



## **Immigration Reimagined for All** **Immigration Principles**

The United States is currently operating under an antiquated and harmful immigration system that has not adapted to the needs of economic, climate and demographic realities here at home and globally. Most importantly, it fails to recognize the full humanity and dignity of immigrants. The last time a legalization program was approved by Congress was in 1986. Thereafter, Congress has exclusively focused on enforcement-only policies leading to a broken immigration characterized by the deportation of over twenty million immigrants many accompanied by their U.S. citizen children.<sup>1</sup> An untold number of separated and traumatized families; fear of local law enforcement; a legal workforce shortage in critical industries; absent enforcement of the rights of immigrants in the workplace and an utter failure to create any lasting avenues for relief.

The advent of the current Administration has resulted in an even more inhumane and chaotic immigration landscape. Since day one, counseled by advisors with ties to white supremacist groups and ideologies, the President has weaponized his executive power to further criminalize immigrants, separate families, and dismantle the current legal immigration system by a thousand cuts. Specifically, he is using this power to eliminate existing legal protections such as Temporary Protected Status (TPS) and Deferred Action for Childhood Arrivals (DACA), subvert the asylum process and shut other doors to refuge by adding obstacles for the lawful migration of poor and non-white immigrants.

In the elections of November 2018, the American public, New Americans, Latinos, African Americans and Asian-Americans resoundingly rejected this politics of hate fostered by this Administration. In so doing, they turned their back on the anti-immigrant ethos that is bolstered by current immigration laws.

As we enter a new decade, when immigrant communities and their children and families, including U.S. citizens, are subject to ever increasing attacks, CHIRLA will mobilize its members to reject this destructive framework rooted in punitive enforcement and advocate for justice and human rights. We must begin with legalization *and* reimagining a truly fair, inclusive, and equitable immigration system. As Congressional and Presidential hopefuls roll out their immigration plans, our hope is that this document can serve as a guide to ensuring that such plans provide protections for all immigrants,

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<sup>1</sup> This number refers to all immigrants deported, with or without a court order, during the Clinton, Bush, Obama and Trump Administrations. <https://www.migrationpolicy.org/article/obama-record-deportations-deporter-chief-or-not>





respect family unity, are forward thinking and inclusive, reverse criminalization, and accordingly be aligned with the following principles:

### **1. Providing Immediate Protection for Immigrants and their Families**

*The process to overhaul our immigration system will not be immediate yet immigrant communities need instant relief. As Congress debates any package, we call on:*

- A new President to immediately:
  - Release all children from detention and unite them with their family and sponsors.
  - Utilize executive powers to overturn all the draconian policies issued by President Donald Trump, e.g. the Muslim/Africa bans, the DACA/TPS terminations, the public charge rule, immigration application and immigration court fee increases, the border closure, the health care and family immigration bans and more.
  - Facilitate the return of the unjustly deported to help reunite families.
  - Instruct the Department of Homeland Security (DHS) and its components to institute a moratorium on deportations and family separations, and issue guidance regarding a broad and generous exercise of prosecutorial discretion when enforcing immigration law.
  - Hold accountable those responsible for gross civil and human rights violations by refraining from the clean slate principle between Administrations.
  - Document and address the harm created by the former administration's policies on vulnerable communities such as children, women, people of color, indigenous migrants, LGBTQ.
  - Begin work with Congress and stakeholders to build the political will to pass just and humane immigration reform legislation.

### **2. Recognizing Citizenship with Humanity and Dignity for All Immigrants.**

*CHIRLA calls for immigration reform to be immediately enacted, and that it includes a legalization program that is inclusive and provides undocumented immigrants with the opportunity to be put onto a direct pathway to citizenship with the following provisions:*

- Any legalization program must be affordable, avoid arbitrary deadlines or exclusions to apply, and provide continuous enrollment for those that meet eligibility requirements.





- DACA recipients and similarly situated young immigrants will be afforded an accelerated path to citizenship.
- The path to direct and full citizenship should not be mined with burdensome requirements, instead, qualifications should be common sense, fair, flexible and relevant to the realities faced by immigrant communities.
- Recognize the sanctity of family unity while recognizing the complexity of modern families.
- The return of the deported, including veterans, must be facilitated. Reunited families must qualify together for a legalization program.
- Orders of removal and other enforcement actions should be halted in order to afford potentially eligible immigrants the opportunity to apply for legal status.
- The presumption of redemption for those saddled with prior offenses that are products of a racially biased criminal justice system.
- Immigrants with deep U.S. roots, including TPS holders, agricultural workers and others, will also be eligible.
- A roadmap to citizenship must not be charted on reductions designed to prevent the immigration of tomorrow's New Americans.
- The registry date, currently set at 1 January 1972, at which an immigrant, even if undocumented, automatically becomes eligible for a green card must be moved to a date close to the present.
- As a complement to the option of return for the deported or legalization for the present, a recognition of immigrant work via restoration of wages withheld must be recognized.

### **3. Safeguarding Family Unity as a Cornerstone of Immigration.**

*Family immigration is in the best interest of the American economy and community, has guaranteed our prosperity and cohesion, and it must be fortified by:*

- Overhauling the current family visa system to reduce waiting periods and resulting backlogs to facilitate a speedy reunification for all families.
- Eliminating the 3-year, 10-year as well as all permanent bars to immigrate for the undocumented and the unjustly deported.
- Ending any discrimination by race, country of origin, gender, sexual orientation, religious affiliation, age, health or economic status, incorporating a broad, generous definition that recognizes the complexity of what constitutes a family.





- Expanding the categories, under the new expanded definition of family, of those eligible to immigrate to include e.g. grandparents and parents of minor U.S. citizen children.
- Reinstating and expanding the pre-1977 INA provisions that allowed the parents of minor US citizen children to legally immigrate as immediate relatives.
- Safeguarding the interests of minors by immediately reuniting them with their parents, and allowing for the repatriation of deported individuals, especially if they have U.S. citizen children.
- Opposing any attempts intended to limit legal migration whether by cutting family visas, eliminating the Diversity Visa Program or restricting asylees and refugees.
- Appropriating additional and outgoing funding for staff and resources at U.S. Citizenship and Immigration Services (USCIS) to create and administer a modern, efficient and humane immigration process for applicants.
- Ensuring and enforcing a clear separation between USCIS vis-a-vis Customs and Border Protection (CBP) and Immigration & Customs Enforcement (ICE).

#### **4. Upholding Constitutional, Human and Civil Rights of all Immigrants**

*A pillar of any immigration reform must preserve, protect and strengthen the hallmarks of the American legal system, ensuring that immigrants receive equal protection under the law by:*

- Reversing the incessant criminalization of immigrants, relying on states criminal laws like those in California, by repealing the crimmigration provisions of the 1996 Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA).
- Assisting with, and recognizing, the expungement of criminal records.
- Ensuring that unauthorized presence in the United States is a civil, not a criminal, offense regardless of the type of entry.
- Fortifying the U.S. commitment to be a just and fair actor in the international asylum and refugee system, restoring our country's role as the beacon of light for the oppressed, persecuted or tortured including victims of domestic violence and criminal gangs.
- Exploring alternatives to authorizing the Executive Branch setting arbitrary numerical refugee ceilings, perhaps via a Congressionally approved formula that adheres to international norms and is responsive to the fluidity of developing crises.
- Promising that the federal government abide by the Flores Settlement, and expeditiously transfer children in CBP custody to the Office of Refugee





Resettlement (ORR) within 72 hours and reuniting them with their parents forthwith.

- Prohibiting the use of “tent courts” or other forms of assembly line injustice.
- Instituting a right to legal counsel, akin to 5th and 6th Amendment guarantees, for all immigrants at every stage of a deportation, from an interrogation after arrest to a hearing, throughout any appeals process.
- Guaranteeing due process rights for immigrants who are denied legal status, including those facing imminent deportation, enabling the pursuit of a timely appeal before an independent immigration judge with broad discretionary powers.
- Reconstituting the Executive Office of Immigration Review (EOIR) and its immigration courts as independent as Article I tribunals akin to the tax courts, including the allocation of significant resources for this transition, as well as the hiring of an adequate number of immigration judges to address immigration cases fairly and expeditiously.
- Sustaining confidentiality in any legalization program, safeguarding personal information of immigrants, as for the U.S. Census, from disclosure to ICE and U.S. Customs and Border Protection (CBP) for the purpose of immigration enforcement proceedings.

## **5. Strengthening Labor Rights of all Immigrant Workers**

*Immigrant workers, especially women, in both the informal and formal job market endure labor abuses by unscrupulous employers. Their need for safe working conditions and a living wage can be met by:*

- Ending workplace enforcement targeting workers, including “silent raid” policies such as Social Security no-match letters and I-9 audits.
- Bolstering labor agencies’ investigative powers and authorizing stays of removal and work authorizations for workers who file a workplace violation claim or are witnesses to such a violation.
- Expanding eligibility for U visas to certain workers involved in a workplace violation claim, including witnesses to such a violation.
- Focusing on the specific needs of women, ensuring that their rights as workers, caregivers and mothers are respected.
- Protecting workers against retaliation for exercising their right to organize, report labor violations and other work related rights. This includes access to collective bargaining for all workers.





- Reforming, instead of expanding, current farm- and guestworker programs, guaranteeing that these immigrants are afforded all labor rights, and provided with visa portability.
- Offering all guestworkers an eventual opportunity to pursue a path to permanent legal status and full citizenship.

## 6. Rolling Back and Overseeing Immigration Enforcement Programs

*In 2018, Congress allocated \$24 billion towards enforcement-only policies.<sup>2</sup> A better use of these resources, such as expanding access to healthcare and education, will be helped by:*

- Reducing current monies that aim to carry out enforcement by:
  - dismantling the deportation apparatus;
  - recalibrating appropriations to integration and inclusion services, while reducing the reliance of USCIS on exorbitant fees and reconsidering its status as a fee-based agency;
  - increasing oversight to account for how current resources are being spent.
- Issuing an immediate review, via a new interagency Office of Inspector General providing independent and universal oversight, of all federal agencies dealing with immigration, in order to root out and dismantle current abuse and repression. Its remit should include:
  - Conducting a broad overview of the immigration functions and analyze in which department, DOJ/DHS/HHS etc, they are best housed.
  - Demanding accountability for human rights violations of immigrants in detention centers, including the death of children, and ensure that people who suffer any injustice by CBP and/or ICE have access to justice and restitution.
  - Establishing firewalls to protect the personal data of migrants to effectively seek help and report crime and participate in judicial proceedings.
  - Examining all immigration detention practices, particularly by private companies.
  - Analyzing CBP practices and turn this rogue actor into a community policing entity, reflective of the values practiced by the border communities in which they reside.
  - Creating an ombudsman for enforcement components as already exists for USCIS.
- Ending mandatory detention.
- Prohibiting all private detention centers.





- Closing all public detention centers that are not equipped to adequately care for immigrants, especially children, pregnant women, elders, and disabled, and are therefore operating in violation of human rights.
- Ending indefinite detention.
- Transitioning to humane Alternatives To Detention (ATD) program, and defining a key role for community based organizations to help with implementation.
- Eliminating and prohibiting all forms of deportation quotas.
- Removing CBP's interior checkpoints, radically shrinking the 100-mile border zone to protect civil and constitutional rights of border communities.
- Eliminating programs like Secure Communities, the Criminal Alien Program (CAP), E-Verify and 287(g) that involve local police, government officials and private sector employers in the enforcement of immigration law while promoting racial profiling in the workplace and on our streets.
- Refraining from the use of enforcement raids in the communities, the workplace and sensitive locations such as courthouses and schools, which spread terror and act as dragnets.
- Adopting best practices, particularly with regards to children, for the training of all DHS personnel trained, focusing on limiting the use of force and protecting lives.
- Training personnel how to effectively communicate with women, indigenous, ethnic and religious minorities, LGBTQIA, or otherwise vulnerable populations.
- Providing access to universally understood interpretation services for all immigrants regardless of level of literacy, native language or disability.
- Targeting enforcement resources to prevent human trafficking and prosecuting violent, dangerous criminal networks that prey on migrants and undermine the safety of border communities.
- Demilitarizing border communities, including:
  - ceasing any new construction of the wall and tearing down sections built;
  - limiting the use of surveillance technology and other invasive strategies; terminating Operation Streamline.
  - ending unreasonable searches and seizures, including the use of immigration detainees, without judicial warrants based on probable cause.





## 7. Advancing Immigrant Integration

*Creating a direct pathway to full citizenship will create millions of New Americans. To ensure their success in the United States, the following actions can help in integrating them into their communities and workplaces:*

- Rescinding the provisions of the 1996 Personal Responsibility and Work Opportunity Act (PRWORA) that limit immigrant access to federal public benefits, and make all immigrants eligible to access the safety net, including housing, higher education and income support services.
- Creating an agency of “Immigrant Affairs”, without enforcement powers, to provide policy and investment recommendations to achieve equity and inclusion for immigrant communities.
- Investing in the provision of legal services to immigrants and available to community-based organizations to adequately help integrate immigrants into their communities.
- Protect immigrants from fraud by clarifying that attorneys and Department of Justice (DOJ) accredited representatives, and organizations are the only one who can advise and provide legal representation to immigrants.
- Ensure that, regardless of immigration status, healthcare including fertility treatment is treated as a basic human right, and made accessible by removing barriers for legal and undocumented immigrants to access federally funded programs.
- Expanding eligibility for social services to asylum seekers.
- Expanding mental health services to immigrants, refugees and asylum seekers, particularly those children suffering from post-traumatic stress disorder (PTSD) caused by separations and detentions fueled by the deportation machine.
- Investing in outreach to bring attention to and to educate immigrants about any new legalization program and other relevant policies.
- Increasing access to quality pre-K to 12 education as well as higher education, including the availability of, and eligibility for financial aid.
- Expanding programs & support, including to local and state governments as well as community-based organizations, for immigrants in their quest to become English proficient and workforce ready.





## 8. The Future Flow of Migration

*Extreme poverty, violence, food insecurity and climate change serves as some of the main factors driving people to migrate. U.S. foreign policy, including the 1994 North American Free Trade Agreement (NAFTA), the 2020 US-Mexico-Canada Agreement (USCMA) and various military and non-military incursions, has led to mass displacement and destabilization, and can be corrected by:*

- Recognizing that migration is a natural phenomenon, and that as such immigration law must be fluid, flexible, and not restrictive.
- Adhering to international treaties that grant rights to migrants by virtue of their humanity.
- Supporting regions where U.S. policies have caused dire hardships by including equitable opportunities for safe future migration and reparation for past incursions as well as US grown problems such as criminal enterprises like MS-13.
- Recognizing climate change as a factor forcing migration and providing swift legal and safe paths to immigrate in the event of related emergencies.
- Embueing the Immigration & Nationality Act (INA) with the universal spirit of the 1965 immigration reform, which eliminated national origin discrimination, by revising provisions such as the Western Hemisphere numerical limits that disproportionately impact nationals from Mexico and Central America.
- Ensuring that women are not discriminated against in any reform of immigration law as would have been the case with the introduction of a “merit”-based system such as the point system envisioned by the 2013 Senate immigration bill.
- Protecting individuals, regardless of country of origin, race, ethnicity, religion, or sexual orientation, gender, gender identity or expression, disability or any other human trait, from return or expulsion to countries where they risk facing persecution, torture or any human rights violation.
- Designing a professional, non-threatening, non-coercive way standard for treating everyone with dignity when processing credible fear interviews that should be conducted by asylum officers not border agents.
- Equipping ORR with medical, and child welfare experts, referring immigrants to entities best equipped to address the needs of children, pregnant women, asylum seekers, victims of trafficking or violence, and those with medical concerns.
- Protecting any parent/guardian of an unaccompanied child, including the use of their personal information for the sole purpose of immigration enforcement.





- Giving new arrivals, especially if they are deemed subject to enforcement and deportation, access to information in their native language regarding their rights, including information regarding child guardianship, legal assistance and community based service providers.

### **9. Fostering a Humane Foreign Policy & Engaging as an Active Good Global Citizen**

*The causes of migration are complex and include conflict, climate change and persecution and resulting inequality and injustice. To the maximum extent possible, the United States must participate in multilateral fora, be a signatory to international treaties and be a good partner internationally, including:*

- Ratifying and signing numerous existing international agreements - such as the International Labor Convention; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- Participating in all international discussions regarding climate change and making the U.S. party to resulting agreements, or existing ones such as the Paris Agreement.
- Increasing foreign aid, particularly to the Americas; investing in home countries to prevent forced migration and creating the foundation for a meaningful “right to remain” in the homelands.
- Deploying the U.S. Department of State and its foreign service to inform the world about U.S. policies such as a recommitment to the principles of the international asylum system.
- Ensuring that both bilateral and multilateral trade agreements are fair to workers on both sides, address issues of poverty and minimize economic destabilization.
- Recommitting the U.S. to the United Nations system that it helped found to foster peace and prosperity that in turn decrease the need to forcibly migrate.





## **10. Recognizing Immigration as necessary for the Revitalization of the American Economy**

*The American Economy thrives when it recognizes and invests in the entrepreneurship of immigrants. Our nation has benefitted from the innovation and economic contributions of immigrants since its inception. In 2018, Immigrants paid over \$459 Billion in taxes and contributed with their spending power over 1.3 trillion dollars to the economy. There are 3.2 million immigrant entrepreneurs running large and small companies and employing close to 8 million Americans. America's economy is bolstered when immigrants are included in all economic revitalization efforts and by:*

- Including all immigrant taxpayers, including Individual Taxpayer Identification Number (ITIN) payers, in economic relief and economic recovery programs.
- Ensuring that immigrant entrepreneurs are fully supported with in-language technical assistance, loans and grants to help them keep and grow their businesses.
- Facilitating the credentialing and transfer of degrees to take advantage of the expertise and talent of all immigrants arriving in the United States.
- Investing in quality education, workforce training and job skills programs in communities where people of color and immigrants live.

