

Trump's Card on Illegal Immigrants: From Obstacles to Impossibility

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Global Research, November 16, 2016

Region: [USA](#)

Theme: [Police State & Civil Rights](#)

Throughout the campaign for the White House, Donald Trump sensationalised one of the great sores of US political and social life: the issue of immigrants, notably the undocumented, and what his presidency would do to them.

As Trump asserted to Lesley Stahl on *60 Minutes*, the target here was deporting “the people that are criminal and have criminal records, gang members, drug dealers, we have a lot of people, probably two million, it could be even three million, we are getting them out of our country or we are going to incarcerate.”

To that end, he has also promised to create what he has termed a “deportation force” specifically to “round up” undocumented residents, enabling the “good” ones to enter on a legal basis. This view, incidentally, in such countries as Australia and some in the European Union.

Throughout its history with immigration, the United States has had a complex association, swerving between nativist impulse and economic accommodation. The issue of Hispanic immigrants, most notably Mexicans, riles various US citizens concerned that a reconquista, pecking away at US sovereignty, is in the making. Trump's promised Wall along the Mexican border is not so much a practical response as a viscerally padded one, rooted in the symbol of control long lost.

Since a Trump administration is supposedly going to be all about business, the near impossibility of achieving the totality of such an ignoble dream will come to the fore. The balance sheet of contributions by immigrants, whatever their status, has always outweighed by some good margin what negative aspects the vast pool offers the United States. Furthermore, the undocumented pool provides a class that enables prices, however justly this may seem, to be kept down.

To deport on scale millions of immigrants deemed unsuitable to the US dream would not so much make America great again – to use Trump's tiresome, sales-pitched line – as it would unmake it. That is merely an observation on consequence, and possibly one the non-ideologues will pick up on.

The figure of two to three million drawn out by Trump out of his not so magical hat is also questionable. The Department of Homeland Security doesn't have those figures, at least in so far as they are of the bad egg variety. The Donald, as ever, continues being shallow about the facts.

Trump is also going to be facing considerable opposition on the ground, both from the legal

side of matters, and logistical frustrations. The machinery needed to fulfil the removal of such immigrants is patchy, often stuttering due to local measures.

The Due Process Clause of the US Constitution stands out as one the greatest impediments. Full removal proceedings must be undergone in court. Time is required, with the government having to show grounds of alienage and deportability, with the respondent permitted grounds of defence and opportunities to plead for relief from deportation. These points are also outlined in measures implemented by Congress. A burdensome road for the government indeed.

The scale also being promised would be staggering – the ACLU suggests that the whole mass deportation scheme, were it to be implemented, would require the arrest of 15,000 people a day on immigration charges, seven days a week, 365 days a year.[1] Courts charged with immigration cases are bound to suffer acute paralysis.

In hotspot California, opposition and resistance to any such policy from a Trump administration is being promised. In Los Angeles alone reside up to a million undocumented immigrants of the total 11 million in the country. Los Angeles Police Chief Charlie Beck said on Monday that no favours were going to be given to the federal government, making the point that the LAPD would not abandon precedent in favour of Trump's new calls.[2]

“We are not going to engage in law enforcement activities solely based on somebody's immigration status. We are not going to work in conjunction with Homeland Security on deportation efforts. That is not our job, nor will I make it our job.”

Since 1979, then police chief Daryl Gates signed Special Order 40 prohibiting officers from making contact with someone on the sole grounds of determining whether he or she was in the country on legal grounds.[3] During Gates' tenure, the supply of those arrested for low-tier crimes to federal agencies for deportation started to dry up. The LAPD, in other words, was uninterested in doing the dirty work of the federal authorities.

This effectively undercuts the issue of identifying the undocumented non-citizens in question. To deport, you would have to have the means, and complicity of state authorities, to conduct the round-up. Such behaviour, if conducted to scale, would result in mass violations of the Fourth Amendment, a true police state measure.

Trump has a few bullying tricks up his sleeve. He has threatened to withdraw funding from police departments and sanctuary cities that persist in their pathway of protection and stalling on the issue of how to deal with undocumented residents. But government is not merely about hard cash and threats of targeting budgets. Ideas and pragmatism count, and Trump's self-proclaimed embrace of shallowness in search of success will have to bend – at least at points.

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Notes

[1] <https://action.aclu.org/sites/default/files/pages/trumpmemos.pdf>

[2] <http://www.latimes.com/local/lanow/la-me-ln-los-angeles-police-immigration-20161114-story.html>

[3] http://assets.lapdonline.org/assets/pdf/SO_40.pdf

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