



SOUTHERN POVERTY LAW CENTER

PRESIDENTIAL TRANSITION PRIORITIES

PROMOTE IMMIGRATION REFORM
AND PROTECTIONS FOR REFUGEES
AND ASYLUM SEEKERS

SPLC | ACTION 

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Immigrants play a vital role in the economic, social, and cultural life of the Southeast United States. Over 20% of people living in Florida and 10% of people in Georgia were foreign-born in 2019.¹ Atlanta, Orlando, Tampa, and Miami were all among the top 20 metropolitan areas with the largest number of immigrants in 2018.² Immigrants to the Southeast come from all over the world — Latin America, Africa, the Caribbean, Asia, and Europe — adding to the vibrancy of our communities and revitalizing rural areas that were in decline.³

Almost 70% of all immigrants in the labor force and 74% of undocumented workers work in essential industries.⁴ Immigrants make up 18.3% of all essential workers in Alabama, 28.2% in Florida, and 14.1% in Georgia.⁵ Immigrants help keep our economy running, our hospitals functioning, and our kitchens stocked.

For too long, though, we have had a dysfunctional and punitive immigration system. The Trump administration's racist and anti-immigrant policies have only made it worse. These policies have harmed immigrant communities in the Southeast and, through the dramatic increase in detention centers, placed our communities at the center of unjust immigration enforcement.

The American people have rejected these policies. According to one recent poll, a majority of voters support a pathway to citizenship for undocumented immigrants, including 84% of Democrats, 52% of independents, and 68% of Republicans.⁶ The United States has an opportunity to build a just, fair, and humane immigration system — one that welcomes migrants to this country in an orderly fashion, sets out a clear and simple process to gain immigration status, and connects them to key institutions in local communities.

EXECUTIVE ACTION

➔ End discriminatory immigration policies.

Throughout our history, prejudice and fear have led to unjust and discriminatory immigration, asylum, and refugee restrictions. The Trump administration has only made this worse by implementing racist and discriminatory entry bans on Muslims and Africans. These bans have dramatically affected millions of Americans, restricting their rights to travel, denying access to life-saving medical treatment, and unfairly separating people from their families. The new administration should immediately repeal these bans. Congress must also pass the No Ban Act (H.R. 2214/S.1123)⁷ to prohibit future presidents from discriminating based on reli-

gion, wealth, race, country of origin, language ability, or disability status in suspending or restricting entry into the United States.

➔ Promote fair and humane system for migrants seeking protection.

The Trump administration has enacted numerous policies aimed at eviscerating the legal rights of people seeking asylum and subjecting them to the harshest possible conditions, with the stated goal of deterring others from making the journey. As a result, tens of thousands of people have fled persecution only to find themselves stranded across our southern border in dangerous conditions, often without access to basic necessities. Many others have been deemed ineligible for asylum merely because of the nature of their journey to the United States.

A new administration must immediately repeal regulations and policies that restrict access to asylum, including the following items:

The “Turnback Policy,” under which U.S. Customs and Border Protection (CBP) uses metering and other tactics to deny people who present themselves at official ports of entry along the U.S.-Mexico border access to the asylum process. This policy has dramatically reduced the number of people inspected and processed at ports of entry and led many desperate migrants to try to cross the border between ports of entry.

Centers for Disease Control Order under Title 42, which permits CBP officers to expel migrants apprehended between ports of entry or presenting at ports of entry without valid documents, under the pretense of protecting public health.

The Migrant Protection Protocols, under which more than 60,000 asylum seekers have been inspected, processed, and returned to Mexico to await their court hearings under precarious, life-threatening circumstances and deprived of access to legal assistance and other tools needed to meaningfully present their claims for protection.

The Asylum Transit Ban, which renders migrants who traveled through third countries en route to the United States ineligible for asylum unless denied asylum in at least one country through which they passed on their journey. This rule, which has been vacated by a Washington, D.C., federal court, continues to prevent

many Central Americans and other non-Mexicans from obtaining asylum in the United States.

➔ **End detention and implement humane, cost-effective, community-based case management.**

Advocates at the Southern Poverty Law Center and the SPLC’s Southeast Immigrant Freedom Initiative have witnessed U.S. Immigration and Customs Enforcement (ICE) and its private contractors routinely abuse people in their custody. When people protest the horrific conditions, ICE punishes them. At the Stewart Detention Center in Lumpkin, Georgia, agents of a private SWAT team hit a man in a wheelchair with 60 pepper-ball bullets in an act of torture. ICE also uses coercive tactics,⁸ including threats of violence and direct physical abuse to force people in restraints to submit to fingerprinting. It has also used pepper spray against those who have refused to sign deportation papers. These are just a few of the countless examples of abuse of people held in immigrant detention.

ICE has also refused to follow basic guidelines to protect the people in its custody from the spread of COVID-19. ICE has not given people enough soap, masks, or even information about COVID-19 in languages they can understand. At least seven people in ICE custody have died and thousands have been infected. ICE has also denied tens of thousands of detained immigrants health care and disability accommodations in 158 immigrant prisons across the country.⁹

We must end the use of immigrant detention. It is inhumane, cruel, and a waste of taxpayer dollars. Instead of being separated from family and held in cages, immigrants should be allowed to stay with family or friends in the community. Community-based case management programs that guide immigrants through the immigration process allow people to be housed humanely, while costing taxpayers far less than the approximately \$200 per day that ICE currently spends to hold an adult in prison.¹⁰ An evaluation by the Congressional Research Service of ICE’s own Family Case Management Program found that there was as high as a 99% attendance rate in immigration court proceedings for these community-based programs, while costing an average of \$36 per day per participant.¹¹

➔ **Impose a moratorium on immigration enforcement, raids, detainers, and deportations.**

Our current immigration laws are restrictive, punitive, and out of step with the contributions immigrants make to neighborhoods and workplaces throughout the United States — including across the South. They are relics from a different time, and we need to rewrite them and bring them in line with our values.

In the meantime, we should not waste taxpayer

resources enforcing fundamentally misguided laws that will only separate families and harm vibrant communities. ICE’s massive workplace raids in Tennessee and Mississippi, for example, led to the arrest and deportation of victims of wage theft and sexual harassment, leaving the federal agencies investigating those issues scrambling to find victims and witnesses of those violations.¹² We must end all raids, detainers, and deportations while we work to pass a comprehensive immigration package that reflects the welcoming American spirit and provides a pathway to citizenship. It also must end racist and discriminatory policies that disfavor immigrants from Central America, South America, Asia, Africa, and the Caribbean.

➔ **End 287(g) and other programs that rely on local law enforcement.**

Across the country, and especially in the South, local police departments and sheriff’s offices have signed up for programs that entangle them in federal immigration enforcement. Programs such as 287(g),¹³ the Warrant Service Officer program, and Basic Ordering Agreements blur the lines of responsibility for immigration enforcement and create intense distrust of local law enforcement among immigrant communities.

These programs can also lead to racial profiling by local police and sheriff’s deputies — a serious constitutional violation and a betrayal of American values. Local law enforcement agencies have significant and important work to do to establish and build trust with immigrant communities after the anti-immigrant and anti-“sanctuary” rhetoric of the Trump administration. To give those agencies room to engage in that work, any immigration enforcement that occurs under the Biden administration should be handled by federal authorities without local police or sheriff involvement.

➔ **Ensure that ICE and CBP are accountable to the people.**

Both ICE and Customs and Border Patrol (CBP) have been allowed to act outside the law with virtually no accountability. At the same time, the budget for these agencies has increased dramatically. The annual budget for the border patrol rose from \$363 million in 1993 to nearly \$4.9 billion for FY 2020 — a 10-fold increase.¹⁴ The Biden administration must ensure robust oversight and accountability for ICE and CBP leadership and personnel. These agencies cannot be allowed to remain unchecked as they commit abuse, fail to protect people in their custody, and trample people’s rights.

LEGISLATIVE PRIORITIES

➔ **Ensure that immigrants have fair access to the courts.**

The nation’s immigration courts have never functioned as they should because their structure is fundamen-

tally flawed.¹⁵ Under a functioning immigration court system, immigrants would be entitled to a full and fair hearing before impartial judges who apply the law equitably to make a decision based on the facts before them. Instead, we have a system in which these life-and-death decisions have more to do with the luck of the draw than with the rule of law.

This situation has only been made worse under the Trump administration, which has sought to weaponize the immigration court system against asylum seekers and immigrants of color. It is essential, therefore, that a new attorney general establish a full and fair process for the adjudication of immigration cases, as required under the Immigration and Nationality Act.

Congress should also establish independent Article I immigration courts outside the attorney general's control that ensure impartial case-by-case adjudication free from a criminal enforcement framework and political pressure by the attorney general. In particular, Congress should:

Require that immigration judge hiring be based exclusively on merit, free of political influence;

Adequately fund and staff the courts to ensure that record-keeping is modern and accessible, cases are heard within a reasonable period of time, adequate interpretation is available in all cases, and the backlog of cases is addressed promptly;

Provide appointed counsel for indigent respondents in removal proceedings;

Repeal, in part, 8 USC 1252 to enable meaningful judicial review of all factual and legal questions to decrease deference to the Department of Justice and ensure that systemic immigration court dysfunction is efficiently reviewable and remediable in Art. III courts;

Establish congressional oversight mechanisms by which decisions in the new courts can be periodically surveyed to ensure consistency with governing law.

Finally, we must provide adequate funding for legal representation for immigrants in custody, in deportation proceedings, or seeking asylum — as well as for all unaccompanied children. Legal representation is a hallmark of our court system, yet immigrants, including young children, often do not have access to lawyers. Without representation, these people's cases may be denied merely because they did not understand the system. Legal representation is necessary for immigrants to get the fair and impartial hearing that they deserve and that is required by law.

➡ **Protect immigrant workers and end exploitative labor practices, improving employment conditions for everyone working in the United States.**

Throughout the South, immigrant workers play an essential role in our economy. They process poultry, meat, and seafood; they harvest produce; they pack and ship food and other goods. The COVID-19 pandemic has highlighted the critical work they perform, while also exposing the meager protections in place to ensure their safety and dignity in the workplace.

Southern workers face a more dire outlook than most workers because Southern states have ignored the protections and basic benefits this workforce lacks. The federal government must fill dangerous gaps in coverage and enforcement to protect these workers. For example, the Department of Homeland Security and labor enforcement agencies must strengthen their cooperation to ensure that immigration enforcement does not hinder enforcement of labor laws. Immigrant workers involved in a labor dispute must be afforded deferred action so they can pursue their labor complaints without fear of retaliation or deportation.

Under the nation's largest low-wage guest worker programs (J-1, H-2B, and H-2A), U.S. employers recruit more than 300,000 foreign workers each year to perform temporary, low-skill labor in farming, forestry, seafood-processing, landscaping, tourism, construction, and other labor-intensive industries. But far from being treated like "guests" in the United States, they're systematically exploited and abused by labor recruiters and employers.

To obtain their jobs, guest workers frequently must pay exorbitant fees to unscrupulous labor recruiters, leaving them deeply in debt and susceptible to abuse.¹⁶ Many are routinely cheated out of wages, forced to live in squalid conditions, subjected to labor trafficking, denied proper medical care or compensation for injuries, or held virtually captive by employers and labor brokers who confiscate their visas and identity documents.

As just one example, Arkansas-based Lowry Farms — a large farm labor contractor that employs guest workers at sugarcane farms in Louisiana — has breached its contract and violated the Fair Labor Standards Act, according to an SPLC lawsuit. Under federal laws, Lowry was required to ensure that guest workers had access to water and shade, received fair wages, and were protected from fraud and misrepresentation. It failed on all counts, according to the lawsuit, which describes how the company exploited guest workers, many of whom had borrow money before leaving Mexico to pay for their work visas, hotels, food, and transportation to the work site.

Immigrant workers are also overrepresented in

the poultry industry, which is one of the South's largest employers. The nation's estimated 250,000 poultry processing workers are concentrated in the southeastern United States — for historical reasons but also because the region has such weak labor protections and low wages, which poultry companies seek out when expanding their business. Poultry work is extremely dangerous and has a physical, emotional, and economic toll on low-income immigrants and communities of color. Many poultry workers are injured on the job and wind up with lifelong health issues, reliant on meager federal disability benefits.

The Department of Labor should step in to regulate processing line speed for worker protection.¹⁷ And Congress should:

Extend the Migrant and Seasonal Agricultural Worker Protection Act¹⁸ to include guest workers. This act is the primary federal employment law that protects seasonal laborers and farmworkers. Its protections currently do not apply to H-2A workers;

Pass the Protect Our Workers from Exploitation and Retaliation Act (POWER Act S. 2929/H.R.5225).¹⁹ This legislation would protect victims of crime or serious labor violations from removal during Department of Homeland Security enforcement actions.

Finally, we cannot ask people to come to the United States to do some of the hardest jobs without creating a path to citizenship. During the COVID-19 pandemic, guest workers continued to work at poultry processing plants, on farms, and in other seasonal and agricultural jobs, putting their health and safety on the line so that we all had food on our tables. We have a duty to create a path to citizenship for H-2A and H-2B workers and their families.

EXECUTIVE/CONGRESSIONAL FUNDING PRIORITIES

➔ **Funding should be significantly reduced for ICE and CBP. Those funds should be redirected into community programs that support immigrants and assist in the transition to living in the United States.**

➔ **Funding should be increased for the Department of Labor to enforce labor laws that protect the rights of immigrant workers — including undocumented immigrants — against wage theft and discrimination.**

➔ **Funding should be provided for legal representation for immigrants in custody, in deportation proceedings or seeking asylum — as well as for all unaccompanied children.**

ENDNOTES

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