

*PRIORITIES FOR PROGRESS 2021*

# **IMMIGRATION**

Durable solutions to the problems we face won't come from small fixes around the edges. We need solutions that build power for everyday people to emerge from this crisis as a more resilient, just nation. The work ahead of the next president and the next Congress to achieve these goals is formidable. And we can't afford for them to fail.

To help ensure that we are ready to meet this extraordinary moment, organizations from across the progressive movement gathered together to develop policy agendas on key progressive priorities, including both legislative and administrative proposals.



## CONTRIBUTORS

This memorandum was informed by members of the Progressive Governance Project Immigration Working Group. These organizations are in solidarity and agree on an immigration agenda that centers racial justice, fairness, family unity, economic opportunity and American prosperity. Not all of the opinions expressed in this memo are fully shared by all the organizations that contributed to its development.

# GOALS PRINCIPLES VALUES

Members of the Congressional Progressive Caucus (CPC) have led the way on transformative immigration policy this Congress through the introduction of bills to address the harms from President Trump's actions and to transform our outdated immigration system. Building on this work, we must establish a new immigration agenda that centers *racial justice, fairness, family unity, economic opportunity and American prosperity*; and at its core is designed to pull us back together, lift our economy, and begin the repair of our nation.

The next Congress (117th), with cooperation from a new administration, has an extraordinary opportunity not only to undo the harms of the Trump administration but to build an immigration system that prioritizes human dignity and community safety. Prioritizing **human dignity** requires that we respect everyone. Everyone means everyone, no matter their income, place of birth, race, gender, where they worship, or who they love. This means creating a fair immigration process that keeps families together, welcomes and integrates newcomers into the fabric of our society, and recognizes the value of each person. We are the United States of America—we must also be the United People of America if we are to fulfill the promise of our country.

Prioritizing **community safety** requires that we respect the rights of all people—those recently arrived who bravely conquer all odds to come here seeking safety or a better life and those who have built their lives here over decades. By committing to these principles we can realize the goals and aspirations of every person, regardless of where they were born, how they worship, or the color of their skin.

## PRIORITIES FOR THE FIRST 100 DAYS

# LEGISLATIVE PRIORITIES

The next Congress has an opportunity to:

(1) Prioritize citizenship for the 11 million; (2) Re-envision enforcement and significantly reduce funding for Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP); (3) Fully include immigrants in COVID-19 recovery and economic rebuilding packages; and, (4) Build a new immigration system that centers families, communities, and prosperity for all.

## 1. ENACT LEGALIZATION

— **Provide permanent legal status with a path to citizenship for the 11 million.** Congress and the administration should support legalization as fundamental to COVID-19 relief and to the nation's economic recovery. This should be inclusive of Dreamers, Temporary Protected Status (TPS) holders (H.R. 6 The Dream and Promise Act), agricultural (H.R. 5038 The Farm Workforce Modernization Act) and other workers who have been disproportionately impacted by the enforcement actions of the Trump administration and by the pandemic. But providing protections for those with temporary status and workers is the starting point—the legalization program should be bold and inclusive of the entire undocumented population, with an attainable path to citizenship and no categorical exclusions.

## 2. ENSURE HEALTHY COMMUNITIES

— **Ensure everyone, regardless of where they were born, has access to quality health coverage.** In the midst—and eventual aftermath—of the worst pandemic in a century and to help prevent any future public health crisis, every person in the United States should have access to healthcare, including testing, treatment, rehabilitation, and vaccines, regardless of their immigration status and without fear of immigration consequences (H.R. 8600 The Heroes Act, H.R. 6436 Coronavirus Immigrant Families Protection Act, H.R. 4701 HEAL for Immigrant Women and Families Act, H.R. 3222 No Federal Funds For Public Charge Act, H.R. 1011 Protecting Sensitive Locations Act.)

— **Ensure immigrants are included in COVID-19 recovery measures.**

### 3. DEMILITARIZE ENFORCEMENT

— **Department of Homeland Security (DHS) appropriations should significantly reduce funding to Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE)**, and restrict the agencies' ability to transfer or reprogram funds into enforcement or detention accounts. Savings from the detention and enforcement regime should be applied to support community-based programs for individuals in removal proceedings, integration programs, English language learning, community care and naturalization initiatives.

— **Promote and protect freedom of association and the labor rights of all workers**, including domestic and informal sector workers; do not pursue worksite raids; and provide workers involved in labor disputes with protection from retaliation and deportation (H.R. 2070 The Power Act).

— **ICE and CBP should be subject to more accountability, guard rails, and enforceable conditions standards** including a prohibition on solitary confinement, medical and mental healthcare, access to counsel, use of body worn cameras across both agencies with privacy protections, and other important reforms that protect the dignity and rights of individuals in their custody. The criminal legal and immigration systems should be disentangled, by ending programs that require local law enforcement agencies to cooperate with federal immigration enforcement and ending the disproportionate immigration consequences of involvement in the criminal legal system. (H.R. 5383 The New Way Forward Act; H.R. 2415 The Dignity for Detained Immigrants Act; H.R.1013 - ICE and CBP Body Camera Accountability Act).

— **Repeal the waiver authority under Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)**, which prior administrations have used to waive environmental, historical, cultural, and contracting laws and regulations in order to construct border barriers (H.R.1232 - Rescinding DHS' Waiver Authority for Border Wall Act).

— **Decriminalize the act of migration** by repealing sections 1325 and 1326 of chapter 8 of the U.S. Code. (H.R. 5383 The New Way Forward Act).



## 4. END MASS IMMIGRATION DETENTION

— **Significantly reduce the size of the immigration detention system**, strengthen due process for immigrants, prohibit the use of private prisons and county jails for immigration detention, and improve conditions for people who are detained (H.R. 2415 Dignity for Detained Immigrants Act of 2019).

— **Prohibit detention of children and families.**

## 5. ENSURE JUSTICE AND FAIRNESS

— **Guarantee government-funded legal representation** for all indigent noncitizens facing deportation.

— **Establish an independent immigration court system** that is not inherently compromised because the government prosecutors and immigration judges both report to the executive branch.

— **Protect children from family separation** including ensuring state foster care proceedings do not inappropriately remove children from the custody of their parents.

— **Restore judicial discretion**, protect long-time residents from deportation, and end DHS reliance on local law enforcement for federal immigration enforcement. End the use of expedited and summary removal proceedings that deprive immigrants of a day in court when facing deportation.

— **Prohibit the use of racial profiling** by CBP and ICE (without exceptions for border and national security), the suppression of First Amendment activities, and law enforcement activities intended to suppress protest, free speech or other constitutionally protected activities. Require that immigration officers obtain a judicial warrant prior to initiation of immigration court proceedings.

— **Repeal President Trump's Muslim, African, asylum and refugee bans and support legislative reforms to prevent future discrimination** (H.R. 2214 National Origin-Based Antidiscrimination for Nonimmigrants Act or the NO BAN Act).

— **Enact legislation to remove the racially-motivated wealth, health, and age tests**—for family members of U.S. citizens, lawful permanent residents, and others—from our nation's immigration laws.

## 5. KEEP FAMILIES TOGETHER

— **Reunite families** including by elimination of the three year, ten year, and permanent bars, family backlog reduction, recapture of unused family-based and diversity green cards, and elimination of the per-country visa caps in an equitable manner (H.R. 4944 Reuniting Families Act).

## PRIORITIES FOR THE FIRST 100 DAYS

# ADMINISTRATIVE PRIORITIES

The next administration must simultaneously undo the harms of the Trump administration and aggressively use the full breadth of executive authority to provide relief to immigrants, ensure greater justice and fairness, radically overhaul immigration enforcement, and bolster the benefits of migration by focusing on:

## 1. GRANT RELIEF FOR IMMIGRANT COMMUNITIES

— Do not deport spouses, parents or children of U.S. Citizens, legal permanent residents (LPRs), individuals eligible for temporary status, including Deferred Action for Childhood Arrivals (DACA), TPS, and Deferred Enforced Departure (DED), or individuals with meaningful ties to the U.S., including COVID-19 essential workers. Provide eligible individuals, using “parole-in-place” and other mechanisms, with work authorization and access to advance parole.

— Protect current TPS recipients, reinstate and expand DACA, and newly designate or redesignate countries eligible for TPS or DED because it is not safe for citizens to return, including Cameroon, Venezuela, Somalia, South Sudan, and the Northern Triangle countries. In the event that DACA is invalidated by the courts, DACA eligible individuals must immediately be protected using DED, parole-in-place or other mechanisms.

## 2. ISSUE A MORATORIUM ON DEPORTATIONS AND REDUCTION IN DETENTION

— **Implement a moratorium on deportations** until a comprehensive review is completed of all enforcement policies and procedures and until diminished COVID-19 cases and community transmission in countries of return indicate that it is possible to return individuals without triggering a public health emergency. During this period, detained individuals should be released on public health grounds, with supervision when needed, and permitted to “shelter in place” with their families and friends, or if needed, placed into a community-supported case management program.

— **Establish a process to phase out incarceration** in the civil immigration system and **fund community-based case management programs**. Terminate all contracts with private prison companies and state and local jail or jail-like facilities, and do not open any new immigration prison facilities or enter into any new contracts.

— **During the transition from reliance on detention, apply a presumption of release** when reviewing the files of detained immigrants, and **do not detain children, families, or vulnerable persons** in any circumstance.

### 3. ENSURE HEALTHY AND PROSPEROUS COMMUNITIES

- **Promote a vision of affordable health coverage for all, regardless of ethnicity, nationality, or immigration status**, and immediately restore access to the Patient Protection and Affordable Care Act (ACA) for DACA recipients.
- **Restore access to public housing for mixed status families and to food assistance to adults without children.**
- **Fund inclusive policies and programs in states and localities** that welcome and support immigrants and refugees, implement anti-racist measures, and strengthen access to economic and food assistance, education and workforce development without discrimination. Increase funding to local groups that support immigrants to navigate and enroll in programs for which they are eligible.

### 4. UPHOLD JUSTICE AND FAIRNESS

- **In partnership with civil society, create a new DHS Office of Migrant Protection** that is responsible for investigating complaints from immigrants, overseeing immigration enforcement activities, and holding officers and agents accountable for crimes and abuses of immigrants. Ensure that immigrants who are victims of abuse, workplace retaliation, or who are involved in a labor dispute receive deferred action.
- **Develop and fund an Office of Immigration Defenders** to ensure that every indigent person facing removal has legal counsel even if they can't afford it.
- **Support legislation to create an independent and functional immigration court system** that is accessible both in terms of language and technology. Provide full interpretation for all interviews and proceedings, allow immigrants to access and submit filings online as options, and ensure that written instructions and forms are available in multiple languages.
- **End policies that jeopardize the safety of immigrant victims of crime and violence**, restore and expand child-sensitive policies and procedures to facilitate fair immigration proceedings for children.
- **End all criminal prosecutions for migration-related offenses**, end family separation, protect sensitive locations from enforcement actions and hold public officials accountable for abuses.
- **Develop a return and parole process for individuals who have been harmed** by the family separation policy, visa backlogs, deportation and other hardships.

## 5. RESTORE EQUITY AND UNDO HARM

— **Appoint cabinet and agency leaders who are representative of immigrant communities and committed to transformational change.** Establish a White House Office of New Americans.

— **End the anti-Black and discriminatory targeting of certain U.S. citizens and immigrants** by repealing all iterations of the Muslim, African, refugee, asylum and other travel bans that target immigrants based on their religion, nationality, gender, age or other parts of their identity, and invite those whose visas have been denied to re-apply to come to the United States.

— **Amend Department of Justice (DOJ) guidance to prohibit racial profiling by law enforcement** for purported border or national security concerns, and adopt and apply the amended guidance to DHS and its agencies.

— **Protect the due process of all immigrants**, witnesses and others involved in removal proceedings and filings, and ensure that immigrants have the opportunity to present their claims, including by rescinding the regulations authorizing pre-termination of cases without hearings and reopening wrongful in absentia removal orders.

— **Rescind the Trump administration's racially motivated wealth, health, and age tests** for family members of U.S. citizens, lawful permanent residents and others.

— **Reverse discriminatory State Department guidance that treats foreign-born children of binational LGBTQ+ couples as "born out of wedlock"**, and ensure LGBTQ+ equality within our immigration system.

## 6. ESTABLISH THRIVING, RIGHTS-RESPECTING BORDERS

— **Halt all current wall construction efforts, cancel all outstanding contracts, end eminent domain cases in South Texas, commit to no further construction of border walls or barriers** and implement a process to mitigate harms and heal from the wall's harmful impacts in consultation with communities on both sides of the border, Indigenous communities and environmental justice advocates.

— **Demilitarize ICE and CBP**, including by ending unconstitutional searches, seizures, and invasive surveillance in the border region, and eliminate interior checkpoints, roving patrols and federal immigration entanglement with local police, and strictly limiting the use of surveillance technology at and near the border.

— **Direct CBP to immediately reduce the number of Border Patrol agents** by at least 50 percent to a maximum of 10,000 nationwide, and to work toward an even greater reduction in the size of the Border Patrol within two years.

- **Restrict border enforcement authority** to activities at the U.S. borders.
- **Immediately withdraw all CBP, ICE and other DHS agents from American streets** where individuals are exercising their constitutional rights.
- **Terminate all existing agreements and programs between DHS and county, local, and state governments** that turn local and state law enforcement against their communities and into agents of deportation, including Secure Communities, Basic Ordering Agreements, and all 287(g) agreements.
- **Stop penalizing communities that protect immigrants** by rescinding all policies that deny them federal funds because they limit their collaboration with ICE.
- **End the issuance of immigration detainers** without judicial warrants.
- **Prohibit, without exception, ICE and CBP officers from posing as local police, and all ICE and CBP civil enforcement operations at sensitive locations** including shelters, hospitals or medical clinics, schools, places of worship, food and housing shelters, courts, and probation offices.
- **End the use of expedited removal**, which allows CBP officers to deport immigrants without due process or any hearing before an immigration judge, and other summary removal proceedings including reinstatement of removal and administrative removal.



## 7. RESTORE AMERICA'S COMMITMENT TO THOSE SEEKING SAFETY

— **Undo the multiple regulations and policies put in place to dismantle the asylum system** and obstruct access to life-saving protection, including withdrawing from the so-called “Asylum Cooperative Agreements” with El Salvador, Guatemala and Honduras, and terminating the asylum and transit bans, metering policies, and the Center for Disease Control’s Order authorizing the immediate expulsion of asylum seekers, trafficking victims, torture survivors and other immigrants without any assessment of their protection needs. Parole into the US all asylum seekers with pending cases who are waiting in Mexico and release them to family, friends, or if needed, community-based programs that will be funded adequately while cases proceed in immigration court.

— **Within the administration’s first year in office, increase the Presidential Refugee Determination (PD) to 125,000**—with at least one percent of resettled refugees being Unaccompanied Refugee Minors (URMs). Work collaboratively with the resettlement community to rebuild the U.S. refugee program in innovative ways in order to resettle the maximum number of refugees possible in 2021 and lay the foundation for greatly expanded resettlement capacity in years to come.

— **Restart and expand the Central American Minors (CAM) program**, request resources and funding to support application preparation, safe transport and housing for children awaiting permission to travel, and introduce legislation to provide CAM recipients with the opportunity to become lawful permanent residents. Grant parole to individuals in the region who have approved family-based immigration petitions.

— **Facilitate access to the full protections established by the Trafficking Victims Protection Act (TVPA)** by revising policies and practices designed to create obstacles for trafficked persons and unaccompanied minors.

— **Establish a Stateless Status Determination (SSD) procedure** with a designated path to permanent status and protection for stateless people and those who cannot be returned to any country. Provide resources to fund, train and support immigration judges and United States Citizenship and Immigration Services (USCIS) officers to recognize, screen, and identify stateless individuals or those at a heightened risk of statelessness.

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