- Millions of immigrants, their families, neighbors and co-workers, along with faith and labor leaders, peace and justice advocates, have marched and rallied in cities across the U.S. The mobilizations have served as a wake-up call for the whole country to acknowledge the vital role of immigrants as co-workers, neighbors and members of our broad society. And, as details of the current legislative compromise have become known, the voices of immigrant communities are rejecting the proposals for a so-called legalization program, and are denouncing the further erosion of human and civil rights through the enforcement and criminalization provisions. The stakes are considerable, and affect all of us.

II. Fundamental Responsibilities of The U.S. Federal Government In Crafting Real Immigration Reform Policies

- Create Policies that Support the Human Rights and Civil Rights of All Peoples
- Take Responsibility for U.S. Role in Regional Economic Dynamics
- Focus on Real Solutions Rather Than Politically Expedient Rhetoric
- Protect the Land on Which We Live
- Denounce, Prevent and Penalize Vigilante Violence

III. Principles for Real Immigration Policy Reform

SITUATE POLICY WITHIN A HUMAN AND CIVIL RIGHTS FRAMEWORK. All humans have a basic right to food, shelter, survival, assembly, participation in political decisions that affect them, freedom from discrimination, and migration to achieve these and other basic human rights, as ratified by the United States in the Universal Declaration of Human Rights.

- ☑ Ensure freedom of migration, as allowed by international human rights law.
- ☑ Develop multi-lateral migration policies and practices that uphold the human rights of migrants, and which are accountable to independent, civilian community-based monitoring and oversight.
- ☑ Implement routine programs of legalization that expand access to visas and provide access to permanent residency including future flows. Systematic legalization programs - recognizing human, labor, environmental, and civil rights - will ensure that migrants have options to unite with their families and avoid mortal danger.
- ☑ Include a path to U.S. citizenship for those who choose it. There should be opportunities to adjust status for all undocumented immigrants, including youth and farmworkers.
- ☑ Repeal employer sanction provisions. These provisions increase labor abuses, provide no meaningful accountability for abusive or exploitative employers, and has proven to be ineffective as a means of enforcing immigration laws.
- ☑ Uphold workers' rights. Reject guestworker programs and any other programs that will create a second-class workforce segment, deny job portability, or limit the human, civil or employment rights of any worker in any way.

- ☑ Ensure full freedom of movement for indigenous peoples on both sides of U.S. borders whose lands span the borders of nation-states, or who must access the border in order to maintain cultural and tribal identity.
- ☑ Protect migrants and other communities of color from racial profiling and other abuses and discrimination by law enforcement by ensuring transparency and a clear process for reporting, investigating, and holding accountable violators of human and civil rights.
- ☑ Ensure transparency in all actions and activities of the Department of Homeland Security in regards to public safety, due process, and human/civil rights.
- ☑ Create an independent monitoring and accountability mechanism with investigatory powers that directly engages impacted communities in holding the Department of Homeland Security and/or other relevant federal entities accountable for their immigration enforcement and detention policies and initiatives.

END EXPLOITATIVE AND DEVASTATING INTERNATIONAL ECONOMIC POLICIES AND IMPLEMENT SUSTAINABLE AND HUMANE ECONOMIC APPROACHES

- ☑ Address the root causes of involuntary migration and forced displacement in sending countries by ending NAFTA and other so-called “free” trade and structural adjustment programs imposed on the global south by U.S.-controlled international financial institutions. Support, develop, and expand sustainable economic self-sufficiency.
- ☑ Focus on sustainable economic development that includes multilateral participation of affected communities.
- ☑ Stop collaborating with other countries targeting migrants for arrest and detention and cooperate with neighboring nations to implement economic and social policies that effectively resolve problems of unsustainable development caused by “free” trade policies, which are the root cause of forced displacement and involuntary international migration.

END MILITARIZATION OF U.S.-MÉXICO BORDER AND REJECT MILITARIZATION OF U.S.-CANADA BORDER

- ☑ Demilitarize the U.S.-México border and cease all enforcement policies, practices, measures, laws, and strategies that criminalize migrants forcing them into crossing through the most dangerous areas in the mountains and deserts where hundreds die every year. In addition, prevent the initiation of policies, laws, practices and measures to further militarize the U.S.-Canada border.
- ☑ End and reverse the privatization of border control and national security operations, which is rewarding private security contractors that have abysmal human rights records and corruptive practices in Iraq, Palestine, New Orleans and elsewhere.
- ☑ Transfer federal spending from border militarization to genuine “border security” programs including health care, housing, education, living wages, social security and fair trade between communities straddling the border and other nations.
- ☑ Transfer all border and interior immigration services and enforcement functions now under the Department of Homeland Security back to the Department of Justice, including the Bureau of Immigration and Customs Enforcement, the Bureau of Border Protection and Customs, and the Bureau of Citizenship and Immigration Services, previously under the Immigration and Naturalization Services.

PLACE RESPONSIBILITY WHERE IT BELONGS. Current policies are the problem, not migrants themselves. Migrants are not criminals.

- ☑ Acknowledge the human toll that militarization policies have taken on border communities, which have been clearly demonstrated by both human rights advocates and scholars.
- ☑ Repeal draconian federal criminal laws that prosecute and incarcerate migrants for merely crossing the border without inspection.
- ☑ Prevent city, state or other government agencies from enforcing federal immigration policies and/or collaborating with Border Patrol on enforcement, which has been proven to have a negative effect on relations between local law enforcement and communities.
- ☑ Guarantee due process for all people inside the U.S., regardless of immigration status.
- ☑ Make discrimination (i.e. housing, education, and health) based on immigration status illegal.

CATEGORICALLY REJECT SCAPEGOATING, CODED RACIST RHETORIC, FEAR-MONGERING AND OTHER POLITICAL POSTURING AS BASIS FOR POLICY

- ☑ De-link the policies and politics of national security and the “war on terror” from all immigration services and enforcement. Give priority to “human security,” fulfilling the human rights, economic well-being, civil liberties, labor protections, health, safety and freedom from fear and instability, for all communities and individuals regardless of their citizenship or immigration status

PROTECT AND PRESERVE BORDER ENVIRONMENTS

- ☑ Provide migrants with safe, legal and routine entry points away from protected land and sensitive ecological areas.
- ☑ Use existing environmental laws as planning tools, in particular the National Environmental Policy Act (NEPA), which calls for a wide range of alternatives to be considered and requires public participation.
- ☑ Repeal the REAL ID Act of 2005, and prevent any legislation that would undermine environmental protection legislation.
- ☑ Disallow Border Patrol and other law enforcement agencies from harming the environment and hold accountable those agencies that do such destruction.
- ☑ Respect the rights of indigenous peoples and their relationships with border-area lands and traditional crossing routes.

PROTECT ALL PEOPLES IN THE UNITED STATES FROM VIGILANTE VIOLENCE

- ☑ Clearly and publicly declare the federal government's opposition to private vigilante groups and the intolerable acts that they perpetrate.
- ☑ Actively prosecute any criminal activity against migrants, immigrants and other marginalized communities.
- ☑ Recognize the severity of the current immigration-related vigilante crisis, including the role that white nationalist origins and ties have played.

IV. The Consequences of Compromise in Immigration Policy Reform

The current political discourse has been shifted to an extreme right wing vantage point, limiting visible policy options too severely to be a starting point for negotiation of meaningful immigration reform legislation. In this current context, options that compromise human rights and human security falsely appear as “more humane” and “reasonable” when compared to extremist positions.

We call on legislators to recognize the current limitations for what they are, and reject the positioning of extremist and even white-nationalist positions as mainstream or moderate. We call on legislators to approach negotiation on immigration reform from a more balanced perspective, acknowledging the history of the Southwest border, the realities of the U.S. labor market, and the need for genuine solutions.

In particular, we call on legislators to reject the following “compromises” that merely pander to the current shameful and abysmal state of discussion of immigration reform

- ✘ Reject any “compromises” that require maintenance or increase in enforcement and border militarization
- ✘ Reject any “compromises” that include expansion of guestworker programs
- ✘ Reject any “compromises” that undermine the human or civil rights of migrants, non-citizen U.S. residents, and/or U.S. citizens.
- ✘ Reject any “compromises” that lack active attention to the negative impact of NAFTA and other so-called “free” trade and structural adjustment programs imposed on the global south by U.S.-controlled international financial institutions, and that fail to recognize these policies as the cause for the current situation.
- ✘ Reject any “compromises” that yield insufficient visas given existing needs and/or do not include access to non-punitive status adjustments and path to citizenship.
- ✘ Reject any “compromises” that maintain or expand criminalization of migrants and immigrants
- ✘ Reject any “compromises” based on displacement of U.S. governmental responsibility for the impact of its own policies, including fees or financial penalties for current undocumented residents that go beyond what is needed for efficient processing of status adjustments.
- ✘ Reject any “compromise” that will result in the continued violation of indigenous right of mobility and passage, or that infringe on the rights of indigenous peoples to maintain cultural identity and sovereignty.
- ✘ Reject any “compromise” that undermines the integrity of laws that protect environmental habitats, fragile ecosystems, and sensitive and endangered species.