

# Trump, Immigration Policy and the Fate of Latino Migrants in the United States

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Trump's stated course of action is a frontal attack on all of the problems that he says have made America weak. His agenda includes changing international trade policy, reducing illegal migration, revamping or simply eliminating social policies such as Obamacare, reducing taxes, and re-orienting current defense and foreign policies to 'put America first.'

All these plans will have implications for people who live and work in the United States, including the country's estimated 42 million immigrants, a diverse group that includes people with and without legal status.

An issue of particular importance and concern is undoubtedly Trump's immigration policy. According to his past statements, we can expect to see actions on at least seven fronts:

- An increase in deportations, starting with migrants who have a criminal record
- Discretionary authority to eliminate DACA and DAPA, and potentially all forms of temporary stay such as TPS
- Elimination or reduction of the current administrative procedures for migrants arriving from Central America, thereby accelerating the deportation process
- New national security guidelines for specific groups of migrants, including Muslim migrants or people from countries deemed a terrorist threat based on 'violent Islamic extremism',
- Increased border control and construction of a wall on the Southwest border,
- Taxes on remittances sent by migrants, and
- Actions against "Sanctuary Cities," including withholding of federal funds.

Trump's approach will consist of acting on these issues based on a simple calculation: his leverage *vis-a-vis* the political costs. His interpretation of the political landscape allows for a three-pronged course of action: first, employing populist rhetoric; second, building alliances with Republicans in Congress; and third, applying his own methods in conjunction with his advisors and the media. Going against migrants may buy him political support at an otherwise difficult juncture, since Congress, although under Republican control, is not 100% unified in terms of either immigration policy or support for the new president.

## CRIMINAL DEPORTATIONS

Trump has promised to deport between two and three million migrants, although he may end up starting with smaller numbers in his first 100 days in office.

Deportations carry a populist weight, but do not have full Congressional support. Public opinion, while in favor of immigration reform, also tends to be split when it comes to deportations. The question is what political tools, including Executive Actions, Trump may have at his disposal to carry out massive deportations.

In addressing this question, it is important to take into consideration the political capital of Trump team. Do they have the full support of all Republicans? What sort of divisions will be found within the party when it comes to immigration? And how far are the Democrats prepared to take the fight?

The Democratic party tends to initially oppose deportations, but gradually concede, due in part to lack of

ideological resistance at the heart of the party. Are the Democrats prepared to take a stand when one of the fundamental issues of American politics is at stake? Are they ready for a fight around immigration? In general, it is unlikely that Trump will change his stance on immigration, although he may end up seeking some form of compromise with regards to immigration reform.

**The realistic scenario:** Obama deported 350,000 migrants each year (40% of whom had a criminal record). Trump has promised to triple the number of ICE agents. Realistically, he could reshuffle 10-20% of ICE staff (depending on internal bureaucratic disposition) into enforcement units. This would give him what he needs to show he is serious about immigration enforcement and overturning what he sees as Obama’s legacy of leniency.

**The consequences:** One consideration is that Trump cannot legally deport people by nationality, but only by their legal offense. Therefore, Trump’s actions will have implications across nationalities, including for thousands of Haitians and Cubans that have come across for economic reasons, or Central Americans escaping violence. If he chooses to deport other migrants without a criminal background, such as undocumented migrants with administrative violations, his resources to implement these deportations will be much more limited.

Regardless, the effects of deportations and reduced arrivals to the United States will certainly affect remittance transfers. The impacts are likely to be seen in a year’s time, and will be particularly severe for Mexico and Central American countries. In the case of Central American migrants, for example, an increase of 15% or more in deportations would reduce the number of migrants and remittance senders, thereby reducing remittances substantially. More importantly, deportations would add to more family separations: research by the Inter-American Dialogue indicates that 30% of undocumented migrants have a child in the United States. Deporting a share of this group would dramatically increase the existing magnitude of the migration crisis.

**Figure 1. Migration of Central Americans in 2016**

	Annual migrant entry	U.S. Removals (FY2016) <sup>1</sup>	U.S. Apprehensions (FY2015)	Mexican Apprehensions (2016)	Immigrant Visas (FY2015)	Non-Immigrant visas issued (FY2015) <sup>2</sup>	Cross-Border unauthorized
Honduras	26,751	21,994	42,433	58,814	4,728	49,025	18,440
Nicaragua	4,316	795	1,577	1,564	2,099	19,122	1,818
Guatemala	33,222	33,940	66,982	83,745	5,699	55,991	25,575
El Salvador	30,117	20,538	51,200	35,390	12,465	59,921	14,580
Sub region	94,406	77,267	162,192	179,513	24,991	184,059	60,414

Source: See Appendix

## CENTRAL AMERICAN ASYLUM APPLICATIONS

Trump seeks to eliminate current administrative procedures to carry out immediate deportations.

If there is an issue that generates consensus, it is the fact that the immigration court system is unable to handle the thousands of asylum cases that have multiplied in recent years. More than 200,000 children from Central America have sought asylum in the United States since 2009. But processing has been slow: as of October

<sup>1</sup> Removal is understood here as: the compulsory and confirmed movement of an inadmissible or deportable alien out of the United States based on an order of removal. (ICE, “Definition of key terms”, *FY2016 ICE Immigration Removals*, available at: <https://www.ice.gov/removal-statistics/2016#keyTerms> ).

<sup>2</sup> Non-Immigrant visas are issued to persons with a permanent residence outside the United States but who wish to be in the United States on a temporary basis (i.e. tourism, medical treatment, business, temporary work, or study). See CBP, Immigrant Visas vs. Nonimmigrant Visas, available at: [https://help.cbp.gov/app/answers/detail/a\\_id/72/~/immigrant-visas-vs.-nonimmigrant-visas](https://help.cbp.gov/app/answers/detail/a_id/72/~/immigrant-visas-vs.-nonimmigrant-visas).

2016, 75% of the cases (family units and unaccompanied children) had not been processed. Immigration courts face a backlog of more than 500,000 cases and an average immigrant must wait 678 days to appear before a judge.<sup>3</sup>

Further, under the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, unaccompanied children from non-contiguous countries must appear before an immigration judge before being deported. Thus, immediate massive deportations will be difficult to implement, particularly regarding unaccompanied children.

**The realistic scenario:** Trump’s administration could somewhat modify these procedures and turn them into expedited deportation orders, but the legal process would be difficult and costly.

**The consequences:** Measures implemented thus far, such as expedited courts for cases involving family units and unaccompanied children (rocket-dockets) have “fast-tracked” these cases, but at the expense of adequate representation: applicants whose cases are accelerated tend to appear before court without legal representation. Increasing the return of this population is not advisable given the current state of the region.

For many of these youth, the causes driving migration have not changed. Violence and poor economic performance continue and the implementation of the Alliance for Prosperity has not generated all the expected and desired returns. Therefore, hasty legal processing fail to identify migrants with legitimate asylum claims. They may generate deportations that in turn will endanger the lives of those who are escaping from drug trafficking rings, gangs threats, and extortions from organized crime networks.

**Figure 2. Status of Asylum Applications from Central America<sup>4</sup>**

	Honduras	El Salvador	Guatemala	Total Northern Triangle
All cases (through Oct. 2016)	37,766	37,030	30,926	105,722
As % of Total	100%	100%	100%	
Pending	22,428	28,972	21,870	73,270
As % of Total	59%	78%	71%	
Removal Order	13,218	6,415	7,027	26,660
As % of Total	35%	17%	23%	
Grant Relief	591	629	682	1,902
As % of Total	2%	2%	2%	
Voluntary Departure	493	306	655	1,454
As % of Total	1%	1%	2%	
Represented	15,070	19,449	14,855	49,374
As % of Total	40%	53%	48%	
Not Represented	22,696	17,581	16,071	56,348
As % of Total	60%	47%	52%	

Source: TRAC Immigration, Priority Immigration Court Cases: Women with Children, Court Data through Oct. 2016

<sup>3</sup> See TRAC Immigration, “Immigration Court Backlog Tool: Pending Cases and Length of Wait in Immigration Courts” (data through December 2016), available at: [http://trac.syr.edu/phptools/immigration/court\\_backlog/](http://trac.syr.edu/phptools/immigration/court_backlog/).

<sup>4</sup> Data was obtained from the Executive Office of Immigration Review (EOIR). It comprises case-by-case records of every Immigration Court case that was assigned an “adult with children” case priority flag in response to the surge of 2014. (See TRAC Immigration, “About the Data”, available at: [http://trac.syr.edu/immigration/reports/377/include/about\\_data.html](http://trac.syr.edu/immigration/reports/377/include/about_data.html)).

## DACA AND DAPA

Trump seeks to eliminate both programs along with any temporary residency programs, such as TPS.

There are nearly 750,000 DACA beneficiaries, many of whom are doing very well in the United States. Thus, it remains to determine what would be the backlash to the deportation of people that, as beneficiaries of the program, have become successful members of the U.S. economy and society. Moreover, these young people have inspired solidarity and humanitarian support in the light of their circumstances.

***The realistic scenario:*** These initiatives could be the first to be dismantled, meaning that the benefits carried by the Deferred Action would end and removals would ensue.

**The consequences:** The removal of these youth would run contrary to success stories across the United States of dreamers finishing college and obtaining jobs.

## REMITTANCES AND TAXATION

The US is one of the main countries in the world where remittances originate. At least \$130 billion are remitted by more than 35 million migrants on a yearly basis. Trump has proposed to use a tax on remittances to pay for a wall along the U.S.-Mexico border.

The proposal is technically and legally unfeasible. It would require not only introducing new taxes (a Congressional prerogative), but also amending the Patriot Act and expecting businesses (including remittance transfer providers) to verify immigrants' legal status.

There are a number of obstacles to implementing such a policy. Currently, only the IRS requires that employees show their legal status, thereby proving their right to work in the country. Moreover, it would be difficult to apply the tax to Mexicans only as opposed to any foreign-born individual in the United States. Such action would have require drafting new legislation and having it approved by Congress.

On a memo that was presented during the campaign, Trump pointed to section 103.121 of the CFR (which he mistakenly labeled as 130.121) as the legal mechanism to redefine applicable financial institutions so as to include money transfers, and to institute a new rule that no alien can send money without first proving his or her legal status. However, money transfers are already covered by the Act under section 326. By modifying the CFR section, Trump would be asking Congress to modify immigration law, too, by expecting businesses to verify immigration status, an act that falls under federal jurisdiction.

***The realistic scenario:*** President Trump may find an alternative to dealing with the US-Mexico border beyond taxing remittances. At this point, however, what this may be remains unclear.

**Figure 3. Remittance Inflows, Latin America (2015-2016), in US Millions**

Country	2015 Q1	2015 Q2	2015 Q3	2015 Q4	2016 Q1	2016 Q2	2016 Q3	2016 Q4*	Total 2015	Total 2016	Change YoY
Paraguay	96	106	119	141	113	131	147	175	462	566	23%
Guatemala	1396	1559	1639	1691	1663	1850	1763	1818	6285	7094	13%
Colombia	1034	1052	1317	1235	1163	1183	1481	1389	4639	5216	12%
Ecuador	530	595	616	636	595	670	694	715	2378	2674	12%
Mexico	5724	6353	6543	6151	6204	6954	6889	6900	24771	26947	9%
Peru	627	669	707	716	672	721	762	772	2719	2927	8%
Honduras	838	936	944	933	890	986	995	1083	3651	3954	7%
Brazil	256	575	684	660	581	591	574	554	2175	2300	6%
Dominican Rep.	1200	1275	1262	1227	1289	1301	1358	1320	4963	5268	6%
Nicaragua	289	292	293	319	302	307	313	341	1193	1263	6%
El Salvador	988	1106	1070	1125	1045	1176	1116	1173	4289	4510	5%
Bolivia	273	285	307	314	284	291	312	318	1179	1205	2%
Jamaica	528	565	559	574	537	575	569	584	2226	2264	2%
Costa Rica	120	129	132	136	119	130	1332	137	518	518	0%
Haiti	548	567	544	536	547	566	543	535	2195	2193	0%
Uruguay	29	28	28	32	28	27	27	31	117	113	-4%
Panama	108	115	121	129	101	104	109	116	473	430	-9%

Source: Author's estimates using Central Bank data. (\*Q4 data is an estimate).

**The consequences:** The implications, beyond the tax on undocumented migrants, for the economies of Mexico and other countries in the region, are significant. If migrants were to be required to pay taxes on their transactions, some would opt to use informal mechanisms to avoid the additional cost. Others would use informal mechanisms out of the fear of being found living in the U.S. without legal status. The effect would adversely affect remittance recipient households who predominantly use formal financial institutions to send their money, while also driving remittances underground.

Furthermore, the call for a border wall is already scaring decent and hardworking migrants. People are afraid of mass deportations and migrants are beginning to feel the pressure from the government and others who have labeled them as undesirable. Most migrants without documents have been in the U.S. for at least 6 years and send money to their relatives back home. Those most affected would be Central Americans and Mexicans who represent more than 80% of the undocumented population.

When it comes to Central Americans, migration is largely due to insecurity in the Northern Triangle. In the case of Mexico, the patterns are mixed but also associated with violence and drug trafficking. These migrants are already at the bottom of the U.S. social and economic pyramid, with personal incomes below US\$25,000, sending 15% in remittances. Overall, many people in Congress and the general public tend to consider that remitting is part of a family commitment to support one's family. Therefore, it may be hard to find the political will to institute such a tax.

Figure 4. Reasons for Emigrating

Country of Origin	Reasons for Emigrating			
	Violence/Insecurity	Economic Opportunities	Family Reunification	Other
El Salvador	24.7%	59.4%	7.1%	8.8%
Honduras	26.8%	62.5%	1.8%	8.9%
Guatemala	12.9%	65.3%	11.9%	9.9%
Mexico	6.6%	69.5%	14.9%	8.9%
Other	28.6%	28.6%	14.3%	28.6%
Cuba	2.6%	47.4%	44.7%	5.3%
Dominican	0.0%	60.0%	31.0%	8.0%
Ecuador	0.0%	75.5%	18.4%	4.1%
Colombia	12.3%	53.4%	21.9%	12.3%

Source: Survey of Hispanic Migrants in the United States, 2016.

## SANCTUARY CITIES

To carry out all these actions, Trump will require collaboration from federal, state, and local authorities. Several cities, known as “sanctuaries” for their pro-migrant policies (Los Angeles, New York, Chicago, to mention a few), have already spoken out against Trump’s immigration policies, arguing that they will not use local resources to implement federal immigration directives.

**The realistic scenario:** Although Trump has not provided specific details on how he will deal with these “Sanctuary Cities,” he certainly has two weapons in hand: federal resources and lawsuits. Regarding the former, it is not clear exactly which resources he could block, but certainly federal agencies could withhold sources of funding from local institutions. Regarding the latter, proposed Attorney General Jeff Sessions, a critic of undocumented migration, will be in charge of the legal battle to ensure that the White House’s priorities are being carried out at the local level.

**The consequences:** Beyond the legal battles, Trump’s rhetoric and policy proposals have managed to put the migrant population under the media spotlight and have made them feel cornered. However, he will not be able to eliminate all migrant sanctuaries which include churches, universities and some communities that have taken up the cause in defense of migrants.

## APPENDIX

Sources for table 4:

- Annual migrant entry is based on a coefficient multiplied by the percent of migrants who arrived 1n 2016. The coefficient is the calculation of adult migrants (90%) x migrant senders (80%) x family transfers or p2p (90%) x sending from the US 90% = 0.58). This number is estimated from the total number of migrants who sent money on the same year they arrived. The figure is based from survey data.
- Removals: ICE, Fiscal Year 2016 ICE Enforcement and Removal Operations Report, available at: <https://www.ice.gov/sites/default/files/documents/Report/2016/removal-stats-2016.pdf> ).
- U.S. Apprehensions (DHS, 2015 Yearbook of Immigration Statistics: Office of Immigration Statistics, December 2016, available at: <https://www.dhs.gov/immigration-statistics/yearbook/2015>).
- Mexican Apprehensions (INM, *Boletines estadísticos*, “Eventos de extranjeros presentados ante la autoridad migratoria según continente y país de nacionalidad, 2015”, available at: [http://www.politicamigratoria.gob.mx/es/SEGOB/Boletines Estadisticos](http://www.politicamigratoria.gob.mx/es/SEGOB/Boletines_Estadisticos)).
- Immigrant Visas (U.S. Department of State: Bureau of Consular Affairs, *Immigrant Visa Statistics*, “Immigrant Visas Issued by Issuing Office, All Categories Including Replaced Visas, available at: <https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2016AnnualReport/FY16AnnualReport-TableXV.pdf> ).
- Non-Immigrant Visas (U.S. Department of State: Bureau of Consular Affairs, *Nonimmigrant Visa Statistics*, “Nonimmigrant Visa Issuance by Visa Class and By Nationality”, Data encompasses all categories of non immigrant visas, available at: <https://travel.state.gov/content/visas/en/law-and-policy/statistics/non-immigrant-visas.html>).
- Cross-Border: It is the difference between Annual Migrant entry and Immigrant Visas.